



# **KOMATSU AUSTRALIA PTY LTD**

## **WOLLONGONG SERVICE DEPARTMENT ENTERPRISE AGREEMENT 2025**

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**1.1 Title**

This Agreement shall be known as the “Komatsu Australia Wollongong Service Department Enterprise Agreement 2025” (“the Agreement”).

**1.2 Application and Parties Bound**

**1.2.1** This Agreement shall cover and apply to:

- (a) Komatsu Australia Pty Ltd (ABN 63 053 514 739) (“the Company”);
- (b) Employees of the Company who work from or report to the Company’s Wollongong Branch, and who perform work within the classification structure of this Agreement and within the classifications of the Manufacturing and Associated Industries and Occupations Award 2020; and
- (c) The Australian Workers Union (AWU) – NSW Branch.

**1.3 Period of Operation**

This Agreement shall take effect seven (7) days after it is approved by the Fair Work Commission and shall remain in effect until its nominal expiry date 30 June 2027. This Agreement shall continue to operate after its nominal expiry date until terminated or replaced.

**1.4 Relationship between The National Employment Standards and This Agreement**

This Agreement will be read and interpreted in conjunction with the National Employment Standards (“NES”). Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

**1.5 Incorporated Award Terms**

- 1.5.1** This Agreement incorporates the terms of the *Manufacturing and Associated Industries and Occupations Award 2020* (the “Award”), as varied from time to time.
- 1.5.2** Where there is any inconsistency between a term in this Agreement and a term in the Award, the term in this Agreement shall take precedence to the extent of the inconsistency.
- 1.5.3** In incorporating Award terms into this Agreement they are to be read as altered to incorporate necessary changes resulting from them being provisions of an Agreement rather than provisions of an Award. For example, the words “this Award” would become “this Agreement”.

## 1.6 No Extra Claims

The parties bound by this Agreement acknowledge that it settles all claims in relation to the terms and conditions of employment of the employees covered by it and agree that they will not pursue any extra claims during the term of this Agreement.

## 1.7 Definitions

For the purposes of this Agreement:

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

**Agreement** means Komatsu Australia Wollongong Service Department Enterprise Agreement 2025

**Company** means Komatsu Australia Pty Ltd (ABN 63 053 514 739).

**Employee** unless otherwise stated, means all personnel directly employed by the Company in the classifications covered by this Agreement within the sites bound in accordance with clause 1.2.

**Field Service** means a technician whose primary duties are carried out away from a Company Branch.

**NES** means the National Employment Standards (NES) which took effect under the Act from 1 January 2010.

**Overtime Work.** Means any work performed outside of an Employee's ordinary hours on any day or shift.

**Site** means any premises, location and establishment of the Company and any other site where the Company is contracted to carry out work.

**Superannuation Guarantee Legislation** includes the *Superannuation Guarantee (Administration) Act 1992 (Cth)* and the *Superannuation Guarantee Charge Act 1992 (Cth)*, as in force and amended from time to time.

**Shiftwork** means work carried on outside the normal scope of hours e.g: a roster outside the hours of Monday to Friday 6:00am to 6:00pm.

**Union** means the Australian Workers Union (AWU) – NSW Branch.

## **PART 2 – CONTRACT OF EMPLOYMENT**

### **2.1 Types of Employment**

Employment will be offered to Employees on a full time, part time or casual basis.

#### **2.1.1 Full Time Employment**

All Employees not specifically engaged as a Casual or Part-time Employees shall be employed as a Full-time Employee.

#### **2.1.2 Part Time Employment**

Part time Employees may be engaged by the week to regularly work less hours than a full time Employee and all entitlements to paid leave shall accrue on a pro-rata basis. The terms of the incorporated Award shall apply for the purpose of arranging part time hours.

A Part-time Employee must be engaged for a minimum of three (3) consecutive hours a shift.

#### **2.1.2 Casual Employment**

Casual Employees may be employed at any time and the length of service may vary, provided that on each occasion a Casual Employee is required to attend work, the Casual Employee must be paid for a minimum of four (4) hours work. In order to meet their personal circumstances, a Casual Employee may request and the Company may agree to an engagement for less than the minimum of four (4) hours, but not less than three (3) hours.

Casual Employees may be terminated with 1 hours' notice of termination on either Party or payment in lieu.

Employees engaged as Casual Employees will be paid a 25% "Casual Loading" on top of the applicable rate for their classification. Casual Employees shall have no entitlement to any paid leave or severance benefits contained in this Agreement.

#### **2.1.3 Apprentices**

The terms of this Agreement will apply to Apprentices employed directly by the Company (but not to those employed by a labour hire provider), including Adult Apprentices.

Apprentices may be engaged in trades or occupations provided for in this clause where declared or recognised by an Apprenticeship Authority.

## **2.2 Probationary Period**

- (a) There shall be a probationary period of six (6) months from date of employment for all new Employees.
- (b) Should a Casual Employee be offered a full time, permanent position, the casual period already worked may be taken as part of the probation period up to a maximum of three (3) months at the discretion of the Supervisor or Manager (or their Representative).
- (c) During the probationary period, the Employee may be dismissed with one (1) weeks' notice, provided that the following conditions have been met prior to the termination:
  - (i) The Company had explained to the Employee its concerns with the Employee's performance and / or conduct; and
  - (ii) The Company had given the Employee an opportunity to improve their performance and / or conduct.

## **2.3 Work Location**

As there may be a need to provide labour to other Company branches via temporary secondments, Employees may be requested to work at other Company sites for an agreed duration for no longer than six (6) months, provided that an Employee may refuse a request to work at other Company sites.

Employees will continue to be paid at their current levels in accordance with this Agreement and this Agreement will continue to apply to their employment.

In addition, the Company will arrange and be responsible for the transportation and accommodation for Employees. Employees will be compensated in accordance with Clause 4.5.1 Meal Allowance or by the payment of the Living Away from Home Allowance in accordance with Clause 4.5.3.

## **2.4 Employee Duties**

- 2.4.1** The Company may direct an Employee to carry out such duties as are within the limits of the Employee's skill, competence and training consistent with the classification structure of this Agreement, provided that such duties are not designed to promote de-skilling.
- 2.4.2** The Company may direct an Employee to carry out such duties and use such tools and equipment as may be required provided that the Employee has been properly trained in the use of such tools and equipment.

- 2.4.3** Any direction issued by the Company pursuant to this clause shall be consistent with the Company's responsibilities to provide a safe and healthy working environment.

## **2.5 Termination of Employment**

### **2.5.1 Company Giving Notice**

- (a) The Company shall give notice (or payment in lieu) in accordance with the following table when terminating a full time or part time Employee:

<b>Period of Continuous Service</b>	<b>Notice</b>
Less than 1 year	1 week
More than 1 year, less than 3 years	2 weeks
More than 3 years, less than 5 years	3 weeks
More than 5 years	4 weeks

- (b) Employees over 45 years old with not less than 2 years continuous service at the time of giving notice shall be entitled to an additional one (1) weeks' notice.
- (c) When calculating payment in lieu of notice the Employee shall be paid all amounts the Employee would have received if their employment had continued until the end of the required notice period worked out on the basis of the Employee's ordinary hours of work (even if they are not standard hours) and the amounts ordinarily payable to the Employee in respect of those hours, including allowances, loadings and penalties.
- (d) The Company reserves the right to dismiss any Employee without notice for any act of serious misconduct or other behaviour that would warrant this action.

### **2.5.2 Employee Giving Notice**

- (a) An Employee terminating their employment of their own accord will be required to provide the Company with the same notice period as specified in sub-clause 2.5.1(a), or less by mutual agreement with the relevant Supervisor or Manager (or their representative). Notwithstanding this clause, Employees over 45 years of age with two or more years of continuous service are not required to provide any additional notice.

### **2.5.3 Redundancy**

- (a) Redundancy occurs when the Company decides that it no longer wishes the job the Employee has been doing to be done by anyone

and this is not due to the ordinary and customary turnover of labour; or, if an Employee's employment is terminated because of the insolvency or bankruptcy of the Company.

- (b) The Company shall hold discussions as soon as practical with the directly affected Employees and their chosen Representative (if requested by one or more of the Employees affected) about the decision for redundancy. The discussions will cover reason/s for termination, measures to avoid or minimise the terminations, and measures to mitigate the adverse effects of the termination on the Employees.
- (c) The Company will investigate the possibility of transferring affected Employees to other Branches and will discuss these possibilities with the Employees. An Employee who accepts a transfer will not break continuity of service or accumulated entitlements.
- (d) An Employee whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

Period of Continuous Service	Severance Pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

- (e) For the purposes of severance pay, "weeks' pay" will mean the Employee's ordinary weekly rate of pay but excluding any entitlement to Superannuation.
- (f) Redundancy will be based on merit and not on the principal of last on first off. A matrix of skills, classification, qualifications and performance review will be used to determine Employees to receive redundancy.
- (g) Employees made redundant will be entitled to Leave Loading, Annual Leave and Long Service Leave accrued entitlements.
- (h) This clause shall not apply where employment is terminated as a consequence of misconduct that justifies summary dismissal, including malingering, inefficiency or neglect of duty, or in the case



of Casual Employees, Apprentices or Employees engaged for a specific period of time or for a specified task or tasks for a period of less than twelve (12) months.

- (i) An Employee is not entitled to redundancy or severance pay under this Agreement or the NES if:
  - (i) the Employee rejects an offer of employment made by another Employer that is on terms and conditions substantially similar to and considered on an overall basis, no less favourable than the Employee's terms and conditions of employment with the Company; and, which recognises the Employee's service with the Company for the purposes of severance pay; and
  - (ii) had the Employee accepted the offer, there would have been a transfer of employment in relation to that Employee within the meaning of the Act.

#### **2.5.4 Transfer of Business**

- (a) Where a business is before or after the date of this Agreement, transferred from an Employer (in this sub-clause called "the Old Employer") to another Employer (in this sub-clause called "the New Employer") and an Employee who at the time of such transfer was an Employee of the Old Employer in that business becomes an Employee of the New Employer:
  - (i) the continuity of the employment of the Employee shall be deemed not to have been broken by reason of such transfer; and
  - (ii) the period of employment which the Employee has had with the Old Employer shall be deemed to be service of the Employee with the New Employer.
- (b) In this sub-clause "business" includes trade, process, business or occupation and includes part of any such business and "transfer" includes transfer, transmission, conveyance, assignment or succession whether by agreement or by operation of law and "transferred" has a corresponding meaning.

#### **2.5.5 Statement of Service**

The Company will, on receipt of a request from an Employee whose employment has been terminated, provide to the Employee a written

statement specifying the period of employment and the classification of the type of work performed by the Employee.

## **2.6 Health, Safety & Environment (HSE)**

- 2.6.1** Employees are required to report all workplace HSE incidents as soon as practicable after they occur to their Supervisor or Department Manager, complete all necessary documentation and participate fully in any incident investigations. Failure to comply with these requirements may result in disciplinary action.
- 2.6.2** Employees must monitor HSE standards in their work areas. Identified hazards must be attempted to be rectified by the individual if it is within their scope of knowledge and does not place them under undue risk. Hazards that cannot be rectified are to be reported to the immediate Supervisor and escalated as required.
- 2.6.3** All Employees are accountable for their own safety in the workplace. At all times, individuals must conduct a TAKE 5 before commencing a task and not place themselves or others at risk. Take 5 assessment sheets must be included with timesheets when being forwarded to the Branch for processing.
- 2.6.4** Risk Assessments are to be completed for all tasks, as per the TAKE 5 Safety System. The Risk Assessment Card is to be used to identify the level of risk. Job Safety Analysis (JSA) will be written in accordance with the risk score rating after the risk assessment is completed.
- 2.6.5** All Employees will be responsible for individually monitoring environmental regulations set down by Company Policies & Procedures. All Employees must report immediately to their Supervisor any issue related to the Environment and attempt to contain & clean-up any environmental incident (eg: Oil Spills, Ground Water Contamination, Chemical Spills etc).
- 2.6.6** Employees are required to notify the Company of any non-work related injuries or illnesses sustained that may have an effect on their fitness for work and ability to perform the full and usual tasks of their role without risk of injury to themselves or another person.
- 2.6.7** Employees are required to notify the Company of any medications they are taking that may impair their fitness for work. Medications include those obtained via a prescription from a Medical Practitioner or over the counter from a Pharmacy. It is recommended that employees discuss the effects of medications with their Medical Practitioner or Pharmacist to understand how it may affect their fitness for work.

## **2.7 Faithful Service**

Whilst under the continuance of this Agreement, Employees shall not, without prior written Company consent, enter into the service of nor be employed by any Person, Firm or Employer carrying on any business of a similar nature to or competing with the Company's business interest.

## **2.8 Driver's License**

- (a) All Employees in possession of a Company Vehicle or who are required to operate a Company vehicle must hold a current and valid Driver's License that is not under any suspension or disqualification. Changes to validity or conditions of the Employee's license must be reported to your Manager or Supervisor without delay. A copy of the Driver's License must be provided for Company records.
- (b) Where an Employee holds a position that requires a valid driver's licence, and that Employee's licence is suspended or revoked, the Employee will be transferred to another available role within the Company and will lose any allowances or remuneration which were based on the Employee having a valid driver's licence. Where no other role is available, or the Employee refuses a transfer to the new role, the Employee may be dismissed from the Company with notice.

## **2.9 Protective Clothing and Equipment**

### **2.9.1 Mandatory Personal Protective Equipment (PPE)**

All Employees engaged to work on Site will be supplied with appropriate PPE as required before commencing work on a job. The provided PPE shall be worn / used by the Employee in accordance with the instructions provided during a Site Induction, other training or as signed. Employees are to take all reasonable steps to maintain the provided PPE in good working order. The Employee must not intentionally mis-use or damage the PPE and must notify the Company of any damage, defects or need for repair / replacement of the PPE.

### **2.9.2 Job-Related Equipment**

The Company will supply the following protective equipment / materials for use on specific work tasks:

- Factor 30+ Protective Sunscreen;
- Head Protection – Hard Hat (with wide brim if required) or Bump Cap;
- Hearing Protection;
- Eye Protection;
- Gloves;
- Safety Harnesses;

- Disposable Overalls;
- Respiratory equipment as required
- Other Site protective clothing as required.

### **2.9.3 Clothing Issue**

The Company will provide Employees with the following initial uniform allocation at the commencement of their employment:

- One (1) pair of safety boots (value up to \$250.00);
- Five (5) long sleeve high visibility shirts;
- Five (5) pairs high visibility long work trousers;
- Five (5) pairs overalls (Field Service only);
- One (1) winter jacket;
- Three (3) winter jumpers;
- One (1) broad-brimmed sun hat;
- One (1) set wet weather clothing (Field Service only); and
- Sun Screen available on request for field work.

Employees must wear the supplied Company uniform at all times in the course of their employment and present themselves in a professional manner.

Individual items may be replaced in accordance with the fair wear & tear of each item, at the discretion of the Company which will not be unreasonably refused.

Employees must return all uniforms to the Company on the termination of their employment.

### **2.9.4 Prescription Safety Glasses**

- (a) The Company will authorise the yearly supply, where required of Prescription Safety Glasses as provided by the Company's preferred designated provider of prescription glasses. The lens and frames must meet AS / NZS:1337 and include side shields. The range of prescription glasses available to all Employees will not incur further charges. Prescription glasses ordered through the preferred supplier that fall outside the approved range will not be authorised and any orders made outside the preferred range will be the responsibility of the Employee.
- (b) Claims for replacement prescriptions, damage or fair wear and tear incurred during normal work duties will be accepted. Such claims must be authorised by the Department Manager (or their Supervisor representative). In the event that the contract standards have not been met by the preferred supplier and in line with AS / NZS1337

and to the same value and condition, the Employee with prior approval of the Branch / Department Manager may organise alternative arrangements.

#### **2.9.5 Maintenance of Uniforms**

The Company is responsible for the laundry service of uniforms for Workshop Technicians and Branch based Field Service Technicians through supply & laundry of uniforms. Resident Field Service Technicians will have their uniforms supplied by the Company, however, they will be responsible for their own laundering which has been incorporated in the Field Service Residents Allowance in accordance with Clause 6.5 Field Service Residents Allowance.

### **PART 3 – HOURS OF WORK**

Definitions:

- Day Shift – any ordinary hours of work between 6:00am to 6:00pm Monday to Friday.
- Afternoon Shift – any shift finishing after 6:00pm and at or before midnight
- Night Shift – any shift finishing after midnight and at or before 8:00am.
- Continuous Shift – means work carried on with consecutive shifts of Employees throughout the 24 hours of each of at least five (5) consecutive days without interruption, except during breakdowns or meal breaks or due to unavoidable causes beyond the control of the Company.
- Rostered Shift – means any shift of which the Employee concerned has had at least 48 hours' notice.

#### **3.1 Hours of Work**

- 3.1.1** The maximum ordinary hours of work will be 40 hours per week, which the Employees acknowledge to be reasonable having regard to their level of remuneration and other entitlements under this Agreement.
- 3.1.2** The Parties recognise that the Company's operations must be competitive and to be so, shift systems may need to be introduced.
- 3.1.3** The Company may change or introduce new shifts as required provided that affected Employees have been consulted in accordance with clause 6.2 of this Agreement.

- 3.1.4** If the parties are unable to agree on a change or introduction of new shifts, the Company can make the change provided that the affected Employee has been provided with at least two (2) weeks' notice.
- 3.1.5** Employees will be entitled to have a break of ten (10) hours from the time they conclude work on one Shift and commence work on another Shift, with the exception of Call-Backs when the time worked is less than three (3) hours.
- 3.1.6** If an Employee (other than an Employee who is on the Call-Out roster) is rostered to commence work on a shift before the Employee has had ten (10) consecutive hours off duty after the end of the previous shift, the Employee will not be required to commence work until the Employee has had ten (10) consecutive hours off duty but will be paid at his or her ordinary rate of pay from the commencement of the rostered shift as if the Employee had commenced work at that time.
- 3.1.7** The start and finish hours may be varied to suit Customer requirements, but day shift shall fall between the hours of 6:00am and 6:00pm.
- 3.1.8** Afternoon Shift
- (a) The current Afternoon Shift commences at 3:00pm and ends at 11:30pm, which can be varied by the Parties.
  - (b) Overtime is paid after an Employee is required to work more than the ordinary hours per day, with the exception of Weekends and Public Holidays. This provision is subject to Clause 3.3 – Overtime.

## **3.2 Rest Break**

- 3.2.1** An Employee shall be entitled to an un-paid lunch break of 30 minutes per day after five (5) hours of work which is to be taken at a time convenient to the business and the Employee and in any event, as close as is reasonably practical to the 5th hour after the start of the Employee's shift.
- 3.2.2** Employees shall receive a paid 20-minute morning tea break.
- 3.2.3** The current lunch break shall be taken between 11:30am and 2:00pm to accommodate Customer requirements.
- 3.2.4** Staggering of Breaks – the timing of Morning Tea and Lunch Breaks may be staggered for individual Employees and work area teams to provide for continuity of operations. The emphasis will be to keep major equipment and Company service to the Site operating through breaks wherever possible by staggering these breaks. This will attract no penalty, provided breaks are taken in accordance with this Agreement.

### **3.3 Overtime**

- (a) The Company may require an Employee to work a reasonable amount of overtime at overtime rates.
- (b) Overtime is only payable for work performed in excess of 40 ordinary hours per week.
- (c) The rate of overtime will be time and a half for the first two (2) hours, and double time thereafter until the completion of the overtime work.
- (d) For Continuous Shiftworkers, all overtime will be paid at double time.
- (e) When overtime work is necessary it must, wherever reasonably practicable, be so arranged that Employees have at least ten (10) consecutive hours off duty between the work of successive working days.

#### **3.3.1 Saturday Work**

A Day Worker required to work overtime on a Saturday shall be afforded at least four (4) hours work or paid for four (4) hours at the rate of Time and One Half for the first two (2) hours and Double Time thereafter, except where the overtime is continuous with overtime commenced on the previous day.

#### **3.3.2 Sunday Work**

Employees required to work overtime on Sundays shall be paid Double Time for all hours worked The Double Time is to be paid until the Employee is relieved from duty.

#### **3.3.3 Public Holidays**

An Employee required to work on Public Holidays shall be paid at the rate of Double Time and One Half for a minimum of three (3) hours regardless of the hours worked.

### **3.4 Shift Penalties**

Employees working on an Afternoon or Night Shift shall, except on Saturday, Sunday or a Public holiday, be paid the following penalty rates:

- (a) **Afternoon Shift:** 15% on the ordinary hourly rate for all hours worked;
- (b) **Night Shift:** 20% on the ordinary hourly rate for all hours worked;

(c) **Non-Continuous Afternoon or Night Shift:** An Employee who works on an Afternoon or Night Shift which does not continue:

- (i) for at least three (3) successive Afternoon or Night Shifts (where no more than eight (8) ordinary hours are worked on each shift); or
- (ii) for at least 24 ordinary hours (where more than eight (8) ordinary hours are worked on each shift);

shall be paid for each shift Time and One Half for the first three (3) hours and Double Time for the remaining hours in addition to their ordinary rate.

(d) **Saturday Work:** Employees shall receive time and a half for working ordinary hours on a Saturday.

(e) **Sunday Work:** Employees shall receive double time for all work performed on a Sunday.

### **3.5 On Call Allowance - 24 Hour Coverage**

**3.5.1** The Company requires a 24-hour, 365-day field service operation. Employees who accept a role in Field Service are required to participate on a Call-Out roster.

**3.5.2** The roster period shall be of at least one (1) week's duration at a time. Should the rostered Field Service Technician be unable to perform Field Service then it is the sole responsibility of the rostered-on Field Service Technician to contact and obtain agreement from another Field Service Technician to immediately perform the Call-Out.

**3.5.3** The Field Service Technician on-call shall receive a total of \$350.00 per week paid as an allowance. This allowance shall be paid only once per week regardless of the number of call-outs during that week.

If a Call-Out is required, the Field Service Technician shall receive a minimum of four (4) hours at Double Time. When the job task goes beyond the first four (4) hours the Field Service Technician shall receive payment of ordinary time during ordinary work hours and overtime in time and a half or double time to the time of the finishing work.

**3.5.4** In the event the Field Service Technician on roster cannot be reached the allowance is not payable. In the case of a Field Service Technician responding to a Call-Out and not being able to be reached for further Call-Outs during that week on call, the Employee's entitlement to payment of the On-Call allowance shall be determined by the Supervisor or Manager (or their representative).



- 3.5.5** During Call-Out situations when a Field Service Technician is required to return back to work for his / her ordinary shift a working period of fourteen (14) hours is not to be exceeded as provided by the Company Fatigue Management Policy.
- 3.5.6** When a Call-Out has been attended to and the working time for that Call-Out has exceeded four (4) hours work, the Field Service Technician is required to have a ten (10) hour break without loss of normal pay for that period.
- 3.5.7** In the event that a Field Service Technician completes a Call-Out in less than four (4) hours and is required to return to their ordinary shift without a ten (10) hour break, they may conclude their shift after completing a total of eight (8) hours, inclusive of the Call-Out hours worked.

### **3.6 Annualised Salaries**

- (a) Employees who work on shift rosters, alternative or lifestyle rosters, continuous shift arrangements, or who work rostered based on the requirements of customers, may be paid an Annualised Salary.
- (b) The Annualised Salary shall constitute a total package and is calculated by taking into account all aspects of work arrangements and entitlements under this Agreement, including:
- i. Ordinary hours based on an average of 38 hours per week averaged over a 28 or 56 day cycle;
  - ii. Overtime in accordance with the relevant roster;
  - iii. Penalty rates for all shift and/or weekend work applicable under the roster;
  - iv. All applicable allowances;
  - v. Public holiday pay; and
  - vi. Annual leave loading.
- (c) Annualised Salary Employees may be required to work ordinary hours on any day of the week, plus any reasonable additional hours necessary to complete their roster.
- (d) Clause 3.4 (c) will not apply to an Annualised Salary, and the applicable night or afternoon shift loading of 15% or 20% will apply instead.
- (e) Where future Annualised Salaries need to be implemented due to a new roster pattern, the Annualised Salary will be composed of the applicable rates of pay,

allowances, and penalties provided by this Agreement, and the Company will ensure that where new Annualised Salaries are implemented for new rosters, these will be paid at higher rates than the Employee would receive for the same work performed under an Award.

(f) Annualised Salaries may be paid an all-purpose hourly rate which is inclusive of all penalties, allowances, loadings and other remuneration payable for their rostered hours.

(g) An Annualised Salary may be paid in equal installments.

## PART 4 - REMUNERATION

### 4.1 Rates of Pay

4.1.1 The hourly rates of pay applicable are detailed below:

Classification	1-Jul-24	1-Jul-25	1-Jul-26
K1 - Trades Assistant	\$39.10	\$40.28	\$41.48
K2 - Workshop Technician	\$43.21	\$44.50	\$45.84
K3 - Field Service Technician Level 1	\$51.18	\$52.71	\$54.29
K4 - Field Service Technician Level 2	\$52.18	\$53.75	\$55.36
K5 - Senior Leading Hand	\$52.77	\$54.35	\$55.98

Apprentice	1-Jul-24	1-Jul-25	1-Jul-26
Year 1	\$18.15	\$18.69	\$19.25
Year 2	\$23.77	\$24.48	\$25.21
Year 3	\$32.40	\$33.38	\$34.38
Year 4	\$34.57	\$35.60	\$36.67

Adult Apprentice	1-Jul-24	1-Jul-25	1-Jul-26
Year 1	\$32.40	\$33.38	\$34.38
Year 2	\$32.40	\$33.38	\$34.38
Year 3	\$32.40	\$33.38	\$34.38
Year 4	\$34.74	\$35.78	\$36.86

### 4.2 Pay Rates and Increase Conditions

(a) The rates of pay under this Agreement include consideration for any allowances which might otherwise have been payable under the Award, with the exception of Meal Allowances which shall be paid as per Clause 4.5.1 in the Agreement. For the avoidance of doubt, no allowance will be payable to Employees covered by this Agreement unless specifically provided for under this Agreement.

- (b) Leading Hand positions are obtainable by application or appointment, should a position be available or by internal promotion.

#### **4.3 Payment of Wages**

- (a) Wages shall be paid by Electronic Funds Transfer on a fortnightly pay cycle into a bank account nominated by the Employee.
- (b) Employees will be required to advise the Company of a personal email address of their choice for which the Company can use to send them their individual E-Payslip.

#### **4.4 Superannuation**

- (a) The Company shall contribute superannuation payments on the Employee's behalf to a complying Superannuation Fund of the Employee's choice; alternatively, the Employee may join the Company's default Superannuation Fund that offers a MySuper Product.
- (b) The Company contribution will be adjusted in line with Superannuation Guarantee Legislation and paid on the Employees gross ordinary time earnings.
- (c) The Company will comply with Superannuation Guarantee Legislation for Company contributions, as well as for employee salary sacrifice.
- (d) By accepting these conditions of employment, you are consenting to the provision of your personal information, including any health information, between the Company and the Superannuation Fund and their service providers, in order to facilitate provision of the benefits in the course of your employment and for the management of the Fund.
- (e) The Company will continue to pay superannuation contributions to an Employee whilst they are receiving Workers Compensation payments for a workplace injury or illness.

#### **4.5 Allowances**

##### **4.5.1 Meal Allowance**

- (a) A \$20.00 Meal Allowance is paid when overtime commences immediately after the completion of ordinary hours on a shift and the period of overtime is to be more than 1.5 hours.
- (b) An Employee is entitled to a further \$20.00 Meal Allowance if work continues for a further 2.5 hours.
- (c) The maximum daily Meal Allowance payable to an Employee is \$40.00.

- (d) The Meal Allowance is not payable where the employer has provided meals or reimbursed an Employee for the cost of meals.

#### **4.5.2 On-Call Allowance - 24 Hour Field Service**

The On-Call allowance of \$350.00 per week is payable as per Clause 3.5 Branch On-Call Allowance - 24-hour Coverage.

#### **4.5.3 Living Away from Home Allowance**

- (a) A Field Service Technician required to stay overnight will be entitled to receive a \$110.00 per day LAFHA allowance.
- (b) Employees who receive the LAFHA are not entitled to receive a Meal Allowance in accordance with clause 4.5.1.
- (c) LAHFA is not payable where the Company reimburses the Employee for the cost of their meals.

#### **4.5.4 Resident Field Service Allowance**

- (a) Nominated Resident Field Service staff living in NSW Regional locations shall receive the weekly On-Call allowance whilst On-Call.
- (b) This allowance incorporates the laundering of their Company supplied uniforms.

#### **4.5.5 Mine Site Allowance**

The Company will pay Employees an additional rate of \$2.00 per hour on their current base rate for any work performed on Coal & Metalliferous Mines.

Below is a list of approved Coal & Metalliferous Mines as it reads on the date of signing this Agreement:

- Ulan
- Moolarben
- Charbon
- Tomingley
- CCR Cobar
- Resource Base
- Cadia Valley
- Thuddungra Mines
- Lend Lease ASH Dumps
- PineDale Lithgow
- North Parkes Mines

- Lake Cowal
- Veolia at Woodlawn
- Sibelco – Galong

#### **4.6 Training**

All Training conducted whether on the job or formal training will be paid at Ordinary Time only. This includes travel time, both before and after the course where travel is applicable. Travel time is only paid when the location to the training site is more than 30 minutes from where the Employees' normal workplace is located. Travel time claimable is a maximum of eight (8) hours in any 24 hours and can be taken as time in lieu with Manager approval. The Company will make every attempt to ensure training time does not extend past normal shift times where possible.

#### **4.7 Resident Field Service Incentive Bonus**

- 4.7.1** In order for the Company and Resident Field Service Employee to share in financial gains the following additional Incentive Bonus shall be available to nominated Resident Field Service Tradespersons. This Incentive Bonus shall be measured and paid quarterly. Further incentive programs may be implemented on an ongoing basis in consultation with Resident Field Service Employees.
- 4.7.2** During each quarterly period individual resident labour productivity above 85% shall receive a bonus of \$1.00 per productive hour worked. This shall be paid to the Employee at the end of each quarter in a lump sum. Productive hours shall be nominated by the Supervisor or Manager (or their representative). The Productivity Report will be provided to the Resident Field Service Technicians on a monthly basis.
- 4.7.3** Disputes regarding excessive labour hours which lead to Customer credits may be deemed as un-productive hours by the Supervisor or Manager (or their representative). Credit of labour hours may be taken out during the working quarter or a following quarter pending on the time of credit. Credit of labour hours shall be transferred from productive to non-productive hours. All productive overtime hours will be classified as one (1) productive hour.

#### **4.8 Tool Insurance**

- 4.8.1** The Company will insure an employee's tools while on Company premises or in Company vehicles (including rented vehicles) against loss in excess of \$300.00 or damage.
- 4.8.2** Employees must be able to prove that they own the tools they are making claims for, and, if required, must submit a list of the tools they own to their Manager.
- 4.8.3** The maximum amount of any individual's claim is \$20,000.00. Additional amounts may be agreed on through consultation between the Employee and the Branch Manager, if prior notification of tooling in excess of \$20,000.00 has been recorded. Any replacements due to theft require the production of a Police Report / Incident Number.

#### 4.9 Tool Allowance

The Company will pay Employees a Tool Allowance of \$50 per fortnight.

#### 4.10 Higher Duties

An Employee engaged for more than two hours during one day or shift on duties carrying a higher rate of pay than their ordinary classification under this Agreement must be paid the higher rate of pay for such day or shift. If engaged for two hours or less during one day or shift, they must be paid the higher rate of pay for the time so worked.

### PART 5 - LEAVE

#### 5.1 Annual Leave

- 5.1.1 Full-time Employees are entitled to 4 weeks Annual Leave per annum in accordance with the NES. This leave accrues on a daily pro-rata basis and is cumulative.
- 5.1.2 Payment for any period of Annual Leave will be on the basis of the ordinary time rate applying to the Employee at the time of taking the leave plus a 17.5% Annual Leave Loading.
- 5.1.3 The Company may direct the taking of Annual Leave in instances where there is a Company Shutdown, for example, during the Christmas / New Year period or at other times deemed reasonable by the Company.
- 5.1.4 If an Employee with an entitlement above eight (8) weeks does not make arrangements to take leave, the Company may direct the Employee to do so.
- 5.1.5 For the purpose of the additional week of Annual Leave provided for in s.87(1)(b) of the Act, a **shiftworker** is a seven-day shiftworker who is regularly rostered to work on Sundays and Public Holidays. Such shiftworkers are entitled to an additional week's Annual Leave in accordance with the Act (or a pro-rata amount for any periods so engaged).

#### 5.2 Personal / Carers Leave

- 5.2.1 Employees are entitled to Personal / Carers Leave in accordance with the NES.
- 5.2.2 Full-time Employees are entitled to 10 days paid Personal / Carers Leave per annum. This leave accrues on a pro-rata basis and can be used as Personal Leave or Carers Leave.
- 5.2.3 Paid Personal / Carers Leave is cumulative.

**5.2.4** Where a full time or part time Employee has exhausted their paid Carers Leave entitlement and in the case of Casual Employees, up to two (2) days un-paid Carers Leave per occasion is available.

**5.2.5** Notification - Employees are required to promptly notify their Supervisor or Manager (or their representative) via a voice call (where reasonably possible) of any illness or injury that will cause the Employee to be absent from work and the approximate period of that absence. The Company may ask for supporting evidence for Personal / Carers Leave on each occasion.

**5.2.6** Evidence – Employees must provide evidence supporting a claim for Personal / Carers Leave required by the Company is as follows:

- Absences greater than one day in duration require the production of medical certificate or statutory declaration stating the employee is unfit to attend work;
- Single day absences that exceed 2 per year require the production of medical certificate or statutory declaration stating the employee is unfit to attend work.

**5.2.7** Definition of Personal / Carers Leave

Personal / Carers Leave is:

- (a) paid Personal Leave (“**Sick Leave**”) taken by an Employee because of a personal illness or injury of the Employee; or
- (b) paid or un-paid Carers Leave (“**Carers Leave**”) taken by an Employee to provide care or support to a member of the Employee’s immediate family or a member of the Employee’s household, who requires care or support because of:
  - (i) a personal illness or injury of an immediate family member; or
  - (ii) an unexpected emergency affecting an immediate family member.

The term “**immediate family**” includes:

- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of an Employee; or
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of an Employee.

### **5.3 Parental Leave**

After 12 months continuous service, Employees shall be entitled to Parental Leave in accordance with the NES.

### **5.4 Compassionate Leave**

An Employee is entitled to a period of two (2) paid days of Compassionate Leave for each occasion when a member of the Employee's immediate family or a member of the Employee's household:

- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
- (b) sustains a personal injury that poses a serious threat to his or her life; or
- (c) dies.

### **5.5 Long Service Leave**

- (a) Long Service Leave will accrue in accordance with the NSW Long Service Leave legislation at the rate of 13 weeks for 15 years' service.
- (b) After 10 years' service, pro-rata entitlement of 8.67 weeks is available, together with pro-rata entitlement on termination for any reason after 10 years.
- (c) Pro-rata Long Service Leave will be paid if an Employee is made redundant after the completion five (5) years continuous service.
- (d) In cases of pressing domestic circumstances, after five (5) years continuous service, the Company shall approve the granting of paid Long Service Leave up to the pro-rated amount due at the time of application. The granting of this leave will be assessed on a case-by-case basis.

### **5.6 Public Holidays**

#### **5.6.1 Entitlement**

Employees shall be entitled to Public Holidays on the following occasions:

- New Year's Day;
- Australia Day;
- Labour Day;
- Good Friday;
- Easter Saturday;
- Easter Sunday;



- Easter Monday;
- Anzac Day;
- Queen's Birthday;
- Christmas Day;
- Boxing Day;
- Any other day, or part-day, declared or prescribed under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a Public Holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the Regulations under the Fair Work Act from counting as a Public Holiday.

### 5.6.2 Picnic Day

Employees will be entitled to a paid Picnic Day (in lieu of the forgone Easter Tuesday). The Picnic Day will be taken by employees nominating to either take the day off on the Thursday prior to Easter or the Tuesday after Easter.

Employees must make their nomination at least 1 month prior to Easter with the expectation that the numbers will be evenly split between both days. The Company reserves the right to assign employees into an even split if required. The Parties may mutually agree to apply another day as the Picnic Day in the same month.

### 5.6.3 Payment for Public Holidays

- (a) Employees taking the Public Holidays listed above and not working shall be entitled to payment equivalent to eight (8) ordinary hours pay.
- (b) Where an Employee is required to work on a Public Holiday they shall be paid for all time worked at the rate of Double Time and One Half.

## 5.7 Family and Domestic Violence Leave

**5.7.1** This leave entitlement applies to all Employees, including Casual Employees.

### 5.7.2 Definitions

- (a) In this clause:

***Family and domestic violence*** means violent, threatening or other abusive behaviour by a family member of any Employee that seeks to coerce or control the Employee and that causes them harm or to be fearful.

***Family member*** means:

- (i) A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
  - (ii) A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee; or
  - (iii) A person related to the Employee accordingly to Aboriginal or Torres Strait Islander kinship rules.
- (b) A reference to a spouse or de facto partner in the definition of family member includes a former spouse or de facto partner.

### **5.7.3 Entitlement to Unpaid Leave**

An Employee is entitled to 5 days' unpaid leave to deal with family and domestic violence as follows:

- (a) the leave is available in full at the start of each 12 month period of the Employees' employment;
- (b) the leave does not accumulate from year to year; and
- (c) is available in full to Part-time and Casual Employees.

Note:

- (i) A period of leave to deal with family and domestic violence leave may be less than a day by agreement between the Company and the Employee.
- (ii) The Company and the Employee may agree that the Employee may take more than 5 days' unpaid leave to deal with family and domestic violence.

### **5.7.4 Taking Unpaid Leave**

An Employee may take unpaid leave to deal with family and domestic violence if the Employee:

- (a) is experiencing family and domestic violence; and
- (b) needs to do something to deal with the impact of family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.

Note:

The reasons for which an Employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings or accessing police services.

### **5.7.5 Service and Continuity**

The time an Employee is on unpaid leave to deal with family and domestic violence does not count as service but does not break the Employee's continuity of service.

### **5.7.6 Notice and Evidence Requirements**

- (a) Notice:

An Employee must give the Company notice of the taking of leave by the Employee under clause 5.7.4. The notice:

- (i) must be given to the Company as soon as practicable (which may be a time after the leave has started);
- (ii) must advise the Company of the period or expected period of the leave.

(b) Evidence:

An Employee who has given the Company notice of the taking of leave under clause 5.7.4 must, if required by the Company, give the Company evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 5.7.4.

Note:

Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service or a statutory declaration.

#### **5.7.7 Confidentiality**

- (a) The Company must take steps to ensure information concerning any notice an Employee has given or evidence an Employee has provided under clause 5.7.6 is treated confidentially, as far as it is reasonably practicable to do so.
- (b) Nothing in clause 5.7.7 prevents the Company from disclosing information provided by an Employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Employee or another person.

Note:

Information concerning an Employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the Employee. The Company should consult with such Employees regarding the handling of this information.

#### **5.7.8 Compliance**

An Employee is not entitled to take leave under clause 5.7 unless the Employee complies with clause 5.7.

## **PART 6 – EMPLOYEE RELATIONS**

### **6.1 Dispute Settlement**

#### **6.1.1 Disputes Settlement Procedure**

In the event of a dispute arising between the Parties in relation to this Agreement or the National Employment Standards (except for disputes relating to reasonable grounds for refusal of requests for Flexible Working

Arrangements or additional un-paid Parental Leave), the following procedure shall be followed by both Parties:

**Step 1**

The matter shall be discussed and every effort shall be made to resolve the dispute at the workplace level between the Employee concerned and the appropriate Supervisor or Manager (or their representative);

**Step 2**

If any matter remains in dispute after it has been considered jointly by the appropriate Supervisor or Manager (or their representative) and by the Employee concerned, the dispute shall then be examined by the Officer appointed by the Company to deal with industrial matters, who shall attempt to help the Parties at the workplace to resolve the matter;

**Step 3**

If the dispute remains unsettled, the Company's Representative shall ensure that the matter is recorded in writing in pertinent detail while the Employee may notify a Representative of their choice of the nature and details of the dispute. The Company Representative and the Employee Representative shall then make every effort to resolve the dispute.

**Step 4**

If the dispute remains unsettled after Step 3 has been concluded, the matter shall be referred to Fair Work Commission (FWC). The matter shall be dealt with by Conciliation at first instance. If the matter cannot be resolved by Conciliation, the Parties may jointly or individually seek to have the matter Arbitrated. The Parties agree to accept any decision or direction given by Fair Work Commission (FWC) in relation to the dispute.

**Work to continue**

While the procedures specified herein are being followed all work shall continue normally. The ultimate terms of settlement of the dispute shall not be affected in any way, nor shall the rights of any person involved in or affected by the dispute be prejudiced by the fact that normal work has continued without interruption.

**6.1.2 Delegate Training**

The Union/s shall nominate to the Company one (1) Delegate to attend up to 2 paid eight (8) hour days Delegate Training at ordinary time once every 2 years. The Shift Penalty clause (3.4) does not apply following Delegate Training, provided that a 10-hour break has occurred.

**6.2 Workplace Consultation**

**6.2.1** This term applies if the Company:

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

***Major Change***

**6.2.2** For a major change referred to in Clause 6.2.1(a):

- (a) the Company must notify the relevant Employees of the decision to introduce the major change; and
- (b) sub-clauses 6.2.3 to 6.2.9 apply.

**6.2.3** The relevant Employees may appoint a Representative for the purposes of the procedures in this term.

**6.2.4** If:

- (a) a relevant Employee appoints, or relevant Employees appoint, a Representative for the purposes of consultation; and
- (b) the Employee or Employees advise the Company of the identity of the Representative;

the Company must recognise the Representative.

**6.2.5** As soon as practicable after making its decision, the Company must:

- (a) discuss with the relevant Employees:
  - (i) the introduction of the change; and
  - (ii) the effect the change is likely to have on the Employees; and
  - (iii) measures the Company is taking to avert or mitigate the adverse effect of the change on the Employees; and
- (b) for the purposes of the discussion - provide, in writing, to the relevant Employees:

- (i) all relevant information about the change including the nature of the change proposed; and
- (ii) information about the expected effects of the change on the employees; and
- (iii) any other matters likely to affect the Employees.

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

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

**6.2.8** If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Company, the requirements set out in Clause 6.2.1(a) and sub-clauses 6.2.3 and 6.2.5 are taken not to apply.

**6.2.9** In this term, a major change is likely to have a significant effect on Employees if it results in:

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

***Change to Regular Roster or Ordinary Hours of Work***

**6.2.10** For a change referred to in Clause 6.2.1(b):

- (a) the Company must notify the relevant Employees of the proposed change; and
- (b) sub-clauses 6.2.11 to 6.2.15 apply.

**6.2.11** The relevant Employees may appoint a Representative for the purposes of the procedures in this term.

**6.2.12** If:

- (a) a relevant Employee appoints, or relevant Employees appoint, a Representative for the purposes of consultation; and
- (b) the Employee or Employees advise the Company of the identity of the Representative;

the Company must recognise the Representative.

**6.2.13** As soon as practicable after proposing to introduce the change, the Company must:

- (a) discuss with the relevant Employees the introduction of the change; and
- (b) for the purposes of the discussion - provide to the relevant Employees:
  - (i) all relevant information about the change, including the nature of the change; and
  - (ii) information about what the Company reasonably believes will be the effects of the change on the Employees; and
  - (iii) information about any other matters that the Company reasonably believes are likely to affect the Employees; and
- (c) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

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

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

**6.2.16** In this term:

relevant Employees means the Employees who may be affected by a change referred to in sub-clause 6.2.1.

### **6.3 Individual Flexibility Arrangements**

**6.3.1** The Company and Employee/s covered by this Agreement may agree to make an Individual Flexibility Arrangement to vary the effect of terms of the Agreement if:

- (a) the Agreement deals with one or more of the following matters:
  - (i) arrangements about when work is performed; and
- (b) the arrangement meets the genuine needs of the Company and Employee in relation to 1 or more of the matters mentioned in sub-clause 6.3.1(a)(i); and
- (c) the arrangement is genuinely agreed to by the Company and Employee.

**6.3.2** The Company must ensure that the terms of the Individual Flexibility Arrangement:

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

**6.3.3** The Company must ensure that the Individual Flexibility Arrangement:

- (a) is in writing; and
- (b) includes the name of the Company and Employee; and
- (c) is signed by the Company and Employee and if the Employee is under 18 years of age, signed by a Parent or Guardian of the Employee; and
- (d) includes details of:
  - (i) the terms of the Agreement that will be varied by the arrangement; and
  - (ii) how the arrangement will vary the effect of the terms; and
  - (iii) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and



(e) states the day on which the arrangement commences.

**6.3.4** The Company must give the Employee a copy of the Individual Flexibility Arrangement within 14 days after it is agreed to.

**6.3.5** The Company or Employee may terminate the Individual Flexibility Arrangement:

(a) by giving no more than 28 days written notice to the other Party to the arrangement; or

(b) if the Company and Employee agree in writing — at any time.

## 6.4 Authorised Signatories

For the purposes of Section 185(2)(a) of the Fair Work Act, 2009 (Cth) and Regulation 2.06A of the Fair Work Regulations, 2009 (Cth), the following Authorised Persons certify that the preceding pages are a true copy of the Komatsu Australia Wollongong Service Department Enterprise Agreement 2021 made on 3 June 2022 (the "Agreement"):

### Company Representative

I, Fiona McBain, c/- Komatsu Australia Pty Ltd, 50-60 Fairfield Street, Fairfield NSW 2165, am authorised by my position of HR Manager – Central Region & Business Support to sign this Agreement on behalf of the Company for the purposes of Section 185(2)(a) of the Fair Work Act, 2009 (Cth) and Regulation 2.06A of the Fair Work Regulations, 2009 (Cth):

\_\_\_\_\_  
Fiona McBain

\_\_\_\_\_  
Date

***Regional P&C Manager – Central & Business Support  
Komatsu Australia Pty Ltd***

Signed in the Presence of:

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

### Employees Representative

I, Tony Callinan, as State Secretary of the NSW Branch of the "Australian Workers Union" at 16 Good St, Granville NSW 2142, a bargaining representative for the Agreement, am authorised to sign this Agreement for the purposes of Section 185(2)(a) of the Fair Work Act 2009 (Cth) and Regulation 2.06A of the Fair Work Regulations 2009 (Cth):

\_\_\_\_\_  
Tony Callinan

\_\_\_\_\_  
Date

***State Secretary (NSW)  
Australian Workers' Union***

Signed in the Presence of:

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

### 1 Workplace Delegates Rights

- (a) Clause 1 provides for the exercise of the rights of Workplace Delegates set out in section 350C of the Fair Work Act 2009.
- (b) Definitions for the purpose of this clause:
  - (i) Employer means the Employer of the Workplace Delegate;
  - (ii) Delegate's **Organisation** means the Employee Organisation in accordance with the rules of which the Workplace Delegate was appointed or elected; and
  - (iii) Eligible **Employees** means Members and persons eligible to be members of the Delegate's Organisation who are employed by the Employer in the enterprise.
- (c) Before exercising entitlements under clause 30, a Workplace Delegate must give the Employer written notice of their appointment or election as a Workplace Delegate. If requested, the Workplace Delegate must provide the Employer with evidence that would satisfy a reasonable person of their appointment or election.
- (d) An Employee who ceases to be a Workplace Delegate must give written notice to the Employer within 14 days informing the Employer that they are no longer a Workplace Delegate.
- (e) Right of Representation

A Workplace Delegates may represent the industrial interests of eligible Employees who wish to be represented by the Workplace Delegate in matters including.

  - (i) Consultation about major workplace change;
  - (ii) Consultation about changes to rosters or hours of work;
  - (iii) Resolution of individual or collective grievances or disputes;
  - (iv) Performance management and disciplinary processes;
  - (v) The interest of Members to the Employer, and before industrial tribunals;
  - (vi) Enterprise bargaining where the Workplace Delegate has been appointed as a bargaining representative under section 176 of the Act or is assisting the Delegate's Organisation with enterprise bargaining; and
  - (vii) Any process or procedure within this Agreement or a policy of the Employer under which Eligible Employees are entitled to be represented, and which concerns their industrial interests.
- (f) Entitlement to Reasonable Communication
  - (i) A Workplace Delegate may communicate with eligible Employees for the purpose of representing their industrial interests under clause 30(e) to:
    - (a) consult and speak with Members and Eligible Employees on matters relating to their employment such as a grievance or dispute;
    - (b) consult and confer with Officials from the Employee Organisation they are a Member of; and

- (c) consult with the Eligible Employees in relation to any consultation process set out in this agreement.
- (ii) A Workplace Delegate may communicate with eligible Employees during working hours or work breaks, or before or after work.

**(g) Entitlement to Reasonable Access to the Workplace and Workplace Facilities**

The Company must provided a Workplace Delegate with reasonable access to the following workplace facilities:

- (i) a room or area to hold discussions that is fit for purpose, private and accessible by the Workplace Delegate and Eligible Employees;
- (ii) a physical or electronic notice board;
- (iii) electronic means of communication ordinarily used in the workplace by the Employer to communicate with Eligible Employees and by Eligible Employees to communicate with each other;
- (iv) a lockable filing cabinet or other secure document storage area; and
- (v) office facilities and equipment including printers, scanners, photocopiers and access to Wi-F.

The Company is not required to provide access to or use of a workplace facility under this clause if:

- (i) the workplace does not have the facility;
- (ii) due to operational requirements, it is impractical to provide access to or use of the facility at the time or in the manner it is sought; or
- (iii) the company does not have access to the facility at the enterprise and is unable to obtain access after taking all reasonable steps.

**(h) Entitlement to Reasonable Access to Training**

The Company must provide

- (i) Each Workplace Delegate with access to up to 5 days of paid time during normal working hours for initial training to attend courses conducted by the Delegates Organisation or a mutually agreed training provider, that are designed to provide skills and competencies that will assist the Workplace Delegate to contribute to the prompt resolution of disputes in the workplace.
- (ii) Each elected Workplace Delegate is entitled to take up to an additional day of paid time during normal working hours each subsequent year to attend courses related to legislative updates conducted by the Delegates Organisation or a mutually agreed training provider. Requests for additional leave will not be unreasonably refused.
- (iii) Payment for a day of paid time during normal working hours is payment of the amount the Workplace Delegate would have been paid for the hours the Workplace Delegate would have been rostered or required to work on that day if the Delegate had not been absent from work to attend the training.
- (iv) The Workplace Delegates or must provide a minimum of four (4) weeks' notice of the proposed training, the dates of the proposed training, subject matter and the daily start and finish times of the training.
- (v) The Employer must advise the Workplace Delegate not less than 2 weeks from the day on which the training is scheduled to commence, whether the Workplace Delegate's access to paid time during normal

working hours to attend the training has been approved. Such approval must not be unreasonably withheld.

- (vi) If requested, the Workplace Delegate must provide the Employer with evidence that would satisfy a reasonable person of attendance at the course to qualify for any Employer payment in relation to the leave.

**(i) Exercise of Entitlements under Clause 1**

- (i) A Workplace Delegates entitlements under clauses (e) to (g) are subject to the conditions that the Workplace Delegate must:
  - (a) Comply with their duties and obligations as an Employee;
  - (b) Comply with the reasonable policies and procedures of the Employer, including reasonable codes of conduct and requirements in relation to occupational health and safety and acceptable use of ICT resources;
  - (c) Not hinder, obstruct or prevent the normal performance of work; and
  - (d) Not hinder, obstruct or prevent eligible Employees exercising their rights to freedom of association.
- (ii) Clause 1 does not require the Employer to provide a Workplace Delegate with access to electronic means of communication in a way that provides individual contact details for Eligible Employees.
- (iii) Clause 1 does not require an Eligible Employee to be represented by a Workplace Delegate without the Employee's agreement.

NOTE1: Under section 350A of the Act, the Employer must not:

- (a) Unreasonably fail or refuse to deal with a Workplace Delegate; or
- (b) Knowingly or recklessly make a false or misleading representation to a Workplace Delegate; or
- (c) Knowingly hinder, obstruct or prevent the exercise of the rights of a Workplace Delegate under the Act or clause 30 of this Agreement.

NOTE 2: Under section 350C(4) of the Act, the employer has taken to have afforded a Workplace Delegate the rights mentioned in section 350C(3) if the employer has complied with Clause 1.

**(j) Interaction with other Clauses in this Agreement**

Other clauses within this Agreement may give additional or more favourable entitlements to Workplace Delegates (however described). If an entitlement of a Workplace Delegate under another clause of this Agreement is more favourable to the Delegate than an entitlement under clause 1, the entitlement under the other clause applies instead of the entitlement under clause 1.