



DECISION

Fair Work Act 2009
s.210—Enterprise agreement

Transend Networks Pty Ltd
(AG2013/9628)

TRANSEND NETWORKS PTY LTD ENTERPRISE AGREEMENT 2011

Tasmania

COMMISSIONER LEE

MELBOURNE, 17 JANUARY 2014

Application for variation of the Transend Networks Pty Ltd Enterprise Agreement 2011.

[1] An application has been made for approval of a variation to the *Transend Networks Pty Ltd Enterprise Agreement 2011*¹ (the Agreement). The application was made by Transend Networks Pty Ltd (the Applicant) pursuant to section 210 of the *Fair Work Act 2009* (the Act).

[2] The application seeks approval of a number of variations to the Agreement including:

- Additional salary increases under clause 13
- Variation to clause 13.1 - “Productivity Payment”
- Variation to allowance rates as set out in schedule 3

[3] The application also sought approval of an extension to the nominal expiry date. I wrote to the Applicant, advising that pursuant to section 211(2)(b) of the *Fair Work Act 2009*, the Fair Work Commission must approve a variation if the Commission is satisfied that the agreement as proposed to be varied would not specify a date as its nominal expiry date which is more than four years after the day on which the Fair Work Commission approved the Agreement. The variation as proposed specified a nominal expiry date which was more than four years after the day on which the Fair Work Commission approved the agreement.

[4] The Applicant has provided a written undertaking pursuant to section 212 of the Act. That undertaking is attached to this decision at Attachment A. I am satisfied that the undertaking meets my concern, will not result in financial detriment to any of the affected employees or result in substantial changes to the variation.

[5] Pursuant to section 209 of the Act, the variation was made on 18 September 2013. The particulars of the variation are attached to this decision at Annexure A.

[6] I am satisfied that each of the requirements of ss.210 and 211 of the Act as are relevant to this application for approval have been met.

[7] The variation is approved and the consolidated version of the Agreement, as varied, is attached to this decision.

[8] In accordance with s.216 of the Act, the variation operates from 17 January 2014.



COMMISSIONER

Annexure A:

4 December 2013



Fair Work Commission

Attention: Commissioner Lee

Matter: AG2013/9628 – Application by Transend Networks Pty Ltd

Dear Commission Lee,

Transend Networks Pty Ltd - Variation Agreement proposes a nominal expiry date to 30 June 2015. The variation proposed calculates to 4 years and 6 days after Commissioner Leary approved the Transend Networks Pty Ltd Enterprise Agreement 2011 on 24 June 2011.

The Tasmania Electricity Supply reforms in Tasmania will result in the Government merging the State's electricity network businesses, Aurora Distribution and Transend Networks. As at 1 July 2014 the agreement will apply under the transfer of business to the newly formed business TasNetworks.

Pursuant to section 212 of the Fair Work Act 2009, Transend provides an undertaking that the variation agreement nominal expiry date is varied to 24 June 2015. This variation is not likely to:

- cause financial detriment to any affected employee for the variation; or
- result in substantial changes to the variation.

Please do not hesitate to email nicholas.ross@transend.com.au or phone 6274 3675 if you would like to discuss further.

Yours sincerely,

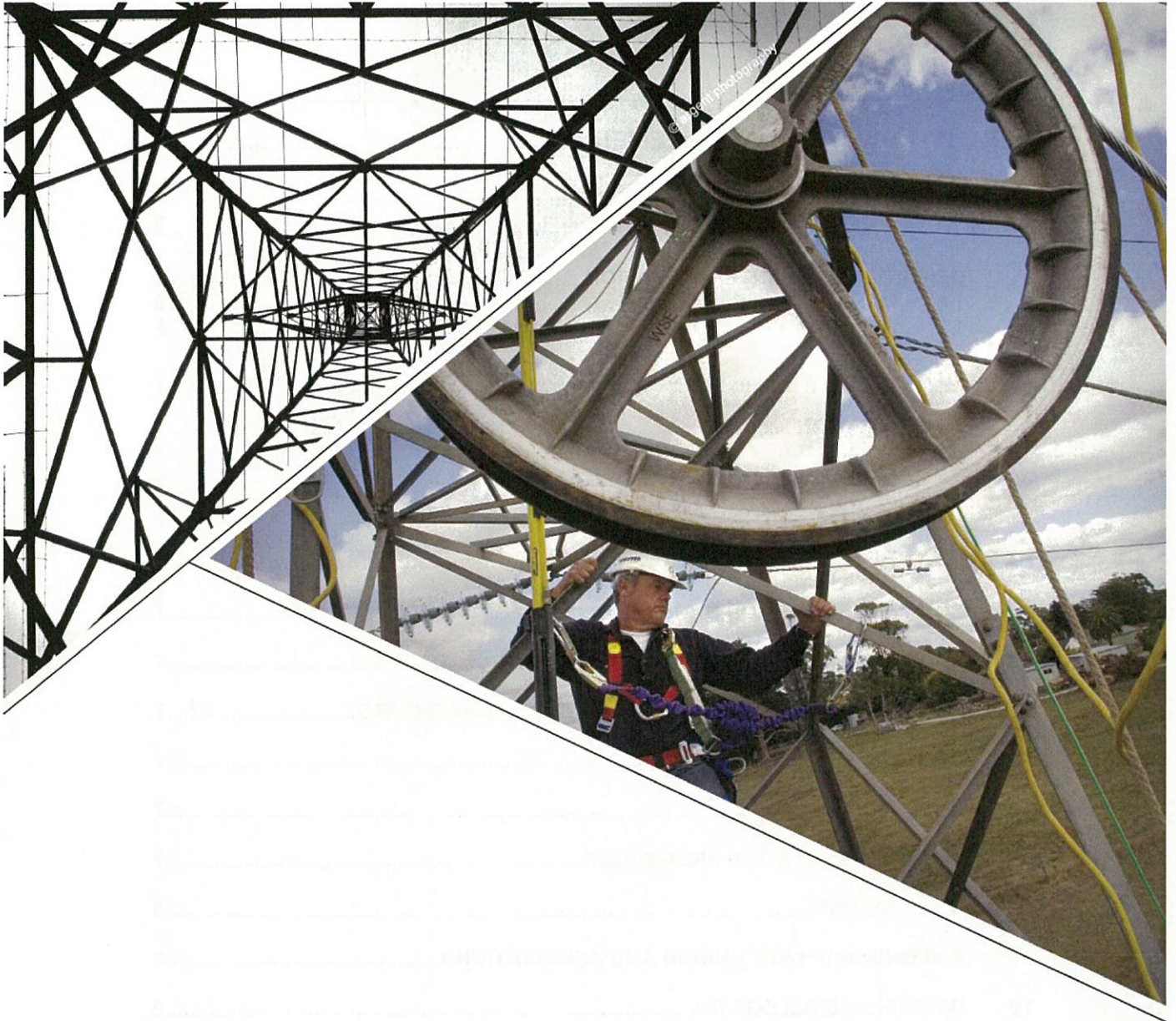
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Printed by authority of the Commonwealth Government Printer

<Price code J, AE886412 PR546964>

¹ AE886412



Transend Networks Pty Ltd Enterprise Agreement 2011

[Variation and Extension Agreement – 2013]



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PART 1: PARTIES TO AGREEMENT

Transend Networks Pty Ltd ABN 57082586892 of 1-7 Maria Street, Lenah Valley, Tasmania 7008, Australia ("**Transend**"); and

Employees of Transend classified within the classification levels contained within the Table of Salaries in Schedule 1 ("**Employees**").

Unions to this agreement:

- the Association of Professional Engineers, Scientists and Managers of Australia (APESMA);
- the Australian Municipal, Administrative, Clerical and Services Union (ASU); and
- the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing, and Allied Services Union (CEPU).

PART 2: GENERAL

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement except where otherwise clearly intended:

Adoption Leave means a period of paid and/or unpaid leave taken for the purpose of adopting a child.

Agreement means this Agreement, the Transend Networks Pty Ltd Enterprise Agreement 2011.

Annual Leave means a period of paid leave taken in accordance with clause 26 (Annual Leave).

Annual Leave Loading means a supplementary payment which is linked to Annual Leave and calculated in accordance with clause 26.6 (Leave Loading).

Approved Leave means leave which has been approved by an employee's manager in accordance with this Agreement.

Call out means when an employee on an official on-call roster is called back to work after leaving Transend's business premises.

Call back means when an employee is called back to work overtime after leaving Transend's business premises.

Carer's Leave means leave taken in accordance with clause 28.2 (Carer's Leave).

Compassionate Leave means paid leave taken in accordance with clause 28.3 (Compassionate Leave).

Continuous Shift Worker means an employee working shift work covering 24 hours a day, 7 days per week.

Day Work means work carried out between the spread of hours of 7.00am and 6.00pm Monday to Friday inclusive (unless agreed otherwise).

Day Worker means an employee who is engaged in Day Work.

Dispute Resolution Procedure means the procedures set out in Clause 30 (Dispute Resolution Procedure).

Fair Work Australia or FWA means the body established by section 575 of the *Fair Work Act 2009* (Cth).

Flextime means the flexible working arrangement for Day Workers described in clause 19 (Flextime).

Flextime Credit means the number of hours by which an employee's Flextime Balance is in credit.

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Flexitime Debit means the number of hours by which an employee's Flexitime Balance is in debit.

Garden Leave means an employee who is leaving Transend (having resigned or ceasing employment) is instructed to stay away from work during their notice period, while still remaining on the payroll.

Holiday means any prescribed public or statutory holiday and as at the date of this Agreement, the following days are considered to be a holiday for the purposes of this Agreement:

- New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Easter Tuesday, Anzac Day, Birthday of the Sovereign, Labour Day, Christmas Day and Boxing Day (or if any other day is substituted by State Act of Parliament or State proclamation for any of these holidays, the day substituted will be observed);
- all bank holidays proclaimed under the *Statutory Holidays Act 2000* (Tas);
- Hobart Regatta Day – only for those employees working in or south of Oatlands, except in areas excluded in the State proclamation for this day and in all other areas where the first Monday in November is a holiday;
- The first Monday in November – only for those employees working north of Oatlands and in other areas where the Hobart Regatta Day is not a holiday;
- Launceston Show Day – only for those employees based in Launceston;
- Burnie or Devonport Show Day – only for those employees based in Burnie and Devonport; and
- Hobart Show Day – only for those employees based in Hobart.

Household Member means a person who normally resides in the same household as the employee.

Immediate Family means:

- a spouse of the employee;
- a child or an adult child (including an adopted child, a step child or an ex nuptial child)
- parent, grandparent, grandchild or sibling of the employee
- parent, grandparent, grandchild or sibling of a spouse of the employee.

Leave Year means the year beginning on an employee's commencement date with Transend and ending on the anniversary of that commencement date.

Long Service Leave means the leave entitlement set out in clause 27 (Long Service Leave).

NES means the National Employment Standards, as set out in the *Fair Work Act 2009* (Cth).

Non Continuous Shift Worker means an employee working shift work other than Continuous shift work.

On-call means when an employee is required to be available to respond and return to work outside of normal working hours.

Ordinary Rates means the hourly rate payable to an employee for their ordinary hours of work, but not including loadings, monetary allowances, overtime or penalty rates.

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Parental Leave means paid or unpaid time off work to care for a child or make arrangements for the child's welfare. Parental leave includes maternity, paternity and adoption leave in accordance with the NES.

PPP means the performance planning process which is a review of an employee's performance and development by way of a meeting/s between an employee and their manager.

Personal Leave is when an employee is sick or injured or leave taken when the employee needs to care for an immediate family or household member who is sick, injured or has an unexpected emergency.

Redundancy has the meaning given to that term in the Redundancy Provisions.

Redundancy Provisions means those provisions set out in Appendix B (Redundancy Schedule).

Shift Work means work which is carried out during the times set out in a roster which provides for two or more shifts in a day and which requires employees to rotate or alternate in the working of such shifts.

Shift Worker means an employee who is engaged in Shift Work.

Sick Leave means absence from work due to personal illness or injury to the employee.

Significant Changes means Transend, or part of the business, plans to introduce a significant change to production, program, organisation, structure or technology in a way that is likely to significantly affect employees as set out in clause 3 (Consultation).

Spouse means a spouse of the employee (including a former spouse, a de facto partner and a former de facto partner); as defined by the *Significant Relationships Act 2003* (Tas). Former spouse does not apply concerning adoption leave.

Temporary Employee means an employee on a contract for a specified period of time or for a specified task. The task or duration of appointment is specified at the time of appointment.

The Scheme means Transend Regulatory Incentive Scheme as set out in clause 15.

Transend means Transend Networks Pty Ltd (ABN 57082586892).

Transfer of Business has the meaning given to it in the *Fair Work Act 2009* (Cth).

Union means each of the following organisations:

- the Association of Professional Engineers, Scientists and Managers of Australia (APESMA);
- the Australian Municipal, Administrative, Clerical and Services Union (ASU); and
- the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing, and Allied Services Union (CEPU).

Unsocial Hours – means telephone calls and work responded to at times when an employee is on-call and when most people are not active, such as early in the morning or

during the night – normally these hours are between 10.30pm to 6am unless otherwise agreed with the employee's manager.

1.2 Interpretation

In this Agreement except where otherwise clearly intended:

- (a) a reference to a document (including this Agreement) includes any variation or replacement of it;
- (b) a reference to a clause, paragraph, schedule, appendix or annexure is a reference to a clause or paragraph or a schedule, appendix or annexure to this Agreement and a reference to this Agreement includes any schedules, appendices or annexures;
- (c) a reference to a statute includes a reference to, or citation of, all enactments amending or consolidating the statute and to an enactment substituted for the statute;
- (d) a reference to a body other than a party to this Agreement:
 - (i) which ceases to exist; or
 - (ii) the powers or functions of which are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

2. TITLE

This Agreement shall be known as the Transend Networks Pty Ltd Enterprise Agreement 2011 (Variation and Extension Agreement -2013).

3. CONSULTATION

3.1 Consultation to Significant Changes

In the event that Transend or part of the business plans to introduce a significant change to production, program, organisation, structure or technology that is likely to significantly affect employees, Transend will notify the employees who may be affected by the changes, and their nominated representative.

In this clause, 'Relevant Employees' means the employees who may be affected by the significant change.

Transend will notify the relevant employees of any major changes that may have significant effects including:

- (a) major changes to the composition, operation or size of Transend's workforce or in the skills required of employees; or
- (b) elimination or diminution of job opportunities (including opportunities for promotion opportunities or job tenure); or
- (c) alteration of hours of work; or
- (d) the need to retrain employees; or
- (e) the need to transfer employees to other work or worksites; or
- (f) the restructuring of jobs; or
- (g) Termination of employees.

If the Agreement provides for the changing of any of these matters, change will be deemed not to have significant effect.

Transend will discuss with the relevant employees and their union, or the employee representative as soon as practicable the significant changes including:

- the introduction of the changes as described in section 3.1 (a) to (g);
- the effects the changes are likely to have on relevant employees;
- measures to avert or mitigate any adverse effects on the relevant employee; and
- will promptly consider matters raised by the relevant employees and/or their union, association or employee representative about the changes.

Transend will provide in writing, to the relevant employees:

- relevant information about the change, including the nature of the change proposed;
- information about the expected effects of the change on the employee; and
- any other matters likely to affect employees.

Before discussion, Transend will provide the relevant employees and their representative with all relevant information about the changes including the nature of the proposed changes, the expected effects of the changes on relevant employees and any other matters likely to affect the relevant employees. Transend will not be required to provide confidential information that is detrimental to Transend's interests.

3.2 Non Application

Where this Agreement makes provision for the alteration or amendment of employment conditions through a flexibility arrangement, as provided for in clause 18 (Individual Flexibility Arrangements), then the procedure set out in this clause 3 (Consultation) does not apply.

PART 3: FORMALITIES

4. COMMENCEMENT AND DURATION

- (a) This Agreement will come into operation from the date of certification and it will have a nominal expiry date of 30 June 2015.
- (b) The parties agree to commence discussions at least six months prior to the nominal expiry date of this Agreement to determine an appropriate course of action to renew or replace the Agreement.

5. ACCESS TO AGREEMENT

This Agreement will be made available to all employees through BuzzBar, Transend's electronic information service.

6. REPLACEMENT OF PREVIOUS INDUSTRIAL INSTRUMENTS

This Agreement replaces any previous enterprise agreements between Transend and its employees.

7. COMMITMENTS

The parties to this Agreement are committed to honour the obligations arising from this Agreement in all aspects.

Any dispute regarding the interpretation or application of this Agreement will be resolved in accordance with the Dispute Resolution Procedure. The parties will consult together with the intent to reach settlement without loss of pay or production. The parties will endeavour to ensure normal work continues while the Dispute Resolution Procedure is being followed.

No existing right, obligation or liability incurred under any previous enterprise agreements or awards will apply.

8. NO EXTRA CLAIMS

For the period of operation of this Agreement there will be no further claims for salary increases or changes to other terms and conditions of employment other than entitlements that may arise in accordance with the National Employment Standards contained in the *Fair Work Act 2009* (Cth). No industrial action, protected or otherwise, will be taken in respect of any such claim and work will continue in the normal manner during any claim process.

9. DISPUTE RESOLUTION PROCEDURE

The parties to this Agreement concur that the Disputes Resolution Procedure (clause 30) will apply in the event of any dispute arising out of the interpretation and/or application of this Agreement or the NES.

10. REDUNDANCY

The parties to this Agreement concur that the Redundancy Provisions (Appendix B) will apply in relation to redundancy issues affecting Transend or its employees.

11. PARTNERSHIP WITH UNIONS AND ASSOCIATIONS

Transend recognises the role the other signatory parties to this Agreement play in working together with Transend to ensure that any changes to its business operations and/or environment do not adversely impact on employee conditions contained in this Agreement. Transend will continue to work collaboratively with the other signatory parties on matters that will, or have the potential to, adversely impact on its employees.

The parties recognise the right of employees to join a union or association if they so choose. Transend will support this by providing access to employees during normal working hours to accredited officials of the relevant union or association to the extent permissible by the *Fair Work Act 2009* (Cth), provided that such activities do not hinder or unduly impact on the normal work activities of the employee/s and/or Transend.

The relevant union/association official will give 24 hours notice (where practicable) to the Manager Human Resources (or his/her delegate) of their intention to visit a work site and will abide by all access, safety and security procedures for that site as specified by Transend. Transend will not unreasonably withhold access to a worksite and will make a meeting room available wherever possible and practical to do so.

12. WORKPLACE DELEGATES

Transend recognises the role workplace delegates play as representatives of groups of employees within Transend. As such, Transend will provide workplace delegates with reasonable time to perform their role without discrimination in their employment. The parties agree to determine a method of establishing a reasonable number of workplace delegates which will ensure that Transend's operations are not unduly impacted and employees who are members of a union/association receive reasonable representation.

Employees who are delegates of a union covered by this Agreement, or an employee delegate who has been nominated by an employee to represent other employees, shall have the right to:

- be treated fairly and to perform their role as union delegate or employee representative without any discrimination in their employment;
- bargain collectively on behalf of those they represent;
- reasonable paid time during normal working hours to consult with members or the employees who have nominated the employee representative;
- reasonable paid time off (up to five days a year) to attend accredited union education or other training associated with representing colleagues in industrial situations;
- address new employees about the benefits of union membership at the time that they enter employment if agreed to by the new employee at the time of commencement;
- reasonable access to telephone, facsimile, photocopying, internet and e-mail facilities for the purpose of carrying out work as a delegate or employee representative and consulting with workplace colleagues and the union;

- place union or workplace information on a notice board in a prominent location in the workplace as appropriate;
- formal recognition by Transend that endorsed union delegates speak on behalf of union members in the workplace under the provisions of the agreed union notification period and procedure under the *Fair Work Act 2009* (Cth);
- formal recognition by the employer that an employee representative or other nominated person has the right to speak on behalf of the employees whom they represent during the negotiation period of the enterprise agreement under the provisions of the agreed union notification period and procedure;
- consultation, and access to reasonable non sensitive or commercial in-confidence information about the workplace and the business; and
- take reasonable unpaid leave if approved by Transend to work with the union or employee representative group.

PART 4: REMUNERATION, REWARD AND RECOGNITION

13. SALARY INCREASES

The following salary increases will be paid during the life of this Agreement:

- (a) A salary increase of 3.5%, which will be paid in the first full pay period to commence on or after 1 April 2011;
- (b) A salary increase of 3.5%, which will be paid on the first full pay period to commence on or after 1 September 2011;
- (c) A salary increase of 3.5%, which will be paid on the first full pay period to commence on or after 1 September 2012;
- (d) A salary increase of 2.0%, to commence the first full pay period from when the application for approval is lodged with FWA;
- (e) A salary increase of 2.0%, which will be paid on the first full pay period to commence on or after 1 September 2014.

These increases are detailed in Schedule 1 (Table of Salaries) to this Agreement.

The above increases to salaries will not impact on an employee's ability to progress through the position salary band. Progression through the salary band will be subject to individual performance and the application of Transend's Salary Progression Guidelines (Appendix A).

13.1 Productivity Payment

In addition to the salary increase outlined in Clause 13(d) a productivity increase of 0.5% will be paid on the first full pay to commence on or after 1 September 2013. This increase is detailed in Schedule 1 (Table of Salaries) to this Agreement.

14. CLASSIFICATION AND SALARY STRUCTURE

Positions will be classified on the basis of work value in accordance with the Cullen Egan Dell Job Evaluation System and the Transend Classification and Remuneration Structure. The salary ranges and work value points applicable to each classification band over the life of the Agreement are listed in Schedule 1 (Table of Salaries) and Schedule 2 (Work Value Points).

Progression between classification bands will either depend upon being appointed to a position classified at a higher band or on a position being reclassified through the job evaluation system, provided that, in either case, the employee meets the inherent requirements of the role.

Salary progression will be in accordance with Appendix A (Annual Salary Progression Guidelines).

14.1 Payment of Salaries

All salaries will be paid fortnightly on a nominated pay day into a bank, credit union or society account nominated by the employee, subject to conditions that Transend may stipulate.

If the services of an employee are terminated, any salary and other entitlements due will be paid, where practicable, on the date of termination, or on the next working day.

14.2 Annualised Salaries

Subject to an agreement between management and employee/s, Transend may pay an employee an annualised salary. The annualised salary may include, but is not limited to, the following entitlements under this Agreement:

- (a) minimum weekly wages
- (b) allowances
- (c) overtime rates
- (d) penalty rates
- (e) annual leave loading
- (f) shift allowance

Where an annualised salary is paid, Transend must advise the employee in writing of the annual salary that is payable and which entitlements will be satisfied by payment of the annual salary.

The annualised salary must be no less than the amount the employee would have received under this Agreement for the work performed over the year for which the salary is paid (or if the employment ceases earlier, over such lesser period as has been worked).

The annualised salary of the employee/s must be reviewed by Transend at least annually to ensure that the compensation is appropriate having regard to the Agreement provisions which are satisfied by the payment of the annual salary.

14.3 Flexible Remuneration

Transend will provide salary sacrifice arrangements to employees. An employee may elect to enter into salary sacrifice arrangements in accordance with the Flexible Remuneration arrangements available on Buzzbar. An employee who elects to use salary sacrifice arrangements will be required to enter into an agreement setting out the terms and conditions applying to the provision of the arrangement.

Transend will not be responsible for any loss or disadvantage suffered by an employee who enters into a flexible remuneration agreement.

15. TRANSEND REGULATORY INCENTIVE SCHEME

The parties acknowledge and agree that:

- (a) employees may be entitled to a remuneration benefit in addition to other benefits under this Agreement, in accordance with Transend's most current Transend Regulatory Incentive Scheme as published for the information of Transend staff from time to time ("the Scheme");

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- (b) the payment to employees under the Scheme, and the amount of a payment, are subject to:
 - (i) the terms of the Scheme itself;
 - (ii) the amount of money available from time to time under the regulatory incentive schemes that apply to Transend; and
 - (iii) approval each year by Transend's Board.
- (c) a payment under the Scheme will not exceed the maximum annual amount stated in the Scheme for each employee; and
- (d) any entitlements under the Scheme cease on 30 June 2014, or the expiry or termination of the Agreement (whichever occurs first).

PART 5: EMPLOYMENT CONDITIONS

16. CONTRACT OF EMPLOYMENT

All employees will have a written contract of employment that describes the terms and conditions of their employment with Transend.

17. TERMS OF EMPLOYMENT

17.1 Probationary employment

Transend may initially engage a full-time or part-time employee for a period of probationary employment to determine the employee's suitability for ongoing employment. The employee must be advised in advance that the employment is probationary and the duration of the probation. The probation period under normal circumstances will be three months. However this may be extended up to six months due to the nature of the position or performance requirements. In such cases, the period will be specified during the offer of employment.

A probationary employee is for all purposes of the Agreement a full-time or part-time employee.

Probationary employment forms part of an employee's period of continuous service for all purposes of the Agreement, except where otherwise specified in this Agreement.

17.2 Full-time employment

Any employee not specifically engaged as being a part-time or casual employee is, for all purposes of this Agreement, a full-time employee.

17.3 Part-time employment

Part-time employees work regular hours which are less than full-time hours. These hours may be varied by agreement between the manager and the employee.

Part-time employees are paid an hourly rate for the hours they work and the hourly rate is taken from the appropriate salary step in Schedule 1 (Table of Salaries) to this Agreement.

The terms of this Agreement shall apply pro rata to part-time employees based on the ordinary weekly hours for full-time employees.

A part-time employee who is required by Transend to work in excess of the agreed hours shall be paid overtime in accordance with clause 20 (Overtime) of this Agreement.

Where the part-time employee's normal paid hours fall on a holiday and work is not performed by the employee, the employee shall not lose pay for the day. Where the employee works on the holiday, the employee shall be paid in accordance with clause 20 (Overtime) of this Agreement.

17.4 Temporary employment

A temporary employee may be engaged on a full-time or part-time basis.

An employee engaged as temporary is for all purposes of the Agreement a full-time or part-time employee for the duration of their appointment, except where otherwise specified in this Agreement.

Service under a contract of employment for a specific period of time or specific task/s shall form part of an employee's period of continuous service, where the employee is engaged as a full-time or part-time employee immediately following such contract of employment through Transend.

17.5 Casual employment

A casual employee is employed on an hourly basis to assist Transend to meet short-term business needs. A casual employee shall be paid at an hourly rate of pay that will include a loading of 25% on normal salary, such loading to be paid in lieu of Annual Leave, Personal Leave and Compassionate Leave and Holiday entitlements.

17.6 Trainees

In recognition of current skills shortages, Transend is committed to providing traineeship opportunities in the technical and commercial streams consistent with future business requirements. Trainees may be engaged directly by Transend or through a third party. Where trainees are engaged through a third party and are subsequently appointed to Transend on completion of the traineeship, time spent with Transend as the employment host will be recognised as years of service for Redundancy and Long Service Leave purposes.

17.7 Terminating Employment

Either party may terminate employment by notice in writing. The period of notice required will be one (1) month, unless a longer or shorter period is agreed in the employee's contract of employment, or otherwise agreed at the time of the notice being given.

Transend may elect to make payment in lieu of all, or part of, the notice period, or may place the employee on garden leave for all or part of the notice period.

Where (except as directed by Transend or by mutual agreement) the employee has not worked all or part of the notice period, Transend shall be entitled to withhold an amount of salary equivalent to the un-worked period due for any period actually worked.

An employee over 45 years of age and terminated by Transend is entitled to an additional week's notice.

When misconduct of an employee justifies summary dismissal, Transend may terminate employment without liability to pay for more than the time worked and any accrued entitlements.

On request, an employee given notice by Transend will be granted one day's leave without pay to look for alternative employment.

Redundancy is utilised when employees, through no fault of their own, are no longer required for work, usually because the employer no longer needs that work. Redundancy provisions are attached in Appendix B (Redundancy Schedule).

17.8 Hours of Work

The ordinary hours of works for a full-time employee are 37.5 per week.

The ordinary hours of work may be averaged over the period of the work cycle that applies in the particular work group or section.

There is provision for a manager, by agreement with employees, to arrange working hours to achieve maximum flexibility in order to suit the needs of both Transend and employees.

The flextime conditions clause 19 (Flextime) detail the provisions that apply to arranging flexible hours of work within the agreed span of hours, unless otherwise agreed in accordance with clause 17.9 (Method of Arranging Ordinary Working Hours).

17.9 Methods of Arranging Ordinary Working Hours

Transend has the discretion to determine the ordinary hours of work from time to time, within the spread of hours referred to in clause 17.10 (Day Workers).

However, the arrangement of ordinary working hours and days worked may be changed by agreement between the manager and the employee/s. Arrangement of work includes ordinary hours, public holidays and weekends. Where there is agreement between a manager and employee/s to vary the ordinary hours worked, the details of the agreement will be documented. Appropriate records will be kept during the implementation to ensure the rights of both parties are preserved, and, if required to assist with dispute resolution.

This does not preclude the manager from reaching agreement with an individual employee or employees about the arrangement of their working hours in accordance with clause 18 (Individual Flexibility Arrangements). This also includes employees working under clause 21 (Shiftwork).

17.10 Day Workers

Transend has the discretion to arrange an employee/s hours of work between 7.00 am and 6.00 pm Monday to Friday inclusive to meet reasonable business needs. Meal breaks will apply in accordance with clause 22 (Meal Break).

The spread of hours (i.e. 7.00 am to 6.00 pm) may be altered by agreement between the manager and employee/s in accordance with clause 17.9 (Methods of Arranging Ordinary Working Hours) and clause 18 (Individual Flexibility Arrangements).

18. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

Transend and an employee may agree to make an individual flexibility arrangement to vary the effect of terms of this Agreement if:

- (a) the arrangement meets the genuine needs of Transend and the employee in relation to one or more of the following matters:

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- (i) arrangements about when work is performed;
- (ii) overtime rates;
- (iii) penalty rates;
- (iv) phased in retirement;
- (v) introduction of shifts;
- (vi) leave loading; and
- (vii) the arrangement is genuinely agreed to by Transend and the employee.

Transend must ensure that the terms of the individual flexibility arrangement:

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

Transend must ensure that the individual flexibility arrangement:

- (a) is in writing;
- (b) includes the name of Transend and the employee;
- (c) is signed by Transend and the employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
- (d) includes details of:
 - (i) the terms of this Agreement that will be varied by the arrangement;
 - (ii) how the arrangement will vary the effect of the terms;
 - (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
 - (iv) the day on which the arrangement commences.

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

Transend or the employee may terminate the individual flexibility arrangement:

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

19. FLEXTIME

The purpose of flextime is to allow for flexibility of working hours within an employee's normal spread of hours:

- (a) to assist employees in balancing their work commitments with other responsibilities and preferences; and
- (b) to assist Transend to manage fluctuations in workloads.

19.1 Eligibility

Employees are eligible to participate in flextime except in the following circumstances:

- (a) where an employee is required to work fixed hours, as directed by their manager; or

- (b) during any period in which the employee is working Shift Work; or
- (c) where an employee or employees agree to work at a time of the day which is outside of the normal spread of hours

subject to clause 17.9 (Method of Arranging Ordinary Working Hours) and clause 18 (Individual Flexibility Arrangements).

19.2 Flextime Process

Flextime is based on an eight-week cycle. During this cycle an employee should work 300 hours (8 weeks x 37.5 hours). The focus of flextime is to provide flexibility as to how and when those 300 hours will be worked, where possible.

Managers may decide to meet and discuss alternative work options with an employee who has accrued 15 hours of flextime. The manager will consider business needs and the employee's work life balance and may advise the employee:

- (a) to continue to accrue flextime leave (up to 37.5 hours); or
- (b) review and reprioritise the employee's workload; or
- (c) engage additional employee or contractor support; or
- (d) direct the employee that the payment of overtime is more appropriate than the continuation of accumulating flextime.

The maximum approved flextime leave credit to be accrued in an eight week cycle is 37.5 hours.

An employee working flextime must be present at work (unless on Approved Leave) during times specified by his or her manager within the normal spread of hours.

An employee must take a break of at least 30 minutes after no more than five (5) hours of continuous work.

19.3 Taking Flextime Leave

Absences from work on flextime leave of half a day (3.75 hours) or more require pre-approval by the manager and the completion of a leave request form consistent with other leave applications.

In taking flextime leave of half a day or more the following principles apply:

- (a) sufficient flextime credits has been accrued at the commencement of leave;
- (b) prior approval is obtained from the line manager; and
- (c) employees in teamwork situations consult and cooperate with fellow workers and management at all times.

Every effort should be made to arrange planned appointments for doctors, dentists, etc., outside the employees' normal hours of work. Should a planned appointment be made during normal working hours the employee may debit their flextime balance. Flextime credits may be used in combination with Annual Leave to reduce the flextime leave balance. A manager may direct an employee to take flextime leave, if the employee's flextime leave balance is in excess of 15 hours of accrued leave.

Flextime provisions in no way limit an employee's entitlement to overtime, consistent with the provisions as defined in the Transend Enterprise Agreement, clause 20 (Overtime). However,

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overtime hours are not counted towards the 75 ordinary hours worked in a fortnight period unless as agreed, in accordance with clause 17.9 (Method of Arranging Ordinary Working Hours); clause 18 (Individual Flexibility Arrangements) and clause 20.7 (Time off instead of Overtime).

20. OVERTIME

20.1 Overtime

Transend may require an employee to work a reasonable amount of overtime to meet business needs.

An employee may refuse to work overtime if this would result in the employee working hours which are unreasonable having regard to:

- any risk to employee health and safety;
- the employee's personal circumstances, including any family responsibilities;
- the needs of the workplace or enterprise;
- where a short notice period has been provided; and
- any other relevant matter.

20.2 Entitlement

A full-time employee is only entitled to overtime if his or her manager has agreed to the employee working more than his or her ordinary hours of work.

A part-time employee is only entitled to overtime if requested by his or her manager to work more than his or her agreed ordinary hours of work.

The overtime rate for an employee whose annual salary is based on an hourly rate will be calculated:

- to the nearest quarter-hour.
- on the basis that each day's work stands alone.

20.3 Day Workers

The overtime rates applicable for day workers in relation to any work carried out will be calculated on the following basis:

- (a) from Monday to Friday at time and one-half for the first two (2) hours worked, and double time in respect to any hours worked following the initial two (2) hour period;
- (b) on a Saturday and Sunday, at double time; and
- (c) where work is required to be performed and actually worked on a holiday
 - (i) the employee will be paid their normal salary, and in addition, time and one-half for all time worked during ordinary hours of work on that day; and
 - (ii) the employee will be paid their normal salary, and in addition, double time and one-half for all time worked outside, and in addition to, the ordinary hours of work on that day.

20.4 Shift Workers

The following overtime rates apply for a Shift Worker:

- (a) work performed on any day other than a holiday will be at double time;
- (b) time worked on a holiday will be at double time and one-half;
- (c) employees on shiftwork rostered off on a holiday will receive a day's pay, unless included in the annualised salary arrangement as per clause 14.2 (Annualised Salaries).
- (d) when working 12 hour shifts, unless otherwise agreed, for the purposes of this subclause, the following shifts are to be considered as time worked on a Sunday or Holiday;
 - (i) 7.00am to 7.00pm on the day of the Sunday or Holiday; and
 - (ii) 7.00pm on the Sunday or Holiday until the completion of the shift.

20.5 Rest Period After Overtime

When overtime work is necessary, it will be arranged so that employees have at least ten (10) consecutive hours off-duty between the work of successive days, wherever practicable.

Any employee who works overtime between finishing work one day and starting ordinary work the next day without having at least 10 consecutive hours off - duty between those times will be released for 10 consecutive hours without loss of pay for ordinary working time.

If a manager instructs an employee to resume or continue work without having had a 10 consecutive hour break off-duty, the employee will be paid at double time until released from duty. The employee is then entitled to be absent for 10 consecutive hours without loss of pay for ordinary working time during this period.

20.6 Leave Instead of Overtime

An employee (other than a continuous rotation shift worker) who is entitled to overtime payments, may apply within seven days of doing the work for the equivalent time off, with pay calculated to the nearest half-day. If an application is approved, an employee will be paid the appropriate penalty rates for work on such days, minus the single time credited for leave.

20.7 Time Off Instead of Overtime

A manager and employee/s can agree to establish a system of time off instead of payment provided that:

- the employee elects to take time off instead of payment for overtime at a time or times agreed with the manager;
- overtime taken as time off during ordinary working hours shall be taken at ordinary time rate, that is an hour for each hour worked; and
- time accrued in lieu of overtime payment is recorded in accordance with clause 19 Flextime.

20.8 Transport of Employees

After working overtime, if an employee finishes work at a time when reasonable means of transport are not available, Transend will provide the employee with transport home or reimburse the reasonable cost of transport.

20.9 Call Back

An employee called back to work additional hours as per clause 20 (Overtime), after leaving Transend's business premises who is not on an on-call roster (whether notified before or after leaving the premises) will be paid for a minimum of four hours work.

An employee who receives a call out and who is rostered to be on-call will be paid for a minimum of two hours work at the appropriate rate as per clause 23 (On-Call Allowance).

In the case of a subsequent call back during a period for which a minimum payment has already accrued, no additional entitlement will be paid until the employee works outside the minimum call back period. Except on a Saturday, Sunday or Holiday, no employee will be entitled to double rates until they have physically worked more than two hours of overtime.

Call Back will not apply when it is agreed for an employee to return to Transend's premises or workplace to do a specific job outside ordinary working hours or when the overtime is continuous (subject to a reasonable meal break).

Overtime worked in the circumstances specified in this clause will not be overtime for the purpose of clause 20.5 (Rest Period after Overtime) when the actual time worked is less than the minimum two hours or four hours, as prescribed for a call back.

21. SHIFTWORK

The ordinary hours of work may be averaged over the period of the work cycle that applies in the particular work group or section.

21.1 Non-continuous Shiftworkers

In agreement with the employee/s, Transend may implement a roster with a cycle length of any period up to and including 12 weeks (or a longer period with the agreement of the affected employee/s). The employees' ordinary hours may be averaged over such cycles.

A roster of shifts will:

- (a) specify starting and finishing times;
- (b) specify the starting and finishing times of ordinary working hours of the shifts;
and
- (c) ensure a shift does not exceed 10 hours in length per day.

An employee must not be rostered to work more than eight shifts in any nine day period.

The method of working shifts and/or the times of starting and finishing shifts may be changed by agreement between the manager and the employee/s.

Any shift allowance payable will be in accordance with Schedule 3 (Allowances to be Paid in Accordance with the Agreement).

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21.2 Continuous Shift Workers

Transend will determine the ordinary hours of work for continuous shift workers by agreement with employees, based on business needs and objectives. These working hours may be averaged over shift cycles not exceeding twelve months.

Shift workers will work at times that Transend requires, subject to the following conditions:

- (a) an employee will not be required to work more than five 12-hour shifts in any nine-day period;
- (b) an employee will not be required to work more than one shift in each 24 hours except at the regular changeover of shifts; and
- (c) a meal break of thirty (30) minutes will be allowed during each shift. This will be counted as time worked.

The roster of shifts will:

- (a) specify the starting and finishing times of ordinary working hours of the shift; and
- (b) rotate employees in the working of the shifts up to 12 hours - unless all the employees affected by a roster desire otherwise.

The method of working shifts and/or the times of starting and finishing shifts may be changed by agreement between the manager and employees in the workplace. If they do not agree, the manager must give employees seven days notice of the change.

Subject to agreement, employees appointed to a permanent position requiring 24/7, 12-hour shift work will be paid an annualised salary calculated on the position work value in accordance with clause 14.2 (Annualised Salaries) and any other appropriate allowance (refer schedule 3).

22. MEAL BREAK

An employee will not be compelled to work for more than five hours without an unpaid meal break of at least 30 minutes. An employee working overtime will be allowed a paid meal break of 30 minutes after each four hours of overtime worked if the employee continues to work after the meal break.

If a day worker who is required to work overtime on a Saturday, Sunday or Holiday and the first prescribed meal break is between 10.00 am and 2.00 pm, the employee will be paid at the ordinary rate. Unless otherwise agreed with the manager, penalty rates of double time will be paid for all overtime completed until a meal break is allowed.

Any employee who commences overtime directly following their normal hours of work will be entitled to a meal break of 30 minutes before commencing overtime where the work is ongoing and will continue for more than 1.5 hours. The meal break will be paid at the ordinary rate. The manager and employee/s may agree to vary this provision to meet work requirements.

An employee doing regular maintenance work will work during meal breaks at the appropriate rates when this is necessary to repair breakdowns of plant or undertake routine maintenance of plant that can be done only while the plant is idle.

PART 6: ALLOWANCES

23. ON-CALL ALLOWANCE

An on-call allowance is available to employees rostered for recall to work outside of normal working hours. An employee on-call must be contactable by phone by Transend at all times and be available to respond and take action within 30 minutes of receiving the call. The response time may be varied by agreement with management and employees to meet workgroup requirements.

An employee who is on-call will be paid for the time spent working on business-related matters over the telephone whenever the period or periods total more than 15 minutes per day. Such payment is at the applicable penalty rate. The call out minimum of two hours does not apply to time spent on the telephone, unless the call is received during Unsociable Hours.

Where an employee is required to recommence work call outs shall be paid a minimum of two hours.

Any additional call outs received within a call out period are covered until the time worked exceeds the original two hour minimum.

Where an employee who is on-call commences overtime immediately following normal hours, as a result of work issued during that period, payment shall be for the actual time worked at a rate of time and a half for the first two hours and double time thereafter.

23.1 On-Call Allowance Payment

An employee rostered on-call for after-hours duty will receive an allowance as per schedule 3.

An employee rostered for on-call duty during Annual Leave will be paid the allowance they would have received if they had not been on Annual Leave.

An employee rostered on-call on a public holiday will be entitled to either an extra day of pay as well as their ordinary pay for that day or, the employee may request an additional day of annual leave.

This allowance is not applicable if already included as part of an annualised salary.

23.2 Meal Allowance

If an employee is required to continue working for more than two hours after normal finishing time, without being notified on the previous day of the requirement to work overtime, they will be either supplied with a meal by Transend or paid a meal allowance as per Schedule 3 (Allowances to be Paid in Accordance with Agreement). The payment need not be made to employees who can reasonably return home for meals.

When an employee is requested to work overtime and they provide a meal or meals for that period and then is not required to work overtime or they work less than the period arranged, they will be eligible to claim a meal allowance for any surplus meals not eaten.

23.3 Travelling and Accommodation

A manager may require an employee to start work at the normal time at a location away from their accustomed workplace.

The employee will be paid travelling time for all time reasonably spent in going to and returning from such a location over and above the time normally spent in travelling to and from their usual workplace. In addition, any reasonable expenses will be paid in excess of those normally incurred in travelling between home and the accustomed workplace.

The rate of pay for travelling time will be ordinary rates except on Saturdays, Sundays and Public Holidays, when it will be double time.

Where an employee is required to travel and stay away from home overnight, Transend will reimburse reasonable accommodation, meals and incidental expenses associated with the travel.

23.4 First Aid Allowance

An employee with up-to-date first aid qualifications appointed to perform first aid duties in any workplace will be paid an allowance as prescribed in Schedule 3 (Allowances to be paid in accordance with the Agreement). This allowance will not apply to employees who are required to hold such qualifications, or similar, as a condition of employment.

23.5 Shift Allowance

An employee who is working shiftwork in accordance with clause 21 (Shiftwork) will receive a shift allowance of 10 per cent of the weekly salary prescribed at the 93.5th percentile of Band 2 of Table of Salaries (Schedule 1), in addition to their normal weekly salary.

If the employee is regularly working on continuous shiftwork, the shift allowance will be incorporated in the employee's salary for all purposes except on the calculation of overtime. In other cases where the shift allowance is paid, the payment will be a temporary addition to salary.

This allowance will not apply if included in the employee's annualised salary.

23.6 Protective Clothing and Uniforms

Protective clothing and uniforms will be provided in accordance with Transend's Corporate Clothing Policy. A copy of the policy can be found on Transend's internal intranet BuzzBar. The policy may be amended or revoked at any time at Transend's sole discretion. This policy does not form part of the terms of this Agreement.

PART 7: HOLIDAYS

24. PAYMENT FOR HOLIDAYS

If an employee is required to work on a holiday, they will be paid at the relevant rates set out in clause 20.3 (Day Workers).

If an employee is not required to work on a holiday, but would ordinarily have attended work that day, they will receive their ordinary base rate of pay for that day. This does not apply to casual employees.

To avoid doubt, if an employee does not ordinarily attend work on any particular holiday (such as a part-time employee who is not rostered to work on that day), they will not be entitled to payment for that holiday, nor will they receive any day off in lieu of that holiday.

Casual employees who are required to work on a holiday, will be paid at the relevant rate set out in clause 20.3 (Day Workers) as applicable. To avoid doubt, casual employees not required to work on a holiday will receive no pay for that day.

An employee on an annualised salary who is required to work on a holiday is not entitled to additional payment where overtime is included in the annualised salary agreement.

25. SUBSTITUTION OF HOLIDAYS BY AGREEMENT

A manager and individual employee/s may agree to the employee/s taking another day in lieu of a holiday.

PART 8: LEAVE

26. ANNUAL LEAVE

26.1 Period of Annual Leave

For the purpose of this Agreement, Annual Leave will not exceed:

- (a) four weeks per year for Day Workers for each 12 month period (or its pro rata equivalent if less than 12 months) of continuous service with Transend.
- (b) five weeks for seven-day Shift Workers who are rostered to work regularly on Sundays and holidays for each twelve months of continuous service with Transend (or its pro rata equivalent if less than 12 months).

Annual Leave is reported and accrued on a pro rata basis and can be taken accordingly.

26.2 Time of taking Annual Leave

An employee is entitled to take Annual Leave during a particular period if:

- (a) the amount of Annual Leave is credited to the employee; and
- (b) the employee's manager has authorised the employee to take the Annual Leave during that period.

Any authorisation given by a manager enabling an employee to take Annual Leave during a particular period is subject to the operational requirements of the workplace in which the employee works.

A manager must not unreasonably:

- (a) refuse to authorise an employee to take an amount of Annual Leave that is credited to the employee; or
- (b) revoke an authorisation enabling an employee to take Annual Leave during a particular period.

An employee must take an amount of Annual Leave during a particular period if:

- (a) the employee is directed to do so by his or her manager; and
- (b) at the time that the direction is given, the employee has Annual Leave credited to him or her of more than the equivalent of 40 days for day workers and 47 days for shift workers.

26.3 Single Day Absences

An employee may elect, with the consent of their manager, to take Annual Leave in single day periods or part of a single day not exceeding a total of nine days in any Leave Year. The time or times will be as agreed between the manager and the employee.

26.4 Annual Leave, Excluding Holidays

The annual leave prescribed will not include any holidays. If a holiday falls within an employee's annual leave period, annual leave will not be deducted for that particular day.

26.5 Continuous Service

In calculating the twelve months continuous service, the following absences will be counted as time worked:

- absence on paid sick leave up to six months;
- long service leave taken in accordance with the *Long Service Leave (State Employees) Act 1994*;
- absence on paid military leave;
- absence on workers' compensation, which has been accepted in accordance with the *Workers' Rehabilitation and Compensation Act 1988* (up to 12 months);
- absence on paid Trade Union Training Leave; and
- absence on paid Annual Leave taken according to this clause.

All other absences are as per Section 22 of the *Fair Work Act 2009* (Cth).

26.6 Day Worker Leave Loading

An Annual Leave Loading of 17.5 per cent will be paid to employees. The maximum loading payable will be the weekly salary for the 97th percentile of Band 2 as stated in Table of Salaries (Schedule 1) as at the period when the leave is taken.

Pro rata Annual Leave Loading will be granted on termination of service to employees who have been employed continuously with Transend for more than 12 months.

26.7 Shift Worker Leave Loading

Continuous and Non Continuous Shift Workers going on annual leave will be paid at the employee's projected Shift Allowance or Annual Leave Loading, whichever is the greater, unless payment is otherwise agreed in an annualised salary arrangement.

26.8 Method of Payment

An employee will be paid their full Annual Leave Loading entitlement following:

- (a) the anniversary date in any year of the employee's employment with Transend; or
- (b) the employee taking ten (10) or more consecutive days Annual Leave.

Annual Leave Loading (including pro rata Annual Leave Loading) will be paid to employees on the termination of their employment.

27. LONG SERVICE LEAVE

The following Long Service Leave provisions should be read in conjunction with the *Long Service Leave (State Employees) Act 1994* (Tas) and any subsequent amendments. If there is any inconsistency between the provisions of the *Long Service Leave (State Employees) Act 1994* (Tas) and the Agreement, the provisions of the Agreement will prevail unless the *Long Service Leave (State Employees) Act 1994* (Tas) provides more favourable conditions, in which case the provisions of the *Long Service Leave (State Employees) Act 1994* (Tas) will prevail.

27.1 Entitlement

An employee employed after 1 July 1995, who has completed at least 10 years of continuous service, will be entitled to 65 working days of Long Service Leave.

After 10 years of continuous service, Long Service Leave will accumulate at the rate of 6.5 days per year of employment, based on a 7.5 hour working day.

27.2 Part-Time Employees

Part-time employees will receive Long Service Leave entitlements proportionate to the hours they work per year.

27.3 Calculation of Long Service Leave

An employee's Long Service Leave balance will be recorded in hours. An employee's Long Service Leave balance will be debited by an amount equal to the number of hours that an employee ordinarily works per day for each day of Long Service Leave taken. An employee's entitlement to rostered days off (if applicable) will continue to apply.

27.4 Continuity of Long Service Leave from other organisations

Prior service with an employer, other than Transend, will not be taken into account in calculating Long Service Leave entitlements unless otherwise clearly stated in the employee's employment contract.

For employees transferred to Transend during the Hydro-Electric Corporation 1998 disaggregation process or the Systems transfer in July 2000 and the Communications transfer in 2008, prior service with the Hydro-Electric Corporation will be taken into account in calculating long service leave entitlements.

28. PERSONAL LEAVE

As set out in clause 28, all Transend employees, other than casual employees, are entitled to take:

- (a) Sick Leave;
- (b) Carer's Leave; and
- (c) Compassionate Leave.

28.1 Sick Leave

28.1.1 Entitlement

Subject to clause 28.1 (Sick Leave) an employee may take paid Sick Leave if the employee is not fit for work because of a personal illness or personal injury.

28.1.2 Notice

The employee must notify his or her manager (or the next most senior person) about taking Sick Leave and the estimated period of Sick Leave, within 30 minutes of the employee's normal starting time, or if this is not possible, as soon as reasonably practicable.

28.1.3 Evidence

An employee absent on Sick Leave for more than three consecutive working days must provide Transend with satisfactory evidence that the Sick Leave is taken because of a personal illness or personal injury.

Transend may ask an employee for satisfactory evidence if the employee is absent for less than three consecutive working days. The employee must provide the evidence on request.

The evidence provided by the employee must be either:

- (a) a Medical Certificate; or
- (b) a Statutory Declaration.

28.1.4 Managing ongoing or extended Sick Leave

An employee's entitlement to paid Sick Leave under this clause is not subject to a fixed limit under this Agreement.

However, Transend is not obliged to provide paid Sick Leave on an indefinite basis.

Transend, and all employees who are entitled to take paid Sick Leave in accordance with clause 28.1 (Sick Leave), agree to comply with their respective obligations set out in Appendix C (Review and Management of Ongoing or Extended Sick Leave).

Where an employee does not comply with his or her obligations Transend may suspend paid Sick Leave in accordance with Appendix C. However, nothing in clause 28.1.4 (Managing ongoing or extended Sick Leave) or in Appendix C is intended to affect an employee's entitlement to paid personal leave in accordance with the *Fair Work Act 2009* (Cth).

28.1.5 Sick Leave and Annual/Long Service Leave

If an employee takes Annual Leave or Long Service Leave and, during that leave, the employee suffers a personal illness or injury that would otherwise have entitled the employee to take at least three consecutive working days of paid Sick Leave, Transend must:

- (a) for Annual Leave, re-credit that period to the Employee's Annual Leave balance; and
- (b) for Long Service Leave, re-credit that period to the Employee's Long Service Leave Balance:

provided the employee gives Transend evidence supporting a Sick Leave entitlement for that period in accordance with clause 28.1.3 (Evidence).

However, the employee must return to work from the period of Annual Leave or Long Service Leave on the return date originally approved by Transend. The employee must not extend the relevant leave by an amount of time equivalent to the Sick Leave entitlement unless Transend approves such an extension in writing.

28.2 Carer's Leave

28.2.1 Entitlement to paid Carer's Leave

An employee is entitled to take paid Carer's Leave, in accordance with this clause, to care for an immediate family member or household member who requires care or support because of:

- (a) a personal illness, or personal injury affecting the immediate family member or household member; or
- (b) an unexpected emergency affecting the immediate family member or household member.

Under the *Fair Work Act 2009* (Cth), an employee who has a positive Statutory Leave Balance for any given year is entitled to use the Statutory Leave Balance (or any part of it) as paid Carer's Leave to meet the employee's actual need for Carer's Leave.

Clause 28.4.4 (Protected residual entitlement to paid Carer's Leave) sets out the employee's entitlement to a residual amount of paid Carer's Leave in some circumstances, where the Statutory Leave Balance is nil.

28.2.2 Unpaid Carer's Leave

An employee who has used all of his or her paid Carer's Leave entitlement under this clause is also entitled to take two (2) days unpaid Carer's Leave on each relevant occasion to care for an immediate family member or household member who requires care or support for the same reasons set out in clause 28.2.1 (Entitlement to Paid Carer's Leave).

Unpaid Carer's Leave may be taken as:

- (a) a single continuous period of up to two (2) days; or
- (b) any separate period (up to a total of 2 days) to which the employee and Transend agree.

An employee must not take paid Sick Leave in lieu of unpaid Carer's Leave.

28.2.3 Notice

The employee must notify his or her manager (or the next most senior person) about taking paid or unpaid Carer's Leave and the estimated period of the leave, within 30 minutes of the Employee's normal starting time, or if this is not possible, as soon as reasonably practicable.

28.2.4 Evidence

If requested by Transend, an employee taking paid or unpaid Carer's Leave must provide satisfactory evidence that the leave is taken for the reasons stated in clause 28.2.1 (Entitlement to Paid Carer's Leave).

The evidence must be either:

- (a) a Medical Certificate; or
- (b) a Statutory Declaration.

28.3 Compassionate Leave

28.3.1 Entitlement

An employee is entitled to a period of three (3) days paid Compassionate Leave for each occasion in the event that the employee's immediate family member or household member:

- (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.

The paid Compassionate Leave for each occasion may be taken as:

- (a) a single continuous three day period; or
- (b) three separate periods of one day each; or
- (c) any separate periods to which the employee and Transend agree.

28.3.2 Discretionary Additional Leave

Transend may (at its complete discretion and subject to meeting any satisfactory evidence requirements under clause 28.3.4 - Evidence) grant paid or unpaid Compassionate Leave for a period exceeding the 3 day entitlement under clause 28.3.1 (Entitlement).

The kind of circumstances in which Transend may exercise this discretion include (for example) where the illness, injury or death as set out in clause 28.3.1 Entitlement occurs overseas and the employee is required to travel overseas to organise family affairs. The extended period of paid Compassionate Leave may be granted by the Manager Human Resources.

28.3.3 Notice

The employee must notify his or her manager (or the next most senior person) about taking Compassionate Leave and the estimated period of the leave, within 30 minutes of the Employee's normal starting time, or if this is not possible, as soon as reasonably practicable.

28.3.4 Evidence

If requested by Transend, an employee taking Compassionate Leave must provide Transend with satisfactory evidence (in the form of a Statutory Declaration) that the leave is taken for the reasons stated in clause 28.3.1 (Entitlement).

28.4 Accrual of Personal Leave under the Fair Work Act

Clause 28.4 (Accrual of Personal Leave under the Fair Work Act) applies in respect of paid Sick Leave and paid Carer's Leave under the *Fair Work Act 2009* (Cth) (in this clause, referred to as "paid personal leave"). It does not apply to Compassionate Leave.

28.4.1 Fair Work Act applies

Nothing in clause 28 (Personal Leave) or Appendix C (Review and Management of Ongoing or Extended Sick Leave) is intended to affect or reduce an employee's entitlement to take progressively accumulated paid personal leave as worked out in accordance with the *Fair Work Act 2009* (Cth).

28.4.2 Calculating the Statutory Balance

To ensure that it complies with the *Fair Work Act 2009* (Cth) in relation to an employee's annual paid personal leave entitlement, Transend will determine the amount of progressively accumulated paid personal leave for an employee for purposes of the *Fair Work Act 2009* (Cth) (the "Statutory Balance") as follows:

- (a) the date from which the progressive accrual of personal leave for an employee will be worked out (the "start date") is the later of:
 - (i) 1 January 2010;
 - (ii) the date that the Employee commences working at Transend.
- (b) an employee's Statutory Balance at the start date is 10 days, (10 days being the amount of paid Personal/Carer's Leave entitlement for each year of service, stated in the *Fair Work Act 2009* (Cth));
- (c) Personal leave taken prior to the start date will not be included;
- (d) The Statutory Balance for an employee will be determined at each successive anniversary of the start date;
- (e) The amount of paid Personal/Carer's leave (i.e. paid Sick Leave and paid Carer's Leave) taken by an employee during the relevant year will be progressively deducted from the Statutory Balance during the year;
- (f) A Statutory Balance may be nil, but not negative;
- (g) The Statutory Balance at each anniversary will progressively accrue to the Statutory Balance for the next year.

28.4.3 Statutory Balance records

Transend must maintain appropriate and current records of an employee's Statutory Balance to ensure that it can:

- (a) determine and provide paid personal leave entitlements in accordance with the *Fair Work Act 2009* (Cth); and
- (b) determine any residual paid Carer's Leave entitlement under clause 28.4.4 (Protected Residual Entitlement to paid Carer's Leave).

28.4.4 Protected residual entitlement to paid Carer's Leave

The purpose of this clause about residual entitlement is to ensure that in any year of service, an employee will always have a minimum entitlement of five (5) days of Carer's Leave, even where the employee's entitlement to Carer's Leave from the Statutory Balance is less than five (5) days because the Statutory Balance has been reduced or exhausted by Sick Leave.

If the employee's Statutory Balance is nil at any time (in each year), the employee will be entitled to take a residual amount of paid Carer's Leave (for that year) under this clause as follows:

Residual entitlement (days) = $5 - L_T$
(where L_T is the number of days of paid Carer's Leave already taken in that year).

If the residual entitlement is nil or negative, then residual entitlement for that year is taken to be nil for that year for the balance of that year.

How this residual entitlement is intended to work is best illustrated by example.

Examples:

(a) Scenario 1:

The employee started a relevant year with a Statutory Balance of 10 days, and has used eight of those days as paid Sick Leave, and two of those days as paid Carer's Leave during the year, so the Statutory Balance is nil.

The residual entitlement is $(5-2) = 3$ days.

Therefore, the employee can, if needed, take a further three days of paid Carer's Leave during the relevant year (bringing the total paid Carer's Leave up to 5 days).

(b) Scenario 2:

The employee started a relevant year with a Statutory Balance of 10 days, and has used eight of those days as paid Carer's Leave, and two of those days as paid Sick Leave during the year, so the Statutory Balance is nil.

The residual entitlement is $5 - 8 = -3$ days.

If the residual entitlement is negative, it is taken to be nil.

The employee has no further entitlement to paid Carer's Leave, but he or she has already taken eight days Carer's Leave in any case from the Statutory Balance (exceeding the minimum five days).

(c) Scenario 3:

The employee started a relevant year with a Statutory Balance of 10 days, and has used two of those days as paid Sick Leave. The Statutory Balance is 8 days.

A residual entitlement does not yet need to be worked out because the employee still has eight days which can be taken as either form of paid personal leave (i.e. Carer's Leave or Sick Leave).

28.5 Special/Community Service Leave

An employee will be entitled to a paid period of leave of absence not exceeding two (2) working days per calendar year if the employee provides evidence to his or her manager's satisfaction that the leave is required as a result of a demonstrated pressing domestic necessity. In special circumstances, an employee's manager may grant an employee leave of absence without pay. Additional entitlements for Community Service Leave will be as per the National Employment Standard.

28.6 Privacy and Use of Information

This applies to any personal information obtained or recorded by Transend in relation to clause 28 (Personal Leave) ("Personal Information").

Subject to clause 28.6 (Privacy and Use of Information), Transend must:

- (a) keep personal information confidential;
- (b) record and manage personal information as "sensitive information" in accordance with applicable privacy laws and Transend's privacy policy;
- (c) only use the information for the purposes set out in clause 28.6 (Privacy and Use of Information) or as otherwise permitted under privacy law or Transend's privacy policy.

However, Transend may release personal information:

- (d) if it has the written consent of the employee to whom the personal information relates;
- (e) if it is required to do so by law or at the lawful direction of any authority established under a law;
- (f) for the purposes of seeking legal advice; or
- (g) if it is reasonably required to do so in connection with legal proceedings.

29. PARENTAL LEAVE

29.1 Application

The provisions of this clause 29 (Parental Leave) apply to full-time and regular part-time employees, but do not apply to casual employees. Subject to the terms of this clause, employees are entitled to Parental Leave and to work part-time in connection with the birth or adoption of a child.

29.2 Basic entitlement

A total of 52 weeks parental leave is available to employees (other than casual employees) after twelve months continuous service with Transend and comprises:

- (a) 40 weeks unpaid Parental Leave; and
- (b) 12 weeks paid Parental Leave,

on a shared basis in relation to the birth or adoption of an employee's child.

Where an employee's spouse is in paid full-time employment and receives an entitlement of less than twelve weeks' paid parental leave, then the employee will be eligible for paid parental leave up to the balance of 12 weeks. This is subject to the employee producing a statutory declaration that:

- (a) the employee's spouse will return to full-time work; and
- (b) the employee will be the primary care giver for the child.

Parental leave is to be available to only one parent at a time, in a single unbroken period. However, both parents may simultaneously take:

- (a) for Parental Leave, an unbroken period of up to three weeks at the time of the birth of the child; and
- (b) for Adoption Leave, an unbroken period of up to three weeks at the time of placement of the child.

Parental Leave is otherwise provided in accordance with the NES.

30. DISPUTE RESOLUTION PROCEDURE

Subject to the provisions of the *Fair Work Act 2009* (Cth) any disputes arising out of the interpretation and/or application of this Agreement will be dealt with according to the procedure set out below.

30.1 General Considerations

- (a) Where a complaint, grievance or claim (collectively 'a dispute') arises, the parties to the dispute will endeavour to promptly settle it at the workplace. The parties to a dispute commit to using every reasonable opportunity to resolve matters between themselves before proceeding to external dispute resolution.
- (b) At all stages in this Dispute Resolution Procedure, an employee(s) may request a union or other representative of their choosing to represent him/her.
- (c) Whilst Transend and the employee(s) are attempting to resolve any dispute under this clause, work will continue as normal, unless the employee has, or any other employee(s) have, a reasonable concern about an imminent risk to their health and safety. Subject to the relevant provisions of the *Workplace Health and Safety Act, 1995* (Tas), the employee shall not unreasonably fail to comply with a direction by their manager to perform other available work that is safe and appropriate for the employee(s) to perform.

30.2 Dispute Process

- (a) In the first instance, the dispute will be referred to the employee's immediate manager who will discuss the dispute issue(s) with the employee(s) concerned.
- (b) If the dispute is not resolved in accordance with sub-clause (a), the matter will be referred to the employee's manager once removed who will convene a meeting with the employee(s) concerned to further discuss and attempt to resolve the dispute. The manager may seek advice from Human Resources in respect to options for resolving the dispute.
- (c) If agreement is not reached after this further discussion, the dispute will be formally referred to the employee's Executive Manager and the Manager Human Resources (or his/her delegate). The Executive Manager and the Manager Human Resources will seek advice from each party in respect to their issues of dispute and will convene a meeting with the parties in an attempt to resolve the dispute within a reasonable time period.
- (d) If the dispute remains unresolved following intervention by the employee's Executive Manager and the Manager Human Resources, the dispute may be submitted by either party to FWA for assistance in resolving the matter.
- (e) FWA shall deal with a dispute by mediation or conciliation.
- (f) If the conciliation process conducted by FWA fails to resolve the dispute, the matter may be referred by either party to FWA for arbitration ("Arbitration Process").

- (g) Without limiting the powers available under the *Fair Work Act 2009* (Cth), FWA may exercise the procedural powers in relation to conferences, hearings, evidence and submissions which are necessary to effectively settle the dispute.
- (h) The parties reserve the normal right to appeal in full any decision delivered through the Arbitration Process. However, any decision of a full bench of FWA on appeal will be final and binding on the parties.
- (i) Each party to this Agreement agrees to bear its own costs in connection with this Dispute Resolution Procedure.

Nothing in this procedure prevents a party from enforcing this Agreement in a court.

31. TRANSFER OF BUSINESS

In the event that Transend is transferred to another employer during the term of this Agreement, it shall be a condition of the transfer that the acquiring employer agrees that this Agreement will continue to apply to any employee who becomes an employee of the acquiring employer until the expiration of this Agreement or twelve (12) months from the agreed transfer date.

Where an employee who at the time of transfer was an existing employee of Transend, then:

- (a) the continuity of the employment of the employee is deemed not to have been broken by reason of such transfer;
- (b) the period of continuous employment which the employee has had with Transend at the time of transfer is deemed to be service with the new employer.

The applicability and coverage of this Agreement in the event of a transfer of business is governed by the Transfer of Business provisions of the *Fair Work Act 2009* (Cth).

Executed as an Agreement

Signatures

SIGNED for and on behalf of

Transend Networks Pty Ltd

in the presence of:

..... *JOHN de GROOT*

Date: *19/09/2013*

) *[Signature]*

Signed for and on behalf of the

EMPLOYEES TO THIS AGREEMENT

in the presence of:

..... *[Signature]*

Date: *19/09/2013*

) *Deborah Lehman*

Full name and address of person signing on behalf of Employees to this Agreement:

..... *John Breen*

..... *118 Balook St.*

..... *Landerdale TAS.*

*Deborah Lehman
16 Firth Road
Lenah Valley TAS*

Explanation of person's authority to sign on behalf of the Employees to this Agreement:

..... *General Manager*

..... *(Employer)*

*Financial Accountant
(employee)*

SCHEDULE 1: TABLE OF SALARIES

The following table details the annual salaries referred to in Part 4 of the Agreement. The salaries are payable in accordance with clause 14.1 (Payment of Salaries).

Classification Band	%	Commencing Salary - April 2011	September 2011 3.5%	September 2012 3.5%
5	115	111544	115448	119489
	100	96994	100389	103903
	85	82445	85331	88318
4	110	90649	93823	97107
	100	82408	85293	88279
	90	74168	76764	79452
3	110	78729	81484	84336
	100	71571	74076	76669
	90	64414	66669	69003
2	110	66773	69110	71529
	100	60702	62827	65026
	90	54632	56545	58524
1	110	56051	58013	60044
	100	50955	52739	54585
	90	45860	47466	49127
1a	110	47838	49514	51247
	100	43489	45012	46588
	90	39141	40511	41930

Classification Band	%	Commencing when application for approval is lodged with FWA - 2% (plus a 0.5% productivity increase)	Commencing September 2014 Salary - 2%,
5	115	122477	124927
	100	106501	108632
	85	90526	92338
4	110	99535	101526
	100	90486	92296
	90	81438	83067
3	110	86445	88174
	100	78586	80158
	90	70728	72143
2	110	73318	74785
	100	66652	67986
	90	59987	61188
1	110	61545	62776
	100	55950	57069
	90	50355	51363
1a	110	52529	53580
	100	47753	48709
	90	42978	43839

SCHEDULE 2: WORK VALUE POINTS

Transend 'classification bands' by work value points are listed below.

Cullen Egan Dell Work Value Points			
Band	Minimum	Midpoint	Maximum
5	336	393	450
4	271	303	335
3	206	238	270
2	156	181	205
1	124	140	155
1a	90	107	123

SCHEDULE 3: ALLOWANCES TO BE PAID IN ACCORDANCE WITH THE AGREEMENT

Clause	Type of Allowance	Amount on signing
21.2	Shift Allowance	\$119.52 (per week)
23.3	Meal – Overtime	\$13.49 (per meal)
23.1	Call Out	\$63.55 (per day)
23.4	First Aid	\$11.38 (per week)

APPENDIX A: ANNUAL SALARY PROGRESSION GUIDELINES

A1. PURPOSE

The annual salary progression guidelines are a tool to assist managers in determining the progression of an employee's salary to the level in the band that reflects their ongoing performance and competency level.

A2. OBJECTIVES

The objective of salary progression is to ensure employees are appropriately positioned within a given salary band in a fair and equitable manner, recognising skills, experience (competence) and performance.

A3. SALARY PROGRESSION GUIDELINES

All salary movements within a salary band will be undertaken in accordance with and progressed through the Performance Planning Process (PPP).

The PPP documentation will align with the role statement and the employee will have achieved the Key Result Areas (KRAs) and demonstrated the required skill level on a continuous basis. Salary progression should not be deemed to be automatic and this needs to be clearly communicated by managers through the PPP.

Progression to the 100th percentile salary position will occur when an individual is performing all the activities identified in their role description and is deemed to be a consistent and competent performer in the role.

Progression above the 100th percentile occurs when an individual has increased their level of competence, experience and skills in the role and where high levels of sustained performance can be demonstrated in addition to that of a consistent competent performer.

When determining if additional activities are appropriate for salary progression above the 100th percentile the Work Level Descriptors are to be used as a guide. In the instance where the scope of the role is changed on a permanent basis, it may be prudent to re-evaluate the role statement.

A4. FURTHER REVIEW

In circumstances where an employee disagrees with the outcome of their annual salary review the employee may request a further review. In this circumstance the following process will occur:

- (a) In the first instance, an employee who disagrees with the endorsed outcome of their annual salary review will discuss their concern(s) with their immediate manager. The employee and his/her immediate manager will discuss the feedback provided during the review process.
- (b) If the employee remains concerned at the outcome of the review, he/she will provide their immediate manager with a written request for a further review and documented reasons supporting that request. The employee should give

consideration to the salary progression guidelines (above) within their reasons.

- (c) The employee's immediate manager will forward the employee's request for further review and documented reasons to the employee's Executive Manager and the Manager Human Resources (or his/her delegate) (collectively, 'the Reviewing Managers'). The employee's immediate manager may also provide their comments in respect to the employee's further review request and reasons.

The Reviewing Managers will consider the further request, reasons and any other relevant documents. The Reviewing Managers will determine either:

- (a) That the original salary review decision shall remain;
- (b) That a new salary review decision shall be made and the reasons for that decision.

An Employee seeking a further review in accordance with this clause may be represented by their union or another representative of their choosing.

APPENDIX B: REDUNDANCY SCHEDULE

REDUNDANCY PROVISIONS - TRANSEND REDUNDANCY AGREEMENT

B1 DEFINITIONS

'Redundancy' means an employment situation arising as a consequence of a surplus in the workforce.

A 'redundant employee' shall mean a person who is employed by Transend on a full-time or part-time basis and whose services will become redundant as a result of a redundancy situation).

B2 PRINCIPLES

Transend will endeavour to avoid or minimise the necessity to make redundant full-time or part-time employees by:

- (a) careful planning of workforce requirements;
- (b) achieving required workforce levels through natural attrition ie. resignations and retirements;
- (c) offering suitable alternative employment with Transend; and
- (d) use of existing Award provisions to cover contingencies.

B3 NOTICE OF REDUNDANCY SITUATION

Transend will advise employees and their unions/associations of changes in workforce requirements, which will cause a redundancy situation, when a definite decision is made and detailed employment implications are determined. As much notice as possible will be given in the circumstances with a minimum period of at least three (3) months.

B4 NOTICE TO EMPLOYEES

An employee deemed to be redundant shall be given six weeks' notice of termination of employment.

B5 DETERMINING REDUNDANT EMPLOYEES

Transend undertakes to avoid termination of employment as a consequence of a redundancy situation wherever possible. Such terminations will only apply where other suitable positions are unavailable in other areas of Transend's operations.

The basis for determining which employees will become redundant will be within specific employee classifications and having regard to skills and experience.

Transend will consider applications for voluntary redundancy but only on a case by case basis. It will be the sole prerogative of Transend to accept such applications or otherwise.

B6 ASSISTANCE TO EMPLOYEES DURING PERIOD OF NOTICE

During the period of notice Transend will make every endeavour to assist redundant employees by:

- (a) Allowing an employee up to four days off without loss of pay during the period of notice for the purpose of seeking other employment; and
- (b) Providing written advice to all employees made redundant under this Agreement of their redundancy entitlements. This advice will be made available to employees prior to the termination date.

B7 SEVERANCE PAYMENTS

Employees who are made redundant in accordance with clause B3 will receive the payments as set out in clause B15.

For the purpose of this section a 'week's pay' is defined as the weekly rate for the classification in which the employee was employed prior to termination, including any permanent allowances which go towards the makeup of their ordinary weekly pay.

An employee who terminates their employment during the period of notice shall be entitled to the same benefits and payments under this clause as if they had remained with Transend until the expiry of such notice. However, in such circumstances, the employee shall not be entitled to payment in lieu of notice.

Eligibility for severance payments under this clause will apply only to redundant employees. The payments will not apply to employees who refuse to transfer in accordance with clause B10, who refuse training or retraining or employees referred to in clause B14.

In addition to the payments prescribed in clause B7, an employee made redundant may also have 'entitlements' for payment under the following 'agreement' provisions and/or Acts:

Accrued Annual Leave and leave loading entitlements
Long Service Leave
Retirement Benefits Act

In the event that an employee dies prior to the proposed termination date, Transend will pay all entitlements under this Agreement directly to that employee's estate.

B8 RELOCATION EXPENSES - REDUNDANT EMPLOYEES

Where an employee who was recruited from outside Tasmania (and removal costs were met by Transend on appointment) becomes compulsorily redundant after up to two years service and elects to move interstate on termination or within three months of termination, Transend will meet the following expenses:

- (a) **Fares**
Cost of first class surface transport or economy class air fares to Melbourne for a single appointee or for a married couple and dependant children under 18 years.
- (b) **Removal Expenses**

Up to \$4,705 (as varied from time to time) including insurance costs to assist with expenses incurred by the removal of furniture, household and personal effects to Melbourne.

In addition, the cost (if any) of the transport of a motor vehicle from Devonport to Melbourne on the Bass Strait ferry.

Subclause B8(a) and B8(b) apply only when Transend is satisfied that the employee has sole responsibility for the removal to Melbourne and that he/she would incur the costs involved.

Under normal circumstances, removals and insurance up to the limits stated above will be arranged by Transend. Transend will not accept responsibility for arrangements made without Transend's agreement.

Employees with more than two years of service may be eligible for payment of a proportion of the above expenses calculated in the accordance with the following scale.

Service	Proportion
Exceeds two years but not more than three years	80%
Exceeds three years but not more than four years	60%
Exceeds four years but more than five years	40%
Up to five years	20%

B9 TRAINING AND RE-TRAINING

Where practicable, employees made redundant in accordance with clause B1 will be trained or re-trained to fill positions which are vacant or are about to become vacant. Transend will meet costs of training or re-training.

B10 TRANSFER TO ALTERNATIVE POSITIONS

In a redundancy situation an employee shall accept a transfer to alternative positions within their employment category that may be available provided that the employee concerned shall be given the opportunity to discuss the arrangement with management prior to a decision being taken to make such transfer.

An employee who refuses such transfer without reasonable cause shall forfeit their rights under the Agreement.

Where an employee has been transferred to an alternative position the transfer shall be subject to a three month trial period without prejudice to Redundancy Benefits.

In the event that Transend is not satisfied that the employee is capable of performing the duties of the alternative position or if the employee can demonstrate to Transend's satisfaction that they are not suited to the position, their employment will be terminated and the employee shall be entitled to compensation as provided under this Agreement. The severance payments will be made at the rate of pay applicable immediately prior to their transfer to the alternative position.

Where an employee is transferred to a position of a higher classification they shall be paid a salary appropriate to that classification upon taking up that position. Where an employee is redeployed to an alternative position of a lower classification,

they shall receive salary maintenance (including remuneration increases in accordance with this Agreement) for a period of 12 months.

At the expiration of the salary maintenance period the employee will be paid a salary appropriate to the classification of the redeployed position.

B11 TRANSFERS TO ALTERNATIVE LOCATIONS

In circumstances where an employee in a redundancy situation is offered alternative employment by Transend which necessitates moving to another location, Transend will meet expenses in accordance with the relocation assistance policy.

B12 TRANSFER OF BUSINESS AND ACCEPTABLE ALTERNATIVE EMPLOYMENT EXEMPTION

Despite all other provisions in the Agreement, an employee is not entitled to any severance benefits where:

- (a) The employment of the employee is to be transferred to a new employer as a result of a transfer of business, and the employee's prior service with Transend is recognised; or
- (b) Transend arranges acceptable alternative employment for the employee.

For the purpose of subclause B12(b), 'acceptable alternative employment' means an offer of employment on terms and conditions (viewed as a whole) which are no less favourable than the terms and conditions which applied to the employee's previous job with Transend and where the employee's service with Transend is recognised for the purposes of accrued entitlements.

To avoid any doubt, this clause applies where an employee's employment with Transend is to be transferred to a company as a result of the operation of the *Electricity Companies Act (Tas) 1997*.

B13 UNDERTAKING BY UNION AND MEMBERS

The unions and employees undertake to ensure that:

- (a) Work continues as normal during the period of notice, as specified clause B3;
- (b) Overtime may be worked to avoid replacement of employees voluntarily leaving Transend during that notice period; and
- (c) Transend's rights to maintain workforce levels during the notice period are accepted.

B14 EXCLUSIONS

This Transend Redundancy Agreement will not apply to employees who:

- (a) retire;
- (b) retire due to ill health;
- (c) elect to retire early for personal reasons;
- (d) are terminated as a consequence of conduct that justifies dismissal; or
- (e) are employed on a casual basis.

B15 REDUNDANCY SCHEDULE OF PAYMENTS

Completed of Service	Years	Total Payment	Weeks of
1		6	
2		8	
3		11	
4		14	
5		16	
6		18	
7		21	
8		24	
9		27	
10		30	
11		33	
12		36	
13		39	
14		42	
15		45	
16		48	
17		51	
18		54	
19		57	
20		60	
21		63	
22		66	
23		69	
24		72	
25		75	
26		78	
27		81	
28		84	
29		87	
30		90	
31		93	
32		96	
33		99	
34		102	
35		105	
36		108	
37		111	
38		114	
39		117	
40		120	
41		123 (uncapped)	

Notes: In addition to the above scale of payment, the method of calculating total entitlements will take into account each completed calendar month of service in excess of the relevant completed years of service.

APPENDIX C: REVIEW AND MANAGEMENT OF ONGOING OR EXTENDED SICK LEAVE

C1 ASSESSMENT PROCESS

C1.1 When an initial review can be sought

If an employee takes more than 30 days sick leave in any 12 month period (whether the leave is taken as consecutive working days, or taken from time to time during the period), Transend may (acting reasonably) ask the employee to meet with their manager to discuss a range of issues. These include:

- (a) the employee's capacity to perform the inherent requirements of his or her current role;
- (b) the estimated duration of any assessed incapacity;
- (c) the requirement to participate in a medical assessment(s) if any additional sick leave days are taken within the 12 month period.

An employee may request a union or other representative of their choosing to attend the review and management of ongoing or extended sick leave meeting(s).

In this clause, an "Assessment" means a medical review of the employee's health and well being resulting in an opinion being formed by the medical practitioner of the capacity of the employee to perform the inherent requirements of their current employment position.

The medical practitioner will provide Transend with a summary medical statement as to whether the employee (in their opinion):

- (a) has an ongoing permanent incapacity which will prevent them from returning to work;
- (b) has a partial incapacity that prevents them from undertaking the inherent requirements of their current role, and details what work activities can be undertaken;
- (c) is able to fulfil the inherent requirements of the position and return to work unassisted; or
- (d) is able to fulfil the inherent requirements of the position but needs to participate in a return to work program.

Transend will bear the cost of any assessment requested under this clause.

C1.2 Employee obligations

The employee must comply with his or her obligations about managing sick leave as set out in this Appendix.

If the employee does not do so, Transend may give the employee a written notice stating:

- (a) the obligation(s) that the employee has failed to comply with; and
- (b) that the employee's entitlement under this Agreement to paid sick leave is suspended on the date stated in the notice.

Transend must resume paying any sick leave entitlement under this clause where the employee:

- (a) provides a reasonable explanation for the failure to comply; or
- (b) complies with the relevant obligation.

However, this clause does not affect the employee's ongoing entitlement to take paid personal leave in accordance with the *Fair Work Act 2009* (Cth), where the employee has a positive Statutory Balance (see clause 28.4.3 of the Agreement), providing that the employee complies with the notice and evidence requirements in clause 28.1.3 (Evidence).

C1.3 Who can make the assessment

The employee may use his or her nominated medical practitioner for the assessment. Transend may request a second opinion from a medical practitioner who is appropriately qualified to undertake a further assessment (for example, a specialist in occupational medicine, or a specialist in a field that is relevant to the employee's incapacity). In consultation with the employee, Transend will nominate the medical practitioner to undertake any further assessment requested.

C1.4 Further assessments

Transend may request that the employee participate in further assessments, where the further assessment:

- (a) is required by Transend for the purpose of obtaining another opinion from a different medical practitioner, or otherwise arises from the same general circumstances as the earlier assessment (for example, where the assessment is a reasonable follow up to an earlier one, or to assess whether an incapacity is, or has become, permanent rather than temporary); and
- (b) is requested not less than 12 weeks after the earlier assessment has been provided.

If there is a material conflict between assessments provided by different medical practitioners and the conflict cannot be reconciled within a reasonable time, Transend may rely on the assessment(s) provided by its preferred medical practitioner in making decisions about the employee under this clause.

C1.5 Compliance with assessment requests

The employee must:

- (a) comply with a request for an assessment made in accordance with this clause as soon as reasonably practicable after the request is made;
- (b) authorise the medical practitioner(s) to provide a copy of the assessment to Transend in written form;
- (c) authorise those medical practitioners providing assessment(s) to communicate with each other in order to:
 - (i) obtain information relevant to each assessment;
 - (ii) discuss conflicting assessments and explain or reconcile them (as far as it is reasonably practicable to do so); and

- (iii) authorise a medical practitioner providing an assessment to communicate directly with Transend about the assessment where reasonably requested by Transend (for example, where Transend is seeking clarification of matters set out in an assessment).

Transend must:

- (a) provide additional information reasonably requested by the employee (for example, a Role Statement) where the information is needed to assist the medical practitioner to undertake the assessment; and
- (b) notify the employee if there is any material conflict between assessments, or if Transend requires further information from a medical practitioner about that practitioner's assessment.

C2 ASSESSMENT OUTCOMES

C2.1 How assessments will be used

Transend will use assessment(s) provided under this clause to determine appropriate options for the employee as follows:

(a) Full capacity and return to work

If the assessment states that the employee has full capacity to perform the inherent requirements of his or her current role, then Transend must give the employee a written notice stating that:

- (i) the employee must return to work in their current role on and from the date stated in the notice (resumption date); and
- (ii) the employee's entitlement under this agreement to paid sick leave ceases on the resumption date, subject to further accrual in accordance with this Agreement.

The employee must comply with the notice.

However, this clause does not affect the employee's ongoing entitlement to take paid personal leave in accordance with the *Fair Work Act 2009* (Cth), where the employee has a positive Statutory Balance (clause 28.4.3), providing that the employee complies with the notice and evidence requirements in 28.1.3 (Evidence).

(b) Affected capacity and return to work programs

Appendix C applies if the assessment states that:

- (i) the employee has a temporary incapacity in relation to performing the inherent requirements of his or her current role; or
- (ii) the employee has a permanent incapacity in relation to performing the inherent requirements of his or her current role and Transend offers the employee an alternative or modified role under Appendix C2.1(c) (i).

Transend must develop a reasonable return to work program for the employee.

A return to work program may include:

- (i) regular meetings between Transend and the employee about the employee's return to work;
- (ii) the employee's participation (at the employee's cost) in specific therapy and rehabilitation programs worked out in consultation with appropriate medical practitioners and/or authorised rehabilitation providers;
- (iii) temporary modification to the employee's ordinary duties, hours of work or physical working environment; or
- (iv) further assessments under this clause.

In developing the program, Transend must consult with:

- (i) the employee; and
- (ii) the medical practitioner who provided the assessment(s), or an accredited rehabilitation provider or both, to the extent necessary.

The employee must:

- (i) authorise the medical practitioner, or the accredited rehabilitation provider (or both) to provide information about the employee to Transend, to the extent that the information is necessary for the development of the program;
- (ii) participate in the development of the program; and
- (iii) comply with the program developed in accordance with this clause.

The employee must notify Transend as soon as practicable if he or she is unable to comply with any aspect of the program. Transend and the employee must use reasonable endeavours to determine any changes to the program necessary to meet the employee's reasonable requirements about the program.

In relation to a temporary incapacity, if a return to work program specifies that the employee must work reduced hours, or must only perform specified duties for a stated period:

- (i) the employee must not work in excess of those hours or duties for that period (for example, the employee must not seek to work overtime or on-call during that period);
- (ii) Transend must pay the employee at the rate of the employee's base salary for the employee's usual role, until the date that the employee resumes full duties and/or hours in the employee's usual role or the expiry of 12 week from the date that the employee first returns to work.

(c) Permanent incapacity

(i) Alternative or modified role offered

If the assessment states that the employee has a permanent incapacity in relation to performing the inherent requirements of his or her current role, Transend must consult with the employee and use all reasonable endeavours to:

- offer a reasonable alternative role to the employee; or

- appropriately and reasonably modify the employee's current role.

In satisfying its obligations under this clause, Transend must take into account:

- the needs of the employee, having regard to the nature of the employee's permanent incapacity;
- the assessments obtained under this clause that deal with the permanent incapacity;
- relevant information provided by the medical practitioner or an accredited rehabilitation provider;
- the employee's likely employment category, on the basis that the employee is affected by the permanent incapacity;
- the employee's experience, skill and competency, on the basis that the employee is affected by the permanent incapacity; and
- Transend's reasonable business requirements, including the likely availability of suitable alternative roles and whether there are appropriate opportunities for retraining the employee.

If Transend offers the employee an alternative role or a modified version of the employee's current role, and the employee accepts the offer:

- Transend and the employee must participate in the development of a return to work program as set out in clause C2.1(b) of this Appendix; and
- Transend must provide salary maintenance at the base salary (or a proportion of the base salary that is worked out based on the proposed hours of work under the alternative or modified role) for a maximum period of 12 months from when the employee commences the alternative or modified role.

(ii) No alternative or modified role can be offered

If:

- Transend is unable to offer the employee an alternative role or a modified version of the employee's current role; or
- the employee declines an offer made by Transend in accordance with Appendix clauses C2.1(b) and C2.1(c)(i),

Transend may terminate the employee's employment because of the permanent incapacity, provided that it complies with the obligations set out in this clause.

These obligations include

- **Notice** – Transend must give the employee notice of termination that is the period (measured in working days) that corresponds to the employee's Statutory Balance; or a minimum of 12 weeks (whichever is greater).
- **Continued pay** – Where notice is given under (i), Transend must continue the employee's paid sick leave entitlement until the termination date.

- **Transitional assistance** – Transend must consult with the employee and provide reasonable transitional support during the Notice Period. Transend may, at its discretion, include Transend-funded counselling and job-search or retraining assistance to a total value of \$2,000 as part of that support. However the employee is not entitled to take such an amount as payment in lieu.
- **Employee representative** – Transend must allow a support person nominated by the employee to attend any meetings between Transend and the employee about the transitional arrangements for the employee's termination. The support person may be the employee's union representative.

Transend must comply with a request from the employee for an agreed termination date that is earlier than the expiry of the notice period. Transend must provide pay in lieu of the balance of the notice period, on and from the agreed termination date. The amount paid to the employee on the agreed termination date must correspond to the amount of the employee's entitlement for the balance of the notice period.

APPENDIX D: FLEXTIME CONDITIONS

D1. OBJECTIVE

Flexitime provides freedom for employees to manage their normal working hours within the constraints of ensuring Transend is able to operate effectively.

D1.1 Application

Flexitime provisions apply to employees who:

- (a) nominally work a 7.5 hour day / 10 day fortnight;
- (b) are remunerated in Bands 1a to 5 of the classification and remuneration structure; and
- (c) do not work in a position requiring set hours, such as shift workers or reception staff.

D1.2 Principles

The principles of flexitime are:

- (a) cooperation;
- (b) honesty; and
- (c) effective management.

D2. DISCUSSION

Transend supports and encourages all employees to maintain a healthy work/life balance. Transend recognises the need to monitor hours of work, primarily for occupational health and safety purposes and to meet its duty of care obligations.

While monitoring working hours is important, Transend does not have a 'clock on/clock off' culture and expects employees and managers to manage working hours in an even-handed way. When filling out time sheets, employees should be mindful of 'free' time during the hours at work and flexitime should be adjusted accordingly. Achievement against goals is usually a more effective performance indicator than time spent at work.

Transend's Enterprise Agreement defines standard working hours of 37.5 hours per week worked Monday to Friday between the spread of hours of 7.00 am to 6.00 pm.

The majority of employees do not have standard working hours (for example, commencing work at 8.45 am and finishing work at 5.15 pm, five days per week) and arrange their time at work in consultation with their line manager and workgroup and to meet business and personal needs.

In consultation with line managers, flexitime provides employees, with the flexibility to better manage work and family/lifestyle commitments taking into consideration:

- (a) occupational health and safety requirements (the impact of long hours, fatigue, ensuring appropriate meal breaks); and
- (b) organisation and workgroup needs (particularly in team situations where working arrangements should be agreed and employees should be available for meetings).

Flexitime is based on an eight-week cycle over which an employee should work 300 hours (8 weeks x 37.50 hours). The focus of flexitime is how and when those 300 hours will be worked.

By providing employees with greater freedom to organise their work Transend expects employees will enjoy increased job satisfaction, leading to increased productivity.

D3. FLEXTIME DEFINITIONS

- (a) **Carry-Over** – is the amount of accumulated flexitime credit or flexitime debit at the end of the settlement period that is carried over to the next settlement period. These hours then become part of the hours for the next settlement period.
- (b) **Flexitime Credit** – is the time worked in any one day in excess of 7.5 hours, with flexitime credits accumulating daily to a maximum of 37.5 hours at the completion of any settlement period.
- (c) **Flexitime Debit** – is the time worked in any day less than 7.5 hours. Flexitime debits accumulate daily to a maximum of 7.5 hours at the completion of any settlement period.
- (d) **Settlement Period** – is the eight-week period in which calculations are made to compare the flexible hours worked with standard hours worked for the same period. Carry-over credits or debits are calculated from this information.
- (e) **Sign-Off Period** – is a two-week period at the close of the eight-weeks where the line manager and employee discuss workload, work/life balance and flexitime. Both the line manager and employee should sign-off on this agreement.
- (f) **Spread of Hours** – is the period in which Transend can set employees normal working hours. It is also the period in which flexitime would ordinarily be accrued or debited.

Employees required to work outside the spread would normally be entitled to overtime payments, in accordance with overtime provisions, unless otherwise agreed with their line manager.

Overtime can be accumulated within the spread of hours, subject to overtime clause provisions.

- (g) **Ordinary Hours** – are the total normal working hours of 37.5 hours per week.
- (h) **Timesheet** – the approved form, as nominated by Transend to capture hours of work, including flexitime.

D4. FLEXTIME PROCESS

The settlement period is a consistent eight-week cycle across the organisation. At the commencement of any settlement period the employee will carry-over the

balance from the previous period, or for new employees, commence with a balance of zero.

Employees are required to complete a timesheet weekly. It is recommended that this timesheet be completed on a daily basis.

Managers may decide to meet and discuss alternative work options with an employee who has accrued 15 hours of flextime. The manager will consider business needs and the employee's work/life balance and may advise the employee:

- (a) to continue to accrue flextime leave (up to 37.5 hours); or
- (b) review and reprioritise the employee's workload; or
- (c) engage additional employee or contractor support; or
- (d) direct the employee that the payment of overtime is more appropriate than the continuation of accumulating flextime.

The maximum approved flextime leave credit to be accrued in an eight week cycle is 37.5 hours. Any flextime leave accrued above 37.5 hours will be forfeited.

An employee working flextime must be present at work (unless on approved leave) during times specified by his or her manager within the normal spread of hours.

An employee must take a break of at least 30 minutes after no more than five (5) hours continuous work.

D5. TAKING FLEXTIME

Absences from work on flextime leave of half a day (3.75 hours) or more require pre-approval by the manager and the completion of a leave request consistent with other leave applications.

In taking flextime leave of half a day or more the following principles apply:

- (a) sufficient flextime credits has been accrued at the commencement of leave;
- (b) prior approval is obtained from the line manager; and
- (c) employees in teamwork situations consult and cooperate with fellow workers and management at all times.

Every effort should be made to arrange planned appointments for doctors, dentists, etc., outside the employees' normal hours of work. Should a planned appointment be made during normal working hours the employee may debit their flextime. Flextime credits may be used in combination with annual leave to reduce the flextime leave balance. Further, a manager may direct an employee to take flextime leave when the flextime leave balance is in-excess of 15 hours of accrued leave.

The flextime provisions in no way limit an employee's entitlement to overtime consistent with the provisions as defined in the Transend Enterprise Agreement, clause 20 (Overtime). However, overtime hours are not counted towards the 75.0 ordinary hours worked in a fortnight period unless in circumstances as agreed in accordance clause 17.9 (Method of Arranging Ordinary Working Hours) and clause 18 (Individual Flexibility Arrangements).

Flexitime leave requests are to be authorised by the line manager and forwarded to payroll.

(a) Excess credits

The maximum flexitime credit is 37.5 per eight-week cycle and credits in excess of 37.5 hours will be forfeited.

(b) Reporting

Human Resources will compile a report to the Executive Management Team at the completion of each eight-week period covering items such as:

- (i) outstanding employee/manager workload discussions; and
- (ii) flexitime leave credits of 15 hours and above.

(c) Taking Flexitime Leave

Flexitime leave should be taken in the spirit in which it is accumulated – in consultation with line managers and employees and with regard to normal working hours and workplace requirements. Absences from work on flexitime leave of half a day (3.75 hours) or more require approval by the line manager and completion of a leave form consistent with other leave applications.

In taking flexitime leave of half a day or more the following principles apply:

- (i) sufficient flexitime credits exists at the commencement of leave;
- (ii) prior approval is obtained from the line manager; and
- (iii) employees in teamwork situations consult and cooperate with fellow workers and management at all times.

(d) Leave to visit a medical practitioner and return to work

Every effort should be made to arrange planned appointments for doctors, dentists, etc., outside the employees' normal hours of work. Should a planned appointment be made during normal working hours the employee may debit flexitime.

However, Transend recognises that some employees require regular visits to medical practitioners for diagnosis, treatment or rehabilitation of serious ongoing illness or disabilities. In this situation when employees need repeated visits to medical practitioners, sick leave applications may be opened.

These absences appear as sick leave on the time sheet and a schedule of the absences is maintained and attached to the leave application. Absences are totalled and the sick leave application processed to debit sick leave balances to the nearest half-day.

(e) Leave for short periods to attend to personal affairs

In the first instance flexitime credits should be used for this type of leave. After that annual leave can be used. In both instances, leave must be approved by the manager and forwarded to Payroll.

(f) Annual Leave

Flexitime credits may be used in combination with annual leave to reduce the flexitime balance.

D6. TRAVELLING TIME

Travelling time whilst on duty (away from main office) between 7.00 am and 6.00 pm can be counted as flextime hours. Under no circumstances can an employee accrue flextime and receive payment for travelling time for the same period.

D7. OVERTIME

The introduction of the revised flextime provisions in no way limits an employee's entitlement to overtime consistent with the provisions as defined in the Transend Enterprise Agreement. However, overtime hours are not counted towards the 75.0 hours in a fortnight.

D8. MANAGEMENT RESPONSIBILITIES

Responsible management is the key ingredient to the success of a flexible hours scheme. Line managers should ensure:

- (a) there is regular discussion with employees on workload and working hours;
- (b) employer duty of care responsibilities are met with regard reasonable working hours for their staff;
- (c) there are adequate staffing levels for a productive workplace;
- (d) there are adequate staffing levels to meet customer service demands;
- (e) staff are allowed a degree of freedom in selecting their own working hours;
- (f) Timesheets are satisfactorily prepared and checked, and that all absences are accounted for;
- (g) employees attempt not to exceed maximum hours during each settlement period – on an ongoing basis; and
- (h) there is enough flextime credit to grant standard hours leave.

Managers should allow staff maximum flexibility wherever possible. However, it will not always be possible to allow staff maximum freedom in taking flextime leave. In granting flexibility to employees and allowing them to set their own working hours the priority of getting work completed must always be the first consideration.

D9. EMPLOYEE RESPONSIBILITIES

Employee responsibilities are:

- (a) to ensure workload and working hours issues are raised with their line manger;
- (b) not to endanger their health and wellbeing by working excessive hours without appropriate breaks;
- (c) to monitor working hours and complete the nominated Transend timesheet;
- (d) to seek Manager approval prior to taking flextime leave of 3.75 hours or more; and
- (e) to complete leave forms where appropriate.

D10. REFERENCES

The Enterprise Agreement and in particular:

- (a) Clause 17.8 (Hours of Work);
- (b) Clause 20 (Overtime);
- (c) Clause 23.3 (Travelling and Accommodation); and

D11. EXAMPLE ON FLEXTIME PROCESS

- (a) Settlement period covers the period 1 September 2011 to 24 October 2011.
- (b) The Human Resources group provides a report to line managers by 7 November 2011 listing hours worked by employees.
- (c) Line managers either phone or have face-to-face discussions with each of their employees.
- (d) The discussions with each employee would include:
 - (i) workload during last period;
 - (ii) workload for future period;
 - (iii) the number of hours worked;
 - (iv) whether or not a flextime balance was outstanding and how this would be managed; and
 - (v) why the flextime hours were worked and what issues there might be for the employee.
- (e) The line manager and the employee agree on what action is to be taken in relation to flextime.
- (f) Line managers advise the Human Resources group of the outcomes of the flextime discussions with their staff.

