



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

MSS Security Pty Ltd T/A MSS Security
(AG2022/3955)

MSS SECURITY PTA ENTERPRISE AGREEMENT

Security services

COMMISSIONER P RYAN

SYDNEY, 14 OCTOBER 2022

Application for approval of the MSS Security PTA Enterprise Agreement

[1] MSS Security Pty Ltd (**Employer**) has made an application for approval of an enterprise agreement known as the *MSS Security PTA Enterprise Agreement (Agreement)* pursuant to s.185 of the *Fair Work Act 2009 (FW Act)*. The Agreement is a single enterprise agreement.

Regulation 2.06A Requirements

[2] The application was accompanied by a signature page that did not comply in all respects with Regulation 2.06A of the *Fair Work Regulations 2009 (Cth)*. An amended signature page was subsequently filed. I consider it appropriate in the circumstances to waive an irregularity in the form or manner in which an application was made and do so pursuant to s.586(b) of the FW Act.

Section 190 Undertakings

[3] The Employer provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the Agreement.

Section 186, 187, 188 and 190

[4] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

Section 183 Bargaining Representatives

[5] The Australian Rail, Tram and Bus Industry Union (**ARTBIU**) being a bargaining representative for the Agreement, has given notice under s.183 of the FW Act that it wants the Agreement to cover it.

[6] In accordance with s.201(2), I note that the Agreement covers the ARTBIU.

Approval

[7] The Agreement is approved and, in accordance with s.54 of the FW Act, will operate from 21 October 2022. The nominal expiry date of the Agreement is 14 June 2025.



COMMISSIONER

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MSS Security PTA Enterprise Agreement

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

1. TITLE

- 1.1 This Agreement shall be known as the MSS Security PTA Enterprise Agreement (the Agreement) which replaces the MSS Security Pty Ltd Public Transport Authority Enterprise Agreement 2017 (AG2019/1264).

2. PARTIES BOUND & TERM OF THE AGREEMENT

- 2.1 This agreement is between the following parties:
- a) MSS Security Pty Ltd ("the Employer"); and
 - b) All employees engaged by MSS Security as Revenue Protection Officers to perform security duties at various sites within the Public Transport Authority.
- 2.2 This Agreement operates to the exclusion of all Modern Awards, former enterprise agreements or other industrial instruments unless otherwise provided for and referenced in this Agreement.
- 2.3 This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.
- 2.4 This Agreement will come into operation in accordance with the *Fair Work Act 2009 (Cth)*, on the first full pay period after it is approved by the Fair Work Commission, and will continue in force until varied, terminated or replaced.
- 2.5 The expiration date of this *Agreement* is three (3) years from the date the *Agreement* is approved by the FWC. The parties will commence the process of genuine renegotiation by no later than four (4) months prior to the expiration date.

3. NO EXTRA CLAIMS

- 3.1 The parties agree that no extra claims shall be made during the life of this agreement.

4. DEFINITIONS

- 4.1 **Agreement:** refers to the *MSS Security PTA Enterprise Agreement*.
- 4.2 **Anniversary of Agreement:** means the date the *Agreement* was registered and approved by the Fair Work Commission.
- 4.3 **Company:** means MSS Security Pty Ltd.
- 4.4 **Continuous service:** means that for the purposes of this Agreement a year of employment will be deemed to be continuous despite:
- a) Any annual leave or long service leave taken therein;
 - b) Any interruption or ending of the employment by the Company if such interruption or ending is made with the intention of avoiding obligations in respect of annual leave or long service leave;

- c) Any absence from work of not more than fourteen (14) days in the year of employment on account of sickness or accident;
 - d) Any absence on account of leave (other than annual leave or long service leave) granted, imposed or agreed to by the company;
 - e) Any absence on any other account not involving termination of employment;
 - f) In calculating a year of employment, any absence of a kind mentioned in paragraphs 4.4(a) – (c) will be counted as part of the year of employment. However, for absences of a kind mentioned in paragraphs 4.4(d) and 4.4(e), it will be necessary for the employee as part of the qualification for annual leave to serve such additional periods as equals the period of such absences.
- 4.5 **Continuous shift worker:** means a shift work employee who is rostered to work regularly on Sundays and public holidays or an employee who is rostered to work regularly over seven days per week.
- 4.6 **Employee:** means any employee who is a Level 1 Security Officer engaged as a Revenue Protection Officer.
- 4.7 **FW Act:** refers to the *Fair Work Act 2009* (Cth)
- 4.8 **FWC:** refers to the Fair Work Commission.
- 4.9 **IFA:** means Individual Flexibility Arrangement
- 4.10 **NES:** refers to the National Employment Standards
- 4.11 **Ordinary rate:** means the ordinary wages rate set out in section 35 (Schedule A – Wage Rates & Definitions).
- 4.12 **Overtime:** means additional hours worked outside rostered ordinary hours.
- 4.13 **Permanent night work:** an employee is on permanent night work over the whole period of a roster cycle if more than two-thirds of the employee's ordinary shifts comprise or include the period between midnight and 0600 hours.
- 4.14 **Week:** an employee's working week from Monday to Sunday.

5. FLEXIBILITY ARRANGEMENTS

- 5.1 Notwithstanding any other provision of this Agreement, the Company and an Employee covered by the Agreement may agree to make an IFA to vary the effect of terms of the Agreement if:
- a) The Agreement deals with one (1) or more of the following matters:
 - i) Arrangements about when work is performed;
 - ii) Overtime rates;
 - iii) Penalty rates;
 - iv) Allowances;

- v) Leave loading; and
 - b) The arrangement meets the genuine needs of the Company and the Employee in relation to 1 or more of the matters mentioned in 5.1(a); and
 - c) The arrangement is genuinely agreed to by the Company and the Employee.
- 5.2 The Company must ensure that the terms of the IFA:
- a) Are about permitted matters under section 172 of the FW Act; and
 - b) Are not unlawful terms under section 194 of the FW Act; and
 - c) Result in the Employee being better off overall than the Employee would be if no arrangement was made.

The Company must ensure that the IFA:

- d) Is in writing; and
 - e) Includes the name of the Company and the Employee; and
 - f) Is signed by the Company and the Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee; and
 - g) Includes details of:
 - i) The terms of the Agreement that will be varied by the arrangement; and
 - ii) How the arrangement will vary the effect of the terms; and
 - iii) How the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - h) States the day on which the arrangement commences.
- 5.3 The Company must give the Employee a copy of the IFA within 14 days after it is agreed to.
- 5.4 The Company or Employee may terminate the IFA:
- a) By giving no more than 28 days written notice to the other party to the arrangement; or
 - b) If the Company and the Employee agree in writing – at any time.

6. CONSULTATION

- 6.1 The parties to this Agreement confirm that they are committed to improved and effective consultation in the workplace. The parties agree that consultation will provide employees with an opportunity to participate fully in the decisions which impact on their working environment and conditions.

Introduction of major change

- 6.2 This term applies if the Company:

- a) Has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or
- b) Proposes to introduce a change to the regular roster or ordinary hours of work of Employees.

Major change

6.3 For a major change referred to in paragraph 6.2(a):

- a) The Company must notify the relevant Employees of the decision to introduce the major change; and
- b) Subsections 6.4 to 6.10 apply.

6.4 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

6.5 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 Company of the identity of the representative;

the Company must recognise the representative.

6.6 As soon as practicable after making its decision, the Company 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 Company 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.

6.7 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.

6.8 The Company must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.

- 6.9 If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Company, paragraph 6.2(b) and subsections 6.4 and 6.6 are taken not to apply.
- 6.10 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 Company'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.

Change to regular roster or ordinary hours of work

- 6.11 For a change referred to in 6.2(b):
- a) The Company must notify the relevant Employees of the proposed change; and
 - b) Subsections 6.12 to 6.16 apply.
- 6.12 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 6.13 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 Company of the identity of the representative;
- the Company must recognise the representative.
- 6.14 As soon as practicable after proposing to introduce the change, the Company must:
- a) Discuss with the relevant Employees the introduction of the change; and
 - b) For the purposes of the discussion – provide to the relevant Employees:
 - i) All relevant information about the change, including the nature of the change; and
 - ii) Information about what the Company reasonably believes will be the effects of the change on the Employees; and

- iii) Information about any other matters that the Company reasonably believes are likely to affect the Employees; and
 - c) Invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).
- 6.15 However, the Company is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 6.16 The Company must give prompt and genuine consideration to matters raised about the change by the relevant Employees.
- 6.17 In this term:
- "relevant employees"** means the Employees who may be affected by a change referred to in subsection 6.2.

7. DISPUTE RESOLUTION

Disputes relating to the Agreement or the NES

- 7.1 If a dispute relates to:
- a) A matter arising under the Agreement; or
 - b) The NES
- This section sets out procedures to settle the dispute.
- 7.2 This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of inconsistency.
- 7.3 An Employee who is a party to the dispute may appoint a representative for the purposes of the procedures of this section.
- 7.4 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Employee or Employees and relevant supervisors and/or management.
- 7.5 If the matter in dispute is still unresolved, the Employee or Employees and the Company will arrange further discussions involving more senior levels of management and/or a Human Resources representative (as appropriate).
- 7.6 If the matter remains unresolved, a party to the dispute may refer the matter to FWC.
- 7.7 The FWC may deal with the dispute in 2 stages:
- a) The FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
 - b) If the FWC is unable to resolve the dispute at the first stage, the FWC may then:

- i) Arbitrate the dispute; and
- ii) Make a determination that is binding on the parties
- iii) If FWC arbitrates the dispute, it may also use the powers that are available to it under the *FW Act*.
- iv) A decision that FWC makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the *FW Act*. Therefore, an appeal may be made against the decision.
- v) During any arbitration proceedings before FWC under this section, any party may choose to be represented by a legal practitioner

7.8 While the parties are trying to resolve the dispute using the procedures in this section:

- a) An Employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
- b) An Employee must comply with a direction given by the Company to perform other available work at the same workplace, or at another workplace, unless:
 - i) The work is not safe; or
 - ii) Applicable occupational health and safety legislation would not permit the work to be performed; or
 - iii) The work is not appropriate for the Employee to perform; or
 - iv) There are other reasonable grounds for the Employee to refuse to comply with the direction.

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

7.10 By agreement between the parties, some steps may be bypassed if necessary to achieve a speedy resolution of the matter in dispute.

Redundancy disputes

7.11 Subsections 7.12 and 7.13 impose additional obligations on the Company where the Company contemplates termination of employment due to redundancy and a dispute arises (a redundancy dispute).

7.12 Where a redundancy dispute arises, and if it has not already done so, the Company must provide affected Employees and the representative (if requested by any affected Employee) within 21 days of a dispute arising, relevant information including:

- a) The reasons for any proposed redundancy;
- b) The number and categories of workers likely to be affected; and
- c) The period over which any proposed redundancies are intended to be carried out.

7.13 Where a redundancy dispute arises and discussions occur in accordance with this section the Company will, as early as possible, consult on measures taken to avert or to minimise any proposed redundancies and measures to mitigate the adverse effects of any proposed redundancies on the Employees concerned.

8. TERMINATION

Notice of termination by Company

8.1 In order to terminate the employment of an Employee the Company must give to the employee the period of notice specified in the table below:

Period of Continuous Service	Period of Notice
One year or less	One week
Over one year and up to the completion of three years	Two weeks
Over three years and up to the completion of five years	Three weeks
Over five years of completed service	Four weeks

8.2 Employees over 45 years of age at the time of the giving of the notice, who have no less than two years continuous service, are entitled to an additional one (1) weeks' notice.

8.3 Payment in lieu of the prescribed notice in subsection 8.1 must be made if the appropriate notice period is not required to be worked, provided that employment may be terminated by the Employee working part of the required period of notice and by the Company making payment for the remainder of the period of notice.

8.4 The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the Employee's employment had continued until the end of the required period of notice, the Company would have become liable to pay to the Employee because of the employment continuing during that period. That total must be calculated on the basis of:

- a) The Employee's ordinary hours of work (even if not standard hours); and
- b) The amounts ordinarily payable to the Employee in respect of those hours, including (for example) allowances, loading and penalties; and
- c) Any other amounts payable under the Employee's contract of employment.
- d) The period of notice in this section does not apply:
 - i) In the case of dismissal for serious misconduct;
 - ii) In the case of employee repudiation of the employment contract;
 - iii) To employees engaged for a specific period of time or for a specific task or tasks;
 - iv) To trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or

- v) To casual employees.

Notice of termination by an Employee

- 8.5 The notice of termination required to be given by an Employee is the same as that required of the Company, except that there is no requirement on the Employee to give additional notice based on the age of the employee concerned (per subsection 8.2).
- 8.6 If an Employee fails to give the notice specified in subsection 8.1, the Company has the right to withhold monies due to the Employee to a maximum amount that is no more than one week's wages for the employee.

Job search entitlement

- 8.7 Where the Company has given notice of termination to an Employee, an Employee shall be allowed up to 1 day time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the Employee after consultation with the Company.

9. REDUNDANCY

Definitions

- 9.1 **Business:** includes trade, process, business or occupation and includes part of any such business.
- 9.2 **Redundancy:** an Employee is entitled to redundancy pay if their employment is terminated by the Company because the Company no longer requires their job to be done by anyone except where this is due to the ordinary and customary turnover of labour (the 'OCTL Exception') or because of insolvency or bankruptcy of the Company. Termination or job loss due to the loss of a contract or to a variation of a contract resulting in a staffing reduction is usually part of the ordinary and customary turnover of labour within the Company and it is the Company's long standing practice to rely on the OCTL Exception in these circumstances. Where the Company is able to rely on the OCTL Exception, no redundancy pay will apply.
- 9.3 **Week's pay:** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:
 - a) Overtime;
 - b) Penalty rates;
 - c) Disability allowances;
 - d) Shift allowances;
 - e) Special rates;
 - f) Fares and travelling time allowances;
 - g) Bonuses; and
 - h) Any other ancillary payments of a like nature.

9.4 **Transmission:** includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.

Transfer to lower paid duties

9.5 Where an Employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the Employee would have been entitled to if the employment had been terminated and the Company may at the Company's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

Redundancy pay

9.6 An Employee whose employment is terminated by reason of redundancy is entitled to the following amount of redundancy pay in respect of a period of continuous service:

Period of Continuous Service	Redundancy Pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay*
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay
* Week's pay is defined in subsection 9.3	

Employee leaving during notice period

9.7 An Employee given notice of termination in circumstances of redundancy may terminate his or her employment during the period of notice set out in subsection 8.1. In this circumstance the Employee will be entitled to receive the benefits and payments they would have received under this subsection had they remained with the Company until the expiry of the notice, but will not be entitled to payment in lieu of notice.

Alternative employment

9.8 An Employee is not entitled to redundancy pay if the Company obtains an offer of acceptable alternative employment for the Employee. "Acceptable alternative employment" means:

- a) employment with another Company, on terms and conditions which are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of the redundancy (taking into account the location of the new employment and the Employee's resultant travel time);

- b) employment with the Company, on terms and conditions which are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of the redundancy (taking into account the location of the new employment and the employee's resultant travel time), provided that:
 - i) the terms and conditions include recognition of continuous service for the employee's entire period of service with the Company.

9.9 An Employee is not entitled to redundancy pay if the Company obtains an offer of acceptable alternative employment for the Employee, but the Employee rejects the offer.

Job search entitlement

9.10 During the period of notice of termination given by the Company in accordance with subsection 8.1, an Employee shall be allowed up to 1 days' time off without loss of pay during each week of notice for the purpose of seeking other employment.

9.11 If the Employee has been allowed paid leave for more than 1 day during the notice period for the purpose of seeking other employment, the Employee shall, at the request of the Company, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

9.12 The job search entitlement under this section applies in lieu of the provisions of subsection 8.7.

Employees exempted

9.13 Subsections 9.1 – 9.12 do not apply to:

- a) Employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- b) Probationary Employees;
- c) Trainees (other than an apprentice) to whom a training arrangement applies;
- d) Employees engaged for a specific period of time or for a specified task or tasks; or
- e) Casual Employees.

Transmission of business

9.14 The provisions of this subsection are not applicable where a business is before or after the date of this *Agreement*, transmitted from an employer (in this subsection called the transmittor) to another employer (in this subsection called the transmittee), in any of the following circumstances:

- a) Where the Employee accepts employment with the transmittee which recognises the period of continuous service which the Employee had with

the transmitter and any prior transmitter to be continuous service of the Employee with the transmittee; or

- b) Where the Employee rejects an offer of employment with the transmittee:
 - i) In which the terms and conditions are substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with the transmitter; and
 - ii) Which recognises the period of continuous service which the Employee had with the transmitter and any prior transmitter to be continuous service of the Employee with the transmittee.

10. ABANDONMENT OF EMPLOYMENT

- 10.1 No action shall be taken pursuant to section 10 until all reasonable efforts have been made to inquire into the reason for the Employee's absence and the reasonableness of the response has been taken into account.
- 10.2 An Employee, other than an Employee who is on leave which is authorised by the Company under the provisions of this Agreement, will be taken to have abandoned their employment if they are absent from work for a period in excess of three (3) consecutive rostered shifts without approval.
- 10.3 Abandonment in this manner constitutes termination of employment at the initiative of the employee and will be progressed under the provisions of section 8 (Termination), with the final day of employment taken to be the last day worked or the last day of authorised absence.

11. DISCIPLINARY MATTERS

- 11.1 In the event of alleged misconduct or neglect of duty, the Company will investigate the matter and give Employees an opportunity to respond to allegations.
- 11.2 The process to be followed may vary on a case-by-case basis, however will involve the following components:
 - a) Initial request for information and facts of what occurred and all information initially assessed. This may require the Company to communicate with Employees involved in an incident or witness to a matter, including the person(s) whom allegations may be made against. It may also require initial statements to be provided by relevant Employees or other relevant persons.
 - b) Notification of concerns or formal allegations will be provided to the Employee(s).
 - c) The Employee(s) will be given an opportunity to respond either in writing, verbally or both.
 - d) If required, an Employee(s) will be invited to attend a formal meeting or interview to discuss the concerns or allegations made against them.

- e) On review of all information available and gathered throughout the process, the Company will conclude the investigation into the matter and communicate their findings to the Employee(s)
 - f) Final outcomes and findings may be delivered at a scheduled meeting or, if required, after the scheduled meeting.
- 11.3 Throughout the investigation process and depending on the circumstances, an Employee may:
- a) Continue to work their usual role
 - b) Be stood down with pay
 - c) Placed on alternate duties
- 11.4 Should a formal meeting or interview be required as referred to in paragraph 11.2(d), an Employee may request for a support person to be present. The role of a support person is to provide support and assistance to the Employee, provided that support and assistance does not disrupt the meeting or impede the Company's ability to communicate directly with the Employee, however a support person's role is not to present or act as an advocate on the Employee's behalf.
- 11.5 In circumstances where an Employee has been stood down with pay for alleged misconduct or neglect of duty, at the Employee's request, an employee representative will be given an opportunity to represent the interests of the affected Employee.
- 11.6 Disciplinary outcomes may include (but are not limited to):
- a) Written warning;
 - b) Demotion;
 - c) Transfer to alternate location within the scope of the Company's contract with the PTA;
 - d) Transfer to alternate location outside the scope of the Company's contract with the PTA;
 - e) Dismissal – with or without notice depending on the misconduct and findings.

12. UNIFORMS

Uniform Allocation

- 12.1 The required uniform to be worn by Employees covered by this *Agreement* will be issued by the Company and shall consist of:
- a) 5 x shirts;
 - b) 2 x pairs of cargo pants;
 - c) 1 x jumper;
 - d) 1 x jacket;

- e) 1 x inner belt; and
 - f) 1 x rig belt
- 12.2 All Employees will be issued the uniform items listed in subsection 12.1 at the commencement of their employment.
- 12.3 For part-time or casual Employees, the required uniform shall be issued on a pro rata basis.
- 12.4 Issued uniform items will at all times remain the property of the Company.
- 12.5 Where practicable, the Company shall arrange for the delivery of uniforms to the Employee's work site, and for fittings to occur on site. Where such arrangements cannot be made, it shall be the Employee's responsibility to pick up replacement articles of uniform from a location nominated by the Company and ensure they attend the nominated location for fittings to occur.
- 12.6 Items of the uniform will be replaced by the Company having regard to fair wear and tear on a one for one basis.
- 12.7 In the event that loss or damage caused by negligence or abuse by the Employee occurs to such uniform items, the items will be replaced by the Company, the cost of which may be recovered from the Employee, to the extent permitted by law. The recoverable amount will be equivalent to the cost of that item, however the maximum amount that any Employee shall be liable for will be \$150.00 on any single occasion.
- 12.8 Failure by the Employee to return uniforms in a clean state on termination will result in the reasonable cost of laundering the uniform to a maximum of \$30.00, to be withheld from any termination payments due to the Employee.
- 12.9 Failure of an Employee to return an item(s) of supplied uniform will result in the cost of that item(s) of uniform being withheld from their termination pay. The amount withheld will be equivalent to the cost of that item(s), however, the maximum that any Employee shall be liable for will be \$300.00.

13. TRAINING & LICENCES

Training

- 13.1 Training is an important and integral part of our ongoing relationship with Employees.
- 13.2 Employees will undertake training from time to time in relation to enhancing or broadening their work skills as required by the Company and/or the Client. All training conducted when not rostered on site will be paid for at the ordinary rate of pay.
- 13.3 Employees engaged under this Agreement as Revenue Protection Officers shall be trained in conflict resolution before commencing duties.

Security Licence

- 13.4 Employees engaged under this Agreement as Revenue Protection Officers are required to hold a relevant security licence and current first aid certificate in

accordance with the relevant WA security legislation as amended from time to time.

- 13.5 Any Employee whose security licence expires or is cancelled in accordance with the relevant WA security legislation or any other applicable legislation, will be deemed to have breached the employment agreement.
- 13.6 In the event that an Employee's security licence has expired, the Employee will be stood down without pay until they hold and present a valid and current security licence. Employees are required to provide the Company with a copy of their valid and current security licence.
- 13.7 In the event that an employee does not renew their security licence, their security licence is cancelled and/or they fail to provide evidence of a valid and current security licence as requested by the Company, their employment may be terminated by the Company in accordance with the provisions of section 8 (Termination) of this *Agreement*.

First Aid Certificate

- 13.8 Any Employee whose first aid certificate expires will not be entitled to receive the first aid allowance specified in subsection 21.2 of this *Agreement* until such time as the first aid qualification is renewed and a copy of the renewed certificate is provided to the Company.
- 13.9 Any Employee, whose first aid certificate expires will be deemed to have breached the employment agreement.
- 13.10 In the event that an Employees first aid certificate has expired, the Employee will be stood down without pay until they hold and present a valid and current first aid certificate. Employees are required to provide the Company with a copy of their valid and current first aid certificate.
- 13.11 In the event that an employee does not renew their first aid certificate and/or fail to provide evidence of their renewed first aid certificate as requested by the Company, their employment may be terminated by the Company in accordance with the provisions of section 8 (Termination) of this *Agreement*.

Driver Licence

- 13.12 Any Employee required to conduct security duties in a motor vehicle is required at all times to hold a valid driver licence to operate a motor vehicle on public roadways.
- 13.13 Any Employee required to use or conduct security duties in a motor vehicle and whose driver's licence is suspended, cancelled or revoked may be redeployed into alternate duties at that site or at an alternate MSS Security site as prescribed by subsections 14.6 and 14.7 (Transfers), provided that;
 - a) Such offers of redeployment shall at all times be subject to the operational requirements of the Company and;
 - b) If all reasonable efforts made for redeployment are unsuccessful, whether due to operational reasons or offers being declined by the employee, then the employee, by force of loss of the required licence, will be deemed to

have breached the employment agreement and their employment will be terminated by the Company in accordance with section 8 (Termination) of this *Agreement*.

14. CONTRACT OF EMPLOYMENT

14.1 Employees working under this Agreement may be engaged in any one of the following categories.

14.2 Permanent (full-time or part-time)

a) **A permanent full-time employee** means an Employee who works an average of thirty eight (38) ordinary hours per week as prescribed by subsection 15.2.

b) **A permanent part-time employee** means an Employee who is allocated ordinary hours less than 38 hours per week, who works on a regular roster and receives, on a pro rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

14.3 Casual

a) **A casual employee** means an Employee who is engaged and paid as such but will not include a part-time or full-time employee.

b) Casual Employees will be paid the rates as defined in section 35 (Schedule A – Wage Rates & Definitions).

Probationary period

14.4 An Employee shall, in the first instance, commence and remain on probation for a period of three (3) months.

14.5 The Company reserves the right to extend an Employees probationary period by up to a further 3 months in circumstances where the Employees performance is deemed by the Company to be unsatisfactory.

Transfers

14.6 The parties acknowledge that the Company may transfer an Employee from any site to another site or to the awaiting assignment pool in response to a client's request, poor performance or operational requirements of the business which may also include a site external to the PTA contract.

14.7 In circumstances where an Employee is removed from the PTA site(s) or contract, this Agreement will no longer apply to the Employee and their pay and conditions will be outlined by the relevant industrial instrument as applicable to the new site or post.

14.8 The Company undertakes to consider an Employee's family and financial responsibilities (as much as is operationally possible) when being transferred to a new site.

15. ORDINARY HOURS OF WORK

15.1 The ordinary hours of work are 38 hours per week or, an average of 38 hours per week, where the Company chooses to operate a roster.

Full-time Employees

15.2 The ordinary hours of work for a full-time employee will be an average of 38 hours per week which may be required to be worked over a roster cycle of up to eight (8) weeks.

Part-time Employees

15.3 A part-time employee is an Employee covered by this Agreement who is engaged to work fewer than 38 ordinary hours per week or, where the Company operates a roster, an average of fewer than 38 hours per week over a roster cycle of up to 8 weeks and whose hours of work are reasonably predictable.

15.4 At the time of engaging a part-time employee, the Company and Employee must agree in writing on a regular pattern of work.

15.5 If the agreement referred to under clause 15.4 is that the Employee will work on a roster, the agreement must specify at least the following:

- a) The starting and finishing times for each shift; and
- b) The days or part days on which the employee will not be rostered.

15.6 If the agreement referred to under clause 15.4 is that the Employee will work otherwise than on a roster, the agreement must specify all of the following:

- a) The number of hours to be worked each day; and
- b) The days of the week on which the Employee will work; and
- c) The times at which the Employee will start and finish work each day.

15.7 Any variation agreed by the Company and the Employee to the number of hours to be worked must be in writing.

Casual Employees

15.8 Casual Employees will be utilised on an as required basis, subject to a minimum payment of four (4) ordinary hours for each shift.

15.9 A casual Employee is defined as an Employee who accepts an offer of employment knowing there is no firm advance commitment to ongoing work or an agreed pattern of work.

15.10 The rates of pay specified at subsection 35.7 includes a casual loading of 25% which is paid in lieu of entitlements that casual Employees are not entitled to under the NES or relevant industrial instrument.

15.11 Offers and requests for conversion from casual employment to full-time or part-time employment are provided for in the NES.

Accrued Days Off

- 15.12 An Employee working a roster cycle of 40 hours per week will have 5% of the ordinary hours allocated to an Accrued Day Off (ADO) bank on a weekly basis.
- 15.13 The 40 ordinary hours will be averaged over a roster cycle of between 1 and 8 weeks.
- 15.14 ADO's are to be taken at a time mutually agreed by the Company and the Employee.
- 15.15 Whilst Employees are encouraged to take ADO's, an Employee may elect to cash out their accrued ADO balance in lieu of taking an ADO which will be paid at the ordinary rate of pay. ADO cash outs will be limited to a maximum of four (4) cash outs in a calendar year.
- 15.16 An Employee with ADO accruals exceeding 10 days in the bank must reduce their balance to 10 days or less. To do this, Employees will have one of the following options by agreement with the Company:
- a) Have the excess accrual paid at the ordinary rate of pay; or
 - b) Take the excess days off at a mutually agreed time to be paid at the ordinary rate of pay.
- 15.17 The Company will not unreasonably refuse an Employee's request to take ADO's subject to operational requirements and reasonable notice being provided prior to the ADO being requested to be taken.

Call Back

- 15.18 An employee required to attend the Company's premises and/or the premises of a client or clients of the Company for any reason after leaving the place of employment (whether notified before or after leaving the place of employment) must be paid a minimum number of hours as specified below:
- a) Where such attendance is required at the Company's premises for the purposes of a disciplinary and/or counselling interview and/or administrative procedures such as completing or attending to Workers Compensation Forms, Accident Reports, or Break/Entry Reports, the Employee must be paid a minimum payment of two hours at the appropriate rate for each such attendance;
 - b) Except as provided in paragraph 15.19(a) where such attendance is required at the Company's premises on a Monday through Saturday, the Employee must be paid a minimum payment of three (3) hours at the appropriate rate for each such attendance;
 - c) Where any such attendance is required at the Company's premises on a Sunday, the Employee must be paid a minimum payment of 4 hours at the appropriate rate for each such attendance.
- 15.19 Subsection 15.19 does not apply where a period of duty is continuous (subject to a reasonable meal break) with the completion or commencement of ordinary working time.

16. ROSTERS

Ordinary hours of work

- 16.1 Subject to subsection 16.3 the ordinary hours of work each week for a full-time Employee are 38, which may be averaged over a period of up to 8 weeks.
- 16.2 Subject to subsection 16.3 the ordinary hours of work each week for a part-time Employee are less than 38, which may be averaged over a period of up to 8 weeks.
- 16.3 Where for operational reasons the Company wishes to introduce a roster rotation greater than 8 weeks, the parties must consult on the implementation of such roster.

Roster

- 16.4 An Employee shall be notified of their roster setting out the Employee's ordinary days of duty and starting and finishing times on such days, at least 7 days in advance of the commencement of that roster.
- 16.5 Once a roster has been determined by the Company and implemented, it shall not be varied until that cycle has been completed except to meet an emergency due to sickness, or other unexpected and unavoidable cause, or by personal agreement between the Company and Employee(s) concerned.
- 16.6 Ordinary time shifts will be limited in duration to:
 - a) For casual employees – a minimum of 4 and a maximum of up to 12 ordinary hours;
 - b) For full-time employees – a minimum of 7.6 and a maximum of up to 12 ordinary hours; and
 - c) For part-time employees – a minimum of 20% of the employees agreed weekly hours or 4 hours (whichever is greater) and a maximum of up to 12 ordinary hours.
- 16.7 Rosters will provide for a minimum of 8 hours break between the completion of a rostered shift and the commencement of the Employee's next rostered shift.
- 16.8 Employees may be rostered to work on any day of the week on a day or night shift basis, including rotating or non-rotating shifts, as required to meet the operational needs of the Company.
- 16.9 No permanent Employee will be rostered to work more than 7 consecutive days other than for customary change in roster or by agreement.

Shift Swaps

- 16.10 Employees may organise shift swaps between themselves provided such arrangements have been approved in advance by the relevant Supervisor.
- 16.11 The request for shift swap must be submitted in writing no less than eighteen (18) hours before the first shift affected by the swap and the request must be signed by both affected Employees.

- a) a notice period of less than eighteen (18) hours may be accepted by the Company in cases of genuine emergency circumstances.

16.12 In these circumstances, no overtime or other entitlements will be payable by the Company to the Employee(s) if such overtime or entitlements would not have been payable if the shift swaps had not occurred in the first instance.

17. MEAL AND CRIB BREAKS

Meal breaks

- 17.1 An Employee will be granted a paid meal break of not less than 30 minutes where a shift exceeds five (5) hours in duration.
- 17.2 No deduction will be made in an Employee's time for a meal break unless the Employee is permitted to leave their assigned site location or client premises.

Crib breaks

- 17.3 An Employee will be granted a paid crib break of not less than 10 minutes on a shift of more than 4 hours, not less than 20 minutes on an 8 hour shift, not less than 25 minutes on a 10 hour shift, and not less than 30 minutes on a 12 hour shift.
- 17.4 The Company reserves the right to allocate when a crib break can be taken to ensure operational and client service requirements are met.
- 17.5 Depending on operational and client service requirements, an Employee may not be permitted to take the full duration of a crib break in one break and the crib break entitlement may be split across the duration of a shift.
- 17.6 If an Employee is interrupted during a break their break will resume immediately after such interruption is concluded.

18. WAGE RATES

- 18.1 The wage rates for each year of the Agreement are as specified in section 35 (Schedule A – Wage Rates & Definitions).

Payment of wages

- 18.2 Payment of wages will be made by Electronic Funds Transfer on a fortnightly basis.

19. PUBLIC HOLIDAYS

- 19.1 Employees under this agreement shall be entitled to public holidays and related entitlements in accordance with the National Employment Standards.

20. OVERTIME

- 20.1 Where a Revenue Protection Officer works overtime the Company must pay the Employee the rates as specified in subsection 35.8.

Working reasonable overtime

- 20.2 For the purpose of this section, reasonable overtime will be considered to be no more than one (1) shift per fortnight

- 20.3 Employees may be required to work reasonable additional hours outside of rostered ordinary hours (also known as “overtime”). In determining whether overtime is reasonable or unreasonable, the following must be considered:
- a) any risk to employee health and safety from working the additional hours;
 - b) the employee's personal circumstances, including family responsibilities;
 - c) the needs of the workplace or enterprise in which the employee is employed;
 - d) whether the Employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
 - e) the notice (if any) given by the Company of any request or requirement to work the additional hours;
 - f) the notice (if any) given by the Employee of his or her intention to refuse to work the additional hours;
 - g) the usual patterns of work at the site, or the part of the site, in which the Employee works;
 - h) the nature of the Employee's role, and the Employee's level of responsibility;
 - i) any other relevant matter.

Minimum breaks between shifts

- 20.4 Where overtime or additional periods of duty are required to be worked they will be so arranged to enable Employees to have a break of at least 8 hours between the finishing time of one period of duty and the commencing time of the next period of duty.

Time off instead of payment for overtime

- 20.5 An Employee and the Company may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the Employee.
- 20.6 Any amount of overtime that has been worked by an Employee in a particular pay period and that is to be taken as time off instead of the Employee being paid for it must be the subject of a separate agreement.
- 20.7 An agreement must state each of the following:
- a) the number of overtime hours to which it applies and when those hours were worked;
 - b) that the Company and Employee agree that the Employee may take time off instead of being paid for the overtime;
 - c) that, if the Employee requests at any time, the Company must pay the Employee, for overtime covered by the agreement but not taken as time off, at the overtime rate applicable to the overtime when worked;

- d) that any payment mentioned in paragraph 20.7(c) must be made in the next pay period following the request.
- 20.8 The period of time off that an Employee is entitled to take is the same as the number of overtime hours worked.
- 20.9 Time off must be taken:
- a) within the period of 6 months after the overtime is worked; and
 - b) at a time or times within that period of 6 months agreed by the Employee and employer.
- 20.10 If the Employee requests at any time, to be paid for overtime covered by an agreement under subsections 20.5 – 20.15 but not taken as time off, the employer must pay the employee for the overtime, in the next pay period following the request, at the overtime rate applicable to the overtime when worked.
- 20.11 If time off for overtime that has been worked is not taken within the period of 6 months mentioned in subsection 20.9, the Company must pay the Employee for the overtime, in the next pay period following those 6 months, at the overtime rate applicable to the overtime when worked.
- 20.12 The Company must keep a copy of any agreement relating to time off instead of payment for overtime as an employee record.
- 20.13 The Company must not exert undue influence or undue pressure on an Employee in relation to a decision by the Employee to make, or not make, an agreement to take time off instead of payment for overtime.
- 20.14 An Employee may request to take time off, at a time or times specified in the request or to be subsequently agreed by the Company and the Employee, instead of being paid for overtime worked by the Employee. If the employer agrees to the request then subsections 20.5 – 20.15 will apply, including the requirement for separate written agreements under subsection 20.6 for overtime that has been worked.
- 20.15 If, on the termination of the Employee's employment, time off for overtime worked by the Employee to which subsections 20.5 – 20.15 applies has not been taken, the Company must pay the Employee for the overtime at the overtime rate applicable to the overtime when worked.

21. ALLOWANCES

- 21.1 Allowance rates are specified in section 36 (Schedule B – Allowances).
- 21.2 First Aid Allowance
- a) A First Aid Allowance shall be paid to an Employee who is required by the Company, as a condition of his or her employment, to act as a First Aid Attendant.
 - b) The First Aid Allowance for permanent full-time Employees shall be paid on a per week basis.

- c) The First Aid allowance for permanent part-time and casual Employees shall be paid on a per shift basis.

21.3 Senior Officer Allowance

- a) A Senior Allowance shall be paid to an employee who is appointed by the Company, to act as a Senior Officer.
- b) The Senior Allowance for a full-time appointment shall be paid on a per week basis.
- c) The Senior Allowance for an Employee who is relieving or acting in a temporary capacity will be paid on a per hour basis.

21.4 Relieving Supervisor Allowance

- a) A Relieving Supervisor Allowance shall be paid to an employee who is appointed by the Company, to act as a Supervisor.
- b) Should the employee already be in receipt of the Senior Allowance, the Relieving Supervisor Allowance shall be paid in addition.
- c) An Employee not in receipt of the Senior Allowance shall be paid that allowance in addition to the Relieving Supervisor Allowance if called upon to act as a Supervisor.
- d) The Relieving Supervisor Allowance shall be paid on a per hour basis.

21.5 Meal Allowance

- a) Where an Employee is required by the Company to work in excess of 1 hour after the completion of his or her ordinary shift without being notified of the requirement, the Employee must be paid a meal allowance on a per shift basis
- b) This subsection will not apply where the Company provides a meal or where the Employee requests additional shifts outside their normal roster.

21.6 Higher Duties

- a) An Employee who is required to do work for which a higher rate is fixed than that provided for their ordinary duties will, if such work exceeds a total of 4 hours on any day, be paid at the higher rate for all work done on such day.
- b) In all other cases the Employee will be paid the higher rate for the actual time worked.

22. CLASSIFICATION STRUCTURE

Revenue Protection Officers

22.1 Revenue Protection Officers are Employees who have completed at least a Certificate II in Security Operations so as to enable the Employee to perform work within the scope of this classification and who performs work to the level of their skills, competency and training.

- a) Revenue Protection Officer duties

- i) provide a physical presence on urban train services and undertake inspections of passenger 's tickets and issue infringement notices;
 - ii) provide a physical presence on urban train stations;
 - iii) provide a physical presence at Smart Rider fare gates, inspect passenger tickets and issue infringements;
 - iv) provide a physical presence at railway locations and station car parks;
 - v) Inspect and open and inspect and lockup various railway stations;
 - vi) Officers are expected to conduct themselves in a friendly and courteous manner at all times when dealing with passengers, PTA staff and Contractors.
- b) Incidental duties
- i) Revenue Protection Officers may be required to perform duties incidental to the tasks of a Revenue Protection Officer within the employee's level of skill, competence and training.

23. PERSONAL AND CARER'S LEAVE

Amount of paid personal/carer's leave

- 23.1 For each year of service with the Company, a permanent Employee is entitled to ten (10) days (76 hours for a full-time employee) of paid personal/carer's leave.
- 23.2 An Employee's entitlement to paid personal/carer's leave accrues progressively during each year of service according to the Employee's ordinary hours of work.

Taking paid personal/carer's leave

- 23.3 An Employee may take paid personal/carer's leave if the leave is taken:
- a) Due to the Employee being unfit for work because of a personal illness, or personal injury, affecting the Employee; or
 - b) To provide care or support to a member of the Employee's immediate family, or a member of the Employee's household, who requires care or support because of:
 - i) A personal illness, or personal injury, affecting the member; or
 - ii) An unexpected emergency affecting the member.

Employee taken not to be on paid personal/carer's leave on a public holiday

- 23.4 If the period during which an Employee takes paid personal leave includes a day or part day that is a public holiday in the place where the Employee is based for work purposes, the Employee is taken not to be on paid personal/carer's leave on that public holiday.

Payment for paid personal/carer's leave

- 23.5 If an Employee takes a period of paid personal/carer's leave, the Company must pay the Employee at the Employee's ordinary time rate of pay for the

Employee's ordinary hours of work in the period. However, despite the provisions of subsections 23.12 to 23.18 (Evidence Requirements) the Employee must provide evidence to satisfy a reasonable person for all personal leave taken that includes a day or part day that is a public holiday.

Entitlement to unpaid carer's leave

- 23.6 An Employee (including a casual Employee) is entitled to two (2) days of unpaid carer's leave for each occasion when a member of the Employee's immediate family, or a member of the Employee's household, requires care or support because of:
- a) A personal illness, or personal injury, affecting the member; or
 - b) An unexpected emergency affecting the member.

Taking unpaid carer's leave

- 23.7 Subject to subsection 23.9 an Employee may take unpaid carer's leave if the leave is taken to provide care or support as mentioned in subsection 23.6.
- 23.8 An Employee may take unpaid carer's leave as:
- a) A single continuous period of up to two (2) days; or
 - b) Any separate periods to which the Employee and the Company agree.
- 23.9 An Employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.

Notice requirements

- 23.10 An Employee must give the Company notice of the taking of leave.
- 23.11 The notice:
- a) Must be given to the Company as soon as is reasonably practicable (which may be a time after the leave has started); and
 - b) Must advise the Company of the period, or expected period, of the leave.

Evidence requirements

- 23.12 A medical certificate or a statutory declaration is not required to be produced on 2 single days taken as personal/carer's leave during each year of service
- 23.13 A statutory declaration will be accepted if produced for the third single day absence (without a medical certificate) due to personal/carers leave during each year of service
- 23.14 A medical certificate is required to be produced in respect of the fourth single absence as well as any subsequent absences due to personal/carer's leave during each year of service
- 23.15 A medical certificate is required to be produced for any personal/carer's leave that exceeds 1 day
- 23.16 Where an Employee seeks personal leave to care for an immediate family or household member, the Employee must, if required by the Company, establish

by production of evidence to satisfy a reasonable person, the sickness of the person concerned and that the sickness is such as to require care by another person where the Employee is absent and requests personal leave to care for an immediate family or household member for a period of 2 or more consecutive days.

23.17 When taking leave to care for members of their immediate family or household who require care due to an unexpected emergency, the employee must, if required by the Company, establish by production of documentation acceptable to the Company or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the Employee.

23.18 In the event that an employee books off for the remainder of their rostered shift due to personal illness or to attend to a family emergency, the Employee will not be paid for their period of absence until the relevant evidence has been produced in accordance with subsections 23.13 and 23.14.

Meaning of immediate family or household member

23.19 The entitlement to use compassionate leave and carer's leave in accordance with this section is subject to the person being either:

- a) A member of the Employee's immediate family; or
- b) A member of the Employee's household.

23.20 The term immediate family includes:

- a) A spouse
- b) De facto partner
- c) Child
- d) Parent
- e) Grandparent
- f) Grandchild
- g) Sibling
- h) Child, parent, grandparent, grandchild or sibling of the Employee's spouse or de facto partner
- i) Step-relations (step-parents and step-children)

23.21 The term household member refers to any person who lives with the Employee.

24. COMPASSIONATE LEAVE

24.1 An Employee is entitled to two (2) days (15.2 hours for a full-time employee) of compassionate leave for each occasion (a permissible occasion) when a member of the Employee's immediate family, or a member of the Employee's household:

- a) Contracts or develops a personal illness that poses a serious threat to his or her life; or
- b) Sustains a personal injury that poses a serious threat to his or her life; or
- c) Dies.

Taking compassionate leave

24.2 An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:

- a) For the purpose of spending time with the member of the Employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury; or
- b) After the death of the member of the Employee's immediate family or household.

24.3 An Employee may take compassionate leave for a particular permissible occasion as:

- a) A single continuous period of 2 days; or
- b) 2 separate periods of 1 day each; or
- c) Any separate periods to which the Employee and the Company agree.

24.4 If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

Payment for compassionate leave

24.5 If, in accordance with this section, an Employee, other than a casual Employee, takes a period of compassionate leave, the Company must pay the Employee at the Employee's ordinary rate of pay for the Employee's ordinary hours of work in the period.

Evidence requirements

24.6 The Company may require an employee to provide evidence that would satisfy a reasonable person that leave taken under this section is taken for a permissible occasion.

25. ANNUAL LEAVE

Definitions

25.1 For the purposes of this section, "ordinary pay" in relation to any Employee means remuneration for the Employee's normal weekly number of hours of work calculated at the ordinary time rate of pay and in addition will include:

- a) Shift work penalties, according to roster or projected roster;
- b) Saturday and Sunday penalties, according to roster or projected roster;

- c) Senior's allowances where applicable; and
 - d) First Aid allowances where applicable.
- 25.2 For the purposes of this section "week" in relation to any Employee means the employee's ordinary working week;
- 25.3 For the purposes of the definition of the term "ordinary pay" in subsection 25.1 of this section:
- a) Where no ordinary time rate of pay is fixed for an employee's work under the terms of employment the ordinary time rate of pay will be deemed to be the average weekly rate earned during the period in respect of which the right to the annual leave accrues;
 - b) Where no normal weekly number of hours is fixed for an employee under the terms of employment, the normal weekly number of hours of work will be deemed to be the average weekly number of hours worked during the period in respect of which the right to the annual leave accrues;

Period of annual leave

- 25.4 For each year of service with the Company, an employee is entitled to:
- a) 4 weeks (152 hours for a full-time employee) of paid annual leave; or
 - b) For shift work Employees who are rostered to work regularly on Sundays and public holidays or Employees who are rostered to work regularly on 7 days per week, 5 weeks (190 hours for a full-time employee) of paid annual leave.
- 25.5 An Employee's entitlement to paid annual leave (including leave referred to in paragraph 25.4(b) accrues progressively during a year of service according to the employee's ordinary hours of work and unused portions accumulates from year to year.
- 25.6 If an Employee's employment ends during what would otherwise have been a year of service, the Employee accrues paid annual leave up to the time when the employment ends.

Payment for annual leave

- 25.7 If an Employee takes a period of paid annual leave, the Company must pay the Employee their ordinary pay for the period, subject to subsection 25.8.
- 25.8 When taking annual leave, the Employee will be paid the greater of the following for the Employee's ordinary hours of work in that period of leave:
- a) The amount the Employee would have earned during that period for those ordinary hours had they not been on leave; or
 - b) The ordinary rate of pay together with any applicable first aid or senior allowance payable plus a loading of 17.5%.
- 25.9 If, when the employment of an Employee ends, the Employee has a period of untaken paid annual leave, the Company must pay the Employee the amount that would have been payable to the Employee if the Employee had taken that period of annual leave.

Taking paid annual leave

- 25.10 Paid annual leave may be taken for a period agreed between an Employee and the Company.
- 25.11 An Employee may request in writing to take annual leave giving 1 months' notice, and the Company shall grant the request, unless the Company provides the Employee with a reasonable basis for refusal, which may include a situation where the leave would be unsuitable due to operational reasons. The Company's response must be given to the Employee within 7 working days from receiving the Employee's written request.
- 25.12 The Company will, wherever practicable, encourage annual leave to be taken by employees as it accrues to prevent excessive accumulation of entitlements, however an Employee must take an amount of annual leave during a particular period if:
- a) The Employee is directed to do so by the Company; and
 - b) At the time that the direction is given, the Employee has annual leave credited to him or her of more than twice the annual entitlement the Employee is entitled to; and
 - c) The amount of annual leave that the Employee is directed to take results in the Employee having no less than 228 hours entitlement of accrued leave remaining.

Public holidays falling within annual leave

- 25.13 If the period during which an Employee takes paid annual leave includes a day or part-day that is a public holiday in the place where the Employee is based for work purposes, the Employee is taken not to be on paid annual leave on that public holiday.
- 25.14 If a public holiday falls within an Employee's annual leave, as prescribed in this *Agreement*, and is on a day which would have been an ordinary working day, then payment at the Employee's ordinary rate of pay for the extra time equivalent to the public holiday shall be added to the Employee's annual leave.

Annual leave cash out

- 25.15 Notwithstanding subsection 25.12, an Employee may elect, subject to the approval of the Company, to forgo part of his or her annual leave and cash it out.
- 25.16 A condition of cashing out leave is that an Employee may not forgo annual leave if it would result in the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- 25.17 A request to cash out annual leave must be made in writing.
- 25.18 Annual leave cash outs will be limited to a maximum of four (4) cash outs in a calendar year.
- 25.19 Payment for the hours foregone will be made at the amount that would have been payable had the annual leave been taken.

26. PARENTAL LEAVE

26.1 Employees under this agreement shall be entitled to Parental leave and related entitlements in accordance with the National Employment Standards.

27. LONG SERVICE LEAVE

27.1 Employees under this agreement shall be entitled to Long Service Leave in accordance with the *Long Service Leave Act 1958 (WA)*.

28. LEAVE TO DEAL WITH FAMILY & DOMESTIC VIOLENCE

28.1 Employees under this agreement shall be entitled to Family & Domestic Violence Leave in accordance with the National Employment Standards.

29. COMMUNITY & JURY SERVICE LEAVE

Community Service

29.1 Each of the following is an eligible community service activity:

- a) Carrying out a voluntary emergency management activity (within the meaning of section 109 (2) of the *FW Act*); or
- b) An activity prescribed by the National Employment Standards.

29.2 An Employee who engages in an eligible community service activity is entitled to be absent from their employment for a period if the period consists of one or more of the following:

- a) Time when the Employee engages in the activity;
- b) Reasonable travelling time associated with the activity;
- c) Reasonable rest time immediately following the activity; and
- d) The Employee's absence is reasonable in all the circumstances.

29.3 An Employee, who wants an absence from his or her employment for Community Service in accordance with section 30 (Community & Jury Service Leave), must provide the Company with notice of the absence. The notice:

- a) Must be given to the Company as soon as reasonably practicable (which may be a time after the absence has started); and
- b) Must advise the employer of the period, or expected period, of the absence.

29.4 An Employee who has given the Company notice of an absence under subsection 29.3 must, if required by the Company, give the Company evidence that would satisfy a reasonable person that the absence is because the Employee has been or will be engaging in an eligible community service activity.

29.5 An Employee's absence from his or her employment is not covered by this section unless the employee complies with the provisions of subsection 29.3 and 29.4.

Jury Service

- 29.6 The provisions of this section apply to eligible casual Employees.
- 29.7 An eligible casual Employee means a casual Employee employed by the Company on a regular and systematic basis for several periods of employment or on a regular and systematic basis for an ongoing period of employment during a period of at least twelve (12) months, and that the Employee has a reasonable expectation of ongoing employment.
- 29.8 An Employee required to attend for jury service during the Employee's ordinary working hours shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of the Employee's attendance for such jury service and the amount that he or she could reasonably expect to have received from the Company as earnings for that period had he or she not been performing jury service subject to the following conditions:
- 29.9 The Employee shall advise the Company as soon as practicable that he or she had to attend for jury service, and if required by the Company, produce his or her notice to attend.
- 29.10 An Employee who has been given more than 7 days' notice to attend for jury service shall give the company at least seven 7 days' notice and if he or she fails to give such notice, without reasonable excuse, he or she shall forfeit his or her entitlement to payment by the Company.
- 29.11 An Employee on day shift or day work who is not required for jury service after 1300 hours on any day shall contact the Company by telephone to ask whether the Company requires the Employee to report for the balance of the day, and if so required, the Employee shall so report.
- 29.12 An Employee on afternoon shift or night shift who is discharged or excused from jury service on the day upon which he or she is first called or on any subsequent day on which he or she has been required to take part in court proceedings shall report for work:
- a) In the case of an afternoon shift Employee, if possible at the Employee's normal starting time or as soon thereafter as possible after being discharged or excused from jury service, and
 - b) In the case of a night shift Employee, at the Employee's normal starting time.
- 29.13 Provided that an Employee on afternoon shift or night shift who is continuing jury service and who has been required to take part in court proceedings for more than half the day shall not be required to report for work until the expiration of his or her jury service and if the jury service has lasted for more than 2 days until the shift next following the completion of the Employee's jury service.
- 29.14 The employee shall give the company proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

30. SUPERANNUATION

- 30.1 The Company shall make superannuation contributions on behalf of Employees at the rate as required by law, as amended from time to time, on the Employee's ordinary time earnings.
- 30.2 Superannuation contributions will be made to the superannuation fund of the Employee's choosing.
- 30.3 Employees' are eligible to join the default fund nominated from time to time by MSS Security.
 - a) The default plan for the Company is the Russell Superannuation Plan or such other complying and regulated superannuation fund as succeeds that plan.
 - b) MSS Security will provide a default complying superannuation fund which offers a MySuper product.
- 30.4 An Employee may apply to the Company to have their ordinary wage reduced by an amount nominated by the Employee as a Salary Sacrifice Contribution for the benefit of the Employee.
- 30.5 MSS Security must approve the application for salary sacrifice before the Employee's ordinary wage is adjusted for salary sacrifice contributions.
- 30.6 The Employee will receive their Post Salary Sacrifice Wage for periods of annual leave, long service leave, and other periods of paid leave provided the Salary Sacrifice Contribution is paid.
- 30.7 Unless otherwise agreed by MSS Security, an Employee may revoke or vary their Salary Sacrifice Agreement once in each 12 months in accordance with Company policy.
- 30.8 Not less than 1 month's written notice shall be given by an Employee of their revocation or variation of a Salary Sacrifice Agreement.
- 30.9 The continuation of an Employee's Salary Sacrifice Agreement is subject to MSS Security's discretion and such agreements cease to apply on the Company giving 1 months' notice.

31. UNION DELEGATES RIGHTS

- 31.1 The Australian Rail Tram & Bus Union (ARTBU) and MSS Security agree to work together to build a positive relationship founded on principles of commitment to a quality security industry and cooperation.
- 31.2 To facilitate the participation of union delegates and members in this partnership, cooperation and freedom of association, MSS Security will afford United Voice, the ARTBU and its delegates the rights outlined in this section.
- 31.3 Employees appointed or elected as union delegates shall, upon application in writing to MSS Security, be granted leave with pay (which leave shall be non-cumulative) to attend courses conducted or approved by the Australian Trade Union Training Authority, United Voice, the ARTBU or other properly qualified training organisation. Leave may also be accessed to allow union delegates to

attend the union's annual "Delegates Convention" or to participate in meetings held in accordance with the Union's Rules (such as meetings of delegates elected to the Union's Branch Council, or Branch Executive committees). This leave will be granted subject to the following:

- a) MSS Security shall be notified in writing no less than four (4) weeks in advance of the proposed date of such leave;
- b) The taking of leave shall be subject at all times to MSS Security approval and shall not unduly interfere with the operational and contractual requirements of MSS Security;
- c) The employee has not attended a similar course in the previous twelve (12) months and has a genuine need to attend;
- d) MSS Security may require satisfactory evidence of attendance at the course. Such satisfactory evidence may include written confirmation of attendance by the Union or Training Provider, including a certificate of completion of such course;
- e) The total number of union leave days MSS Security shall make available collectively to delegates shall not exceed twelve (12) days per year.
- f) Payment for such leave will be calculated at the ordinary rate of pay.

31.4 An individual delegate can address new employees in regard to union matters at the commencement of their employment at a time that does not unduly interfere with the operational and contractual requirements of MSS Security.

31.5 In addition to the paid training leave provided for above, during enterprise agreement renegotiations, MSS Security will grant additional rights to accredited union delegates to participate in the renegotiation of this *Agreement*, provided that:

- a) Where a delegate is to be released from rostered work to attend renegotiation meetings, attendance at the meeting will result in no loss of pay for the period of the meeting, and each employee will return to his place of work to complete his rostered shift after the meeting;
- b) Where a delegate attends in his or her own time they will be paid at the ordinary rate for attendance at the meeting; and
- c) The maximum number of delegates to be paid for each meeting will not exceed three (3).

32. JOINT CONSULTATIVE COMMITTEE

32.1 The Joint Consultative Committee (JCC) will be a forum for consultation on issues such as:

- a) Industrial issues;
- b) Changes to work organisation and/or work practices occurring in the workplace; and
- c) Occupational health and safety issues.


- 32.2 The JCC will comprise of the Company or their nominee, Company nominated representatives, union nominated representatives, employee nominated representatives and safety representatives (where appointed).
- 32.3 The JCC will determine its own operating procedures and schedule for meetings. The JCC parties are to provide all reasonable information in advance of meetings, except confidential commercial, business or personal information which would otherwise breach privacy laws or where the release of which may seriously harm a party or individual.
- 32.4 The JCC shall have meetings scheduled on a quarterly basis (at least four meetings per year).
- 32.5 The JCC will convene within 28 days of a written request being received from any nominated parties.

33. STAND DOWN


- 33.1 The Company may stand down an Employee without pay during a period where the Employee cannot usefully be employed due to:
- a) Industrial actions (other than industrial action organised or engaged in by the Employer); or
 - b) A breakdown of machinery or equipment, if the Employer cannot reasonably be held responsible for the breakdown; or
 - c) A stoppage of work for any cause for which the Employer cannot reasonably be held responsible.
- 33.2 Prior to proposing that any Employees are stood down, the Company must endeavour to provide them with acceptable alternative work where relevant.
- 33.3 Where employees cannot be usefully employed, the Company must consider acceptable alternatives to stand downs such as agreed roster changes, or providing employees with the option of taking paid leave.
- 33.4 Any Company proposal to stand down any Employee without pay must be addressed through section 6 (Consultation) of this *Agreement*.
- 33.5 Any disputes relating to stand downs must initially be processed through section 7 (Dispute Resolution) of this *Agreement*.
- 33.6 Any stand down does not break continuity of service or adversely affect leave accruals.

34. SIGNATORIES TO THE AGREEMENT

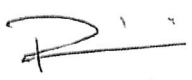
Signed for and on behalf of MSS Security Pty Ltd

Signature: 
Full name: Paul Trevor Price
Position: GENERAL MANAGER - WA
Address: 235 BALCATTA RD BALCATTA WA 6021
Date: 10 OCT 22


In the presence of:

Witness signature: 
Witness full name: STEFANIA MARIA PAPALIA
Date: 10 OCTOBER 2022

Signed for and on behalf of the employees of MSS Security Pty Ltd

Signature: 
Full name: PAULA TIVAI MARI
Position: Revenue Protection Officer
Address: 124 CAMBORNE BRIDGE BULDER 6036 W.A.
Date: MONDAY 10 OCTOBER 2022

In the presence of:

Witness signature: 
Witness full name: CHAMINDA LIYANAGE
Date: 10/10/2022

35. SCHEDULE A – WAGE RATES & DEFINITIONS

- 35.1 The 2022 wage rates will apply and be paid in the first full pay period after the Agreement comes into operation, as determined by FWC.
- 35.2 Each year thereafter, the wage rates will be increased effective from the first full pay period on or after 1 July each year until the Agreement's nominal expiry date.
- 35.3 The wage rates will increase by either 3% or in accordance with the Fair Work Commission Annual Wage Review decision as applicable to security each year, whichever is greater, until the Agreement's nominal expiry date.
- 35.4 The wage rate definitions are set out in the table below:

Rate	Definition
Day rate (ordinary rate)	This rate is payable for hours worked between 0600 and 1800 hours, Monday to Friday
Night rate	This rate is payable for hours worked between midnight and 0600 hours and 1800 hours to midnight, Monday to Friday
Permanent night rate	An employee whose roster meets the definition of permanent night work (per subsection 4.13) will be paid the permanent night rate. This rate is payable for hours worked between midnight and 0600 hours and 1800 hours to midnight, Monday to Friday
Saturday rate	This rate is payable for all hours worked on a Saturday
Sunday rate	This rate is payable for all hours worked on a Sunday
Public holiday rate	This rate is payable for all hours worked on a public holiday

35.5 The rate tables outlined at subsections 35.6 – 35.8 will be updated each year and be made available to Employees.

35.6 Permanent Revenue Protection Officers – Wage Rates

Rate	2022
Day rate (ordinary rate)	\$26.75
Night rate	\$30.00
Permanent night rate	\$31.50
Saturday rate	\$36.50
Sunday rate	\$48.46
Public holiday rate	\$60.58

35.7 Casual Revenue Protection Officers – Wage Rates

Rate	2022
Day rate (ordinary rate)	\$33.50
Night rate	\$36.80
Permanent night rate	\$38.00
Saturday rate	\$43.00
Sunday rate	\$55.00
Public holiday rate	\$68.00

35.8 Revenue Protection Officers – Overtime Wage Rates

Rate	2022
Overtime rate payable for the first 2 hours	\$36.35
Overtime rate payable after first 2 hours	\$48.46

36. SCHEDULE B – ALLOWANCES

- 36.1 The 2022 allowance rates will apply and be paid in the first full pay period after the Agreement comes into operation, as determined by FWC.
- 36.2 Each year thereafter, the allowance rates will be increased effective from the first full pay period on or after 1 July each year until the Agreement's nominal expiry date.
- 36.3 The allowance rates will increase by either 3% or in accordance with the Fair Work Commission Annual Wage Review decision as applicable to security each year, whichever is greater, until the Agreement's nominal expiry date.
- 36.4 The rate tables outlined at subsection 36.5 will be updated each year and be made available to Employees.
- 36.5 Allowance rates

Subsection	Allowance	2022
22.2	First aid	
	Per week	\$32.56
	Per shift	\$6.55
22.3	Senior officer	
	Per week	\$50.00
	Per hour	\$1.32
22.4	Relieving supervisor	
	Per hour	\$1.89
22.5	Meal	
	Per meal	\$18.70

IN THE FAIR WORK COMMISSION

FWC Matter No

AG2022/3955

Applicant:

MSS Security Pty Ltd

Undertaking s.190

I, Paul Price, General Manager – WA of MSS Security Pty Ltd have the authority given to me by MSS Security Pty Ltd to provide this undertaking in relation to this application before the Fair Work Commission. I give the following undertakings with respect to the MSS Security PTA Enterprise Agreement ("the Agreement"):

1. In relation to clause **8.6** of the Agreement, MSS Security undertakes that any deduction under clause 8.6 will only be made from wages due to the employee under the Agreement.
2. In relation to clause **9.8** of the Agreement, MSS Security undertakes that it will not rely on this clause.
3. In relation to clause **8.4(d)(iv)** and **9.13(c)** of the Agreement, MSS Security undertakes that it will not rely on these clauses.
4. In relation to part-time employees, MSS Security undertakes that part-time employees shall be entitled to be paid overtime rates, in accordance with the appropriate rates as specified in subsection 35.8 of the Agreement, in the event that they work in excess of the agreed minimum ordinary hours of work.
5. In relation to s.196 of the *Fair Work Act 2009* (Cth), clause **25.4(b)** of the Agreement sets out the definition of a shiftworker for the purposes of the National Employment Standard.

Authority to sign:

Paul Price
General Manager – WA
MSS Security – 1/235 Balcatta Road, Balcatta WA 6021

Signature:



Date:

11 October 2022