



**AUSTRAL**  
CIVIL | MINING | MARINE

**Austral Construction Pty Ltd  
Workplace Agreement  
2009**

# PART I Agreement Formalities

## 1. CONTENT

This Agreement adopts the following structure:

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## 2. TITLE

This Agreement shall be known as the Austral Construction Pty Ltd Workplace Agreement 2009.

## 3. PARTIES BOUND

This Agreement is binding upon:

- (a) Austral Construction Pty Ltd ("**the Company**");
- (b) Employees of the Company who are employed in the occupations, industries or callings covered by the Award, ("**the employees**"),

in respect of construction work performed throughout Australia.

## 4. DEFINITIONS

In this agreement, unless the contrary intention appears:

- (c) "**AFPCS**" means the Australian Fair Pay and Conditions Standard provided for by the *Workplace Relations Act 1996*;
- (d) "**Agreement**" means the Austral Construction Pty Ltd Workplace Agreement 2009, including its schedules;
- (e) "**Award**" means the National Building and Construction Industry Award 2000 as at June 30, 2009;
- (f) "**Casual employee**" means an employee engaged on an hourly basis pursuant to clause 9.2 below of this Agreement;
- (g) "**Commission**" means the Australian Industrial Relations Commission;
- (h) "**Construction worker**" means a person who works on a construction site as a labourer, plant operator, or tradesperson;
- (i) "**Company**" means Austral Construction Pty Ltd (ACN 075 340 724);
- (j) "**Dandenong site**" means the company's business premises at 126 Hallam Valley Road, Dandenong;
- (k) "**Employee**" means a full-time, part-time or casual employee of the Company;

- (l) **"Employee representative"** means a person that an employee nominates as their representative;
- (m) **"Inclement weather"** means:
  - (i) in relation to the Melbourne central business district, where temperatures exceed 36 °C; or
  - (ii) in relation to places outside of the Melbourne central business district, zones 2 - 5, where temperatures exceed 40 °C; or
  - (iii) inclement weather for zone 6 is extreme weather events or conditions outside normal weather patterns for the Pilbara Region, WA, i.e. cyclones, significant dust storms, electrical storms and above average temperatures; or
  - (iv) where rain is heavy or consistent enough to render the working environment unsafe;
- (n) **"Ordinary hours"** means ordinary hours as defined in clause 17 below;
- (o) **"Ordinary rate of pay"** means the base, full-time weekly rate of pay set out at clause 13 below divided by thirty-eight (38) hours; and
- (p) **"Remote Work"** means work that is referred to in clause 16 below;
- (q) **"Week's pay"**, in relation to an employee whose employment is terminated, means the ordinary rate of pay for a standard week's work at the time that their employment is terminated,

and terms that are defined in clause 4 of the Award that are not defined in this Agreement shall apply as defined in clause 4 of the Award;

## 5. DATE OF OPERATION

This Agreement will commence operation on the seventh day after the date of issue of the notice by the Workplace Authority advising that the agreement has passed the No Disadvantage Test (or the agreement is varied under s346N has passed the NDT) and will remain in force for a period of 4 years from that date. Rates of pay will be increased by the amount specified in Schedule 1, subject to acceptance of this agreement by the employees party to this agreement, from the first pay period on or after June 30, 2009.

This agreement shall remain in place until replaced by a new agreement which has been agreed between the parties.

## **6. NO FURTHER CLAIMS**

It is a term of this Agreement that the parties to this Agreement will not, for the duration of its operation, make or pursue any claims in respect of any subject matters that are covered by this Agreement. This includes claims relating to any matter that may be permitted under the Fair Work Australia Act (other than those required by the Act), changes arising from the introduction of modern awards and changes arising from variations or decisions of the Commission. It is also a term of this Agreement that the parties will not take any industrial action in support of any claims for the duration of this Agreement.

## **7. ENTIRE AGREEMENT**

This agreement operates to the exclusion of all awards that would otherwise apply except where explicitly mentioned in the agreement. The agreement allows for individual agreements that improve the wages of the employee's party to this agreement.

## **8. ANTI DISCRIMINATION**

It is the intention of the parties to this Agreement to achieve the principal object in Section 3(m) of the Workplace Relations Act 1996, which is to respect and value the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of race, colour, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

## **PART II**                    **Contract of Employment**

### **9. ENGAGEMENT**

#### 9.1 Part-time employees:

- (a) An employee may be engaged to work on a part-time basis involving a regular pattern of hours that shall average less than thirty-eight (38) hours per week.
- (b) The terms of this Agreement shall apply pro rata to part-time employees on the basis that ordinary hours for full-time employees is thirty-eight (38) hours per week.

#### 9.2 Casual employees:

- (a) Some employees may not be required on a full-time or part-time basis. In those circumstances, employees may be engaged as casual employees on an hourly basis.
- (b) In addition to the ordinary rate of pay for the appropriate classification, a casual employee shall be paid an additional twenty five percent (25%) of the ordinary rate of pay, with a minimum payment of four (4) hours. The loading herein prescribed shall be made in lieu of all other entitlements that a full-time or part-time employee may accrue, including paid annual leave, paid sick leave, payment for public holidays not worked, paid bereavement leave, paid carer's leave, jury service and severance pay.

#### 9.3 Full-time employees:

Employees not engaged on a part-time or casual basis will be engaged on a full-time basis. Full-time employees shall work, and be paid for, ordinary hours, plus such overtime and shift work as may reasonably be required from time to time.

#### 9.4 General:

- (a) An employee not attending for duty or not performing work as directed shall not be paid for the actual time of non-attendance or non-performance.
- (b) An employee shall perform all work and follow all directions that the Company reasonably requires of them, provided they are within the limits of the employee's skills, competence, training and statutory requirements.

## 10. PROBATIONARY PERIOD

- 10.1 A probationary period of three (3) months applies to all new full-time and part-time employees.
- 10.2 During this period, either the employee(s) or the Company may terminate the contract of employment for any reason by providing one (1) day's notice to the other party, or by providing payment for one (1) ordinary day's work in lieu thereof.
- 10.3 Probationary employees will accrue all their entitlements under this Agreement for the duration of the probationary period. Further, employees will be paid in accordance with their recognised and assessed skills and shall not otherwise be disadvantaged while on probation.

## 11. LEAVE

### 11.1 Annual Leave And Christmas Closedown

- (a) Employees (other than casuals) will accrue annual leave entitlements at the rate of four weeks per year of continuous service (less the period of annual leave).
- (b) The parties acknowledge that it is not beneficial for employees to have extensive periods of work without taking annual leave. Annual Leave shall be given and taken in accordance with the Company's requirements.
- (c) The balance of an employee's accrued entitlements should be taken at mutually convenient times.
- (d) Annual Leave is paid at the ordinary rate being paid to the employee immediately prior to the taking of the Annual Leave, plus 17½% loading.
- (e) Annual Leave may not be paid out except on termination of employment or in the following circumstances:
  - i) In any year, the employee may apply to cash in up to 2 weeks of their annual leave entitlement provided that
  - ii) The employee has had at least 2 weeks off on Annual Leave in the previous year and, after deduction of the amount cashed in, retains a balance of at least 2 weeks of annual leave
  - iii) Once payment is effected in line with Clause (e)(i)-(ii), the company's obligations in relation to the amount of leave so paid out shall be fully

satisfied and the employee shall make no further claim in relation to the amount of leave so paid out and

- iv) The Company reserves the right to determine whether or not it agrees to the employee's request at the time it is made.
- v) The application to cash in Annual Leave must be in writing.

#### 11.2 Christmas Closedown

- (a) It is agreed that whenever annual leave is to taken in conjunction with the Christmas/New Year period, it is to be taken in accordance with the following procedure.
- (b) Employees who have not accrued sufficient pro rata annual leave prior to commencement of the Christmas/New Year period, may be stood down by the Company to give that employee at least the minimum leave of absence required.
- (c) Where the Company decides to close a site over the Christmas/New Year period for any period in excess of the agreed minimum closedown, up to and including 20 Annual Leave days, then the Company shall give at least 2 months' notice to employees. Employees who have no, or insufficient, accrued annual leave equal to the period of the closure, may be stood down without pay for that period.
- (d) Notwithstanding anything elsewhere contained in this Agreement, the Company may request any employee to work in unforeseen or emergency circumstances during the Christmas period. In any such event the Company shall recognise the individual right of employees not to work, provided that employees shall not unreasonably refuse such a request.
- (e) Where an employee requests that annual leave be allowed in one continuous period at Christmas, such a request shall not be unreasonably refused.

#### 11.3 Paid Leisure Days (PLD'S)

- (a) Employees accrue Paid Leisure Days (PLD) in accordance with the table in Clause 15.1 of this agreement.
- (b) PLD's may be used when an employee is on leave , however, where an employee wishes to take paid leisure leave the employee must have sufficient accrued paid leisure leave to cover the proposed period of leave.
- (c) Where an employee does not have sufficient PLD's to cover the proposed period of leave, the employee must take annual leave, accrued RDO's, or leave without pay.

- (d) Subject to Clause (e), employees will not be permitted to have a negative PLD balance.
- (e) Discussions will be held with employees, who at the date of acceptance of this agreement have a negative PLD balance, to determine how the negative PLD can be brought down to a positive balance. Matters to be considered will be offsetting negative PLD balances against accrued RDO's and annual leave, not permitting employees to take PLD leave until such time as they have a positive PLD balance, or any other matter that might be agreed upon by the employer and the employee.

#### 11.4 Personal (Sick and Carer's) Leave

- (a) Personal Leave is to be used in situations where an employee is unable to attend for work due to personal injury or illness (Sick Leave) or due to the need to care for or support a member of the Employee's immediate family or household because of a personal illness or injury of the member or an unexpected emergency affecting the member (Carer's Leave).
- (b) The following are members of an employee's immediate family:
  - spouse, child, parent, partner, grandparent, grandchild or sibling of the employee; and
  - a child, parent, grandparent, grandchild or sibling of a spouse of the employee provided that:
  - spouse includes a former spouse, a de facto spouse and a former de facto spouse
  - de facto spouse means a person of the opposite sex to the employee who lives with the employee as the employee's husband or wife on a genuine domestic basis although not legally married to the employee and
  - child includes an adopted child, a stepchild, an ex-nuptial child and an adult child.
- (c) Full-time employees are entitled to 10 days of paid Personal Leave per annum accruing pro rata by pay period with any unused portion accumulating from one year to the next.
- (d) Of this entitlement, a maximum of 10 days of paid Personal Leave may be granted as Carer's Leave in any one year.
- (e) Part-time employees accrue paid Personal Leave on a pro rata basis.
- (f) Casual employees are not entitled to paid Personal Leave.
- (g) In circumstances where an Employee has exhausted the paid Personal Leave entitlement, an additional two day of unpaid Carer's Leave may be granted for each occasion on which an Employee is unable to attend work

due to the need to care for an ill or injured family or household member. This does not accumulate.

- (h) The provisions of (g) above apply to a casual employee.
- (i) The Employee is required to notify the Company prior to their scheduled starting time on any day that they are unable to attend for work.
- (j) The Company may require an employee to provide satisfactory evidence of incapacity for work (e.g. via a certificate of incapacity issued by a duly qualified medical practitioner) for absences in excess of one day or absences either side of a weekend or a public holiday.

#### 11.5 Parental Leave

- (a) In accordance with the provisions of the Workplace Relations Act 1996, an employee may be eligible for the grant of up to 52 weeks of unpaid Parental (Maternity, Paternity or Adoption) Leave.
- (b) To be eligible, an employee must have completed 12 months service with the Employer and be subject to the circumstances prescribed in the relevant provisions of the Workplace Relations Act 1996.
- (c) Entitlements to Personal leave, Annual Leave and long service leave will not accrue while on unpaid parental leave.

#### 11.6 Compassionate Leave

- (a) Employees shall be entitled to up to 2 days of paid leave upon the death or threat to life of a member of the Employee's immediate family as defined in Clause 26(b).
- (b) The Company may require the Employee to provide evidence of the requirement to take Compassionate Leave.
- (c) The provisions of this clause are not applicable to a casual employee.

#### 11.7 Long Service Leave

Employees will be registered with the relevant Long Service Leave scheme in the home state of their employment; (Employee Declaration, Schedule 2)

## 12. TRAINING AND SKILLS PROGRAMS

- 12.1 Subject to this clause, training requirements shall be in accordance with clause 39 of the Award.
- 12.2 The Company will provide training and development opportunities to employees as appropriate to participate in continuous improvement, personal development, skill enhancement and Occupational Health & Safety.
- 12.3 Apprenticeships and traineeships may be offered depending on work requirements.
- 12.4 Training for skills enhancement may be undertaken outside ordinary hours. Where training is taken outside ordinary hours (at the Company's direction, or with its approval), the employee will not be paid for the time taken. However, the Company will pay for all training programs that it undertakes to provide for the employees.

## **PART III Wage Structure and Benefits**

### **13. CLASSIFICATION STRUCTURE**

The wage rates to be paid for each classification are tabulated in Schedule 1 of this Agreement.

### **14. BASE RATE WAGE INCREASES**

During the life of this Agreement, there shall be no increase to the Ordinary Rate of Pay, except such increases as may be provided in Schedule 1 to this Agreement.

### **15. ALLOWANCES**

No allowances are payable to the employees under this Agreement except for the following allowances:

## 15.1 Description of Zoning and Allowances (Local and Remote)

For the purposes of this clause and clause 15, the following Zones apply:

Locality	Zoning	Description	Travel	Living Away From Home Allowance (LAFHA)	Paid Leisure Leave (PLL)	Leave Cycling (LC)
Local	Zone 1	Melbourne Resident – an employee working and living within 50 kilometres of the Melbourne GPO  Non-Melbourne Resident –an employee travelling to work at a location within a radius of 50 kilometres of their declared residence.	Clause 15.2	N/A	N/A	N/A
Local	Zone 2	An employee working between 50 and 75 kilometres from their declared place of residence without living away from home	Clause 15.2 plus up to 1 hour per day	N/A	N/A	N/A
Remote	Zone 3	Encompasses all locations within Zone 2 at which an employee performs work whilst living away from home	Clause 15.2 plus up to 1 hour per day	Yes, for nights away from home	N/A	N/A
Remote	Zone 4	Encompasses all locations that are outside Zone 2 but less than 2 hours' flying time from the airport nearest to the employee's usual place of residence	Clause 15.2 plus payment for time in transit	Yes, for nights away from home	2 hours per week pro-rata	Every 4 weeks worked $\pm$ 1 week
Remote	Zone 5	Encompasses all locations outside Zone 4 and not including Zone 6	Clause 15.2 plus payment for time in transit	Yes, for nights away from home	4 hours per week pro-rata	Every 4 weeks worked $\pm$ 1 week
Remote	Zone 6	Encompasses the entire Pilbara region of Western Australia. See Schedule 3 attached	Clause 15.2 plus payment for time in transit	Yes, for nights away from home	8 hours per week pro-rata	Every 4 weeks worked $\pm$ 1 week

## **15.2 Fares and travelling patterns allowance:**

In lieu of the fares and travelling patterns allowance prescribed by Clause 38 of the Award, an allowance shall be paid for each day worked by an employee other than when working in Zone 1 as described in sub-clause 154.1.

That allowance shall be as follows:

- |     |        |                 |
|-----|--------|-----------------|
| (a) | 1/7/09 | \$29.60 per day |
| (b) | 1/7/10 | \$30.95 per day |
| (c) | 1/7/11 | \$32.35 per day |
| (d) | 1/7/12 | \$34.00 per day |

## **15.3 Refinery allowance**

- (a) An employee required to work within an 8km radius from the intersection of Kororoit Creek Road and Millers Road, Altona shall be paid an allowance of 81 cents per hour in addition to all other rates.
- (b) On all work carried out at Latrobe Valley sites covered by Metal Trades Agreements all employees performing work under this agreement shall be paid not less than the majority of employees of equivalent classification level working under the above agreements. Employees shall receive a \$2.00 per hour severance including but not additional to Incolink on special major projects.

## **15.4 Leading Hand allowance**

This will be paid as per the NBIC Award 2000

## **15.5 First Aid allowance**

This will be paid as per the NBIC Award 2000

**15.6 Meal allowance**

This will be paid as per the NBIC Award 2000

**15.7 Site and Depot allowance**

(a) This will be paid as follows:

Project Value \$m	Site Allowance (\$ / hr)
Depot allowance or where the project value is less than \$2.4.	\$1.75
2.4m - 6.5m	\$1.95
6.5m – 16.0m	\$2.15
16.0m – 32.1m	\$2.40
32.1m – 64.1m	\$2.80
64.1m – 128.3m	\$3.35
128.3m – 192.3 m	\$3.45
192.3m – 256.4m	\$3.55
256.4m – 384.7m	\$3.65
For projects above \$384.7 million, there shall be an increment of 10 cents per additional \$100m or part thereof.	

**16. REMOTE WORK**

16.1 This clause applies to work that is performed by an employee at a locality which, in respect of that employee, is deemed to be “Remote”, as defined and explained in the table in sub-clause 15.1 above.

16.2 Employees who perform Remote Work shall be paid as follows:

- (a) subject to sub-paragraph (b) below, employees will be paid for each hour spent in transit to a project as if they were working – for the avoidance of doubt, overtime or penalty rates will apply in respect of travel that occurs outside of the employee's ordinary hours;
- (b) if the employee travels by air to a project, payment for the time spent in transit will commence from the scheduled flight time until arrival at the project's location, inclusive of transfers;
- (c) the costs of necessary transfers to and from any airport will be paid by the Company;

- (d) if the employee travels in their own vehicle, they will be paid for their travelling time plus:
  - (i) 40 cents per kilometre travelled to the project site and back as once off mobilisation and demobilisation payments. These payments will be reimbursement for expenses incurred and, accordingly, will not have tax withheld from them. Only travelling time will be paid in respect of travel undertaken in a Company or other private vehicle; or, alternatively
  - (ii) if an employee elects to drive their car home for an intermediate break, but not for mobilisation or demobilisation, the employee will be paid the equivalent cost of a Qantas Super Saver economy airfare;
- (e) If the employee travels overnight, the Company will pay for transit accommodation and travelled hours per day;
- (f) The Company will pay for a return flight home (economy class) from any location within Australia for each employee every 4 weeks. If the Employee does not use the flight, the money for the airfares may not be claimed in lieu.

16.3 Remote Work will be pro-actively managed by the Company at site level in conjunction with the employee. The Company's Living Away Policy (which will otherwise apply except to the extent that it is inconsistent with this agreement) will include a daily payment for incurred living expenses plus an accrual for additional leisure leave, based on the project's location.

16.4 The stipulated periods of working away and subsequent time off will be standardised as much as possible, however variable by mutual agreement plus or minus a week either side of the planned cycling due to the variability of site construction works.

#### **16.5 Distant Travel – Applicable only to Zones 3, 4, 5 & 6**

A minimum daily allowance of \$40.00 per night for seven nights of each week, or pro-rata as in the case of Zone 3. The Company may increase this allowance at its discretion.

#### **16.6 Leisure Leave Allowance – Applicable only to Zones 4, 5 & 6**

In addition to the entitlements outlined above, employees will receive the following benefits for Remote Work, based on the zones defined in sub-clause 15.1 above:

- (a) Zone 4 – employees will accrue an additional 2 hours' leisure leave per week lived away;
- (b) Zone 5 – employees will accrue an additional 4 hours' leisure leave per week lived away;

- (c) Zone 6 – employees will accrue an additional 8 hours' leisure leave per week lived away.
- 16.7 At the commencement of every project, the agreed project travelling kilometres, travel duration and the cost of a Qantas Super Saver ticket will be established and recorded on the project's Pre-start Minutes circulated to the payroll department for payment of appropriate entitlements.

## **PART IV**                      **Hours of Work, Overtime**

### **17. ORDINARY HOURS**

- 17.1 Effective from the commencement of this Agreement until the expiration of this Agreement, the ordinary hours of work for a full-time employee shall:
- (a) average thirty-eight (38) hours per week;
  - (b) not exceed one hundred and fifty-two (152) hours in any four (4) week cycle;
  - (c) be worked between 6am and 7pm on Monday to Friday;
  - (d) be eight (8) per day, with twenty-four (24) minutes' pay accruing each day worked towards a paid rostered day off; and
  - (e) be worked in nineteen (19) shifts in any four- (4-) week work cycle with one shift being taken as a rostered day off.
- 17.2 Effective from the commencement of this Agreement until the expiration of this Agreement, the ordinary hours of work for a part-time employee shall:
- (a) average less than thirty-eight (38) hours per week;
  - (b) not exceed one hundred and forty (140) hours in any four- (4-) week cycle; and
  - (c) work between the hours of 6am and 7pm on any day.
- 17.3 Effective from the commencement of this Agreement until the expiration of this Agreement, casual employees shall:
- (a) be hired on an hourly basis, as required; and
  - (b) work between the hours of 6am and 7pm.
- 17.4 Unless agreed in accordance with clause 17.6 below, any work undertaken by full-time or part-time employees outside the normal spread of hours (6:00am to 7:00pm Monday to Friday) will attract overtime rates or leave allowances as applicable under the Agreement.
- 17.5 The following criteria shall be considered in assessing changes to the hours of work of any employees:
- (a) Impact on project efficiency, productivity and quality;
  - (b) Impact on quality of life, safety and welfare;
  - (c) Impact on employment levels; and

(d) Impact on employees' remuneration.

- 17.6 Ordinary hours, as in clauses 17.1, 17.2 and 17.3 above, can be varied by one (1) hour to commence earlier than 6:00am and/or finish later than 7:00pm by agreement between the employee(s) concerned and the Company.
- 17.7 The start-time is "at the work face".

## **18. MEAL BREAKS**

- 18.1 There shall be a cessation of work and of working time for the purpose of a meal on each day, of no less than 30 minutes, to be taken between noon and 2.00 pm, subject to clauses 18.2 and 18.3 below.
- 18.2 An employee who is required to continue working during the employee's normal meal break shall be paid at the rate of time and a half in relation to their ordinary rate until the employee is released for the meal break.
- 18.3 All breaks shall be taken at times that will not interfere with the continuity of work were continuity is necessary.

## **19. ROSTERED DAYS OFF**

- 19.1 By agreement between the Company and employee(s) concerned, a rostered day off (RDO) may be transferred to an agreed day provided that, unless the RDO is banked, the alternative day is taken prior to the accrual of the following RDO.
- 19.2 By agreement between the Company and employee(s) concerned, up to five (5) RDOs may be accumulated and taken at an agreed time within six (6) months of when they become due or may be banked and taken with annual leave, or used in lieu of PLD.
- 19.3 Banked RDO's may be paid out at the discretion of the Company, following consultation with the affected employees.
- 19.4 Overtime shall not be paid for ordinary hours worked on what would have been an RDO where agreement to transfer has been reached.
- 19.5 If an employee's employment is terminated before accumulated RDOs can be taken, the RDO(s) shall be paid out at the Ordinary Rate of Pay.

- 19.6 Where a scheduled RDO falls on a public holiday, the next working day shall be taken in lieu of the RDO unless an alternate day is agreed between the Company and the majority of the employees concerned.
- 19.7 RDOs shall not accrue during annual leave.
- 19.8 Except where agreement has been reached, the prescribed RDO or such substituted day may be worked where that is required by the Company and such work is necessary to allow other employees to be employed productively or to carry out out-of-hours maintenance or because of unforeseen delays to a particular project or a section of it or for other reasons arising from unforeseen or emergency circumstances on a project.
- 19.9 Where the Company and the majority of employees agree that due to the nature of the particular project, it is not practicable for the foregoing four week cycle to operate, they may agree to an alternate method of arranging working hours, provided that:
- (a) the ordinary hours worked in any one week from Monday to Friday are within the spread of hours set out in 0 above;
  - (b) that no more than eight ordinary hours are worked in any one day; and
  - (c) that the alternate method of arranging working hours is at least as beneficial to the employee(s) concerned as the AFPCS.

## 20. PUBLIC HOLIDAYS

Employees are entitled to be absent from work, without loss of pay, on the public holidays generally recognised throughout the State or Territory in which they normally work. The Company may request employees to work on those holidays, but those requests can be refused if, in the circumstances, it is reasonable for an employee to do so.

Public holiday means:

- (a) (i) each of these days:
  - 1. 1 January (New Year's Day);
  - 2. 26 January (Australia Day);
  - 3. Good Friday;
  - 4. Easter Monday;
  - 5. 25 April (Anzac Day);
  - 6. 25 December (Christmas Day);
  - 7. 26 December (Boxing Day); and

- (ii) a day that, under (or in accordance with a procedure under) a law of a State or Territory, is substituted for a day referred to in paragraph (a); and
- (b) any other day declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of that State or Territory, as a public holiday by people who work in that State, Territory or region.

## 21. OVERTIME

- 21.1 Reasonable overtime shall be worked at the discretion of the Company after the Company has provided at least one (1) hour's notice.
- 21.2 The time worked by full-time or part-time employees outside or in excess of the ordinary hours prescribed in clause 17 above or as agreed under clause 17.6 above shall be overtime and shall be paid at the rate of time and a half for the first two (2) hours and double time thereafter.
- 21.3 Overtime worked on Saturday or Sunday shall be paid as follows:
  - (a) Saturdays – at the rate of time and a half for the first two (2) hours and double time thereafter;
  - (b) Sundays – at the rate of double time for all hours worked.
- 21.4 Call-back
  - (a) A full-time or part-time employee recalled to work overtime after leaving the site on any day, Monday to Friday (whether notified before or after leaving the site) shall be paid for a minimum of three (3) hours at the appropriate rate for each time the employee is recalled.
  - (b) Except in the case of unforeseen circumstances arising, the employee shall not be required to work the full three (3) hours if the job that the employee was recalled to perform was completed within a shorter period.
- 21.5 Rest Period

The Company shall endeavour to provide a full-time or part-time employee who works overtime with at least a ten (10) hour rest period between the end of work on any one day and the start of ordinary hours on the next day.
- 21.6 A new employee, if engaged and presenting for work to commence employment and not being required shall be entitled to at least eight (8) hours' work or payment therefore at ordinary rates.

## 22. SHIFT WORK

### Definitions

- 22.1 Day shift means any shift starting on or after 6.00 a.m. and before 10.00 a.m.
- 22.2 Afternoon shift means any shift starting at or after 10.00 a.m. and before 8.00 p.m.
- 22.3 Night shift means any shift starting at or after 8.00 p.m. and before 6.00 a.m.
- 22.4 Rostered shift means a shift of which the employee concerned has had at least 24 hours notice.
- 22.5 If an employee receives less than 24 hours notice of the requirement to work shiftwork the employee will be paid at overtime rates for the duration of the shift.
- 22.6 Employees who work on any afternoon or night shift which does not continue for at least five successive afternoons or nights shall be paid at the rate of time and a half for all ordinary time occurring during such shift.

### **Permanent night shift**

An employee who:

- 22.7 during a period of engagement on shift, works night shift only; or
- 22.8 remains on a night shift for a longer period than four successive weeks; or
- 22.9 works on a night shift which does not rotate or alternate with another shift or with day work so as to give him/her at least 1/3rd of his/her working time off night shift in each cycle;
- 22.10 shall during such engagement, period or cycle be paid 30% more than his/her ordinary rate for all time worked during ordinary working hours on such night shift.

## PART V Termination

### 23. TERMINATION OF EMPLOYMENT

23.1 For full-time and part-time employees, termination of employment shall be in accordance with the provisions of the Workplace Relations Act 1996 (as amended). The period of notice to be given by the Company for those employees was, at the time of approval of this Agreement, as follows:

Where the employee's period of continuous service with the Company is:	The period of notice is:
Up to 1 year	1 week
1 year or more but less than 3 years	2 weeks
3 years or more but less than 5 years	3 weeks
5 years or more	4 weeks

23.2 This period of notice shall be increased by one (1) week where the employee is over forty-five (45) years of age and has completed two (2) years of continuous service with the Company.

23.3 The period of notice to be given by an employee shall be one (1) week. Where less than one (1) week's notice is given by an employee, the Company is entitled to deduct one (1) week's pay from the employee's termination payment.

23.4 Payment in lieu of notice shall be made if the appropriate notice period is not given. The employment may be terminated by part of the period of notice and part payment in lieu. Payment in lieu of notice shall be at the employee's Ordinary rate of pay for the Ordinary hours not worked by the employee during the period of notice.

23.5 Nothing in this clause shall affect the right of the Company to summarily dismiss an employee for misconduct or persistent poor performance that justifies this action.

23.6 Casual employees are entitled to one (1) hour's notice of termination by the Company or payment in lieu of that notice. Casual employees who resign their employment must provide the same amount of notice or sacrifice a portion of their wage equivalent to that which would have been earned if the notice period had been served.

23.7 Where an employer has given notice of termination to an employee, the employee shall be allowed up to one (1) day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

## **24. REDUNDANCY**

### 24.1 Definition

Redundancy is where the Company has made a definite decision that it no longer wishes the job that a full-time or part-time employee has been doing to be done by anyone, and this is not due the ordinary and customary turnover of labour, and that decision leads the termination of employment of the employee.

24.2 The Company is a participating employer in the Redundancy Payment Central Fund Ltd (Incolink) and all employees will be enrolled in the Fund and be entitled to redundancy benefits in accordance with the terms of the Incolink Trust Deed

24.3 The Company shall make contributions on behalf of each employee into the Incolink Number 1 Fund as required by the Incolink Trust Deed.

24.4 If, during the life of this Agreement, legislative amendments are made that subject the Company to additional tax, such as fringe benefits tax, in respect of payments made under this clause, the Company reserves the right to withdraw from the Incolink Fund, in which case redundancy entitlements will be as set out in the Award.

## **25. GRIEVANCE AND DISPUTE SETTLEMENT PROCEDURE**

25.1 Any dispute about matters arising under this Agreement, during the operation of this Agreement between an employee(s) and the Company, shall be progressed in the following manner:

- (a) The employee(s) concerned shall raise the matter with the appropriate leading hand or supervisor for resolution.
- (b) If not resolved, the employee(s) will raise the matter with the next most senior manager of the Company for resolution.
- (c) If not resolved, the Company and the employees concerned shall make genuine attempts to resolve the matter.
- (d) If not resolved, the matter may be referred by either the employee concerned or the Company to the Commission for mediation. Any outcome determined by the Commission cannot be inconsistent with the National Code of Practice for the Construction Industry and the Implementation Guidelines for that Code, or inconsistent with legislative obligations.

25.2 While this procedure is being pursued by the employee(s) concerned, work shall continue as normal.

## **26. DISCIPLINARY PROCEDURE**

26.1 Where, after reasonable investigation, the Company believes an employee has committed an act of misconduct or poor performance, the Company may implement one or more of the following acts of discipline:

- (a) Counseling
- (b) Stand down with pay
- (c) Official warning
- (d) Dismissal (with or without notice).

26.2 In circumstances where the Company has issued an employee with two official warnings, and that employee is found by the Company, after investigation, to have committed another act of misconduct or poor performance, that employee may be dismissed.

26.3 The Company may dismiss an employee without notice where the employee has committed an act of serious or wilful misconduct, or where the employee's performance has been consistently below a reasonable standard.

## **PART VI**                    **Occupational Health and Safety**

### **27. PERSONAL PROTECTIVE EQUIPMENT (PPE) AND CLOTHING**

It is the obligation of the employee to wear and maintain, in a suitable condition, all PPE required (as specified in the Project Management Plan – PMP). It is the Company's responsibility to ensure that each employee has been provided with the necessary PPE for his/her role.

### **28. HEALTH AND SAFETY**

The parties to this Agreement are committed to the safe operation of plant and equipment, to the observation of safe working practices, the proper use of all personal safety equipment, and to providing a safe and healthy working environment on all projects. To facilitate this, it is agreed that:

- (a) the Company has a responsibility to provide a safe workplace, and the employees have the responsibility to work in a safe and responsible manner;
- (b) at all times, the legislative requirements of the *Occupational Health and Safety Act 2004* and any other applicable regulations, legislation, or codes of practice will be adhered to by both the Company and its employees;
- (c) any employee becoming aware of a situation that is unsafe is responsible for immediately reporting the information to his/her supervisor/foreman or other nominated representative of the Company;
- (d) items of safety equipment and apparel should be provided, used, and worn as required and directed;
- (e) the Company, and where necessary its employees, will carry out safety assessments and design work method statements as part of project safety plans. It shall be a dismissible offence to interfere with, or make inoperative, any safety equipment or guardrails;
- (f) all first-aid treatments or work-related injuries must be reported to the appropriate foreman/supervisor or nominated first aider for treatment and recording; and
- (g) any damage to plant or equipment must be reported to the appropriate foreman/supervisor immediately.

## 29. DRUG AND ALCOHOL CONSUMPTION

- 29.1 It is agreed that, under no circumstances, will any employee affected by alcohol and/or affected by any other drug be permitted to commence/continue working, or operate any equipment, on Company projects or whilst engaged on another project. To this end it is agreed that where required by the Company, daily alcohol testing will be conducted prior to the commencement of work.
- 29.2 It is agreed that, should the Company safety advisor, or nominated site delegate, have a reasonable suspicion that any employee is under the influence of alcohol or some other illicit or foreign substance, such person may direct the employee to leave the site.
- 29.3 The employee shall not be entitled to any further payment from the time they have been directed to leave the site, until such time as they present themselves for work in a fit and appropriate manner.
- 29.4 Further, it is agreed that the Company's employees will adhere to a zero (0) alcohol level whilst working. Any breach of this term will be deemed serious misconduct and may result in summary dismissal.
- 29.5 The Company may at any time require the employee to undertake a drug or alcohol test. Where an employee fails such a test, the Company has the right to recoup travelling and accommodation expenses incurred by the employee if, in the Company's opinion, the expenses incurred have been misspent.
- 29.6 Any incidents concerning drugs and/or alcohol may be dealt with either in consultation with the site safety committee, and/or in accordance with the discipline procedure in this Agreement.
- 29.7 An employee who is suspected by the Company, on reasonable grounds, to have breached the provisions of this Agreement or any policy of the Company in relation to the consumption of drugs and alcohol, may be required to undergo a test if additional evidence is required to establish the existence of alcohol or an illicit substance in the employee's blood.
- 29.8 Where an employee is working on a site where the Drug and Alcohol procedures differ from those above, the employee will observe the site specific Drug and Alcohol procedures.

### **30. SMOKING**

The Company has a no-smoking policy in place applying to Company site offices, mess/change sheds, Company vehicles and wherever appropriate signage is displayed. All employees are to adhere to the policy. The project safety committee will be consulted regarding the management of specific non-smoking issues in accordance with Company policy, given that once a work area becomes enclosed, it will be deemed a non-smoking area.

### **31. WORK PRACTICES AND CODE OF CONDUCT**

31.1 All employees of the Company are required to maintain the following standards of conduct:

- (a) All employees on a project will be productive. There will be no scope for unproductive employees.
- (b) As a general rule, all crane crewmembers will be interchangeable. For example, if an employee is qualified and experienced as either a crane driver, dogman, rigger, hoist driver, or forklift driver, the person may be utilised in any such capacity.
- (c) The practice of "one in all in" for overtime shall not apply on any project.
- (d) All employees shall work safely and wear appropriate, Company-supplied clothing and personal protective equipment.
- (e) All employees shall maintain regular attendance with punctual time keeping.
- (f) All employees shall not unreasonably refuse a lawful direction to undertake duties within his/her skill capacity and qualifications.
- (g) All employees shall refrain from making or supporting any claim for payment of lost time due to industrial disputes.

## **PART VII**            **Miscellaneous**

### **32. INCLEMENT WEATHER**

Practice:

- 32.1 The parties to the Agreement shall collectively work towards the minimisation of lost time due to inclement weather and undertake to adopt the following principles in relation to inclement weather and the non-productive time inclement weather creates.
- 32.2 All parties shall adopt a reasonable approach as to what constitutes inclement weather.
- 32.3 Within thirty (30) minutes after the commencement of inclement weather, the Company in conjunction with the employees, and, when appropriate, the safety representative, shall assess the weather conditions and, where necessary, shall transfer employees to other work activities or training.
- 32.4 Employees shall accept transfer to an area or site not affected by inclement weather where useful work is available, provided the useful work is within the employee's skill, competence and training.
- 32.5 Where useful work is not available, the use of non-productive time shall be utilised for activities as determined by the Company, such as relevant and meaningful skill development, safety training and other training, presentation and participation in learning, planning and reprogramming of the project or any other useful utilisation of non-productive time as the Company may reasonably require.
- 32.6 After four (4) ordinary hours, if information indicates that the weather will continue to be inclement, the Company may release employees for the remainder of the day. In this situation, employees shall be paid the ordinary hours normally worked for the day.
- 32.7 A maximum of thirty-two (32) ordinary hours' pay will be payable in every four (4) week period where ordinary work is ceased due to inclement weather.

#### **Cancellation of Saturday & Sunday work**

- 32.8 During periods of inclement weather, employees shall, if required, continue to report for work on Saturdays and Sundays as per the pattern of ordinary hours for the particular project.
- 32.9 The Company may decide to cancel Saturday and Sunday work if it decides those hours will not be sufficiently productive because of inclement weather.
- 32.10 To effect this cancellation, the Company shall inform the employees verbally.

32.11 Employees working in dry situations shall continue to work ordinary Saturday and Sunday hours. It is the Company's responsibility to inform those employees who it considers to be working in dry situations.

### 33. STAND DOWN

The Company may deduct payment from an employee for any day on which, or for any period of any day during which, the employee cannot be usefully employed because of any strike or because of any stoppage of work by any other cause for which the Company cannot reasonably be held responsible.

### 34. SUPERANNUATION

34.1 Superannuation shall be paid in accordance with the *Superannuation Guarantee (Administration) Act 1992*.

34.2 Subject to sub-clause 33.1, the level of contributions paid on behalf of each employee shall be as follows:

from	1/7/09	\$132.40
from	1/7/10	\$138.35
from	1/7/11	\$144.60
from	1/7/12	\$151.85

34.3 All superannuation contributions shall be paid monthly as required by the C+BUS Trust Deed.

### 35. INCOME PROTECTION & TRAUMA INSURANCE

35.1 Income Protection

- (a) All employees will be covered by the extended Incolink Leisure Time Insurance and Income Protection Scheme, which provides weekly payments for up to a maximum one hundred and four (104) weeks in the event of an extended work absence arising from any personal illness or injury.

- (b) The costs of this benefit will be shared between Incolink and the Company on a 30/70 basis.
- (c) Agreed premium costs will be:
  - (i) Incolink \$2.25 per week per employee
  - (ii) Company \$5.25 per week per employee
- (d) This benefit has been agreed to by the Company on the grounds that premium costs have been set at \$7 per week/worker and will not exceed that amount. In the event of insurance costs rising, it is agreed that the table of defined benefits will be reduced so as to maintain the \$7 premium figure. To maintain this cover the Company agrees to pay the amounts every week for each employee.

### 35.2 Trauma Insurance

- (a) All workers will be covered by an Incolink-administered lump sum insurance policy providing financial compensation in the event of major work-related (ie: as defined by WorkCover) accident resulting in death or permanent total disablement.
- (b) The full and precise conditions of this cover shall be in accordance with the terms of the policy, but in general will provide that, in the event of a workplace accident resulting in either the death or total permanent disablement of a worker covered by this Agreement, a lump sum payment as specified below will be made.
- (c) The defined payments are:
  - (i) for employees with dependants – \$250,000.00;
  - (ii) for employees without dependants – \$150,000.00.
- (d) This benefit has been agreed by the Company on the grounds that premium costs have been set at \$7.00 per week per worker and will not exceed that amount. In the event that insurance costs rise above that level, the defined benefits (outlined above) will be reduced so as to maintain the \$7.00 premium figure.

### 35.3 Income & Trauma Insurance Variation

Other than as outlined above, there shall be no changes to the above schemes or contributions, except as agreed with the Incolink Board and all other parties covered by this Agreement.

### **36. ACCIDENT PAY**

The Company shall pay accident pay as provided in the Award, during the incapacity of any employee arising from any one injury, for a total of twenty-six (26) weeks.

### **37. JOURNEY ACCIDENTS**

The Company will insure all workers covered by this Agreement against the loss of ordinary wages arising from work where an absence of up to twelve (12) months is incurred due to injuries or illness resulting from any accident incurred in journeys between the employee's residence and the workplace, and return.

### **38. LEAVE TO ATTEND MEETINGS**

If, during work hours, an employee wishes to attend a mass meeting or other form of meeting organised by a union or any other person, he or she must apply to the Company for leave to attend that meeting at least 7 working days before the meeting takes place. Failing this, the employee may be subject to fines under the *Workplace Relations Act 1996*.

## **SIGNATURES**

The contents and spirit of this Agreement are endorsed and supported by the employees and management of Austral Construction Pty Ltd.

### **SIGNATORIES**

Signed for and on behalf of Austral Construction Pty Ltd

Name:

Company Position:

Signature:

Witness:

Date:

Signed for and on behalf of the employees:

Name:

Signature:

Date:

Name:

Signature:

Date:

## SCHEDULE 1

### Classification Structure and Wage Rates

#### -WAGE RATES (LABOURERS)

Classification	1-Jul-08 (\$ per hour)	From 1 July 2009 (\$ per hour)	From 1 July 2010 (\$ per hour)	From 1 July 2011 (\$ per hour)	From 1 July 2012 (\$ per hour)
CW1  Tradesman's labourer/assistant Concrete cutting machine operator Concrete gang Traffic controller (level 1) Chainman	25.45	26.98	28.19	29.46	30.93
CW2  Scaffolder Hoist /winch driver Steel fixer Concrete finisher Pitcher/beacher Trainee rigger Traffic controller (level 2) Storeman	26.26	27.84	29.09	30.40	31.92
CW3  Rigger Dogman Pipelayer/Renderer Formsetter Landscaper Drilling / Boring Machine Operator (155mm)	27.16	28.79	30.09	31.44	33.01
CW4  Tunneller Drilling / Boring Machine Operator (230mm) Marker and Setter Out	29.08	30.82	32.21	33.66	35.34
CW5  Tunneller Grade 1 Trainee dogman / crane hand (fixed crane) Special class tradesperson (Over 230mm)	30.33	32.15	33.60	35.11	36.86

## SCHEDULE 1 cont...

### - WAGE RATES (PLANT OPERATORS)

Classification	1-Jul-08 (\$ per hour)	From 1 July 2009 (\$ per hour)	From 1 July 2010 (\$ per hour)	From 1 July 2011 (\$ per hour)	From 1 July 2012 (\$ per hour)
CW3 Forklift Drivers (Over 500kg) Mobile Hydraulic Platform Operator Mechanical Plant Operator Grade One Includes: Powered Road Roller, Trenching Machine Ditchwitch Type	26.32	27.90	29.15	30.47	31.99
CW4 Mechanical Plant Operator Grade 3 Road marker operator (+ crew) Backhoe/Loader Track laying machine (depth less than 2.4m) Grader (below 35Kw) Mobile crane drivers up to 15 tonne	27.42	29.07	30.37	31.74	33.33
CW5 Mechanical Plant Operator Grade 4 Trenching Machine (Depth greater than 2.4 Metre) Grader (Above 55KW) Mobile crane drivers 15t-	28.51	30.22	31.58	33.00	34.65
CW7 Tower crane operator Mobile crane drivers in excess of 100t Tower crane crew	30.66	32.50	33.96	35.49	37.26
CW8 works on plant and equipment at a higher level of skill than CW7; • exercises high precision trade and/or operative skills using various materials and specialised techniques at a higher level than CW7; • implements quality control programs; •plans complex construction sequencing	32.90	34.87	36.44	38.08	39.99

## SCHEDULE 2

### EMPLOYEE DECLARATION

I, \_\_\_\_\_, employed by Austral Construction Pty Ltd declare as follows:

I have received, read and understand the non-local employee clause of this Agreement.

My usual place of residence is:

\_\_\_\_\_

I understand and agree that this declaration shall be the sole determinant of my usual place of residence for the purpose of the Agreement.

When I was engaged or selected for employment on the project, I was at:

\_\_\_\_\_

(Town or suburb)

I understand that, if I was engaged and selected from the project locality (as defined in the Agreement), I shall have no entitlement, now or in the future, to benefits of the non-local employees clause of the Agreement. This means I shall not be entitled to board and accommodation or living away from home allowance.

I have not been subject to any duress in making this declaration and, in particular, I have not been told to give a local address in order to get a job.

DECLARED this        day of        200

Signature:

Name printed:

Witness signature:

Name printed: