VisAbility Limited

Enterprise Agreement

2018 – 2021

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

 

# Title

1.1. This Agreement shall be known as the *VisAbility Limited Enterprise Agreement 2018 - 2021* (the "Agreement").

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# Definitions

3.1. The following definitions apply for the purpose of this Agreement:

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

**"Casual Employee"** means an employee who is not engaged on a regular basis. Casual employees shall be paid a loading of 25 per cent in lieu of the paid leave entitlements accrued by permanent employees.

**"Employer"** means VisAbility Limited (ABN 11 157 291 960).

**"FWC"** means the Fair Work Commission.

**"NES"** means the National Employment Standards as contained in sections 59 to 131 of the Fair Work Act 2009 (Cth), as amended from time to time.

**"Ordinary Rate"** means the hourly rate of pay that is payable to an employee for their ordinary hours of work, but not including any loadings, allowances, overtime rates or penalty rates. The Ordinary Rate is calculated by dividing the employee's annual salary at Appendix 1 by 313, multiplying the result by 12 and then dividing by 75.

**"Permanent Employee"** means an employee engaged on an ongoing basis as a part­ time or full-time employee.

**"Temporary Employee"** means an employee engaged for a specified period or for a specified task.

**"Union"** means the Health Services Union.

# Parties Bound

4.1. This Agreement is binding on the Employer and all employees who are engaged in the classifications specified in Appendix 2 – Classifications under this Agreement.

4.2. Subject to compliance with the requirements of sections 185 and 201(2) of the Act, the Union will be covered by this Agreement.

# Period of Operation

5.1. This Agreement will commence operation seven days after the day the Agreement is approved by the FWC.

5.2. The nominal expiry date of this Agreement shall be 30 June 2021. However, this Agreement shall continue to operate beyond the nominal expiry date until such time as a replacement Agreement has been approved by the Fair Work Commission or this Agreement is terminated in accordance with the provisions of the Act.

5.3. This Agreement operates to the exclusion of any modern award or other industrial instrument.

5.4. No party to this Agreement shall engage in industrial action before the nominal expiry date.

# Replacement of Agreement

6.1. The Employer agrees to meet with the Union at least three months prior to the expiration of this Agreement with the purpose of negotiating the continuation of, or replacement of this Agreement. The intent is to finalise negotiations before the Agreement expires.

# Contract of Service

7.1. Employees will be required to undertake a probationary period of three months upon commencement of employment. During this period the contract of service shall be weekly and may be terminated by one weeks' notice by either party provided in writing or by payment in lieu by the Employer, or the forfeiture by the employee, of an amount equal to one weeks' pay.

7.2. In the case of casual employees, the contract of service shall be daily and may be terminated by one hours' notice by either party provided in writing or by payment in lieu by the Employer, or the forfeiture by the employee, of an amount equal to one hours' pay.

7.3. After completion of the probationary period, the notice provisions shall be as specified in Clause 29 – Termination.

# Individual Flexibility

8.1. Notwithstanding any other provisions of this Agreement, an employee and the Employer may agree to vary the effect of this Agreement to meet the genuine individual needs of the employee and the Employer.

8.2. The terms that an employee and the Employer may agree to vary the effect of are those concerning:

1. hours of work;
2. overtime rates;
3. penalty rates and shift loadings;
4. allowances; and
5. leave loading.

8.3. Any arrangement for individual flexibility under this clause must be genuinely agreed to by the employee and the Employer. The arrangement must be in writing and signed by the Employer and the employee (including the employee's parent or guardian where he/she is under 18 years of age). A copy of the agreement must be given to the employee within 14 days of it being agreed to.

8.4. The Employer is responsible for ensuring that an individual flexibility arrangement results in the employee being better off overall than he/she would have been had no arrangement been made.

8.5. The Employer must ensure that the terms of the individual flexibility arrangement:

1. are about permitted matters under section 172 of the Act; and
2. are not unlawful terms under section 194 of the Act.

8.6. The individual flexibility arrangement may be terminated:

1. by the employee or the Employer giving no more than 28 days' notice of termination, in writing, to the other party; or
2. at any time, by written agreement between the employee and the Employer.

# Hours of Duty

9.1. The ordinary hours of work are 37.5 per week and shall not exceed 10 hours in any one day or shift.

9.2. The span of ordinary hours for a day worker will be between 6.00 am and 8.00 pm Monday to Friday unless agreed otherwise by the employee in writing, when ordinary hours may be worked between 6.00 am and 8.00 pm Monday to Saturday.

9.3. Shift employees will work shifts in accordance with clause 12 – Shiftwork.

9.4. The ordinary hours of work for part-time employees are less than 37.5 per week with entitlements accruing on a pro rata basis proportionate to the number of hours worked per week.

9.5. In consultation between the Employer and the employee, the hours and times worked may be varied by agreement, subject to clause 9.1.

9.6. Ordinary hours performed on a weekend will be paid at the following rates:

1. Saturday: time and a half of the employee's Ordinary Rate; and
2. Sunday: double time of the employee's Ordinary Rate.

9.7. The weekend penalty rates in clause 9.6 are in substitution for and not cumulative upon the shift loadings in Clause 12 – Shiftwork and the casual loading in subclause 3.1. Weekend penalty rates are not applicable to overtime hours worked on a Saturday or a Sunday.

9.8. Casual employees will be paid a minimum of three hours for each engagement.

9.9. There will be a minimum break of 10 hours between the end of one period of duty and the commencement of another unless there is agreement between the Employer and the employee for taking a lesser break between periods of duty.

9.10. An employee is entitled to take an unpaid meal break of half an hour after no more than five hours of work.

9.11. A paid break of ten minutes per day may be taken either in the morning or the afternoon when convenient to the Employer. Where an employee is required to work in excess of 7.5 hours in a day, they shall be entitled to a paid break of 15 minutes in the afternoon.

**Flexibility**

9.12. Any arrangement for working flexible hours of work shall be subject to agreement between the Employer and the employee and must meet the operational and business requirements of the Employer.

# Overnight Camps

10.1. This clause applies where an employee agrees to supervise clients in camp activities involving overnight stays away from home.

10.2. Where an employee is engaged on an overnight camp the following will apply:

1. on any day Monday to Friday, the employee will be paid at their Ordinary Rate for time worked between the hours of 8:00am to 6:00pm to a maximum of 10 hours per day;
2. on any day Monday to Friday, the employee will be paid at the applicable penalty rate or overtime rate in accordance with subclause 9.6 (weekend penalties) or clause 11 - Overtime for all time worked outside of the hours in subclause 10.2(a);
3. on Saturday or Sunday, the employee will be paid for time worked at the applicable penalty rate or overtime rate in accordance with subclause 9.6 (weekend penalties) or clause 11 - Overtime;
4. the employee will be paid a sleepover allowance of $47.50 for each night on which they sleep over at the premises where the client(s) is located;
5. in the event of an employee on sleepover being required to perform work during the sleepover period the employee will be paid for time worked at the prescribed overtime rate, with a minimum payment of 1 hour, providing the employee is not receiving payment as prescribed by subclause 10.2(b) or subclause 10.2(c). The Employer and employee may agree to the accrual of time instead of payment for the sleepover allowance; and
6. in accordance with subclause 11.9 (time off in lieu of overtime) the employee and the Employer may agree to the accrual of time instead of overtime payment for all overtime hours worked.

# Overtime

11.1. All time worked outside the ordinary hours as prescribed in Clause 9 - Hours of Duty shall be considered overtime. In the computation of overtime, each day shall stand alone.

11.2. Overtime shall be paid for at the rate of time and one half for the first two hours and at the rate of double time thereafter.

11.3. In the case of part-time employees, they may work additional hours from their ordinary hours per week where an employee has indicated a willingness to work additional hours up to the equivalent of that of a full-time employee at single time. Where the Employer has requested a part-time employee to work additional hours from their ordinary hours per week, the part-time employee is entitled to overtime at the rate of time and one half for the first three hours and at the rate of double time thereafter.

11.4. All overtime worked on a Saturday shall be paid for at the rate of time and one half for the first two hours and double time thereafter and on Sundays shall be paid for at the rate of double time.

11.5. Overtime rates under this Clause will be in substitution for, and not cumulative upon, the Saturday work loading at sub-clause 9.6 of Clause 9 - Hours of Duty.

11.6. All overtime must be approved by the employee's supervisor in advance and employees shall work reasonable overtime as required by their supervisor.

11.7. Where an employee works hours which would entitle that employee to payment of more than one of the penalties payable under this Clause or in accordance with Clause 24 - Public Holidays, only the highest of any such penalty shall be payable.

11.8. Where an employee is recalled to work overtime after leaving the Employer's premises, they will be paid for a minimum of 2 hours' work at the appropriate rate for each time so recalled.

**Time off in Lieu of Overtime**

11.9. In consultation with, and by approval of their supervisor in advance, employees may accrue overtime hours to be taken during quiet and mutually convenient times as time in lieu of paid overtime up to five days per annum. The employee shall be allowed time off, proportionate to the payment to which they would be entitled.

11.10. Employees whose salaries exceed Level 8 outlined in Appendix 1 will not be entitled to be paid overtime in accordance with this Clause. However, where the employee's supervisor grants approval in advance, the employee may accrue additional hours above their usual ordinary hours to be taken during quiet and mutually convenient times as time in lieu. The employee shall be allowed time off, proportionate to the payment to which they would be entitled.

11.11. If, on the termination of an employee's employment, the employee has an amount of time off in lieu owing, the Employer will pay the employee for the time off in lieu which has not been taken at the overtime rate applicable to the overtime when worked, based on the rates of pay applying at the time the payment is made.

# Shiftwork

12.1. This clause applies to employees engaged in shiftwork, being employees who are regularly rostered to work their ordinary hours outside the ordinary hours of work of a day worker as defined in subclause 9.2.

12.2. Where the Employer wishes to engage an employee in shiftwork, the Employer will advise the employee in writing, specifying the period over which the shift is ordinarily worked.

12.3. For the purpose of this clause:

1. Afternoon Shift means any shift which finishes after 8:00pm and at or before 12 midnight Monday to Friday; and
2. Night Shift means any shift which finishes after 12 midnight or commences before 6:00am Monday to Friday.

12.4. An employee who works an Afternoon Shift will be paid a loading of 12.5% of their Ordinary Rate for the whole of such shift.

12.5. An employee who works a Night Shift will be paid a loading of 15% of their Ordinary Rate for the whole of such shift.

# Allowances

13.1. **Meal Allowance**

1. While on overtime as prescribed in Clause 11 - Overtime, a meal allowance of $15.00 shall be paid to each employee in the following circumstances:
2. an employee who, at the requirement of the Employer, works two hours or more overtime after the completion of the ordinary hours on any day; and
3. if the employee is required to work until after 1.00pm on a Sunday or any Public Holiday as prescribed under this Agreement.
4. The Employer may supply the employee with a suitable meal in lieu of making the payment prescribed by this clause.

13.2. **Higher Duties Allowance**

1. Subject to clause (d), an employee who is capable of performing and who does perform all duties and responsibilities of a position that carries a higher rate of pay than that which he or she usually performs shall be paid an allowance equal to the difference between the employee's own salary and that of the higher position whilst so engaged.
2. Subject to clause (d), an employee who is capable of performing some, but not all, of the duties and responsibilities of a position that carries a higher rate of pay than that which he or she usually performs shall be paid a proportion of the allowance as to the proportion of the duties performed of the higher position whilst so engaged.
3. Employees will be advised of the proportion of the allowance to be paid prior to commencing such duties.
4. An employee will not qualify for the allowance unless they occupy the higher position for five consecutive working days or more.

13.3. **Motor Vehicle Allowance**

1. An employee required and authorised to use their own motor vehicle in the course of their duties shall be paid an allowance of $0.78 per kilometre.

13.4. **Travel and Meal Expenses**

1. An employee required to travel on official business shall be reimbursed reasonable expenses in accordance with the Employer's Business Travel Expenses Policy, as amended from time to time.

13.5. **Clothing and Equipment**

1. Where the Employer requires an employee to wear rubber gloves, special clothing or where safety equipment is required for the work performed by an employee, the Employer must reimburse the employee for the cost of purchasing such special clothing or safety equipment, except where such clothing or equipment is provided by the Employer.

13.6. **Telephone allowance**

1. Where the Employer requires an employee to install and/or maintain a telephone for the purpose of being on call, the Employer will refund the installation costs and the subsequent rental charges on production of receipted accounts.

# Rates of Pay

14.1. All employees will be allocated a salary point within the salary scale as outlined in Appendix 1 - Rates of Pay to this Agreement, in accordance with their knowledge, skills, experience and ability.

14.2. Salary increments within each level shall be annual from appointment to the respective salary point and shall be subject to the employee's satisfactory performance over the preceding twelve months which shall be assessed according to a yearly performance appraisal.

14.3. Employees covered by this Agreement shall receive an overall pay increase of 6.75% during the life of this Agreement as follows:

1. 2% from the first pay period on or after 1st July 2018;
2. 2.25% from the first pay period on or after 1st July 2019;
3. 2.5% from the first pay period on or after 1st July 2020.

14.4. The rates of pay are as outlined in Appendix 1 to this Agreement and are minimum rates of pay only. An employee's current rate of pay will not be reduced as a result of this Agreement.

14.5. Appendix 3 to this Agreement defines the conditions that will apply to those employees eligible for a supported wage under this Agreement.

14.6. Wages / salaries shall be paid on a fortnightly basis to the bank account nominated by each employee.

14.7. A fortnights' salary shall be calculated by dividing the annual salary rate by 313 and multiplying the result by 12. The hourly rate shall be calculated by dividing the fortnightly salary by 75.

14.8. **Superannuation**

1. The Employer shall contribute on behalf of each employee in accordance with the *Superannuation Guarantee (Administration) Act 1992* (Cth).
2. Employer contributions will be paid into a fund nominated by the employee. In the absence of a nomination by the employee, funds will be placed into the employer's default fund Health Employees Superannuation Trust Australia (HESTA), provided that fund offers a MySuper product. If the Employer is unable to pay into HESTA, contributions will be paid into a fund authorised to provide a MySuper product nominated by the Employer.

14.9. **Salary Sacrifice**

1. An employee may elect in writing to receive a superannuation benefit in lieu of part of the salary to which they would otherwise be entitled under this Agreement.
2. The salary sacrifice arrangement shall remain in force until terminated by mutual agreement or withdrawn in writing by the employee at any time.

# Salary Packaging

15.1. At the employee's option and by agreement with the Employer, the parties may enter into a salary packaging arrangement.

15.2. Salary packaging is an arrangement whereby the gross salary under this Agreement, can be reduced and substituted by non-cash benefits in order to enhance the net value of an employee's remuneration.

15.3. Salary packaging arrangements will be provided in accordance with the provisions of this Agreement and shall be by separate written agreement between the Employer and employee which shall set out the terms and conditions of the arrangement.

15.4. The salary packaging arrangement must be cost neutral in relation to the total cost to the Employer.

15.5. The salary packaging arrangement must also comply with relevant taxation laws and the Employer shall not be liable for additional tax, penalties or other costs payable or which may become payable by the employee.

15.6. In the event of any increase or additional payments of tax or penalties associated with the employment of the employee or the provision of employee benefits under the salary packaging agreement, such tax, penalties and any other costs shall be borne by the employee. In such event the employee is entitled to terminate the salary packaging arrangement in line with the conditions contained in the separate written agreement.

15.7. Regardless of whether or not an employee takes up the salary packaging option, any penalty rate, loading, employer superannuation contribution, termination calculations or other wage related allowances shall continue to be calculated on the basis of the rates of pay set out in this Agreement.

# Annual Leave

16.1. Full-time and part-time employees are entitled to four weeks' paid annual leave for each year of completed service in accordance with this clause and the NES.

16.2. In the case of shiftworkers, the entitlement will be to five weeks' paid annual for each year of completed service. For the purpose of clause 16 and the NES, a shiftworker is an employee who works for more than four ordinary hours on 1O or more weekends during the yearly period in respect of which their annual leave accrues.

16.3. Leave accrues progressively on a pro rata basis according to the ordinary hours of work, with any untaken leave in one year cumulating to the next year.

16.4. Where an employee is entitled to a public holiday, or other period of leave under the NES (other than unpaid parental leave), which falls during a period of annual leave, that day (or part day) shall not be considered to be part of the period of annual leave.

16.5. Any time an employee is absent from work (except time for which he/she is entitled to claim personal leave or time spent on public holidays, annual leave, accrued days off, long service leave, community service leave or period of stand down) will not count towards accumulating annual leave.

16.6. The provisions of this clause 16:

1. apply to part-time employees on a pro rata basis; and
2. do not apply to casual employees.

16.7. **Payment for Annual Leave**

1. During a period of annual leave, an employee shall be paid:
	1. their Ordinary Rate of pay for the period taken; and
	2. a loading of 17.5% calculated on the Ordinary Rate.
2. Provided that the loading shall not be payable when annual leave is taken in advance. The loading not paid, for the period of leave taken in advance, shall be payable to the employee when they have accrued the entitlement to the leave and next take annual leave.
3. Any leave accrued and not taken by the employee prior to termination shall be paid in lieu on termination.

16.8. **Taking of Annual Leave**

1. With the consent of the Employer and the employee, annual leave may be taken in more than one period of leave.
2. No employee shall be required to proceed on annual leave unless at least two weeks' prior notice is given. The Employer will not unreasonably refuse a request to take accrued annual leave.
3. At the request of an employee, and with the consent of the Employer, accrued annual leave may be taken before the completion of 12 months' continuous service.
4. On termination, if an employee has taken more leave than they have accrued, the employee shall be liable to pay the amount representing the difference or the Employer may deduct this amount from monies due to the employee at the time of termination, provided the employee has authorised the deduction.

16.9. **Christmas/New Year Leave**

1. All employees are entitled to three days' paid Christmas/New Year Leave per annum to be taken to coincide with the closedown of operations during the period between Christmas and New Year.
2. The Employer may, from year to year, determine that certain services will require skeleton staff to operate to ensure that client needs are met during the Christmas and New Year period. Where this is necessary, employees affected will be given at least eight weeks' notice in advance of the requirement for them to work during this period.
3. In the event that the Employer requires an employee to work during the period mentioned in sub-clause 16.9(a), such employees may take the equivalent time off at such other time as is agreed with the Employer within the subsequent 12 month period.
4. Leave loading is not payable with respect to the three days mentioned in sub-clause 16.9(a).

# Personal/Carer's and Compassionate Leave

17.1. Paid leave will be available to an employee who is unable to attend or remain at his or her place of employment during the ordinary hours of work because of:

1. illness or injury (sub-clause 17.3); or
2. the need to care for an immediate family or household member who is ill, injured or where an unexpected emergency affecting the member arises and requires the employee's care and support (carer's leave) (sub-clause 17.4);
3. the need to care for their child on the birth or adoption of a grandchild requiring the employee's care and support (grandparent's leave) (sub-clause 17.5); or
4. a personal illness or injury that poses a serious threat to the life of, or death of an immediate family or household member (compassionate leave) (sub-clause 17.6).

17.2. The following definitions apply for the purpose of this clause 17:

1. **"immediate family"** includes a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of an employee, or a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.
2. **"de facto partner"** means as a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes) and includes a former de facto partner of the employee.
3. **"grandparent"** for the purposes of grandparent's leave under this clause means an employee whose child becomes a parent on the birth or adoption of a grandchild.

17.3. **Personal Leave**

1. An employee who is unable to attend to work for reason of personal illness or injury is entitled to a period not exceeding 93.75 ordinary hours per annum. Personal leave accrues pro rata on a weekly basis according to the ordinary hours of work but does not accrue during any period of unauthorised absence, unpaid leave or unpaid authorised absence (other than Community Service Leave or a period of stand down).
2. Paid personal leave is paid at the employee's Ordinary Rate for the ordinary hours the employee would have worked during the period of leave.
3. Where a public holiday falls during a period of paid personal leave, the employee is taken not to be on personal leave on that day.
4. To access personal leave, an employee must, as soon as reasonably practicable (which may be after the commencement of their shift in extenuating circumstances), notify the Employer by telephone that they will be absent from work due to personal leave and the period, or expected period, of the leave.
5. To be entitled to payment, in respect of any absences exceeding two consecutive working days in any year of service, the employee shall provide proof to satisfy a reasonable person. For the purposes of this Agreement reasonable proof is:
	1. a medical certificate dated at the time of the absence indicating that the employee was unfit for work because of personal illness or injury; or
	2. where it is not reasonably practicable to obtain a medical certificate, a statutory declaration detailing the same information as indicated under sub­ clause 17.3(e)(i);

The number of days' leave of absence which may be granted without proof shall not exceed, in total, five working days in any year of service.

1. Any employee who has been unfit for work during their annual leave is entitled to claim personal leave and be reimbursed annual leave credits for that period. This shall be provided if a medical certificate is supplied to the Employer within 14 days of returning to work verifying that the employee was suffering from a personal illness or injury.
2. Any employee who suffers from a personal illness or injury during a period of long service leave is entitled to claim personal leave and be reimbursed long service leave credits for that period. This shall be provided if a medical certificate is supplied to the Employer within 14 days of returning to work verifying that they employee was suffering from a personal illness or injury.
3. The period reimbursed in 17.3(f) or 17.3(g) shall be taken when convenient to the Employer and without further payment of any leave loading.
4. Unused paid personal leave shall accumulate from year to year and may be taken at a later date.
5. This clause does not apply to employees who are entitled to payment under the Western Australian *Workers' Compensation and Injury Management Act 1981*.

17.4. **Carer's Leave**

**Use of Personal Leave**

1. An employee with responsibilities to either members of their immediate family or members of their household who need their care or support shall be entitled to paid carer's leave for absence to provide care or support for such persons when they are ill, injured or where an unexpected emergency affecting the member arises.
2. Paid carer's leave is deducted from the employee's accrued paid personal leave.
3. The employee shall, if required by the Employer, provide proof to satisfy a reasonable person. For the purposes of this Agreement reasonable proof is:
	1. in the case of illness or injury of a member of the employee's immediate family or household:
		* a medical certificate indicating that the immediate family or household member had a personal illness or injury during a period of the leave; or
		* a statutory declaration which includes a statement that the employee required leave to provide care or support to an immediate family or household member because of personal illness or injury.
	2. in the case of an unexpected emergency, a statutory declaration which includes a statement that the employee required leave to provide care or support to an immediate family or household member because of an unexpected emergency affecting that person.
4. The Employer may require an employee to provide proof to satisfy a reasonable person of the relationship between the employee and the person that they are taking carer's leave to provide care or support to.
5. The employee shall, wherever practicable, give the Employer notice prior to the absence of the intention to take carer's leave, the name of the person requiring care and their relationship to the employee, the reason for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the Employer by telephone of such absence at the first opportunity on the day of absence.

**Unpaid Leave for Caring Purposes**

1. An additional two days of unpaid carer's leave for each permissible occasion will be available for emergencies for employees who have used up their personal leave entitlement.
2. Unpaid carer's leave may be taken in a single unbroken period of two days, or where the Employer and employee agree, in separate periods i.e. four half days.
3. Unpaid carer's leave will be conditional upon an employee not having any accumulated paid carer's leave or other authorised leave for carer's leave purposes.
4. Casual employees are entitled to two days unpaid carer's leave for each permissible occasion to be taken as outlined in clause 17.4(g).

**Annual Leave for Caring Purposes**

1. Notwithstanding the provisions of this clause, an employee may for caring purposes elect, with the consent of the Employer, to take annual leave in single day periods not exceeding five days in any calendar year at a time or times agreed between them.

17.5. **Grandparent's Leave**

**Use of Personal Leave**

1. Employees shall be entitled to paid grandparent's leave of up to two days per occasion to provide care and support to their child on the birth or adoption of a grandchild.
2. Paid grandparent's leave is deducted from the employee's accrued paid personal leave.
3. The employee shall, if required by the Employer, provide proof of the birth or adoption to satisfy a reasonable person.
4. The Employer may require an employee to provide proof to satisfy a reasonable person of the relationship between the employee and the child that they are taking grandparent's leave to provide care and support to.
5. The employee shall, wherever practicable, give the Employer notice in writing of the impending birth or adoption and the intention to take grandparent's leave, and the expected dates and estimated length of leave. If it is not practicable to give prior notice of absence, the employee shall notify the Employer by telephone of such absence at the first opportunity on the day of absence.

17.6. **Compassionate Leave**

1. Employees are entitled to compassionate leave for the purposes of spending time with a person who is a member of the employee's immediate family or a member of the employee's household:
	1. who has contracted or developed a personal illness that poses a serious threat to his or her life; or
	2. who has sustained a personal injury that poses a serious threat to his or her life; or
	3. who has died.
2. The minimum entitlement to compassionate leave is three days in respect of each occasion compassionate leave is required. Days in excess of the minimum entitlement may be approved by the relevant Supervisor/Manager.
3. Notice must be given to the Employer as soon as practicable and employees must advise the Employer of the period, or expected period, of the leave.
4. Except in the case of casual employees, compassionate leave is payable at the employee's Ordinary Rate for the ordinary hours the employee would have worked had they not proceeded on the leave.
5. In order to be entitled to compassionate leave employees, if requested by the Employer, shall provide evidence to satisfy a reasonable person of the illness, injury or death. The Employer may also require the employee to provide proof to satisfy a reasonable person of the relationship between the employee and the person he /she is taking compassionate leave for.
6. The provisions of this clause apply to part-time employees on a pro rata basis.

17.7. Except for unpaid carer's leave and unpaid compassionate leave, this clause 17 does not provide an entitlement to casual employees. When taking unpaid carer's leave, casual employees must comply with the notice and evidence requirements as specified under sub-clause 17.4, and when taking compassionate leave must comply with sub­ clauses 17.6(c) and 17.6(e).

# Family and Domestic Violence Leave

18.1. The Employer is strongly committed to the safety and wellbeing of employees experiencing family and domestic violence and providing support in the form of leave, flexible working arrangements and access to support services where required.

18.2. **Definition**

1. For the purpose of this clause 18, family and domestic violence means any violent, threatening or other abusive behaviour by a person against a member of the person's family or household (current or former).

18.3. **Individual Support**

1. In order to provide support to the employee experiencing family and domestic violence and to provide a safe work environment to all employees, the Employer will consult with the affected Employee to consider what changes, if any and for what period, can be made to the employee's working arrangements to make them less vulnerable to any family or domestic violence, including flexible working arrangements.

18.4. **Leave**

1. An employee directly experiencing family and domestic violence is entitled to request to access their existing leave entitlements and up to 5 days unpaid leave for the purpose of:
	1. attending legal proceedings, counselling, appointments with a medical or legal practitioner ;
	2. relocation or making other safety arrangements; or
	3. other activities associated with the experience of family and domestic violence.
2. Employees may also request in writing special leave for a period of up to ten (10) days in any twelve (12) month period to attend to matters arising out of an incident of family or domestic violence.
3. Approval of special leave pursuant to this clause will be at the Employer's discretion taking into consideration the employee's particular circumstances at or around the incident of family and domestic violence.
4. Approved special leave will be paid at the employee's Ordinary Rate for their rostered ordinary hours.
5. Casual Employees will not be entitled to the paid special leave as prescribed in subclause 18.4(b).

18.5. **Notice and Evidentiary Requirements**

1. The employee must give the Employer written notice as soon as reasonably practicable if they are experiencing family or domestic violence and want to access to the provisions of this clause.
2. If required by the Employer, the employee must provide evidence that would satisfy a reasonable person that the leave is for the purpose as set out in sub­ clause 18.4(a). Such evidence may include a document issued by the police service, a court, a doctor (including a medical certificate), district nurse, maternal and child health care nurse, a family violence support service, a lawyer or a statutory declaration.

18.6. **General**

1. The Employer must take all reasonable measures to ensure that any personal information provided by the employee to the employer concerning an employee's experience of family and domestic violence is kept confidential.

# Purchased Leave

19.1. Notwithstanding the terms specified elsewhere in this Agreement, additional leave as outlined in this clause is available to full-time and part-time employees with the exception of those employees on probation.

19.2. To exercise this option an employee must make application in the manner outlined herein to the Employer.

19.3. At the written request of an employee to their Supervisor, the Employer may agree to an arrangement ("Arrangement") whereby the employee accrues an additional one or two weeks annual leave in lieu of salary of the equivalent value. Both the agreement to the Arrangement and the time at which the additional leave is taken will be dependent on operational requirements.

19.4. Additional purchased leave must be taken on the dates approved by the Employer. If accrued leave is not taken, the Employer will review the Arrangement and re-consider its continuation.

19.5. Unless otherwise agreed between the employee and the Employer, an employee who enters into this Arrangement does so in blocks of 12 months. Employees must make a new request to purchase leave once the Arrangement for that year has ended. The higher leave accrual rate will not automatically roll from one year to the next.

19.6. For the purposes of this clause 19 and without limiting the meaning of the term, "operational requirements" may include:

1. the availability of suitable leave cover, if required;
2. the cost implications;
3. the impact on client service requirements; and
4. the impact on the work of other employees.

19.7. The portion of the employee's salary to be forfeited shall be calculated as a fortnightly amount and their fortnightly salary shall be decreased by that amount for the duration of the Arrangement.

19.8. All annual leave taken during the course of the Arrangement shall be paid at the reduced rate.

19.9. Where practical, leave accrued prior to the commencement of the Arrangement should be taken or paid out.

19.10. The additional annual leave shall continue to accrue while the employee is on leave during the course of the Arrangement.

19.11. The reduced salary shall be used for all purposes during the course of the Arrangement including calculation of superannuation, penalties, overtime, salary sacrifice and any other allowances, which are salary based.

19.12. Requests to cancel the Arrangement within the 12 month block will be subject to Manager approval.

# Parental Leave

20.1. Full-time, part-time and eligible casual employees are entitled to, after 12 months continuous service with the Employer, up to 12 months unpaid parental leave following the birth or adoption of a child in accordance with the Act.

20.2. An eligible casual employee is a casual employee who has been employed by the Employer on a regular and systematic basis during a period of at least 12 months and who, but for the expected birth or placement of a child would have a reasonable expectation of continuing engagement with the Employer of a regular and systematic basis.

20.3. An employee may request to return to work at their substantive level after a period of parental leave on either a temporary or casual basis and at the number of shifts per week or fortnight requested. The Employer may refuse, on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

20.4. Where more than one employee applies for parental leave to act as a primary care giver to the same child, such leave will not be taken at the same time as another family member who is also employed by the Employer and wishes to access the primary carer parental leave. Provided that employees shall be entitled to take concurrent leave to a maximum of eight weeks and in accordance with the provisions of the Act.

20.5. **Right to Request**

1. An employee entitled to parental leave pursuant to the provisions of this clause may, in writing, request the Employer to allow the employee:
	1. to extend the period of unpaid parental leave provided for in sub-clause 20.1 by a further continuous period of leave not exceeding 12 months;
	2. to return from a period of parental leave on a part-time;

to assist the employee in reconciling work and parental responsibilities.

1. The Employer will consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the Employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

**Employee's request and the Employer's decision to be in writing**

1. The employee's request under sub-clause 20.5(a) and the Employer's decision under sub-clause 20.5(b) must be recorded in writing.

**Communication during parental leave**

1. Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the Employer will take reasonable steps to:
	1. make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
	2. provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
2. The employee will take reasonable steps to inform the Employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
3. The employee will also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with sub-clause 20.5(d).

20.6. **Summary of entitlement**

1. The following provides a summary of the entitlement as detailed in the Act.
2. Unpaid parental leave can be taken as either ordinary parental leave, special maternity leave because the employee has a pregnancy related illness, or the pregnancy has ended within 28 weeks before the expected date of birth other than by the birth of a living child, or adoption leave.
3. For ordinary parental leave the employee must provide the Employer with:-
	1. a written application for parental leave at least 10 weeks before the first day of the intended period of leave stating the first and last days of the leave;
	2. a medical certificate confirming the expected date of birth;
	3. a statutory declaration also needs to be provided detailing the following information:
		* that the employee will have a responsibility for the care of a child of the employee or the employee's spouse or de factor partner;
		* that the employee will not engage in any conduct inconsistent with her contract of employment while on maternity leave.
4. If an employee is entitled to parental leave and has complied with the documentation requirements, and has a medical certificate stating that she is fit to work but it is inadvisable for her to continue in her present position, then:
	1. if there is an appropriate safe job available, then the Employer must transfer the employee to that job for the risk period with no change to the employee's terms and conditions of employment; or
	2. if no safe job is available, the employee will be entitled to paid no safe job leave for the period it is inadvisable for her to continue in the present position or until the day before the date of birth of the child. The employee will be paid at their Ordinary Rate for their ordinary hours of working in the risk period.
5. Parental leave will normally commence within six weeks before the expected date of birth of the child. Where work continues within six weeks of the expected birth, the Employer may require a medical certificate stating whether the employee is fit to work and if so whether it is inadvisable for the employee to continue working in her current position.
6. In addition to the provisions provided for under the Act in respect of special maternity leave, where an employee then on maternity leave suffers illness related to her pregnancy, she may take such paid personal leave as to which she is then entitled and such further unpaid leave (known as special maternity leave) as a registered medical practitioner certifies is necessary before her return to work or the commencement of parental leave.
7. Once commenced, parental leave may be varied by:
	1. the employee giving 14 days written notice to extend their period of parental leave, stating the period by which it is to be extended. This may only occur once;
	2. by agreement between the employee and the Employer to extend the period; or
	3. by written agreement between the employee and the Employer to shorten the period.
8. Prior to returning back to work the employee must give the Employer at least four weeks written notice of the proposed day of return to work.

20.7. **Return to work after parental leave**

1. On completion of parental leave an employee is entitled to return to the position they held immediately before starting parental leave.
2. If the position referred to in sub-clause 20.7(a)is not available due to a major organisational restructure the employee is entitled to an available position:
	1. for which the employee is qualified; and
	2. that the employee is capable of performing, most comparable in status and pay to that of their former position without loss of income. Provided that where immediately before starting parental leave, an employee was acting in, or performing on a temporary basis the duties of, the position referred to in sub­ clause 20.7(a)above, that paragraph applies only in respect of the position held by the employee immediately before taking the acting or temporary position.

20.8. **Paid Parental Leave Component**

1. Employees, excluding all casuals, who have served continuously for 12 months and who are the primary care giver will be eligible for paid parental leave of six consecutive weeks. This paid parental leave will form part of the 52 week entitlement provided for in subclause 20.1.
2. For the purposes of this provision continuous service means service from the date of commencement of an employee's employment. However leave without pay, other than approved unpaid parental leave, shall not count as service.
3. Paid parental leave will be paid at the commencement of the leave and at the employee's Ordinary Rate of pay for the ordinary hours in the period, not including the payment of any form of allowance or penalty.
4. Absence on paid parental leave counts as service for the purpose of accruing entitlements to personal leave, annual leave and long service leave.

# Long Service Leave

21.1. Subject to the provisions in this clause, all employees will be entitled to long service leave in accordance with the provisions of the *Long Service Leave Act 1958* (WA) or relevant state legislation.

21.2. An employee shall be entitled to thirteen weeks' long service leave on full pay on completion of seven years' continuous service.

21.3. For each and every subsequent period of seven years' continuous service an employee shall be entitled to an additional thirteen weeks' long service leave on full pay.

21.4. The employee is to give to the Employer at least two weeks' notice of the period during which the employee intends to take the long service leave.

21.5. Upon application by an employee, an Employer may approve of the taking by an employee:

1. of double the period of long service leave entitlement on half pay, in lieu of the period of long service leave entitlement on full pay; or
2. of any portion of long service leave entitlement on full pay.

21.6. A full time employee who, during a qualifying period towards an entitlement of long service leave was employed continuously on both a full time and part time basis may elect to take a lesser period of long service leave calculated by converting the part time service to equivalent full time service.

21.7. Notwithstanding the provisions of sub-clause 21.5(b) of this clause, an employee who has elected to compact an accrued entitlement to long service leave in accordance with sub-clause 21.6 shall only take such leave in one period of full pay.

21.8. Employees are encouraged to take their accrued long service leave entitlement within two years of the entitlement falling due.

21.9. If a public holiday occurs during a period of long service leave taken by an employee under sub-clauses 21.2 or 21.3 and the employee is otherwise entitled to that holiday under the employee's conditions of employment, the period of long service leave is increased by one day for each such public holiday.

21.10. Pro-rata long service leave will be payable on termination of employment (other than for serious misconduct) in respect of each completed year of service, provided the employee has completed not less than seven years of continuous service with the Employer.

# Cashing Out of Annual Leave and/or Long Service Leave Entitlements

22.1. The Employer and employee agree that the employee may, at the discretion of the Employer, cash out a proportion of their accrued entitlement to annual leave and/or long service leave in accordance with the following conditions:

1. Paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than four weeks;
2. Cashing out of long service leave must not be inconsistent with the *Long Service Leave Act 1958* (WA) or relevant state legislation;
3. Each cashing out of a particular amount of paid annual leave or long service leave must be by a separate agreement in writing between the Employer and the employee; and
4. The employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has foregone.

22.2. This clause does not provide an entitlement to casual employees with respect to annual leave.

# Ceremonial Leave

23.1. An employee who is legitimately required by indigenous tradition to be absent from work for Aboriginal or Torres Strait Islander ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the Employer.

# Public Holidays

24.1. For the purposes of this clause the following days, or the days observed in lieu of those days, shall be observed as public holidays without deduction of pay:

New Year's Day, Australia Day, Good Friday, Easter Monday, Anzac Day, Sovereign's Birthday, Christmas Day and Boxing Day and/or any other day gazetted as a public holiday at the location where the employee is based for work purposes.

24.2. When any of the days mentioned in sub-clause 24.1 falls on a Saturday or a Sunday the holiday shall be observed on the next succeeding Monday and when Boxing Day falls on a Sunday or a Monday, the holiday shall be observed on the next succeeding Tuesday. In each case the substituted day shall be a holiday without deduction of pay and the day for which it is substituted shall not be a holiday.

24.3. Where employees are not required to work on a day which they are normally required to work because it is a public holiday, they will be paid for the ordinary hours of work on that day.

24.4. All time worked on a holiday provided by this clause, shall be paid at the rate of double time and a half.

24.5. Payments under this clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the shift not been a public holiday.

# Study Leave

25.1. Upon application and subject to approval by the relevant Supervisor/Manager, where an employee is engaged in a course of study which is relevant to their profession or work, time off without deduction of pay may be granted as follows:

1. to attend classes. lectures or tutorials – up to two hours per week;
2. to prepare for examinations – up to two days per calendar year;
3. to attend final examinations – the day of the examination.

25.2. Approval may be granted for additional time off during working hours provided a mutually acceptable arrangement is made between the employee and Employer for that time to be made up.

# Community Service Leave

26.1. Employees (including casual employees) are entitled to community service leave in accordance with the NES and relevant State Legislation to attend:

1. jury service; or
2. a voluntary emergency management activity with a recognised body to deal with an emergency or natural disaster.

26.2. Employees are required to notify the Employer as soon as reasonably practicable of their intention to take leave and advise the period (or expected period) of the absence.

26.3. Where state legislation provides an employee with a greater entitlement to paid community service leave than that contained within the NES, the employee will be paid in accordance with state legislation.

26.4. To be entitled to community service leave employees must provide proof to satisfy a reasonable person that they have been I will be engaged in an eligible community service activity. For employees on jury service, they are also required to provide an attendance certificate.

# Workplace Representatives

27.1. The Employer acknowledges that Union Workplace Representatives ("Delegates") have a legitimate role and function in the workplace and in assisting the Union.

27.2. Delegates shall have the right to reasonable paid time without loss of pay during normal working hours to consult with union members and perform their role, provided such time is taken in consultation with their immediate supervisor and take into account operational requirements.

27.3. Delegates will be advised when new employees commence employment and be given the opportunity to consult with the new employee.

27.4. Delegates shall be provided, where possible, with reasonable access to facilities required for the purposes of carrying out their duties. Facilities may include the use of meeting rooms, noticeboards, telephone, photocopier, facsimile and e-mail.

27.5. The Employer shall provide each Delegate with up to five days per annum of paid time to participate and attended accredited Union education courses or delegate conventions subject to the following:

1. that the requests are in writing and that the Union confirms in writing the attendance by the employee prior to payment for time being made;
2. that at least three weeks' notice is given of intention to attend;
3. the Employer is advised of the details of the training or conventions being attended; and
4. the approval of the Employer, taking into account operational requirements.

27.6. The Employer recognises that Delegates have the right to be treated fairly and to perform their role without any discrimination in their employment.

27.7. The Delegates' rights shall not be exercised during working hours to the detriment of the employees and the Employer's responsibilities in providing care and supervision to clients and staff.

# Health Services Union Information

28.1. The Employer recognises the right of all employees to join a union, to access meaningful union representation, to participate collectively in workplace issues, and to collectively bargain through their union.

28.2. At the commencement of employment, employees will be provided with the Union website address, Union pamphlet and advised of the name(s) and contact details of the Delegates. Such information shall be provided by the Union to the Employer for its dissemination.

# Termination

29.1. **Notice of Termination by Employer:**

1. In order to terminate the employment of an employee, other than a casual employee or temporary employee, the Employer shall give the employee the following notice:

| **Period of Continuous Service** | **Period of Notice** |
| --- | --- |
| During the first year | 1 week |
| More than one year but less than 3 years | 2 weeks |
| 3 years but less than 5 years | 3 weeks |
| 5 years and over | 4 weeks |

The notice period shall be increased by one week where the employee is over 45 years old and has completed at least two years continuous service with the Employer.

1. Notice of the effective day of termination shall be provided in writing to the employee.
2. Payment in lieu of the notice prescribed in paragraph 29.1(a) of this sub-clause shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
3. In calculating any payment in lieu of notice, the Employer shall pay the employee at least the amount the Employer would have been liable to pay the employee at the full rate of pay for the hours the employee would have worked had the employment continued until the end of the minimum notice period.
4. For casual employees, the employment may be terminated by giving one hours' notice.
5. A temporary employee's employment will automatically come to an end at the completion of the fixed term or task. However, notwithstanding this, the Employer may terminate the employment of a temporary employee at any time during employment by providing the notice specified in subclause 29.1(a).
6. Notwithstanding the provisions of this clause, the Employer may dismiss the employee without notice for serious misconduct, or other reasons justifying such action.
7. Where the Employer has given notice of termination to an employee under this clause, the employee will be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. Time off is to be taken at a time agreed between the employee and Employer.

29.2. **Notice of Termination by Employee**

1. The notice of termination required to be given by an employee shall be the same as that required of the Employer.
2. If an employee fails to give the required notice or fails to work out the required notice period, the Employer may deduct from monies owing to the employee upon termination an amount equivalent to the salary or wage the employee would have earned for working the balance of the required notice period. Provided that no deduction will be made under this clause unless the deduction has been authorised by the employee and the deduction is not unreasonable in the circumstances.

29.3. On the termination of service an employee shall, on request, be given a certificate setting out the length of service.

# Introduction to Change & Redundancy

30.1. **Introduction to Change**

1. Where the Employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that is likely to have significant effects on employees covered by this Agreement, the Employer will notify the employees who may be affected by the proposed changes, the Union and any other representative nominated by the employee(s).
2. Significant effects include termination of employment; major changes in the composition, operation or size of the Employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this Agreement makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.
3. The Employer will consult with the affected employees, the Union and any other representative nominated by the employee(s) the introduction of the major changes, the effects the changes are likely to have on employees and measures to avert or mitigate any adverse effects of such changes on employees. The Employer will give prompt consideration to matters raised by the employees, the Union and any other representative nominated by the employee(s) in relation to the changes.
4. The discussions will commence as early as practicable after a definite decision has been made by the Employer to make a major change.
5. As part of the discussions the Employer will provide in writing to the affected employees , the Union and any other representative nominated by the employee(s) all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees.
6. The Employer, the Union and any other representative nominated by the employee(s) must act in good faith in relation to the consultation process. 'Good faith' includes, as appropriate to the circumstances, disclosure of relevant information, genuine consideration of proposals and responding with reasons, and to refrain from capricious or unfair conduct that undermines consultation. However, the Employer is not required to disclose confidential or commercially sensitive information.
7. At any stage during this process an employee may appoint a representative of their choice in writing. The Employer's obligation to consult or provide information to a representative only occurs after the notice is provided to the Employer.

30.2. **Consultation about changes to rosters or hours of work**

1. Where the Employer proposes to change an employee's regular roster or ordinary hours of work, the Employer must consult with the employee or employees affected and their representatives, if any.
2. The Employer must:
	1. provide to the employee or employees affected and their representatives, if any, information about the proposed change i.e. information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence;
	2. invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change, including any impact in relation to their family or caring responsibilities; and
	3. give consideration to any view about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives, if any.
3. The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
4. These provisions are to be read in conjunction with other Agreement provisions concerning the scheduling of work and notice requirements.
5. At any stage during this process an employee may appoint a representative of their choice in writing. The Employer's obligation to consult or provide information to the representative only occurs after written notice is provided to the Employer.

30.3. **Redundancy**

1. Subject to the provisions of this clause, where an employee is terminated for reason of redundancy the Employer will comply, where applicable, with the redundancy provisions contained in the NES.
2. An employee whose employment is terminated for reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service in addition to the period of notice given by the Employer in accordance with Clause 29 - Termination:

| **Period of Continuous Service** | **Severance Pay** |
| --- | --- |
| Less than 1 year | Nil |
| At least 1 year but less than 2 years | 4 week's pay\* |
| At least 2 years but less than 3 years | 6 week's pay |
| At least 3 years but less than 4 years | 7 week's pay |
| At least 4 years but less than 5 years | 8 week's pay |
| At least 5 years but less than 6 years | 10 week's pay |
| At least 6 years but less than 7 years | 11 week's pay |
| At least 7 years but less than 8 years | 13 week's pay |
| At least 8 years but less than 9 years | 14 week's pay |
| At least 9 years but less than 10 years | 16 week's pay |
| At least 10 years and thereafter | 2 week's additional pay for each completed year of service |

\***Week's pay** means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

* overtime;
* penalty rates;
* higher duties allowance;
* disability allowances;
* shift allowances;
* special rates;
* fares and travelling time allowances;
* bonuses; and
* any other ancillary payments of a like nature.
1. Provided that the maximum severance payment under this clause shall not exceed 45 week's salary.

30.4. **Transfer to Lower Paid Duties**

1. 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 Employer may at the Employer'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' notice still owing.

30.5. **Employee Leaving During Notice Period**

1. An employee given notice of termination in circumstances of redundancy may terminate his/her employment during the period of notice set out in Clause 29 - Termination. In this circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the Employer until the expiry of the notice but will not be entitled to payment in lieu of notice.

30.6. **Job Search Entitlement**

1. During the period of notice of termination given by the Employer in accordance with Clause 29 - Termination, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment. This applies instead of the job search entitlement provided by subclause 29.1(h) of this Agreement.
2. If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the Employer, 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.

30.7. **Outplacement Services**

1. If requested by an employee, the Employer shall provide at the Employer's expense, three consultations for professional out placement advice.

30.8. **Employees Exempted**

1. This clause does not apply to:
2. employees whose period of continuous service with the Employer is less than 12 months;
3. employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
4. probationary employees;
5. apprentices;
6. trainees;
7. employees engaged for a specific period of time or for a specified task or tasks;
8. casual employees;
9. there is a transfer of employment where an employee accepts employment with the new employer who agrees to recognize the employee's service with the employer; or
10. there is a transfer of employment and an employee rejects an offer of employment with the new employer which recognises the employee's service with the Employer and the terms and conditions of employment offered are on an overall basis no less favourable than those provided by the Employer.

# Confidentiality

31.1. An employee shall not, either during or after the term of employment (except as authorised or required by an employee's duties) disclose to any other person, firm, corporation or organisation or use or attempt to use in any manner which may injure or cause loss directly or indirectly to the Employer, without the previous consent in writing of the Employer, any confidential information relating to the Employer or any information concerning or relating to the business or activities of the Employer including any records or information relating to clients learned by the employee during the course of employment. These provisions include, but are not limited to business strategies, marketing decisions, and product ranges which are to be kept in total confidence.

31.2. During employment and as far as reasonable thereafter, an employee shall use their best endeavours to prevent the disclosure of any confidential information relating to the Employer by a third party.

31.3. All notes, memoranda, records and writings made by an employee relative to the affairs of the Employer shall be and remain the property of the Employer and shall in any event be handed over by the employee to the Employer at the end of employment with the Employer.

31.4. The Employer, except as is required by law, shall not disclose information concerning employees without their prior consent.

31.5. Nothing in this Agreement shall be taken as in any way prohibiting or restricting the disclosure of details of this Agreement or matters relating thereto by either party to any other person.

# Dispute Resolution Procedures

32.1. The following provisions shall apply to any disputes that arise between the parties covered by this Agreement about any matter arising under this Agreement or in relation to the NES.

Step 1: The employee(s) shall raise the issue or dispute with her/his supervisor and, if there is another party involved with that party, at the earliest opportunity. The parties meet to discuss the issue and seek to agree on appropriate action to resolve the dispute.

Step 2: In the event that the issue is not resolved at Step 1, either party may refer the matter to the employee's appropriate line Manager or their delegated representative who shall attempt to resolve the issue.

Step 3: In the event that the issue is not resolved at step 2, either party may refer the matter to the employee's appropriate Director or more senior management who shall attempt to resolve the issue.

Step 4: In the event that the issue is not resolved at step 1, 2, or 3, the issue will be referred to the Chief Executive Officer or his/her delegated representative who shall attempt to resolve the matter.

Step 5: If the matter is not resolved by Step 4, either party may refer the matter to a mutually agreed third party for mediation. Should the parties not agree on the appointment of a third party for mediation, then either party may refer the matter to the Fair Work Commission in accordance with Step 6.

Step 6: If the matter is not resolved by Step 5, either party may refer the matter to the Fair Work Commission to assist in resolving the dispute. The Fair Work Commission is empowered to take all necessary action to resolve the dispute by conciliation, and/or by arbitration.

32.2. At any step as outlined in sub-clause 32.1, either party may appoint, in writing, a representative in writing to assist in the resolution of the dispute. A representative could include and is not limited to one of the following:

1. a Union representative;
2. a lawyer;
3. a work colleague;
4. a friend or relative.

32.3. Reasonable time limits shall be set by the parties in proceeding through the steps outlined in sub-clause 32.1.

32.4. The terms of any agreed settlement reached at any of the steps outlined in sub-clause 32.1 are to be jointly recorded.

32.5. Whilst the steps as outlined in sub-clause 32.1 are in progress, no industrial action shall be taken and no action prejudicial to any party shall be taken pending resolution of the issue.

# Signatories to the Agreement

For and on behalf of:

**VisAbility Limited**

**Dr Clare Molly Allen
Chief Executive Officer**

61 Kitchener Avenue
Victoria Park WA 6100

(Dated) 5 September 2018

For and on behalf of:

**Health Services Union**

**Daniel Patrick Hill
Secretary**

8 Coolgardie Terrace
Perth WA 6000

(Dated) 5 September 2018

# Appendix 1 – Rates of Pay

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
| G1.1 |  |  |  | $42,691 | $43,652 | $44,744 |
| G1.2 |  |  |  | $43,734 | $44,719 | $45,837 |
| G1.3 |  |  |  | $44,769 | $45,777 | $46,922 |
| G1.4 |  |  |  | $45,970 | $47,005 | $48,181 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
| G2.1 |  |  |  | $47,009 | $48,067 | $49,269 |
| G2.2 |  |  |  | $48,047 | $49,129 | $50,358 |
| G2.3 |  |  |  | $49,076 | $50,181 | $51,436 |
| G2.4 |  |  |  | $49,903 | $51,026 | $52,302 |
| G2.5 |  |  |  | $51,123 | $52,274 | $53,581 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
| G3.1 |  |  |  | $52,565 | $53,748 | $55,092 |
| G3.2 |  |  |  | $53,877 | $55,090 | $56,468 |
| G3.3 |  |  |  | $55,126 | $56,367 | $57,777 |
| G3.4 |  |  |  | $57,121 | $58,407 | $59,868 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
| G4.1 |  |  |  | $58,165 | $59,474 | $60,961 |
| G4.2 |  |  |  | $59,726 | $61,070 | $62,597 |
| G4.3 |  |  |  | $61,366 | $62,747 | $64,316 |
| G4.4 |  |  |  | $63,454 | $64,882 | $66,505 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
| G5.1 |  | AH5.1 |  | $64,646 | $66,101 | $67,754 |
| G5.2 |  | AH5.2 |  | $66,280 | $67,772 | $69,467 |
| G5.3 |  | AH5.3 |  | $67,964 | $69,494 | $71,232 |
| G5.4 |  | AH5.4 |  | $69,696 | $71,265 | $73,047 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
|  | GS6.1 | AH6.1 |  | $73,030 | $74,674 | $76,541 |
|  | GS6.2 | AH6.2 |  | $75,504 | $77,203 | $79,134 |
|  | GS6.3 | AH6.3 |  | $79,022 | $80,800 | $82,820 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
|  | GS7.1 | AH7.1 |  | $80,904 | $82,725 | $84,794 |
|  | GS7.2 | AH7.2 |  | $83,289 | $85,164 | $87,294 |
|  | GS7.3 | AH7.3 |  | $85,759 | $87,689 | $89,882 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | CM.8.1 | $89,367 | $91,378 | $93,663 |
|  |  |  | CM8.2 | $92,330 | $94,408 | $96,769 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | SCM9.1 | $96,807 | $98,986 | $101,461 |
|  |  |  | SCM9.2 | $99,922 | $102,171 | $104,726 |

| **General** | **General (Senior)** | **Allied Health** | **Coordinator, Senior****Coordinator, Manager** | **Annual salary from first full pay period on or after 1 July 2018** | **Annual salary from first full pay period on or after 1 July 2019** | **Annual salary from first full pay period on or after 1 July 2020** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  | M10.1 | $103,332 | $105,657 | $108,299 |
|  |  |  | M10.2 | $108,818 | $111,267 | $114,049 |

# Appendix 2 – Classifications

**Level 1**

* Narrator

**Level 1/2**

* Guide Dog Trainer Cadet

**Level 3**

* Activity Officer
* Administration Officer
* Audio Production Technician
* Customer Service Officer
* Data Officer
* Intake Officer

**Level 3/4**

* Accounts Officer
* Bookkeeper
* Fleet Officer
* Guide Dog Mobility Instructor Cadet
* Procurement Officer
* Senior Administration Officer

**Level 4**

* Liaison Officer
* Occupational Therapy Assistant
* Audio Production Officer
* Braille Production Officer
* Early Childhood Intervention Assistant
* Member Relations Officer
* Youth Support Officer

**Level 3/4/5**

* Donor Care Officer
* Guide Dog Trainer

**Level 4/5**

* Community Engagement Officer
* Marketing and Communications Officer
* Project Officer

**Level 4/5/6**

* Assistant Accountant

**Level 5**

* Employment Consultant
* Human Resources Officer
* Property Services Officer
* Puppy Raising Coordinator Senior
* Accounts Officer Senior
* Bookkeeper
* Support Officer

**Level 5/6**

* Credit Collections Officer
* Digital Production Coordinator
* Payroll Officer

**Level 5/6/7**

* Assistance Dog Instructor
* Coordinator
* Occupational Therapist
* Orientation and Mobility Instructor
* Orthoptist
* Guide Dog Mobility Instructor
* Psychologist
* Physiotherapist
* Speech Pathologist
* Social Worker

**Level 6**

* Executive Assistant

**Level 6/7/8**

* NDIS Coordinator

**Level 7**

* Database Developer
* Senior Payroll Officer

**Level 7/8**

* Accountant
* Business Analyst

**Level 8**

* Access Consultant
* Program Manager
* Senior Guide Dog Instructor

**Level 8/9**

* Senior Accountant
* Senior Coordinator

**Level 10**

* Manager

# Appendix 3 – Supported Wage System

This Appendix defines the conditions which will apply to employees who, because of the effects of a disability, are eligible for a supported wage under the terms of this Agreement.

In this Appendix:

**"Approved assessor"** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system.

**"Assessment instrument"** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system.

**"Disability support pension"** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991* (Cth), as amended from time to time, or any successor to that scheme.

**"Relevant minimum wage"** means the minimum wage prescribed in this Agreement as outlined under Appendix 1 for the class of work for which an employee is engaged.

**"Supported wage system (SWS)"** means the Commonwealth Government system to promote employment for people who cannot work at full wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [Job Access: www.jobaccess.gov.au](https://www.jobaccess.gov.au/).

**"SWS wage assessment agreement"** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate.

**Eligibility Criteria**

Employees covered by this Appendix will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity, and who meet the impairment criteria for receipt of a disability support pension.

This Appendix does not apply to any existing employee who has a claim against the Employer which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

**Supported Wage Rates**

Employees to whom this Appendix applies will be paid the applicable percentage of the relevant minimum wage according to the following table:

| **Assessed Capacity %** | **Relevant Minimum Wage %** |
| --- | --- |
| 10 | 10 |
| 20 | 20 |
| 30 | 30 |
| 40 | 40 |
| 50 | 50 |
| 60 | 60 |
| 70 | 70 |
| 80 | 80 |
| 90 | 90 |

Provided that the minimum amount payable must be not less than $84 per week.

Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

**Assessment of Capacity**

For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the Employer and employee and, if the employee so desires, the Union.

All assessments made under this Appendix must be documented in an SWS wage assessment agreement and retained by the Employer as a time and wages record in accordance with the Act.

**Lodgement of SWS Wage Assessment Agreement**

All SWS wage assessment agreements under the conditions of this Appendix, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the Employer with Fair Work Australia.

All SWS wage assessment agreements must be agreed and signed by the employee and Employer parties to the assessment. Where the Union is not a party to the assessment, the assessment will be referred by the Fair Work Commission to the Union by certified mail and the agreement will take effect unless an objection is notified to the Fair Work Commission within 10 working days.

**Review of Assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

**Other Terms and Conditions of Employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this Appendix will be entitled to the same terms and conditions of employment as other workers covered by this Agreement on a pro rata basis.

**Workplace Adjustment**

If the Employer wishes to employ a person under the provisions of this Appendix, it must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design ofjob duties, working time arrangements and work organisation in consultation with other workers in the area

**Trial Period**

In order for an adequate assessment of the employee's capacity to be made, the Employer may employ a person under the provisions of this Appendix for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

The minimum amount payable to the employee during the trial period must be no less than $84 per week.

Work trials should include induction or training as appropriate to the job being trialled.

Where the Employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under the Assessment of Capacity sub-clause of this Appendix.

**In the Fair Work Commission**

**FWC Matter No.:**AG2018/5052

**Applicant:**
VisAbility Limited

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Nevellene Linquist, Executive Manager People and Culture for VisAbility Limited give the following undertakings with respect to the *VisAbility Limited Enterprise Agreement 2018 – 2021* ("the Agreement"):

1. I have the authority given to me by VisAbility Limited to provide this undertaking in relation to the application before the Fair Work Commission.
2. A new clause 11.9A will be inserted into the Agreement as follows:
**“If an employee requests at any time, to be paid for time off in lieu which has accrued in accordance with clause 11.9 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 when the overtime was worked, based on the rates of pay applying at the time payment is made.”**
3. The minimum wage payable to supported wage employees under Appendix 3 of the Agreement will be no less than $86 per week.
4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Nevellene Linquist

22 January 2019

**In the Fair Work Commission**

**FWC Matter No.:**AG2018/5052

**Applicant:**
VisAbility Limited

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Nevellene Linquist, Executive Manager People and Culture for VisAbility Limited give the following undertakings with respect to the *VisAbility Limited Enterprise Agreement 2018 – 2021* ("the Agreement"):

1. I have the authority given to me by VisAbility Limited to provide this undertaking in relation to the application before the Fair Work Commission.
2. The position of Support Officer will be paid no less than Level 6, Pay Point 2.
3. The position of Digital Production Coordinator will be classified at Level 6.
4. The position of Coordinator will be classified at Level 6.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Nevellene Linquist

6 February 2019