



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Protech Personnel (Vic) Pty Ltd
(AG2023/5348)

AMWU AND PROTECH PERSONNEL (VIC) PTY LTD SITE SPECIFIC (DOWNER RAIL VICTORIA) METALS LABOUR HIRE AGREEMENT 2023-2026

Manufacturing and associated industries

COMMISSIONER MATHESON

SYDNEY, 31 JANUARY 2024

*Application for approval of the AMWU and Protech Personnel (Vic) Pty Ltd Site Specific
(Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026*

[1] An application has been made for approval of an enterprise agreement known as the *AMWU and Protech Personnel (Vic) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026* (Agreement). The application was made by Protech Personnel (VIC) Pty Ltd (Applicant) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (Act). The Agreement is a single enterprise agreement.

[2] The Applicant, who is also the employer covered by the Agreement, has provided written undertakings. A copy of the undertakings is attached at Annexure A of this decision (Undertakings). The views of each person I know is a bargaining representative for the Agreement were sought in relation to the Undertakings and no objections were raised. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[3] Pursuant to s.190(3) of the Act, I accept the Undertakings.

[4] Subject to the Undertakings, and on the basis of the materials before the Commission, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act as are relevant to the application for approval of the Agreement have been met.

[5] The “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to

cover it. In accordance with s.201(2) of the Act, I note that the Agreement covers the organisation.

[6] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 7 February 2024. The nominal expiry date of the Agreement is 30 June 2026.



COMMISSIONER

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter Number: AG2023/5348

Applicant: Protech Personnel (Vic) Pty Ltd

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

Undertaking – Section 190

I Nicole Thompson, National IR Manager give the following undertaking in relation to AMWU and Protech Personnel (Vic) P/L Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026 (the Agreement).

1. I have the authority given to me by Protech Personnel (Vic) 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 Personnel (Vic) Pty Ltd gives the following undertaking pursuant to section 190 of the *Fair Work Act 2009 (Cth)*
 - a. The title of the Agreement is the *AMWU and Protech Personnel (Vic) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026*.
 - b. In relation to the adult apprentice year 1 wage rates, the Company undertakes to replace the rate of \$19.89 with \$22.00 per hour.
 - c. In relation to clause 34 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 34, 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 12 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. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Nicole Thompson

18 January 2024

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 the agreement.

PART 1

1. Title

This Agreement shall be known as the AMWU and Protech Personnel (Vic) Pty Ltd Site Specific (Downer Rail Victoria) **Metals Labour Hire Agreement 2023-2026**.

2. Arrangement

The Agreement is arranged as follows:

1. Title
2. Arrangement
3. Application of Agreement
4. Parties Bound
5. Date and Period of Operation
6. Incorporation of Award Terms and National Employment Standards
7. Objectives of Agreement
8. Dispute Settlement Procedure
9. No Extra Claims
10. Wage Rates
11. Flexibility/Mobility of Labour
12. Casual Labour
13. Employee Representatives
14. Welder's Certificate Allowance
15. Annual Leave Loading
16. Travel Allowance
17. Standby
18. Payment of Wages
19. Superannuation
20. Protective Clothing
21. Occupational Health and Safety Representative
22. Compliance with Laws
23. Compensation for Lost Tools
24. Severance
25. Shutdown or Start Up on Major Jobs
26. Induction
27. Income Protection Insurance
28. Apprentices
29. Long Service Leave
30. Rostered Days Off (RDO) and Additional RDO
31. Picnic Day
32. Training
33. Higher Classifications
34. Relativity at Client Sites
35. Consultation
36. Employee Flexibility Agreement
37. Paid Parental Leave
38. Personal Leave
39. Additional Public Holiday(s)
40. Family Violence
41. Compliance with Licensing Requirements
42. Signatures

3. Application of Agreement

3.1 This Agreement shall regulate the rates of pay and define the conditions of employment of employees of Protech Personnel (VIC) Pty Ltd (ABN 97 149 736 498) engaged at Downer Rail sites located at Downer Newport – Champion Road, Newmont; Downer East Preston – 211 Plenty Road, East Preston and Downer Nar Nar Goon – 205 Oakview Lane, Nar Nar Goon in one of the classifications pursuant to Clause 10, and who are on-hired to clients' and work under the clients' direction under the terms of and conditions of this Agreement. This means, straight forward labour hire on an hourly hire basis for maintenance related tasks. Such tasks include contracted maintenance, installation, modification, de-Commissioning, demolition, trade and trade related fabrication, project, packaged and shutdown work. It excludes work carried out as part of a production process. It applies to such employees within the metal and engineering industry who are engaged from or work in the Melbourne metropolitan area bound by a 50 km radius (which may be extended by agreement) from the Melbourne GPO.

For the purposes of this clause, "**trade maintenance related fabrication work**" shall mean trade support functions such as trades' assistants, riggers, storeman, forklift drivers and the like, who are primarily assisting tradespeople.

3.2 This Agreement shall not apply to.

3.2.1 electricians or electrical work; or,

3.2.2 on-site building and construction [as defined below].

3.2.3 any operation that is a part of, or is preparatory to, or is for rendering complete, the prefabrication of made-to-order components to form part of any building, structure or works, whether carried out on-site or off-site.

'On-site building and construction' shall mean:

- (i) "on-site construction work" means metal trades work performed in the work of construction, fabrication, erection and/or installation work or work incidental thereto when it is carried out at a construction site which is specifically established for the purpose of constructing, fabricating, erecting and/or installing the following:
 - (ii) power stations, oil refineries, terminals and depots; chemical, petro - chemical and hydrocarbon plants; and associated plant, plant facilities and equipment.
 - (iii) major industrial and commercial undertakings and associated plant, plant facilities and equipment including undertakings for the processing and/or smelting of ferrous and non-ferrous metals, the processing of forest products and associated by-products, acid and fertiliser plants, cement and lime works, and other major industrial undertakings of a like nature.
 - (iv) plant, plant facilities and equipment in connection with the extraction, refining and/or treatment of minerals, chemicals and the like.
 - (v) transmission and similar towers, transmission lines and associated plant, plant facilities and equipment.
 - (vi) metal trades work on other engineering projects.
 - (vii) maintenance and/or repair and/or servicing work carried out on-site by the employees of contractors or subcontractors in connection with contracts for on-site construction work; and
 - (viii) the on-site fabrication and/or installation of air-conditioning and/or ventilation systems and all work ancillary thereto, including packaged air conditioning units, thermostatic controls, water recirculation equipment, air volume regulators, diffusers, fans, heat exchange equipment and the like.
 - (ix) But on-site construction work does not include work which is incidental to or of a minor nature in relation to the work normally performed by an employee of an employer not engaged substantially in metal and engineering construction, including any such work associated with the installation or servicing of any of the following equipment or systems:
 - telephone.
 - telegraphic.
 - alarms.
 - surveillance.

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

- electronic cash registers.
- intercommunication.
- sound.
- internal security systems.
- safes or other equipment designed to protect valuable items; or
- signs including illuminated signs.

4. Parties Bound

The parties to this Agreement are.

- **Protech Personnel (VIC) Pty Ltd (ABN 97 149 736 498) ("Company");**
- all employees of the Company engaged in one of the classifications as contained in Clause 10 of this Agreement whose employment is, at any time when the Agreement is in operation, subject to this Agreement.
- subject to application pursuant to section 183 of the Act, the Automotive Food, Metals, Engineering, Printing and Kindred Industries Union ("**union**"), as the context requires, union means the union here named.
- This Agreement binds the Company, those of its employees to whom the Agreement applies, the union and its members to whom the Agreement applies.

5. Date and Period of Operation

This Agreement comes into force 7 days after it is approved by the Fair Work Commission. The nominal expiry date of the Agreement is 30 June 2026.

The Agreement will continue in force until varied, terminated or replaced by another Agreement as agreed by the parties to this Agreement.

6. Incorporation of Award Terms and National Employment Standards

- 6.1 The terms of the Manufacturing and Associated Industries and Occupations Award 2020 and The Metal, Engineering and Associated Industries (Accident Pay, Victoria) Award 1998 as in force on 1 March 2006; and, The Metal, Engineering and Associated Industries (Superannuation) Award 2000 as in force on 1 March 2006 (Collectively referred to as "The Award"), or its successor award(s) ("Award"), as varied from time to time, is incorporated into this Agreement. However, variations to the Award that are detrimental to the employees covered by this Agreement will not be incorporated.
- 6.2 If an incorporated Award term is inconsistent with an express term of this Agreement, the express term in the Agreement prevails over the incorporated Award term to the extent of the inconsistency.
- 6.3 Despite clause 6.1, other than expressly provided for in this Agreement, any facilitative arrangements or Award flexibility clause in the Award shall not be used.
- 6.4 In this Agreement references to the Award shall mean the Award as incorporated into the Agreement unless the context requires otherwise.
- 6.5 Upon incorporating Award terms into the Agreement the incorporated Award terms are to be read as altered with the appropriate changes to make them provisions of the Agreement rather than provisions of an award. So, for example, the loadings, penalties and allowances in the Award apply to the rates of pay due under the Agreement, not the Award rate.
- 6.6 Further, existing over Agreement payments and conditions of employment will continue to apply unless varied by this Agreement.
- 6.7 The Terms of the National Employment Standards are incorporated into this Agreement. Where a term of the NES is also a term of this Agreement, the higher benefit will apply.

7. Objectives of Agreement

- a. To enable the Company to perform work in the activities covered by this Agreement in a productive and efficient manner.
- b. To enable employees to work in a productive, efficient, flexible and safe manner in accordance with their full

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

- c. skill and competence to meet the requirements of the Company and their clients.
- c. To provide appropriate remuneration and conditions of employment for employees working under the terms of the Agreement.

8. Dispute Settlement Procedure

- 8.1 The parties to this Agreement agree that any issue in dispute including in relation to the National Employment Standards should be resolved following the disputes procedure outlined below.
- 8.2 For the avoidance of doubt, this includes but is not limited to the express terms of this agreement and any incorporated instrument, the "General Protections" provided in the Fair Work Act 2009 ("the Act"), and the National Employment Standards detailed in the Act, including any refusal of requests by the employer under s.65(5) and s.76(4).
- 8.3 The following procedure for the resolution of disputes shall apply:
- 8.4 The employee/s concerned shall first meet and confer with their immediate supervisor. The employee/s may appoint a representative to act on their behalf including a Shop Steward.
- 8.5 Subject to 8.11 and 8.12, below, where a representative who is an employee is involved, he or she shall be allowed the necessary time during working hours to interview the employee/s and the supervisor.
- 8.6 If the matter is not resolved at such a meeting further discussion involving more senior management and employee representatives will take place.
- 8.7 The representative shall be allowed, at a place designated by the Company, a reasonable period during working hours to interview external advisors requested by the employee representative, in the workplace.
- 8.8 To facilitate the speedy and efficient resolution of disputes:
 - 8.8.1 the party with the grievance must notify the other party at the earliest opportunity of the problem.
 - 8.8.2 throughout all stages of the procedure all relevant facts must be clearly identified and recorded; and
 - 8.8.3 sensible time limits must be allowed for completion of the various stages of discussion. However, the parties must co-operate to ensure that the disputes resolution procedure is carried out as quickly as possible.
- 8.9 If parties have followed the above procedure and the matter remains unresolved, the parties may seek assistance through an agreed third party to assist in resolving the issue. If any party fails or refuses to follow any step of this procedure the non-breaching party shall not be obligated to continue through the remaining steps of the procedure and may immediately seek relief by application to the Fair Work Commission.
- 8.10 If the matter remains unresolved the parties may, jointly or individually, refer it to Fair Work Commission.
- 8.11 Notwithstanding the above, if a matter arises directly between the parties to this Agreement or if the parties otherwise agree, without all the steps in this procedure being followed, the matter may be referred directly to Fair Work Commission
- 8.12 If conciliation fails to resolve the matter in dispute Fair Work Commission shall resolve the matter by arbitration.
- 8.13 While the parties are attempting to resolve the matter, the parties will continue to work in accordance with this Agreement and their contract of employment unless the employee has a reasonable concern about an imminent risk to his or her health and safety. Subject to relevant provisions of any State or Territory occupational health and safety law, even if the employee has a reasonable concern about an imminent risk to his or her health or safety, the employee must not unreasonably fail to comply with a direction by the Company to perform other available work, whether at the same enterprise or another enterprise, that is safe and appropriate for the employee to perform.
- 8.14 Subject to the pre-dispute status quo, except in the case of employee misconduct, whilst these processes are being followed the parties shall commit to avoiding stoppages of work, lockouts or other bans and limitations on the performance of work. The Company shall ensure that all practices applied during the operation of this

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

procedure are in accordance with safe working practices and consistent with its previous established practice.

8.15 Whilst these processes are being followed the parties shall be committed to avoid stoppages of work, lockouts or other bans or limitations on the performance of work and the Company shall ensure that all practices applied during the operation of the procedure are in accordance with safe working practices and consistent with established custom and practice at the enterprise.

8.16 In any dispute raised pursuant to this clause of the Agreement the employer and the union agree that each party shall bear its own costs.

9. No Extra Claims

The Company, employees covered by this Agreement and the unions party to this Agreement agree that they will not, for the duration of this Agreement pursue any extra claims in relation to any matters except where consistent with this Agreement.

10. Wage Rates

The wages payable is as follows.

Classification		Column 1	Column 2	Column 3
	Increase	4 %	4%	3.75%
	Current	First full pay period following approval by FWC	First full pay period on or after July 1 2024	First full pay period on or after July 1 2025
C12	\$1,429.92	\$1487.12	\$1546.60	\$1604.60
C11	\$1,511.40	\$1571.86	\$1634.74	\$1696.04
C10	\$1,667.73	\$1734.44	\$1803.82	\$1871.46
C9	\$1,737.43	\$1806.93	\$1879.20	\$1949.67
C8	\$1,808.30	\$1880.63	\$1955.86	\$2029.20
C7	\$1,879.98	\$1955.18	\$2033.39	\$2109.64

The wage increases shall be payable as follows:

- The amount shown in Column 1 shall be payable from the beginning of the first pay period to commence on or after approval by Fair Work.
- The amount shown in Column 2 shall be payable from the beginning of the first full pay period on or after 1st July 2024
- The amount shown in Column 3 shall be payable on or after the beginning of the first full pay period on or after 1st January 2025.

Note: The Award tool allowance (C7 – C10) and EFT allowance (C7 – C12) is included in the relevant classifications’ rate of pay set out above. This will be adjusted as per the wage % increases each year.

Wage rates apply retrospectively.

To avoid doubt, if this Agreement comes into force on or after the first full pay period commencing 25 August 2023 and if the employees covered by the Agreement were not being paid at least the rates set out here, the Company must, within a reasonable period after this Agreement comes into force, pay the employees an amount of back pay equal to what the employees would have received had this Agreement came into force on or after the first full pay period commencing 25 August 2023.

11. Flexibility/Mobility of Labour

Employees of Protech Personnel (VIC) Pty Ltd in the Labour Hire Industry must possess a broad range of trade skills as over a period of three (3) months, for example, they could be employed in ship repair, on maintenance and installation of equipment in a manufacturing plant or on an oil refinery shutdown. These different industries have individual work tasks that are particular to that industry and employees are expected to perform to the requirements of the client Company. This requires a broad range of skills over and above what is expected from an employee in a fixed occupation.

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

As they move around the range of industries, employees must abide by the various work practices required by the client companies. Demarcation practices also differ between clients which places additional demands on employees requiring a more multi-skilled approach to the work situation.

In the course of a 3 month period, employees could work at up to 20 different workplaces. This requires starting and finishing at different times as required by the client. Employees are also called upon to work overtime and shift work at short notice, as this is the nature of the industry.

12. Casual Labour

The parties to the agreement acknowledge that some employees prefer full time employment. To facilitate permanency, casual employees who are engaged on a continuous full-time basis at any specific client site, for a continuous period of 6 months will be offered to be converted his / her employment to full time. An exemption to this will apply if an employer faces termination of their contract at a site or an employee can show cause to not be made full time, their period of casual engagement will be reviewed following each 3 months of additional service, all casual period worked shall count as service employment worked for the company if or when converted to full time.

The minimum period of engagement for a casual employee is one working day. On each occasion a casual employee is required to attend work the employee shall be entitled to payment for a minimum of one day's work

Casual employees shall be paid a 25% casual loading on the wage rate of their classification set out in this agreement.

Where the Company does engage a casual employee, the Company will provide the employee with a schedule of hours to be worked and likely period of engagement.

13. Employee Representatives

13.1 Shop stewards

- 13.1.1 The Company must recognise shop stewards accredited by the Union.
- 13.1.2 The company will ensure that shop stewards are provided with the necessary access and facilities to promote the resolution of disputes at the site level, by measures based on consultation, co-operation and discussion.
- 13.1.3 The shop steward must have the opportunity to meet with all new employees covered by this agreement at induction or within one week of the commencement of their employment or at another time nominated by the shop steward, such meetings will be in paid time without loss of pay for the shop steward and employee.
- 13.1.4 Each year shop stewards will be granted 10 days paid training leave for attending union training / annual delegates forum/conference.
- 13.1.5 Shop stewards shall not be docked or suffer any loss of pay for attending proceedings relating to the dispute resolution procedure.

14. Welders Certificate Allowance

Employees who hold or obtain a Welders Certificate (or the replacement equivalent qualification) and use such certificate/s in connection with their employment, shall be paid an allowance of \$10.00 per week for each certificate to a maximum of three.

Once payment has been made for using such certificate/s, such payment will continue, regardless of whether the certificate/s is/are being used or not.

Separate payment for certificate/s will cease if the employee is transferred to the equivalent of a higher classification i.e., payment shall not be made twice, through a new designation level and this allowance.

15. Annual Leave Loading



An employee terminated (other than a casual) shall receive 17.5% annual leave loading paid on the all-purpose rate on a pro-rata basis to employees whose employment is terminated for any reason.

16. Travel Allowance

- 16.1 The following rates of travel allowance shall apply where an employee is required to attend work (excluding RDO) &

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

not using Company transport:

- \$28.00 per day within a 35km radius for engagements up to 13 weeks
 - \$20.00 per day within a 35km radius for continuous engagements from week 14 onwards at an assignment
- 16.1.1 For employees already engaged at the approval of this agreement whose engagement is already longer than the 14 weeks, will commence on the \$20.00 per day rate.
- 16.2 These values will remain for the life of the agreement.
- Thereafter, \$1.875 cents per kilometer each way, plus, in the case of an employee not using Company transport, \$0.74 cents per kilometer car allowance to the site and return.
 - Should an employee commence work at the designated site and then be required/requested to travel to an alternative site during work time and using their own vehicle, any toll charges (E-Tag) reasonably incurred will be reimbursed by the company upon presentation of invoice/receipt.

17. Standby

Where the Company is unable to provide work for a weekly hire full-time employee, the employee may be requested to remain at home awaiting work. If so, the employee shall keep in regular daily contact with the Company and be available for work on short notice. Under these circumstances, the employee shall.

In the first instance, use any accrued time off entitlement (RDO's); and thereafter be paid their ordinary weekly base wage, \$10.00 less per day (annual leave only to be used by mutual agreement by employer & employee in writing and signed)

Nothing in this clause shall affect the rights of the parties under section 524 of the Fair Work Act 2009.

18. Payment of Wages

The payment of wages shall be made pursuant to the National Employment Standards as prescribed by the Act.

The Company shall pay wages direct into an employee's bank account by electronic funds transfer ("EFT"), the money to be available on a normal pay day.

Pay slips showing full details of hours and allowances shall be issued within one working day of the pay date mailed or emailed to the employee's nominated address. Where possible, industry contributions noted in this agreement shall be included on the payslip.

The Company agrees to provide employees with a direct debit facility from wages for union dues for remittance to the relevant union.

If through the fault of the Company, an employee who is paid by EFT is kept waiting for their wages after the normal pay time and after the employee has notified the Company then the employer shall make a cash payment to the employee prior to noon the day after the day the employer was notified.

Whereas a result of the direct fault and causation of the employer, an employee's wages are not actioned to be paid by the employer, and the employee receives a bank fee charged for the late payment of a loan or dishonour fee, the employee will raise a reimbursement claim for such fee incurred up to a maximum of \$85.00, subject to providing proof of the bank fee to the employer.

19. Superannuation

The Company agrees to make contributions into the C+BUS Superannuation Fund for all employees covered by this Agreement, both weekly hired and casual. These payments will be at the rate of 11% of ordinary time earnings of the Superannuation Guarantee Charge rate. These contributions will be paid on a pro rata basis for employment which is less than a completed week. This amount shall be calculated according to the number of day's employment per week.

20. Protective Clothing

20.1 Overalls/Workpants + Shirts

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

The employer will have the option to provide either overalls or workpants and shirt which will be issued free of charge (and they remain the respective Company's property) as near as practicable to commencement of employment and will be laundered and repaired each week, free of charge.

Before being issued with overalls or workpants and shirt, each employee will sign an authority allowing the Company to deduct from final wages, an amount equal to the replacement value of any overalls that are not returned, regardless of the conditions of the same.

20.2 Safety Boots

Each employee, after 3 months' continuous service, will be reimbursed (on production of a receipt), the cost of one pair of safety boots (approved by the employer), in each year, to a maximum of \$160.00.

20.3 Wet Weather

All protective clothing such as wet weather jackets, safety helmets, welding jackets, welding shields, welding gauntlets, rubber boots, etc, (which remain the property of the Company), will be supplied on all occasions deemed necessary.

20.4 Jackets

After 12 months' continuous service, each employee will be supplied by the Company, free of charge, with a Bluey Jacket (or equivalent in cost or quality) either heavy or light duty. These jackets are to be of good quality. The Bluey Jacket will be the property of the employee, who will be responsible for the cleanliness and upkeep of the garment. Replacement will be based on fair wear and tear. The jacket shall be produced to the employer for examination if so required. This clause will supersede the supply of Bluey Jackets applying under any other industrial agreements.

20.5 Prescription Safety Glasses

The company shall provide or reimburse for full-time employees upon receipt being provided capped at \$300- p/year and then on a fair wear & tear basis or documented deterioration or on a case-by-case basis.

20.6 General Conditions

Where the Company is bound by a contract or other provisions which requires an issue of clothing which exceeds the above, the Company will observe the better provision.

21. Occupational Health and Safety Representative

The Company will recognise a duly elected occupational health and safety representative. The occupational health and safety representative will be provided with training at a suitable course of his/her choice. The cost of this will be met by the Company.

22. Compliance with Laws

The parties will comply with their obligations under the state occupational health and safety legislation.

23. Compensation for Stolen Tools

The Company will provide compensation for employee's tools of trade stolen whilst engaged for duties at a client's premises subject to the following conditions:

23.1 The tools should be in a locked toolbox provided by the employee.

23.2 The tools should be clearly identified with the employee's name.

23.3 The tools must be secured in a safe place nominated by the client at the said client's premises, subject to the following conditions:

- Any claim will only be accepted if there is a proven breaking and entering and resultant theft of/from the client's premises.
- Any claim must be accompanied by a police report of the theft.

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

- This clause will only apply to employees who are classified as a tradesperson under this Agreement.
- Each claim for replacement of stolen tools shall only be considered where such claims is for at least \$100.00.

Each claim shall be limited to maximum total replacement value of \$800.00 regardless of trade.

23.4 Original receipts for purchases for any replacement tools must be produced by the employee prior to any reimbursements from the Company. This would not apply if the Company supplied equivalent replacement tools.

24. Severance

24.1 Contributions for all employees will be made into the Protect Fund.

The maximum weekly contribution rate shall be to \$80.00 per week worked for the life of the Agreement. A pro rata amount of \$16.00 per day shall be payable for employment which is less than a completed week. This amount shall be calculated according to the number of days employment per week.

24.2 In the case of apprentices, the following contribution rate will apply and index yearly with CPI.

First year	\$35.00
Second year	\$40.00
Third year	\$55.00
Fourth year	\$65.00

(except where prevailing conditions are greater)

25. Shutdown or start up on Major jobs.

There is potential for significant amounts of time to be lost in the start-up of jobs involving large numbers of employees.

It is agreed that all employees will be ready for work at the nominated start time for each shift to allow for the efficient and prompt deployment of personnel and to enable work to commence on time.

26. Induction

Where an employee is invited to attend an induction specific to a client's site and then is employed on that client's site, the employee will be paid for attending the initial induction.

27. Income Protection Insurance

27.1 The company must provide and maintain income protection insurance for sickness and accident for all employees covered by this agreement.

27.2 The provider shall be Protect Income Protection or an agreed comparable fund subject to where the company at the time of this agreement comes into operation, does not have income protection insurance arrangements the parties shall meet and agree upon a provider within 2 weeks of approval by Fair Work Commission . Such income protection insurance must be obtained by the company through a provider although the company shall not be required to contribute greater than \$45- per employee per week (including tax) for such insurance during the life of the agreement which covers an employee up to \$1800- a week.

27.3 While an employee is receiving payments under an income protection insurance policy pursuant to this clause the Company must continue to make superannuation contributions and Protect contributions—on the employee's behalf at the rate the employee was receiving such contributions before the insurance payments commenced (although if there is a general wage increase or increase to Protect contributions—under this Agreement that increase will apply to the contributions).

27.4 While an employee is receiving payments under an income protection insurance policy pursuant to this clause, he or she shall remain an employee of the Company and his or her absence shall count as service for the purposes of annual leave for up to 3 months and for all other purposes for up to 2 years in respect of any one disablement.

27.5 Any paid leave used (i.e., long service leave, annual leave etc.) by an employee after the fourteen-day waiting period will be reimbursed to the employee once the claim is approved by the provider.

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

27.6 Whilst an employee is receiving income protection payments the Company shall increase the wages of the employee as set out in clause 10.

28. Apprentices

The Company agrees that they will, subject to operational and business requirements, take on apprentices provided that the use of such apprentices does not jeopardise the employment of current personnel.

Consideration will be given to the usage of apprentices for short term duration from group schemes on a workload requirement basis.

All apprentices shall be supervised by an appropriately qualified tradesperson.

Apprentices working at sites pursuant to a written contract for the provision of a permanent maintenance crew will be paid the following percentages of the C10 rate of pay as set out in this Agreement:

- Year 1 50%
- Year 2 60%
- Year 3 75%
- Year 4 90%

The variations to the Manufacturing and Associated Industries and Occupations Award 2010 made pursuant to the Full Bench decision in *Modern Awards Review 2012—Apprentices, Trainees and Juniors* [2013] FWCFB 5411 shall be incorporated into this Agreement.

Apprentices shall be entitled to superannuation pursuant to the Superannuation Guarantee Levy.

The parties are committed to the further development of skills in the industry. In an endeavour to boost apprentice numbers in labour-hire, a joint committee will be formed to develop a framework with the aim of achieving this.

29. Leave +



All eligible employees will be registered with Leave + Limited.

30. Roster Days Off (RDO) and Additional RDO

Employees that are on a 38-hour working week will accrue 13 RDO per year. Employees shall not have more than 10 banked RDO's at any one time. Employees may accrue an additional 6 RDO per year (the "Additional RDO do not accrue in hours). The Additional RDO will continue to accrue by deducting the proper quantum (in dollars) from the employee's gross ordinary weekly earnings, which is then set aside. The employee may take the Additional RDO when sufficient monies have been accrued. The way in which the additional RDO are taken will be agreed between the parties, in consultation with the employees concerned.

31. Picnic Day

Where practicable the company will allow employees to take a rostered day off on the first Monday in December for the purpose of attending the union picnic day. The request for taking this RDO will be gauged against client requirements and will not be unreasonably declined providing that it does not impact dramatically on client requirements.

32. Training

Where an employee undertakes training required by the Company it shall be at the Company's expense and as far as practicable in the employee's usual working time and the employee shall not lose pay for attendance or travel costs associated with such training. Where an employee seeks to undertake further training and development that is consistent with the needs of the Company, the Company will help the employee, in terms that the Company approves, for this to occur.

33. Higher Classifications

Where a client of the employer employs mechanical trade maintenance employees at the relevant client site, to perform the

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

same work as employees covered by this agreement, and such client employees are classified at a higher classification than normal, the relevant employee of the employer shall be paid the same rate of pay as that equivalent client employee for the duration of the assignment at that client site. This clause shall not apply where an employee covered by this agreement is paid a higher rate of pay than the equivalent client employee.

Where the employer has entered into a client service arrangement with a business at a relevant client site prior to the approval of this agreement, the Company and the employees' union shall meet to agree on arrangements for the implementation of this clause.

34. Relativity at Client Site

34.1 Where the Company provides supplementary labour at a client site, the company shall maintain relativity with the normal client rate of pay including allowances, site disability payments and hours of work (where hours are 38 or lower) for equivalent classification, from the date of agreement. Excluded are such payments as service grants, performance bonuses and the like. For the avoidance of doubt, this shall mean client employees doing like for like mechanical engineering metal works as host employees.

34.2 In cases where the client's employees are remunerated under an annualised salary arrangement, or receive site, disability payments and allowances not provided for in this agreement and the parent award the parties agree to confer and establish the appropriate rate of pay.

34.3 This clause is intended to ensure that an employee jumps up to a higher client rate of pay but it is not intended to provide for double dipping where the client rate of pay is higher and includes penalties elsewhere provided for in this agreement and the parent award. This clause does not operate to provide for a situation where employees receive overall greater remuneration than the client's employees or reduce travel allowance as provided for in this agreement. The terms and conditions within this agreement may be varied to the extent required to accommodate the objectives of this clause.

34.4 Where the employer has entered in to a client service arrangement with a business prior to the approval of this agreement, the employer and the employees' union shall meet to agree on arrangements for the implementation of this clause.

34.5 Where the parties have settled on the implementation of this clause for a specific site, the arrangements shall be transcribed in writing and copies provided to the relevant employee.

34.6 Where it is an existing practise on a client site, all work on a Saturday will be paid at double time.

34.7 Where a client site observes Anzac Day as a Public holiday on the next working day, then this will be applied providing that the actual day is treated as a normal day.

35. Consultation

35.1 Introduction of Change

35.1.1 Company's duty to Notify.

Prior to the company making a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the Company shall notify the employees who may be affected by the proposed changes and the employee representatives.

"Significant effects" include termination of employment, major changes in the composition, operation or size of the Company's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the Award (as varied by clause 5 of this Agreement) makes provisions for alterations of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

When the employer contemplates changes to regular rostering or ordinary hours of work, the employer must genuinely consult the affected parties covered by this agreement, and any other representative of employees nominated by any affected employee, prior to the introduction of such changes, the effects they are likely to have and the measures for averting or mitigating the adverse effects of such changes.

35.2 Company's duty to discuss change.

The Company shall discuss with the employees affected and their representatives, inter alia, the introduction of the changes referred to 35.1.1, the affects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

For the purposes of such discussion, the Company shall provide in writing to the employees concerned and their representatives, all relevant information about the changes including the nature of the changes proposed; expected effects of the changes on employees and any other matters likely to affect employees provided that the Company shall not be required to disclose confidential information the disclosure of which would be inimical to the Company's interests.

The relevant employees may appoint a representative for the purposes of the procedures in this term. If employee/s appoint a representative for the purposes of this term; the employer will be notified of the identity of the representative and the employer must recognise the representative.

The company will ensure that relevant employees are invited to give their views about the impact of any change (including any impact in relation to their family or caring responsibilities).

35.3 A The company shall provide information in languages other than English for employees of non-English speaking background.

35.4 Company's duty to be reasonable.

The Company shall take reasonable steps to mitigate the adverse effects of change upon employees.

36. Workplace Flexibility

36.1 The terms in clause 36.6.1 of the Agreement may be varied by an individual flexibility arrangement ("IFA").

36.2 The Employer will not make an IFA unless the following conditions are satisfied:

36.2.1 The IFA must be about matters that would be permitted matters if the arrangement were an enterprise agreement.

36.2.2 The IFA must not include a term that would be an unlawful term if the arrangement were an enterprise agreement.

36.2.3 The IFA must be genuinely agreed to by the employer and the employee.

36.2.4 The IFA must result in the employee being better off overall than the employee would have been if no individual flexibility arrangement were agreed to.

36.2.5 The IFA must be able to be terminated:

36.2.5.1 by either the employee, or the employer, giving written notice of not more than 28 days; or

36.2.5.2 by the employee and the employer at any time if they agree, in writing, to the termination.

36.2.6 The IFA must be in writing and signed:

36.2.6.1 in all cases—by the employee and the employer; and

36.2.6.2 if the employee is under 18—by a parent or guardian of the employee; and

36.2.7 The IFA must be given to the employee within 14 days after it is agreed to.

36.3 Where the employer intends to reach any individual flexibility arrangement under this Agreement, the employer must inform in writing, any union(s) covered by this agreement of the employer's intent to enter such an arrangement, at least seven days prior to entering that arrangement. When informing the union(s) under this subclause, the employer must:

36.3.1 include details of the term(s) of the agreement and/or incorporated award(s), and which classification of employees are proposed to be subject to such an arrangement.

36.3.2 not disclose the name of any employee who the employer proposes to be subject to the individual flexibility arrangement, without the consent of that employee.

36.4 For the avoidance of doubt, informing union(s) under this subclause does not mean that those union(s) must approve or consent to the individual flexibility arrangement.

Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

36.5 It is a very serious breach of this Agreement if the Employer enters an IFA and the above conditions are not satisfied.

36.6 The terms that may be subject to an IFA are:

36.6.1 RDO's.

37. Paid Parental Leave

The employee shall be entitled to take paid maternity leave or paid paternity leave by using personal leave.

When an employee takes the PPL entitlement as per the Parental Leave Act 2010, the employer will continue to pay the employees superannuation and long service leave entitlements for that period.

38. Personal Leave

An employee shall be entitled to two single day absences without the production of a medical practitioner certificate or statutory declaration in lieu of a medical practitioner's certificate.

39. Public Holidays

There shall be an overall entitlement to 13 Victorian gazetted public holidays each calendar year. If fewer than 13 public holidays are prescribed in a calendar year the parties shall endeavour to reach agreement on which day or days shall be deemed to be the additional public holiday(s). If the parties cannot reach agreement, the matter shall be determined under the dispute settlement procedure with due regard being taken to past practices and entitlements in the industry.

Whenever Anzac Day falls on a weekend the next working day shall be observed as a substitute public holiday.

40. Family Violence

40.1 Employees experiencing family violence will have access to personal/sick leave additional paid leave and leave without pay.

40.2 An employee experiencing family violence will have access to 10 days per year of paid family violence leave paid at the employee's minimum wage rate prescribed in clause 10 to attend proceedings, counselling and appointments with a medical or legal practitioner, relocation, the making of safety arrangements and other activities associated with the experience of family violence.

40.3 Employees experiencing family violence have a right to request flexible working arrangements including changes to working times. Such requests will not be unreasonably refused.

40.4 Employees may use carer's leave and where necessary leave without pay to support a person experiencing family violence.

40.5 An employee may be required to produce suitable evidence such as documents issued by the police, a court, a medical practitioner, a domestic violence support service, a lawyer or counselling professional or by statutory declaration.

40.6 All personal information about family violence will not form part of the employee records and will be kept confidential.

40.7 An employee experiencing family violence will be offered referral to the employee assistance program and/or other local resources.

40.8 An employee will not be discriminated against or have adverse action taken against them because of their disclosure of, experience of or perceived experience of family violence.

40.9 Delegates and Health and Safety Representatives will be provided time off work for appropriate training in supporting

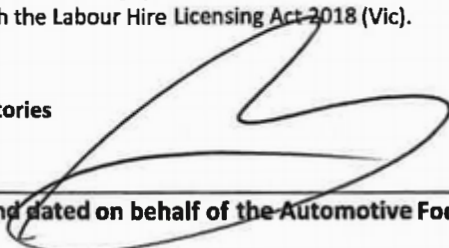
Protech Personnel (VIC) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026

employees at the workplace who are experiencing family violence.

41. Compliance with Licensing Requirements

When being engaged to do or provide labour-hire services under this agreement, the company/employer must comply with the Labour Hire Licensing Act 2018 (Vic).

42. Signatories



Signed and dated on behalf of the Automotive Food, Metals, Engineering, Printing and Kindred Industries Union

251 Queensberry Street, Carlton South, Victoria, 3053

Luciano Malgeri Assistant State Secretary 20/12/2023

Name

Title

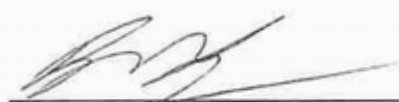
Date

S. J. Sullivan



Witness

Witness Signature



Signed on behalf of Protech Personnel (VIC) Pty Ltd
Unit 8/75 Lorimer Street, South Wharf, Victoria, 3006

BEN FITZSIMMONS

COO

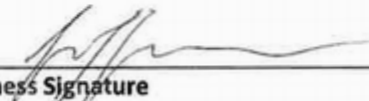
18.12.23

Name

Title

Date

Jarred Cameron



Witness

Witness Signature

IN THE FAIR WORK COMMISSION

FWC Matter Number: AG2023/5348

Applicant: Protech Personnel (Vic) Pty Ltd

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

Undertaking – Section 190

I Nicole Thompson, National IR Manager give the following undertaking in relation to AMWU and Protech Personnel (Vic) P/L Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026 (the Agreement).

1. I have the authority given to me by Protech Personnel (Vic) 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 Personnel (Vic) Pty Ltd gives the following undertaking pursuant to section 190 of the *Fair Work Act 2009 (Cth)*
 - a. The title of the Agreement is the *AMWU and Protech Personnel (Vic) Pty Ltd Site Specific (Downer Rail Victoria) Metals Labour Hire Agreement 2023-2026*.
 - b. In relation to the adult apprentice year 1 wage rates, the Company undertakes to replace the rate of \$19.89 with \$22.00 per hour.
 - c. In relation to clause 34 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 34, 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 12 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. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Nicole Thompson

18 January 2024