

Chelgrave Contracting Australia Pty Ltd Metals Labour  
Hire Agreement 2013-2016

# 1 TITLE

This Agreement shall be known as the Chelgrave Contracting Australia Pty Ltd Metals Labour Hire Agreement 2013-2016

## 2 Arrangement

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### 3 Application of Agreement

- 3.1 This Agreement shall regulate the rates of pay and define the conditions of employment of employees of Chelgrave Contracting Australia Pty Ltd engaged in one of the classifications pursuant to Clause 12, 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 maintenance, installation, modification, trade and trade related fabrication 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, 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].

'On-site building and construction' shall mean:

(i) 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:

- power stations, oil refineries, terminals and depots; chemical, petro-chemical and hydrocarbon plants; and associated plant, plant facilities and equipment;
- 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;
- plant, plant facilities and equipment in connection with the extraction, refining and/or treatment of minerals, chemicals and the like;
- transmission and similar towers, transmission lines and associated plant, plant facilities and equipment;
- metal trades work on other engineering Projects, where a Project Agreement applies;
- 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;

- facilities and equipment in other construction engineering projects; and

(ii) 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 referred to in clause 3.2.2 (i).

3.2.2.1 excluded from the definition of on-site building construction is, any 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, installation activities at existing sites, or any task mentioned in 3.1 above.

3.3 Any dispute to the application of this agreement shall be dealt in accordance with the dispute resolution procedure in this agreement.

#### **4 Unlawful Content Disclaimer**

It is not the intention of the parties to incorporate any term of any award that is unlawful content for the purposes of the Fair Work Act 2009 (“Act”) or does not pertain to the relationship between the employer and employees subject to this Agreement.

#### **5 Parties Bound**

The parties to this Agreement are;

- Chelgrave Contracting Australia Pty Ltd (“Company”);
- all employees of the Company engaged in one of the classifications as contained in Clause 12 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 and the Australian Workers’ Union (“union”), as the context requires, union means both the unions here named if both unions’ members are affected, or just the relevant union if only that union’s members are affected).
- This Agreement binds the Company, those of its employees to whom the Agreement applies, the union and its members to whom the Agreement applies.

## **6 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 2016.

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

## **7 Incorporation of Award Terms and National Employment Standards**

This Agreement incorporates the National Employment Standards (NES); the terms of the Metal, Engineering and Associated Industries Award 1998 - Part I - Metal, Engineering and Associated Industries Employees as in force on 1 March 2006; 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") provided that where there is any inconsistency between the express terms of the Agreement, the NES and the incorporated terms of the Award, the NES shall prevail to the extent of the inconsistency. In this Agreement references to the Award shall mean the Award as incorporated into this Agreement unless the context requires otherwise.

## **8 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 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.

## **9 Dispute Settlement Procedure**

- 9.1 This procedure applies to matters arising under this Agreement and anything that pertains to the relationship between the Company as an employer and the employees whose employment are covered by this Agreement.
- 9.2 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" in the Act and the NES including any refusal of requests by the employer under the Act, s.65(5) and s.76(4).

- 9.3 The following procedure for the resolution of disputes shall apply:
- 9.4 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.
- 9.5 Subject to 10.11 and 10.12, 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.
- 9.6 If the matter is not resolved at such a meeting further discussions involving more senior management and employee representatives will take place.
- 9.7 The representative shall be allowed, at a place designated by the Company, a reasonable period of time during working hours to interview external advisors requested by the employee representative, in the workplace.
- 9.8 To facilitate the speedy and efficient resolution of disputes:
- 9.8.1 the party with the grievance must notify the other party at the earliest opportunity of the problem;
- 9.8.2 throughout all stages of the procedure all relevant facts must be clearly identified and recorded; and
- 9.8.3 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.
- 9.9 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.
- 9.10 If the matter remains unresolved the parties may, jointly or individually, refer it to Fair Work Commission.

- 9.11 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
- 9.12 If conciliation fails to resolve the matter in dispute Fair Work Commission shall resolve the matter by arbitration.
- 9.13 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.
- 9.14 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, lock-outs or other bans and limitations on the performance of work. The Company shall ensure that all practices applied during the operation of this procedure are in accordance with safe working practices and consistent with its previous established practice.
- 9.15 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.
- 9.16 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.
- 9.17 It is an overriding condition of this Agreement that any outcome of a dispute determined by a third party must be consistent with the National Code of Practice for the Construction Industry (the Code), the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry (the Guidelines), and legislative obligations where the obligation to be code compliant applies.

## 10 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.

## 11 Wage Rates

The wages payable are as follows

Classification	Column 1	Column 2	Column 3
Current weekly Pay rate (gross)	3% increase First full pay period on or after 17 October 2013	3% increase First full pay period on or after 1 July 2014	3% increase First full pay period on or after 1 July 2015
C12 \$1058.87	\$1090.64	\$1123.36	\$1157.06
C11 \$1119.21	\$1152.79	\$1187.37	\$1222.99
C10 \$1234.98	\$1272.03	\$1310.19	\$1349.50
C9 \$1286.59	\$1325.19	\$1364.94	\$1405.89
C8 \$1339.07	\$1379.24	\$1420.62	\$1463.24

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 the 17 October 2013.
- The amount shown in Column 2 shall be payable from the beginning of the first full pay period on or after 1 July 2014.
- The amount shown in Column 3 shall be payable on or after the beginning of the first full pay period on or after 1 July 2015.

Wage rates apply retrospectively

To avoid doubt, if this Agreement comes into force on or after the first full pay period commencing 17 October 2013 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 come into force on or after the first full pay period commencing 17 October 2013.

**Note:** The Award tool, and EFT allowance is included in the relevant classifications' rate of pay set out above. This will be adjusted according to Agreement variations.

## 12 Flexibility/Mobility of Labour

Employees of Chelgrave Contracting Australia 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.

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 shiftwork at short notice, as this is the nature of the industry.

## 13 Casual Labour

13.1 A casual employee is one engaged and paid as such.

13.2 The parties confirm their commitment to maintaining a high level of full-time employment and to use wherever practicable full-time permanent employment.

13.3 Casual employees shall be paid a 25% casual loading on their classification's wage rate. The casual loading applies for all purposes.

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

13.5 A casual employee shall not be entitled to any forms of paid leave or unpaid leave except for eligible casuals in the case of parental leave and Coinvest long service leave as provided for in this Agreement.

13.6 The parties to the agreement acknowledge that the unions and many employees prefer full time employment. In order to facilitate permanency, casual employees who are engaged on a continuous full-time basis at a specific client site, for a continuous period of six (6) months will be converted to full time employment. An exemption to this will apply if an employer faces termination of their contract at a site or an employee can show cause so as to not be made full time, their period of casual engagement may be extended by a further three (3) months.

## **14 Employee Representatives**

14.1 The Company recognises the role of the employee representative(s) to represent any employee covered by this Agreement, where requested, in accordance with the disputes resolution procedure in clause 10.

14.2 The Company will ensure that employee representatives are provided with the necessary access and facilities to promote the resolution of disputes at the plant level, by measures based on consultation, co-operation and discussion.

14.3 Employee representative(s) shall not be docked for attending proceedings relating to the dispute resolution procedure.

## **15 Welder's Certificate Allowance**

Employees who hold or obtain a DLI Welder's Certificate/s (or the replacement equivalent qualification) and use such certificate/s in connection with their employment, shall be paid an allowance of \$5.00 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.

## **16 Annual Leave Loading**

An employee other than a casual shall receive 17.5% annual leave loading paid on the all purpose rate on a pro-rata basis to employees who are retrenched, or who voluntarily terminate.

## 17 Travel Allowance

The following rates of travel allowance shall apply where an employee is required to start and finish work away from the Company workshop or designated depot (s), not using Company transport:

- \$27.56 per day within a 35 kilometre radius
- Thereafter, 1.875 cents per kilometre each way, plus, in the case of an employee not using Company transport, .74 cents per kilometre car allowance to the site and return. Beyond this distance the provisions of the Award shall apply.

## 18 Standby

Where the Company is unable to provide work for a weekly hire 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).

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

## 19 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 shall be issued within one working day of the pay date mailed or emailed to the employee's address. Details of amounts, superannuation payments and RDO accruals are to be included.

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.

Where as 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 repayment or dishonourment 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.

## 20 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 \$90 per week or the Superannuation Guarantee Charge rate, whichever is the greater. 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 (Monday to Friday only).

## 21 Protective Clothing

### 21.1 Overalls/Workpants+shirts

Overalls/Workpants+shirts 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, 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. The employer will have the option to provide either one of these.

### 21.2 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 \$130.00.

### 21.3 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.

### 21.4 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 on the basis of 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.

## 21.5 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.

## 22 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 to be met by the Company.

## 23 Compliance with Laws

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

## 24 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:

24.1 The tools should be in a locked tool box provided by the employee.

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

24.3 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;
- 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.

24.4 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 supplies equivalent replacement tools.

## 25 Severance

25.1 Contributions will be made into the Protect Fund unless, when this Agreement commences, another fund is being used. If there is another fund being used at the commencement of this Agreement, then, the other fund may continue to be used if there is a genuine need or agreement by parties, but only until 30 May 2014 at which time the requirement to contribute into the Protect Fund applies regardless.

### 25.2 Contribution rates

The maximum weekly contribution rate shall be to \$71.00 per week worked for the life of the Agreement.

A pro rata amount 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, (Monday to Friday only.)

25.3 The arrangements for contributions for apprentices will be the prevailing arrangements at the time of making the agreement. .

The above mentioned severance payment amounts are in lieu of the amounts applicable under the award. The contributions made to the fund are in full satisfaction of the employers' obligations in relation to severance pay and redundancy.

25.4 This clause shall not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice.
- probationary employees.
- trainees.
- employees engaged for a specific period of time or for a specific task or tasks.

25.5 Employees covered by this agreement as non-metals classifications will have contributions paid into Incolink Fund No 2.

## **26 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.

## **27 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.

## **28 Income Protection Insurance**

28.1 The Company shall provide and maintain income protection insurance for sickness and accident for all employees covered by this agreement.

28.2 Where the Company at the time this agreement comes into operation, does not have income protect insurance arrangements the parties shall agree upon a provider.

28.3 Such income protection insurance must be obtained by the Company through a provider although the Company shall not be required to contribute greater than 2.2% of payroll (including tax) for such insurance during the life of the agreement.

28.4 Where at the fault of the Company income protection insurance has;

- not been obtained, or
- been discontinued,

the Company shall pay full wages including normal penalties, loading and allowances for all time an employee is unable to attend work due to accident, illness or injury to the extent as if the employee was covered by income protection insurance.

- The Company shall pay the employees their benefits under this sub clause weekly.
- If an income protection insurance provider is used, benefits must commence as soon as the income protection insurance provider approves the claim.

## 29 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 will be paid the following percentages of the C10 rate of pay as set out in this Agreement ;

- Year 1 42%
- Year 2 55%
- Year 3 75%
- Year 4 88%

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.

## 30 CoINVEST

All eligible employees will be registered with CoINVEST Limited.

## 31 Roster Days Off (RDO) and Additional RDO

31.1 Employees that are on a 38 hour working week will accrue 13 RDO per year

31.2 Employees shall not have more than 10 banked RDO's at any one time.

31.3 Employees may accrue an additional 6 RDO per year (the "Additional RDO").

31.3.1 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.

31.3.2 The way in which the additional RDO are taken will be agreed between the parties, in consultation with the employees concerned.

## **32 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.

## **33 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 provide assistance to the employee, in terms that the Company approves, for this to occur.

## **34 Trade Union Training Leave**

The parties to this agreement recognise the importance of having suitably trained employee representatives whilst balancing this requirement with the impact upon the employer's business and that of the employer's clients. Therefore, a pool of five days trade union training leave, in total, shall be available to be accessed by employees covered by the agreement that are duly elected or appointed as the employee representative, provided that reasonable notice is provided to the employer prior to the proposed taking of such leave. The trade union training leave available shall be accredited trade union training courses conducted or approved by the union's party to this agreement.

## **35 Higher Classifications**

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

35.2 Where the employer has entered in to 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.

### **36 Relativity at Client Sites**

36.1 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.

36.2 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.

36.3 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.

36.4 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.

36.5 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.

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

36.7 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.

## 37 Consultation

37.1 This term applies if:

- (a) the employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
- (b) the change is likely to have a significant effect on employees of the enterprise.

37.2 The employer must notify the relevant employees of the decision to introduce the major change.

37.3 The relevant employees may appoint a representative for the purposes of the procedures in this term.

37.4 If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.

37.5 As soon as practicable after making its decision, the employer must:

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

37.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

37.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

37.8 If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (2), (3) and (5) are taken not to apply.

37.9 Provided that where it is part of the customary turn over of labour, or where this Agreement makes provisions for alterations of any of the matters referred to herein, such change shall be deemed not to have significant effect.

37.10 In this term, a major change is likely to have a significant effect on employees if it results in:

- (a) the termination of the employment of employees; or
- (b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work; or
- (e) the need to retrain employees; or
- (f) the need to relocate employees to another workplace; or
- (g) the restructuring of jobs.

37.11 In this term, relevant employees means the employees who may be affected by the major change.

## **38 Flexibility Arrangement RDO's and Leave Loading**

38.1 An employer and employee covered by this enterprise agreement may agree to flexibility arrangement to vary the effect of the following matters:

- a. RDOs;
- b. Leave loading;

38.1.1 the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and

38.1.2 the arrangement is genuinely agreed to by the employer and employee.

38.2 The employer must ensure that the terms of the individual flexibility arrangement:

- (a) are about permitted matters under section 172 of the Fair Work Act 2009 ; and
- (b) are not unlawful terms under section 194 of the Fair Work Act 2009 ; and
- (c) result in the employee being better off overall than the employee would be if no arrangement was made.

38.3 The employer must ensure that the individual flexibility arrangement:

- (a) is in writing; and
- (b) includes the name of the employer and employee; and
- (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- (d) includes details of:
  - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; an
  - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences.

38.4 The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

38.5 The employer or employee may terminate the individual flexibility arrangement:

- (a) by giving no more than 28 days written notice to the other party to the arrangement; or
- (b) if the employer and employee agree in writing -- at any time.

### 39 Signatories

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

251 Queensberry Street, Carlton South, Victoria, 3053

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Name	Title	Date
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Witness	Witness Signature
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Signed and dated on behalf of the Australian Workers Union

685 Spencer Street, West Melbourne

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Name	Title	Date
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Witness	Witness Signature
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Signed on behalf of Chelgrave Contracting Australia Pty, 5/2 Fiveways Bvd, Keysborough, VIC. 3173

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Name	Title	Date
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Witness	Witness Signature
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