



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Protech Managed Project Services Pty Ltd
(AG2020/357)

MANAGED PROJECT SERVICES ON-HIRE AGREEMENT 2019

Building, metal and civil construction industries

COMMISSIONER BOOTH

BRISBANE, 25 MARCH 2020

Application for approval of the Managed Project Services On-Hire Agreement 2019.

[1] An application has been made under s.185 of the *Fair Work Act 2009* (the Act) by Protech Managed Project Services Pty Ltd (the Applicant) for approval of the *Managed Project Services On-Hire Agreement 2019* (the Agreement). The Agreement is a single enterprise agreement.

[2] Correspondence was sent to the Applicant and the employee bargaining representatives on 28 February 2020, raising concerns in relation to the Agreement.

[3] The Applicant provided submissions and signed undertakings on 4 March 2020 to address the concerns raised.

[4] The undertakings meet the requirements of s.190(3) of the Act and I have accepted them. As a result, the undertakings are taken to be a term of the Agreement and are attached to this Decision as Attachment A.

[5] I observe that the following provision is likely to be inconsistent with the National Employment Standards (NES):

- Clause 24 – Public Holidays.

[6] However, noting NES precedence clause inserted in the undertakings at Attachment A, I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and NES.

[7] Subject to the undertakings provided and the matter raised at paragraphs [5] – [6], I am satisfied that each of the requirements of ss. 186, 187, 188 and 190 of the Act as are relevant to this application for approval have been met.

[8] The Agreement is approved and, in accordance with clause 3.1 of the Agreement and s.54 of the Act, will operate 7 days from the date of approval of the Agreement. The nominal expiry date is 24 March 2024.



COMMISSIONER

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Attachment A

IN THE FAIR WORK COMMISSION

Matter Number: AG2020/357

Applicant: Protech Managed Project Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement.

Undertaking – Section 190

I Marc Meili, give the following undertaking in relation to the *Managed Project Services On-Hire Agreement 2019* (the Agreement).

1. I have the authority given to me by Protech Managed Project Services Pty Ltd to provide the following undertakings in relation to the application before the Fair Work Commission.
2. I have sought views of the bargaining representatives for this undertaking pursuant to section 190(4) of the *Fair Work Act (Cth)*.
3. Protech Managed Project Services Pty Ltd gives the following undertaking pursuant to section 190 of the *Fair Work Act 2009 (Cth)*
 - a. This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
 - b. Employees engaged under the Agreement as a trainee shall be paid 1% higher than the underpinning award as provided for in clause 20.1.1.
 - c. In relation to clause 14 and clause 20.1.2 we undertake that the employee's rates will not fall below the minimum rates contained in the Agreement. Where an Employee considers that over a month period they are not better off overall under this Agreement due to the implementation of clause 14 and clause 20.1.2, they may request a comparison of the wages received for that roster cycle under this Agreement and the wages they would otherwise have been provided with under the Award. Any shortfall in wages which would otherwise be payable under the Award will be paid to the Employee in the next pay period after the review is completed. If the Employee and Employer cannot reach agreement on the total amount which should be paid by the operation of this undertaking, the Dispute Resolution Procedure in clause 16 of the Agreement will be followed and the parties will agree to the Fair Work Commission arbitrating and making a binding determination to resolve the matter.
 - d. In relation to part time employees, part time employees are entitled to overtime in accordance with clause 14.6 of the incorporated Award.
 - e. In relation to casual employees, casual employees are entitled to overtime in accordance with clause 14.6 of the incorporated Award.
 - f. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Marc Meili
04/03/2020

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.

Managed Project Services On-Hire Agreement 2019

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1. Title

- 1.1 This will be called the *Managed Project Services On-Hire Agreement 2019* (the Agreement).

2. Parties

- 2.1 The parties to this Agreement are:

2.1.1 Protech Managed Project Services Pty Ltd (ACN 600 040 480) (the Company);
and

2.1.2 Protech Managed Project Services Pty Ltd On-Hire Employees who:

- i. Are employed throughout all States and Territories of Australia, excluding Victoria;
- ii. Whose employment would have otherwise been covered by the *Building and Construction General On-Site Award 2010*.

3. Duration of the Agreement

- 3.1 This Agreement will commence seven (7) days after the date of approval from the Fair Work Commission (FWC).
- 3.2 The Agreement will have a nominal expiry date of four (4) years after the approval notice is issued by the FWC.

4. Application

- 4.1 This Agreement shall apply to all On-Hire Employees as outlined in clause 2.
- 4.2 This Agreement shall apply to and be binding upon the Company and its On-Hire Employees in relation to all its operations within the Building and Construction Industry whose employment would have been otherwise covered by the *Building and Construction General On-Site Award 2010*, all States and Territories of Australia, excluding Victoria.

5. Scope and Intent

- 5.1 This Agreement shall incorporate the *Building and Construction General On-Site Award 2010*, as varied from time to time. Should there be an inconsistency between this Agreement and the *Building and Construction General On-Site Award 2010*, then the terms of the Agreement shall prevail to the extent of the inconsistency.
- 5.2 Where the Agreement is silent the terms of the *Building and Construction General On-Site Award 2010* shall apply, in so far as the terms have application.
- 5.3 The terms of this Agreement apply in a manner that does not exclude the National Employment Standards (NES). That is, no provision of the NES is displaced by this Agreement, but the NES provisions may be supplemented by the terms of this Agreement. The NES will continue to apply to the extent that any term of this Agreement is detrimental in any aspect when compared with the NES.

- 5.4 All policies, standards and procedures will be binding on On-Hire Employees however they do not form part of this Agreement. On-Hire Employees will comply with Company policies, standards and procedures providing they are not contrary to the Agreement.
- 5.5 The Company and On-Hire Employees are committed to the implementation of the Australian Building and Construction Code, namely the *Code for the Tendering and Performance of Building Work 2016 (the Building Code 2016)*. For clarity this Agreement does not incorporate the Building Code 2016.

6. Definitions

“Act” shall mean the *Fair Work Act 2009 (Cth)* or any other legislation that replaces it.

“Agreement” shall mean Managed Project Services On-Hire Agreement 2019.

“Award” shall mean the *Building and Construction General On-Site Award 2010*, as varied from time to time.

“Casual double time rate” shall mean the ordinary time hourly rate multiplied by 225%.

“Casual double time and a half” shall mean the ordinary time hourly rate multiplied by 275%

“Casual On-Hire Employee” shall mean an On-Hire Employee who has no guarantee of ongoing or continued work with the Company and is not eligible for paid leave entitlements under this Agreement. A Casual On-Hire Employee/s is entitled to a minimum payment of four (4) hours work per engagement. Casual On-Hire Employees will be paid a 25% casual loading which is in lieu of all paid leave entitlements (annual leave, annual leave loading, personal leave, paid community service leave, notice of termination, public holidays not worked and redundancy entitlements).

“Casual time and a half” shall mean the ordinary time hourly rate multiplied by 175%.

“Client” shall mean any Client of the Company to who employees are on-hired to from time to time.

“Company” shall mean Protech Managed Project Services Pty Ltd (ACN 147 644 399).

“Continuous shiftworker” shall mean an On-Hire Employee engaged to work in a system of consecutive shifts throughout the 24 hours of each of at least six consecutive days without interruption (except during breakdown or meal breaks or due to unavoidable causes beyond the control of the Company) and who is regularly rostered to work those shifts.

“Full time On-Hire Employees” shall mean an On Hire Employee who has been notified in writing of their full time employment status prior to commencement. A full time On-Hire Employee shall work an average hours of work no less than thirty eight (38) hours per week over the roster cycle. A full time On-Hire Employee will accrue annual leave and personal leave and will not be entitled to the 25% casual loading.

“FWC” shall mean the Fair Work Commission or any other body that replaces it.

“Inclement weather” shall mean the existence of rain or abnormal climatic conditions (whether hail, extreme cold, high wind, severe dust storm, extreme high temperature or the

like or any combination of these conditions) where it is not reasonable or it is unsafe for On-Hire Employees to continue working in those conditions.

“NES” shall mean National Employment Standards, as varied from time to time.

“Ordinary hours of work” shall mean a maximum of 38 hours per week.

“On-Hire Employees” shall mean all Company On-Hire Employees who are placed on assignment with a Client of the Company and are covered by this Agreement.

“Over Agreement Payment” shall mean any payment that is in excess of the rates contained in this Agreement and/or *Building and Construction General On-Site Award 2010*.

“Part time On-Hire Employee” shall mean an On-Hire Employee who has been notified in writing of their part time employment status prior to commencement. A Part Time On-Hire Employee works an average less than 38 hours per week and the On-Hire Employee has reasonably predictable hours of work. Part time On-Hire Employees shall receive a pro rata, equivalent pay and conditions to those full time On-Hire Employees.

“PPE” shall mean personal protective equipment.

“RDO” shall mean a rostered day off.

“Standard rate” shall mean either the weekly or hourly minimum wage for a Level 3 On-Hire Employee.

7. Flexibility

7.1 The Company and On-Hire Employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

7.1.1 The Agreement deals with 1 or more of the following matters:

- i. arrangements about when work is performed;
- ii. overtime rates;
- iii. penalty rates;
- iv. allowances; and
- v. leave loading.

7.1.2 the arrangement meets the genuine needs of the Company and On-Hire Employee in relation to 1 or more of the matters mentioned in clause 7.1.1; and

7.1.3 the arrangement is genuinely agreed to by the Company and On-Hire Employee.

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

7.2.1 are about permitted matters under section 172 of the Act; and

7.2.2 are not unlawful terms under section 194 of the Act; and

7.2.3 result in the On-Hire Employee being better off overall than the On-Hire Employee would be if no arrangement was made.

7.3 The Company must ensure that the individual flexibility arrangement:

- 7.3.1 is in writing; and
- 7.3.2 includes the name of the Company and On-Hire Employee; and
- 7.3.3 is signed by the Company and On-Hire Employee and if the On-Hire Employee is under 18 years of age, signed by a parent or guardian of the On-Hire Employee; and
- 7.3.4 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 On-Hire 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
 - iv. states the day on which the arrangement commences.
- 7.4 The Company must give the On-Hire Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 7.5 The Company or On-Hire Employee may terminate the individual flexibility arrangement:
 - 7.5.1 by giving no more than 28 days written notice to the other party to the arrangement; or
 - 7.5.2 if the Company and On-Hire Employee agree in writing — at any time.

8. Lawful Directions

- 8.1 All On-Hire Employees are required to follow all lawful and reasonable directions that are within their ability, given by their Leading Hand/Supervisor, assigned recruitment coordinator, account manager or any other appropriate person, as nominated by the Company or Client.
- 8.2 Should On-Hire Employees not be able to perform the assigned task for any reason whatsoever, it is the On-Hire Employees duty to inform their Leading Hand/Supervisor, assigned recruitment coordinator, account manager or other appropriate person immediately.
- 8.3 Refusal to comply with any lawful and reasonable direction may result in disciplinary action, which may include the termination of the On-Hire Employees employment.

9. Skills, Competency and Training

- 9.1 On-Hire Employees are required to perform work within their skill set, competency and training as required by the Company and/or Client. It is agreed that On-Hire Employees shall undertake all training as directed for the performance of work and the development of skills.

10. Safety and Fitness for Work

- 10.1 The Company is committed to undertaking our best endeavours to ensure the health and wellbeing of On-Hire Employees. The establishment of healthy and safe

workplaces, which includes the use of healthy and safe work methods, impairment testing (both planned and random), work organisation, working time, machinery and equipment is fundamental to the Company's and our Client's success.

- 10.2 The Company expects all On-Hire Employees to attend work in a fit and healthy condition free from the effects of drugs and/or alcohol each shift to ensure that work can be performed safely. Accordingly, On-Hire Employees are prohibited from attending work under the influence of any drug or intoxicant, and the possession of drugs other than those medically prescribed and/or non-prescribed drugs that can potentially affect an On-Hire Employee's ability to be fit for work, then he/she must declare this to the Company and or relevant Client supervisor. For the avoidance of doubt drugs reference in this clause shall mean illicit, synthetic drugs, prescription drugs and over the counter medications.
- 10.3 On-Hire Employees are not allowed to enter or engage in work on a site or workplace if you are, or are reasonably suspected to be, under the influence of, or affected by, alcohol or drugs.
- 10.4 The Company often operates in Industries that carry significant safety risks. On-Hire Employees health and wellbeing is an essential element of success. Any breaches of obligations in relation to Workplace Health and Safety may be considered serious and may result in consideration being given to disciplinary action which may include termination of employment.
- 10.5 On-Hire Employees will be required to wear relevant PPE at all times as directed and/or as required. Your clothing will be of a standard and nature as deemed relevant and appropriate by the Company and/or Client. Any PPE provided will be replaced on a fair wear and tear basis, subject to the Company being satisfied that replacement is required. It is a condition of issue of PPE and of employment that the issued PPE will be worn whilst at the workplace. Any On-Hire Employee utilising PPE provided by a previous employer must first notify the Company to ensure it is appropriate and suitable for use.
- 10.6 The Company recognises that random testing of On-Hire Employees will be consistent with the relevant Australian Standards.

11. Additional Claims

- 11.1 On-Hire Employees will not, during the term of this Agreement, pursue any further claims about any matter which pertains to the employment relationship.
- 11.2 For the avoidance of doubt, the parties to this Agreement commit that the practical application of this clause shall be consistent with the Building Code 2016, as varied from time to time.

12. Stand Down

- 12.1 The Company shall have the right to stand down an On-Hire Employee without payment for any day (or part of any day) which an On-Hire Employee cannot be usefully employed because of any:
 - 12.1.1 Industrial action (other than industrial action organised or engaged in by the Company); or

- 12.1.2 a breakdown of machinery or equipment, if the Company or Client cannot reasonably be held responsible for the breakdown; or
 - 12.1.3 force majeure, for which the Company cannot reasonably be held responsible; or
 - 12.1.4 any stoppage of work by any cause for which the Client or Company cannot reasonably be held responsible.
- 12.2 An On-Hire Employee who is stood down may elect to use accrued annual leave entitlements or RDOs for such time.
- 12.3 For the avoidance of doubt, the Company commits that the operation of this clause will be consistent with the section 524(1) of the Act.

13. Deduction of Monies

- 13.1 Wages will be paid subject to the On-Hire Employees authorised deductions as agreed with the Company. The On-Hire Employee authorises the Company to deduct from their Wages (including leave and termination payments):
- 13.1.1 all taxes, payable by law;
 - 13.1.2 all identified and justified overpayments;
 - 13.1.3 any amount attributable to unauthorised absences, approved unpaid leave or monies owing to the Company;
 - 13.1.4 any other deductions authorised by the On-Hire Employee and agreed by the Company or as required or permitted by law.
- 13.2 On-Hire Employees authorise the Company to deduct from any wages or entitlements payable or owing to the On-Hire Employee, any overpayments made in error by the Company to the On-Hire Employee upon the Company providing a written notification of an overpayment to the On-Hire Employees last known home address, last known email address or current work address.
- 13.3 Overpayments will be deducted via reasonable amounts over a maximum period of twelve (12) weeks unless agreed otherwise.
- 13.4 The Company commits to ensure the provisions section 324 of the Act are followed regarding any prior attempt in the pursuit of deduction of any monies from its On-Hire Employees.

Underpayments

- 13.5 The Company commits that where there is an acknowledged underpayment that this will be rectified and paid to the affected On-Hire Employee(s) as soon as possible and in the event that this cannot be achieved the maximum period will be the next pay run.

14. Above Agreement Payments

- 14.1 Due to the nature of the Company's industry and conditions of assignments performed under this Agreement, the Company may provide above Agreement payments (as prescribed by this Agreement and underpinning Award) to an On-Hire Employee engaged under this Agreement, at the total discretion of the Company. These Above Agreement Payments are subject to the following:
- 14.1.1 The Above Agreement Payment may take into account and be based upon Client requirements and expectations, skills, safety, production, quality, equipment condition, environmental compliance, market conditions, performance as determined by the Company in its sole discretion;
- 14.1.2 The Above Agreement Payment may take into account and be based upon Client requirements and expectations, skills, safety, production, quality, equipment condition, environmental compliance, market conditions, performance as determined by the Company in its sole discretion;
- 14.1.3 The Above Agreement Payment will be in addition to any employment benefits provided for in this Agreement and may be paid as an hourly supplement to classification wages or as a weekly or one-off lump sum amount;
- 14.1.4 The Above Agreement Payment may be withdrawn or varied at any time, but will not be used to reduce the rates otherwise payable under this Agreement;
- 14.1.5 In the event that the Above Agreement Payment applies to only one classification it will not have a flow on to other areas of work or classifications under this Agreement;
- 14.2 Details of any entitlement under this clause will be communicated to the On-Hire Employee at the commencement of engagement through the Letter of Engagement.
- 14.3 Where an On-Hire Employee is paid an all up rate the following may be included in the all up rate; casual loading (where applicable), overtime, public holiday rates, penalty rates, shift loadings, special allowance, industry allowance, tool allowance and any other monetary allowance applicable from time to time. The all up rate shall be identified in the On-Hire Employee's Letter of Engagement.

15. Types Employment and Termination of Employment

15.1 Types of Employment

- 15.1.1 On-Hire Employees under this Agreement will be employed in one of the following categories of employment:
- i. Casual On-Hire Employee;
 - ii. Full Time On-Hire Employee;
 - iii. Part Time On-Hire Employee;
 - iv. On Hire Employees engaged for a specific project/site/assignment or workplace related task.
- 15.1.2 At the time of the On-Hire Employees engagement, the Company will inform each On-Hire Employee in writing of their status and term of their engagement.

15.2 Casual Employment

15.2.1 A Casual On-Hire Employee is one engaged and paid as such.

15.2.2 A Casual On-Hire Employee will be paid the hourly rate of pay for the relevant classification in addition to a loading of 25% calculated on the base rate of pay.

This 25% loading is in lieu of:

- i. Annual Leave and Leave Loading entitlements;
- ii. Personal Leave entitlements;
- iii. Notice of Termination requirements;
- iv. Redundancy entitlements; and
- v. Other entitlements not applicable to Casual On-Hire Employees.

For the avoidance of doubt, casual loading is paid in lieu of entitlements which do not apply to Casual On-Hire Employees, having regard for the National Employment Standards.

15.2.3 The minimum engagement for a Casual On-Hire Employee will be four (4) hours on any one day that you are required to work.

15.2A Casual Conversion

15.2.4 An On-Hire Employee engaged by the Company as a Casual On-Hire Employee, other than an irregular Casual On-Hire Employee, who has been engaged for a sequence of periods of employment under this Agreement during a period of six (6) months may request that their employment be converted to Full Time or Part Time employment.

15.2.5 An irregular Casual On-Hire Employee is a Casual On-Hire Employee who has been engaged to perform work on an occasional or non-systematic or irregular basis.

15.2.6 Any request made by the On-Hire Employee under this Clause 15.2A must be in writing and provided to the Company.

15.2.7 Where a Casual On-Hire Employee seeks to convert to Full Time or Part Time employment, the Company may agree to or refuse the request, but the request may only be refused on reasonable grounds.

15.2.8 Where the Company refuses a Casual On-Hire Employee's request to convert, the Company must provide the Casual On-Hire Employee with the Company's reasons for refusal in writing within 21 days of the request being made.

15.2.9 Where it is agreed that a Casual On-Hire Employee will have their employment converted to Full Time or Part Time employment as provided for in this clause, the Company and On-Hire Employee must discuss and record in writing:

- i. the form of employment to which the On-Hire Employee will convert – that is, Full Time or Part Time employment;
- ii. if it is agreed that the On-Hire Employee will become a Part Time On-Hire Employee, the number of hours and the pattern of hours that will be worked, as set out in clause 15.4; and
- iii. the date upon which the conversion will take effect.

15.2.10 Nothing in this clause obliges a regular Casual On-Hire Employee to convert to Full

Time or Part Time employment, nor permits a Company to require a regular Casual On-Hire Employee to so convert.

15.2.11 Nothing in this clause requires a Company to increase the hours of a regular Casual On-Hire Employee seeking conversion to Full Time or Part Time employment.

15.2.12 Once a Casual On-Hire Employee has elected to become and has been converted to a Full Time or Part Time On-Hire Employee, the On-Hire Employee may only revert to Casual employment by written agreement with the Company.

15.2.13 For the avoidance of doubt, this clause prevails and replaces clause 14.8 of the *Building and Construction General On-Site Award 2010*.

15.3 Full Time Employment

15.3.1 A Full Time On-Hire Employee works an average of thirty eight (38) ordinary hours per week.

15.3.2 A Full Time On-Hire Employee will accrue annual leave and personal leave and will not be entitled to the 25% casual loading.

15.4 Part Time Employment

15.4.1 A Part Time On-Hire Employee is employed to work an average of fewer than 38 ordinary hours per week and has reasonably predictable hours of work.

15.4.2 For each ordinary hour worked, a Part Time On-Hire Employee will be paid no less than the ordinary time rate for the relevant classification and pro-rata entitlements for those hours. Part time On-Hire Employees will be informed of their ordinary hours of work and the starting and finishing times.

15.4.3 Before commencing as a Part Time On-Hire Employee the Company and the On-Hire Employee will agree in writing:

- i. that the On-Hire Employee may work Part Time;
- ii. the hours to be worked by the On-Hire Employee, the days upon which the hours will be worked and the commencing times for the work;
- iii. the classification applying to the work to be performed by the On-Hire Employee; and
- iv. upon the period of Part Time On-Hire Employment.

15.4.4 The terms of the Part Time Agreement may be varied, in writing, by consent.

15.4.5 A copy of the Part Time Agreement and any variation to it will be provided to the On-Hire Employee by the Company.

15.4.6 A Part Time On-Hire Employee is entitled to accrue leave outlined in clause 23 of this Agreement on a pro-rata basis. A Part Time On-Hire Employee will accrue pro-rata annual leave and pro-rata personal leave and will not be entitled to the 25% casual loading.

15.5 Probation/Qualifying Period

15.5.1 A Full Time or Part Time On-Hire Employee will be engaged on a

probation/qualifying period for the first six (6) months of their engagement. During the probation/qualifying period the On-Hire Employees performance shall be monitored.

15.6 Termination of Employment

- 15.6.1 Notice of termination is provided for in the NES. For the termination of employment the period of notice to be provided by the Company or an On-Hire Employee is:

Continuous Service with the Company	Notice Period
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks
The period of notice shall increase by one (1) week if the On-Hire Employee is over 45 years old and has completed at least two (2) years of continuous service with the Company. For the avoidance of doubt, this additional one (1) weeks notice only applies to notice given by the Company.	

- 15.6.2 If an On-Hire Employee fails to provide the Company with the notice of termination in accordance with clause 15.6.1 the Company shall have the right to withhold monies due to the On-Hire Employee on termination, an amount not exceeding the amount the On-Hire Employee would have been paid for the period of notice not provided.
- 15.6.3 The Company may elect to pay the On-Hire Employee in lieu of part or all of the period of notice. The amount of payment instead must be at least the amount the On-Hire Employee would have been paid if their employment continued to the end of the required period of notice.
- 15.6.4 Where the Company has given notice of termination to an On-Hire Employee, an On-Hire Employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the On-Hire Employee after consultation with the Company.
- 15.6.5 For the avoidance of doubt notice of termination as prescribed in clause 15.6.1 does not apply to Casual On-Hire Employees. A Casual On-Hire Employee may be terminated by either party by providing one (1) hour of notice.
- 15.6.6 The employment of a Maximum Term On-Hire Employee or a limited term or assignment On-Hire Employee, or an On-Hire Employee employed for a specific project, site or workplace specific task, may be terminated by:
- the completion of the specific time; or
 - completion of the assignment, project, site or workplace specific task; or
 - the notice provisions outlined in clause 15.6.1; or
 - the On-Hire Employee providing notice in accordance with clause 15.6.1.
- 15.6.7 Nothing in this cause nor any other provisions of this Agreement interferes with the right of the Company to dismiss an On-Hire Employee without notice for serious misconduct. For the avoidance of doubt, misconduct includes but is not limited to:

- i. Violence, harassment, discrimination or abuse in any form whatsoever shown towards fellow On-Hire Employees, Client Employees, Clients or anyone else related to work with the Company.
- ii. Offensive, intimidating or violent behaviour in any form regardless of how or why it was initiated.
- iii. Any activity bringing the Company into disrepute.
- iv. Theft.
- v. Dishonesty and/or fraud.
- vi. Disregard for Company policy, rules or the welfare of fellow Employees, Client or customers.
- vii. Wilful disobedience.
- viii. Falsifying Employee details and work experience.
- ix. Conviction for an offence that impacts on the employment relationship.
- x. Serious neglect of duty or incompetence.
- xi. Possession, use or dealing in any prohibited drug or other restricted or dangerous substances during working hours or on Client premises.
- xii. Intoxication.
- xiii. Practical jokes or acts of horseplay.
- xiv. Vandalism.
- xv. Serious misconduct as defined by the Act.

16. Disputes

16.1 If a dispute relates to:

16.1.1 a matter arising under the Agreement; or

16.1.2 the National Employment Standards;

this term sets out procedures to settle the dispute.

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

16.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Company or On-Hire Employees and relevant supervisors and/or management.

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

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

16.5.1 the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

16.5.2 if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

- i. arbitrate the dispute; and
- ii. make a determination that is binding on the parties.

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

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

16.6 While the parties are trying to resolve the dispute using the procedures in this term:

16.6.1 an On-Hire Employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and

16.6.2 an On-Hire Employee must comply with a direction given by the Company to perform other available work at the same workplace, or at another workplace, unless:

- i. the work is not safe; or
- ii. applicable occupational health and safety legislation would not permit the work to be performed; or
- iii. the work is not appropriate for the On-Hire Employee to perform; or
- iv. there are other reasonable grounds for the On-Hire Employee to refuse to comply with the direction.

16.7 The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

16.8 Any decision under this clause must be consistent with the *Building Code 2016* as varied from time to time.

17. Consultation

17.1 This term applies if the Company:

17.1.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the On-Hire Employees; or

17.1.2 proposes to introduce a change to the regular roster or ordinary hours of work of On-Hire Employees.

Major change

17.2 For a major change referred to in paragraph 17.1.1:

17.2.1 the Company must notify the relevant On-Hire Employees of the decision to introduce the major change; and

17.2.2 subclauses 17.3 to 17.9 apply.

17.3 The relevant On-Hire Employees may appoint a representative for the purposes of the procedures in this term.

17.4 If:

17.4.1 a relevant On-Hire Employee appoints, or relevant On-Hire Employees appoint, a representative for the purposes of consultation; and

17.4.2 the On-Hire Employee or On-Hire Employees advise the Company of the identity of the representative;

the Company must recognise the representative.

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

17.5.1 discuss with the relevant On-Hire Employees:

- i. the introduction of the change; and
- ii. the effect the change is likely to have on the On-Hire Employees; and
- iii. measures the Company is taking to avert or mitigate the adverse effect of the change on the On-Hire Employees; and

17.5.2 for the purposes of the discussion—provide, in writing, to the relevant On-Hire Employees:

- i. all relevant information about the change including the nature of the change proposed; and
- ii. information about the expected effects of the change on the On-Hire Employees; and
- iii. any other matters likely to affect the On-Hire Employees.

17.6 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant On-Hire Employees.

17.7 The Company must give prompt and genuine consideration to matters raised about the major change by the relevant On-Hire Employees.

17.8 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Company, the requirements set out in paragraph 17.2.1 and subclauses 17.3 and 17.5 are taken not to apply.

17.9 In this term, a major change is likely to have a significant effect on the On-Hire Employees if it results in:

17.9.1 the termination of the employment of On-Hire Employees; or

17.9.2 major change to the composition, operation or size of the Company's workforce or to the skills required of On-Hire Employees; or

17.9.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

17.9.4 the alteration of hours of work; or

17.9.5 the need to retrain the On-Hire Employees; or

17.9.6 the need to relocate On-Hire Employees to another workplace; or

17.9.7 the restructuring of jobs.

Change to regular roster or ordinary hours of work

17.10 For a change referred to in clause 17.1.2:

17.10.1 the Company must notify the relevant On-Hire Employees of the proposed change;
and

17.10.2 clauses 17.11 to 17.15 apply.

17.11 The relevant On-Hire Employees may appoint a representative for the purposes of the procedures in this term.

17.12 If:

17.12.1 a relevant On-Hire Employee appoints, or relevant On-Hire Employees appoint, a representative for the purposes of consultation; and

17.12.2 the On-Hire Employee or On-Hire Employees advise the Company of the identity of the representative;

the Company must recognise the representative.

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

17.13.1 discuss with the relevant On-Hire Employees the introduction of the change; and

17.13.2 for the purposes of the discussion—provide to the relevant On-Hire Employees:

- i. all relevant information about the change, including the nature of the change; and
- ii. information about what the Company reasonably believes will be the effects of the change on the On-Hire Employees; and
- iii. information about any other matters that the Company reasonably believes are likely to affect the On-Hire Employees; and
- iv. invite the relevant On-Hire Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

17.14 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant On-Hire Employees.

17.15 The Company must give prompt and genuine consideration to matters raised about the change by the relevant On-Hire Employees.

17.16 In this term:

Relevant On-Hire Employees means the On-Hire Employees who may be affected by a change referred to in clause 17.1.

18. Classifications

18.1 At the commencement of each assignment by way of Letter of Engagement, an On-Hire Employee will be assigned to a classification level based on skills, qualifications and experience of the role.

18.2 Classifications will be determined on skills required for the particular role and not skills attained.

19. Trainees

- 19.1 The Company is committed to engaging Trainees in the Construction Industry consistent with this Agreement and recognised government endorsed training packages.
- 19.2 The Company will meet all legal requirements regarding the Traineeship program.
- 19.3 The Company will communicate with the recognised RTO and the Trainee during the Traineeship program to ensure the Training Plan is delivered as committed. Part of this process will be making sure all training records are kept up-to-date, and where needed that support for the Trainee is provided where/ when needed.

20. Wage Rates

20.1 Wage Rates

- 20.1.1 The rate of pay for On-Hire Employees are prescribed in Schedule 1 of this Agreement. On-Hire Employees are also entitled to allowances (except as specifically incorporated into the rates of pay as prescribed in Schedule 1), overtime and any other entitlements as set out in this Agreement. For the avoidance of doubt, the allowances included in the base hourly rate are a special allowance and industry allowance. Rates shall be at least 1% higher than the Award.
- 20.1.2 Where On-Hire Employees are placed on an assignment where it is necessary for the Company to pay On-Hire Employees in excess of the wages or allowances in this Agreement, this arrangement will be received by On-Hire Employees in satisfaction of any and/or all entitlements, terms, conditions, penalties and allowances which might otherwise apply to On-Hire Employees under this Agreement. This may include (but is not limited to) flat or rolled up hourly rates. The total payment to On-Hire Employees will not be less than On-Hire Employees would have received under this Agreement.
- 20.1.3 The Company will conduct a review of all wages yearly in line with the Fair Work Commission Minimum Wage Decision, where necessary rates will be adjusted to accommodate any increase. For the avoidance of doubt, where an On-Hire Employee receives an over agreement rate/market rate in line with clause 14, which remains above the annually adjusted agreement rate for their classification, any increase may be absorbed into the Above Agreement Payment.

20.2 Payment of Wages

- 20.2.1 Payment of wages shall be by direct deposit/electronic funds transfered on a weekly or fortnightly basis to a bank account nominated by the On-Hire Employee. Where a public holiday or weekend falls on the normal pay day, the payment shall be made as soon as is practicable after the normal pay day.

20.3 Market Rate Protection – Existing Employees

- 20.3.1 The Company commits to market rate protection for existing On-Hire Employees for the life of the Agreement. For the avoidance of doubt, the provisions of this clause will apply for the life of this Agreement, and, will only cease on the replacement or termination of the Agreement

- 20.3.2 Where an On-Hire Employee is employed on a Letter of Engagement at the time this Agreement is lodged with the Fair Work Commission, and where the On-Hire Employee is receiving Over Agreement payments and/or market arrangements/conditions, the Company will guarantee the rate of pay contained in their Letter of Engagement consistent with the following provisions:
- i. The On-Hire Employee remains at the host Client site as identified in the Letter of Engagement;
 - ii. The On-Hire Employee remains in the same classification;
 - iii. The On-Hire Employee does not have a break in service;
 - iv. The guarantee will cease to operate (i.e. the market rate protection) if an On-Hire Employee has a material change in their employment warranting a new Letter of Engagement, such as a substantive change in employment category, location/Client, change in classification or role type.

21. Working Arrangements

21.1 Hours of Work

- 21.1.1 Ordinary hours of work shall be worked between 6:00am and 6:00pm, Monday to Friday. On-Hire Employees can work an average of 7.6 hours per day and 38 hours per week.
- 21.1.2 The maximum ordinary hours of work in any one day shall be eight (8) hours.
- 21.1.3 Hours worked in excess of the ordinary hours in clause 21.1.1 shall be deemed overtime.
- 21.1.4 A Casual On-Hire Employee will be afforded a minimum of four (4) hours per engagement.

21.2 Shiftwork

General building and construction & metal and engineering construction sectors

- i. Morning shift means a shift commencing at or after 4.30am and before 6.00am.
- ii. Early afternoon shift means a shift commencing on or after 11.00am and before 1.00pm.
- iii. Afternoon shift means a shift commencing at or after 1.00pm and before 3.00pm.
- iv. Night shift means a shift commencing at or after 3.00pm and before 11.00pm.

Civil construction sector

- i. Day shift means any shift starting on or after 6.00am and before 10.00am.
- ii. Afternoon shift means any shift starting at or after 10.00am and before 8.00pm.
- iii. Night shift means any shift starting at or after 8.00pm and before 6.00 am.
- iv. Saturday shift means an Employee required to work between midnight on Friday and midnight on Saturday.
- v. Sunday shift means an Employee required to work between midnight on Saturday and midnight on Sunday.

21.2.1 Shift Allowances

General building and construction & metal and engineering construction sectors

- i. An Employee required to work a shift for at least five (5) successive shifts Monday to Friday, will receive:
 - a. Morning and early afternoon shifts – ordinary time plus 25%;
 - b. Afternoon and night shifts – ordinary time plus 50%.
- ii. If required to work less than five (5) successive shifts, the time worked will be considered overtime as the hours worked are outside of the ordinary spread of hours in clause 21.1.1.

Civil construction sector

- i. An Employee required to work on an afternoon or night shift (other than a Saturday, Sunday or public holiday) will be paid ordinary time plus 15%.
- ii. An Employee required to work permanent night shift and does not rotate shifts for more than four (4) successive weeks will be paid the ordinary time plus 30%.
- iii. An Employee required to work on a Saturday will be paid time and a half for all hours worked.
- iv. An Employee required to work on a Sunday will be paid double time for all hours worked.
- v. Shiftworkers who work on any afternoon or night shift which does not continue for at least five successive afternoons or nights will be paid at the rate of time and a half for all ordinary time occurring during such shift.

21.3 Rostered Day Off (RDO)

- 21.3.1 The Company will have the discretion to either introduce or terminate an RDO arrangement.
- 21.3.2 RDOs may be implemented at a site or workplace as approved by the Company, to meet the Company's operational requirements.
- 21.3.3 Where RDO arrangements are implemented On-Hire Employees shall be required to work eight hours per day with 0.4 of an hour of each day accruing toward a paid day off, to be known as a Rostered Day Off.
- 21.3.4 Rostered days off may bank up to a maximum of five (5) RDOs.
- 21.3.5 Where the Company and majority of On-Hire Employees at the Client Site agree, another day may be substituted for the nominated RDO.
- 21.3.6 The Company may at its complete discretion require or agree to cash out any accumulated Rostered Days Off at ordinary time rates applicable at the time such Rostered Days Off hours are taken or where an On-Hire Employee is terminated.

21.4 Overtime

- 21.4.1 All hours worked beyond clause 21.1 Hours Of Work shall be paid as overtime.
- 21.4.2 All overtime worked Monday to Friday shall be paid at the rate of time and a half for the first two (2) hours and double time thereafter.

- 21.4.3 All overtime worked on Saturday prior to noon shall be paid at the rate of time and a half for the first two (2) hours and double time thereafter.
- 21.4.4 All overtime worked on Saturday afternoon and Sunday shall be paid at the rate of double time.
- 21.4.5 An On-Hire Employee required to work on Saturday must be paid a minimum of three (3) hours.
- 21.4.6 All work performed on a Saturday following Good Friday must be paid for at the rate of double time and a half.
- 21.4.7 An On-Hire Employee required to work on the Saturday following Good Friday must be afforded at least four (4) hours' work or be paid for four (4) hours at the appropriate rate.
- 21.4.8 An On-Hire Employee required to work on Sunday must be paid a minimum of four (4) hours.
- 21.4.9 All overtime worked by a shiftworker (as defined in the Award and clause 21.2) shall be paid at double time.
- 21.4.10 All work performed on public holidays, or substituted days, must be paid for at the rate of double time and a half, subject to minimum payment for four (4) hours' work.

21.5 Recall

- 21.5.1 An On-Hire Employee that is recalled to work overtime after leaving the Clients premises must be paid a minimum of three (3) hours at the appropriate rate.

21.6 10 Hour Break

- 21.6.1 On-Hire Employees where reasonably practicable, must have ten (10) consecutive hours off duty. An On-Hire Employee who works so much overtime:
- i. between the termination of the On-Hire Employee's ordinary work day or shift, and the commencement of the On-Hire Employee's ordinary work in the next day or shift that the On-Hire Employee has not had at least ten (10) consecutive hours off duty between these times; or
 - ii. on Saturdays, Sundays and holidays (not being ordinary working days) or on a Rostered Day Off, without having had ten (10) consecutive hours off duty in the 24 hours preceding the On-Hire Employee's ordinary commencing time on the next ordinary day or shift;
 - iii. Must be released after completion of such overtime until the On-Hire Employee has had ten (10) hours off duty without loss of pay for ordinary working time occurring during such absence.
- 21.6.2 If on the instructions of the Company, an On-Hire Employee resumes or continues work without having had ten (10) consecutive hours off duty, the On-Hire Employee shall be paid double time until they are released from duty and will be entitled to be absent until ten (10) consecutive hours off duty has been taken, without loss of pay for ordinary working time occurring during the absence.
- 21.6.3 In the case of shiftworkers eight (8) hours will be substituted for ten (10) hours overtime worked:

- i. for the purpose of changing shift rosters; or
- ii. where a shift is worked by arrangement between the On-Hire Employees themselves.

21.7 Meal Break

- 21.7.1 A day worker On-Hire Employee must take an unpaid meal break of no less than 30 minutes each day between noon and 1:00pm, or as otherwise agreed between the Company and majority of On-Hire Employees, provided the On-Hire Employee must not be required to work more than five (5) hours without a break for a meal.
- 21.7.2 The meal break is paid for shiftworkers and is to be taken no later than five (5) hours after the commencement of the shift.

21.8 Rest Break

- 21.8.1 An On-Hire Employee must be allowed without the deduction of pay a 10 minute rest break between 9:00am and 11:00am.
- 21.8.2 The rest break will be taken at a mutually agreed time between the Company and the majority of On-Hire Employees affected so as not to interrupt the operations of the Company and/or Client site or workplace. To meet individual or Company needs, the Company and On-Hire Employee may reach an agreement to take the rest break at a time other than determined by the majority.

22. Superannuation

- 22.1 The Company will make superannuation contributions, in accordance with the relevant superannuation legislation, as varied from time to time. Where an On Hire Employee does not elect a fund or provides the Company with insufficient information regarding their choice of superannuation fund then superannuation contributions will be made to the Company's default superannuation fund.

23. Leave

23.1 Annual Leave

- 23.1.1 Annual leave and application will be consistent with the NES. For the avoidance of doubt annual leave does not apply to Casual On-Hire Employees.
- 23.1.2 An On-Hire Employee is entitled to annual leave, consistent with the NES.
- 23.1.3 On Hire Employees, accrue annual leave at the following rate:
 - i. 4 weeks annual leave per annum or
 - ii. 5 weeks annual leave per annum (continuous shift workers)
- 23.1.4 Calculation of annual leave pay:
 - i. On-Hire Employees when taking annual leave must be paid their base rate of pay as referred to in s 90(1) of the Act plus annual leave loading of 17.5%; or
 - ii. On-Hire Employees who would have worked on shiftwork had they not been on leave and where the On-Hire Employee would have received shift loadings as prescribed by the Award and such shift loadings would have entitled them to a

greater amount than the loading of 17.5%, then the shift loading will be paid in lieu of the 17.5%. On-Hire Employees shall be entitled to the annual leave loading or the shift loading whichever is greater.

23.1.5 On-Hire Employee's annual leave is cumulative from year to year.

23.1.6 The Company may direct an On-Hire Employee to take annual leave during all or part of a period deemed a shutdown period. The Company will notify affected On-Hire Employee's as soon as it is notified and at the time the Company is aware of the dates of the shut-down.

23.1.7 Part time On-Hire Employees accrue annual leave on a pro-rata basis.

Cashing out of Annual Leave

23.1.8 Where an On-Hire Employee accrues annual leave, subject to the requirements of the Act:

- i. An On-Hire Employee may request the cashing out of accrued leave which the Company may approve at its discretion; and/or
- ii. The Company may require an On-Hire Employee to take annual leave.

23.1.9 Where a request for the cashing out of annual leave is approved by the Company, the terms will be subject to those specified in s 93 (2) of the Fair Work Act, namely that:

- i. paid annual leave must not be cashed out if the cashing out would result in the On-Hire Employees remaining accrued entitlements to paid annual leave being less than 4 weeks; and
- ii. each cashing out of a particular amount of paid annual leave must be by a separate agreement, in writing between the Company and the On-Hire Employee; and
- iii. the On-Hire Employee must be paid at least the full amount that would have been payable to the On-Hire Employee had the On-Hire Employee taken the leave that the On-Hire Employee has forgone.

23.2 Personal Leave

23.2.1 Personal leave and application will be consistent with the NES. For the avoidance of doubt personal leave does not apply to Casual On-Hire Employees.

23.2.2 Part time On-Hire Employees shall accrue personal leave on a pro-rata basis.

23.3 Long Service Leave

23.3.1 All On-Hire Employees covered by this Agreement shall be entitled to long service leave subject to and in accordance with the provisions of the applicable legislation.

23.4 Family and Domestic Violence Leave

23.4.1 All On-Hire Employees, including Casual On-Hire Employees, will be entitled to five (5) days' unpaid leave to deal with family and domestic violence subject to the Company's compliance with this clause. The Company may allow for additional time off if necessary.

Definitions for the purposes of clause 23.4:

“Family and Domestic Violence” means violent, threatening or other abusive behaviour by a family member of an On-Hire Employee that seeks to coerce or control the On-Hire Employee and that causes them harm or to be fearful.

“Family member” means: (i) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the On-Hire Employee; or (ii) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the On-Hire Employee; or (iii) a person related to the On-Hire Employee according to Aboriginal or Torres Strait Islander kinship rules.

A reference to a spouse or de facto partner in the definition of family member in this clause includes a former spouse or de facto partner.

23.4.2 Entitlement to unpaid leave

- i. An On-Hire Employee is entitled to five (5) days’ unpaid leave to deal with family and domestic violence, as follows:
 - a. the leave is available in full at the start of each 12 month period of the On-Hire Employee’s employment; and
 - b. the leave does not accumulate from year to year; and is available in full to Part Time and Casual On-Hire Employees.
- ii. The Company and On-Hire Employee may agree that the On-Hire Employee may take more than five (5) days’ unpaid leave to deal with family and domestic violence.

23.4.3 Taking unpaid leave

- i. An On-Hire Employee may take unpaid leave to deal with family and domestic violence if the On-Hire Employee:
 - a. is experiencing family and domestic violence; and
 - b. needs to do something to deal with the impact of the family and domestic violence and it is impractical for the On-Hire Employee to do that thing outside their ordinary hours of work.

23.4.4 Service and continuity

- i. The time an On-Hire Employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the On-Hire Employee’s continuity of service.

23.4.5 Notice and evidence requirements

Notice

- i. An On-Hire Employee must give the Company notice of the taking of leave by the On-Hire Employee under this clause. The notice:
 - a. must be given to the Company as soon as practicable (which may be a time after the leave has started); and
 - b. must advise the Company of the period, or expected period, of the leave.

24. Public Holidays

- 24.1 An On-Hire Employee, other than a Casual On-Hire Employee will be entitled to public holidays without loss of pay, but only if such a day was a day that the On-Hire Employee would have ordinarily been rostered for duty.
- 24.2 The Company may request an On-Hire Employee work a public holiday in accordance with the NES and the Act.
- 24.3 On-Hire Employees required to work on a public holiday as prescribed by this clause shall be paid at the rate of double time and a half.
- 24.4 The Company and the majority of On-Hire Employees may agree to substitute one of the prescribed public holidays for another day and the prescriptions of this clause will apply to the substituted day. To meet individual or Company needs, the Company and any On-Hire Employees may agree to substituted a public holiday in circumstances where the majority does not agree, or may agree to substitute a public holiday on a different day to that determined by the majority.

25. Inclement Weather

- 25.1 Inclement weather shall mean the existence of rain or abnormal climatic conditions (whether hail, extreme cold, high wind, severe dust storm, extreme high temperature or the like or any combination of these conditions) where it is not reasonable or it is unsafe for On-Hire Employees to continue working in those conditions.
- 25.2 When inclement weather conditions exist an affected On-Hire Employee is not required to commence or continue to work where it is unreasonable or unsafe to do so. In cases where emergency work is required or it is necessary to complete a concrete pour already commenced to a practical stage, work may occur or continue provided that such work does not give rise to a reasonable concern on the part of an On-Hire Employee undertaking the work of an imminent risk to their health or safety.
- 25.3 Where a transfer is appropriate, the On-Hire Employee will be provided with the necessary transport from the Company.
- 25.4 Should only a portion of the workplace be affected by inclement weather, all other On-Hire Employees not affected will continue working.
- 25.5 All other Award conditions shall apply.

26. Signatories

The parties recognise that each has a responsibility to ensure the successful operation of this Agreement. The signatures below testify the fact that the Agreement has been approved by the On-Hire Employees who will be covered by the Agreement in accordance with the Fair Work Act 2009.

Signed for and on behalf of Protech Managed Project Services Pty Ltd by:

Name: Marc MEILI

Signature 

Address 

Position: Managing Director

Date 10.02.2020

Witness Name ELIZABETH HELEN DINGER

Signature 

Address 

Date 10 FEBRUARY 2020.



Signed for and on behalf of the employees of Protech Managed Project Services Pty Ltd by:

Printed Name Robin Devereux - CW3 Operator

Signature 

Address 

Position: Employee signing on behalf of the Employees covered by this agreement

Date 06/02/2020

Witness Name Gare O'Mahony

Signature 

Address 

Date 6/2/20

SCHEDULE 1 – BASE RATES OF PAY

Classification	Rates On Lodgement		
	Column A	Column B	Column C
	Weekly Hire weekly rate of pay including special allowance & industry allowance.	Ordinary hourly rate of pay including special allowance & industry allowance.	Casual hourly rate of pay including 25% casual loading & special allowance & industry allowance.
Level 9 (ECW 9)	\$1,059.09	\$27.87	\$34.77
Level 8 (CW/ECW 8)	\$1,041.51	\$27.41	\$34.19
Level 7 (CW/ECW 7)	\$1,017.89	\$26.79	\$33.42
Level 6 (CW/ECW 6)	\$990.64	\$26.07	\$32.52
Level 5 (CW/ECW 5)	\$965.98	\$25.42	\$31.71
Level 4 (CW/ECW 4)	\$938.52	\$24.70	\$30.81
Level 3 (CW/ECW 3)	\$911.16	\$23.98	\$29.91
Level 2 (CW/ECW 2)	\$886.40	\$23.33	\$29.10
Level 1 (CW/ECW 1):			
CW/ECW 1 (level d)	\$869.23	\$22.87	\$28.54
CW/ECW 1 (level c)	\$853.94	\$22.47	\$28.03
CW/ECW 1 (level b)	\$842.60	\$22.17	\$27.66
CW/ECW1 (level a)	\$826.37	\$21.75	\$27.13

- i. The rates above are inclusive of the Special Allowance and Industry Allowances.
- ii. The rates in Column A are for Full Time weekly On-Hire Employees working a 38 hour (or averaged) ordinary week.
- iii. The rates in Column B shall be the rates used for Part Time Employees and in calculating the hourly rate for Casual On-Hire Employees for performing overtime work, weekend work and working on a public holiday.
- iv. The rates in Column C shall be the rates payable to Casual On-Hire Employees for working ordinary hours.

IN THE FAIR WORK COMMISSION

Matter Number: AG2020/357

Applicant: Protech Managed Project Services Pty Ltd

Section 185 – Application for approval of a single enterprise agreement.

Undertaking – Section 190

I Marc Meili, give the following undertaking in relation to the *Managed Project Services On-Hire Agreement 2019* (the Agreement).

1. I have the authority given to me by Protech Managed Project Services Pty Ltd to provide the following undertakings in relation to the application before the Fair Work Commission.
2. I have sought views of the bargaining representatives for this undertaking pursuant to section 190(4) of the *Fair Work Act (Cth)*.
3. Protech Managed Project Services Pty Ltd gives the following undertaking pursuant to section 190 of the *Fair Work Act 2009 (Cth)*
 - a. This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
 - b. Employees engaged under the Agreement as a trainee shall be paid 1% higher than the underpinning award as provided for in clause 20.1.1.
 - c. In relation to clause 14 and clause 20.1.2 we undertake that the employee's rates will not fall below the minimum rates contained in the Agreement. Where an Employee considers that over a month period they are not better off overall under this Agreement due to the implementation of clause 14 and clause 20.1.2, they may request a comparison of the wages received for that roster cycle under this Agreement and the wages they would otherwise have been provided with under the Award. Any shortfall in wages which would otherwise be payable under the Award will be paid to the Employee in the next pay period after the review is completed. If the Employee and Employer cannot reach agreement on the total amount which should be paid by the operation of this undertaking, the Dispute Resolution Procedure in clause 16 of the Agreement will be followed and the parties will agree to the Fair Work Commission arbitrating and making a binding determination to resolve the matter.
 - d. In relation to part time employees, part time employees are entitled to overtime in accordance with clause 14.6 of the incorporated Award.
 - e. In relation to casual employees, casual employees are entitled to overtime in accordance with clause 14.6 of the incorporated Award.
 - f. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Marc Meili
04/03/2020