

DELRON CLEANING PTY LTD (Prospector and Avon Link/Merredin On-Train Customer Service Officers) Enterprise Agreement 2013



Chamber of Commerce and Industry of Western Australia (Inc)

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PART 1 – APPLICATION AND OPERATION

1. TITLE

This agreement will be known as the Delron Cleaning Pty Ltd (Prospector and Avon Link/Merredin On-Train Customer Service Officers) Enterprise Agreement 2013 (**Agreement**) and is made pursuant to the *Fair Work Act 2009* (Cth) (FW Act).

2. APPLICATION AND COVERAGE

The Agreement covers Delron Cleaning Pty Ltd t/as Delron Hospitality Management (ABN 84 008 806 004) (referred to as **the Company**) and employees of the Company employed in the classifications contained in the Agreement to perform work or in connection with the Company's contract to provide catering and customer services for TRANSWA

3. COMMENCEMENT AND PERIOD OF OPERATION

- 3.1 The Agreement comes into operation seven days after it is approved by FWC.
- 3.2 The nominal expiry date for the Agreement is the 30 June 2017. However, the Agreement will continue to operate until it is replaced or terminated by approval in accordance with the Act.

4. AGREEMENT STANDS ALONE AND NO EXTRA CLAIMS

- 4.1 The Agreement stands alone. All other agreements and awards are excluded from having any application to an employee while performing the work covered by the Agreement.
- 4.2 The employees covered by the Agreement will not make any claims or seek to bargain in respect of any permitted matters (as defined by Section 172(1) of the FW Act) before the nominal expiry date of the Agreement, irrespective of whether the matters are the subject of the Agreement. The employees will not engage in any industrial action in support of, or for the purpose of advancing any other or extra claims.
- 4.3 **National Employment Standards**

The provisions of the *National Employment Standards* (NES) apply to employees and are to be read in conjunction with the Agreement. To avoid doubt, the provisions of the NES do not form part of the Agreement.

5. DEFINITIONS

FW Act: means the *Fair Work Act 2009 (Cth)*

FWC: means the *Fair Work Commission*.

Individual flexibility arrangement: see *clause 7.1*

National training wage: see *clause 18.4*

NES: means the *National Employment Standards* as contained in sections 59 to 131 of the FW Act.

Ordinary time earnings: has the same meaning given by section 6(1) of the *Superannuation Guarantee (Administration) Act 1992 (Cth)*.

Relevant Award: means the *Hospitality Industry (General) Award 2010*.

Shiftworker: see *Clause 28.1(b)*.

Spread of hours: means the period of time elapsing from the time an employee commences duty to the time the employee ceases duty within any period of 24 hours.

Standard Base Rate: means the base hourly rate for a Level 2/3 Customer Service Officer.

Supported wage system: see *clause 18.3*.

TRANSWA: means the operator responsible for the running of the Prospector / Avon and Merredin Link services within the Public Transport Authority of Western Australia.

Where this Agreement refers to a condition of employment provided for in the NES the NES definition applies.

6. ACCESS TO THE AGREEMENT AND THE NATIONAL EMPLOYMENT STANDARDS

The Company must make copies of the Agreement and the NES accessible to employees by either placing a copy on a noticeboard at or near the workplace or providing access through electronic means or by other reasonable means.

7. INDIVIDUAL FLEXIBILITY ARRANGEMENT

7.1 In order to meet their genuine needs, the Company and an employee may agree to make an ***individual flexibility arrangement (IFA)*** to vary the effect of terms of the Agreement in relation to one or more of the following matters:

- (1) arrangements about when work is performed;

- (2) overtime rates;
- (3) penalty rates;
- (4) allowances;
- (5) leave loading; and

7.2 The Company must ensure that the terms of the IFA:

- (1) are about permitted matters under the FW Act; and
- (2) are not unlawful terms under the FW Act; and
- (3) result in the employee being better off overall than the employee would be if no arrangement was made.

7.3 The Company must ensure that the IFA:

- (1) is in writing; and
- (2) includes the name of the Company and employee; and
- (3) 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
- (4) includes details of:
 - (a) the terms of the Agreement that will be varied by the IFA; and
 - (b) how the IFA will vary the effect of the terms; and
 - (c) 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 IFA; and
- (5) states the day on which the IFA commences.

7.4 The Company must give the employee a copy of the IFA within 14 days after it is agreed to.

7.5 The Company or employee may terminate the IFA:

- (1) by giving no more than 28 days written notice to the other party to the IFA or
- (2) if the Company and employee agree in writing – at any time

PART 2 – CONSULTATION AND DISPUTE RESOLUTION

8. CONSULTATION REGARDING MAJOR WORKPLACE CHANGE AND CHANGE TO REGULAR ROSTER OR ORDINARY HOURS OF WORK

8.1 This clause applies if the employer:

- (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

8.2 For a major change referred to in paragraph (1)(a):

- (a) the employer must notify the relevant employees of the decision to introduce the major change; and
- (b) subclauses 8.3 to 8.9 inclusive apply.

8.3 The relevant employee may appoint a representative for the purposes of the procedures in this term.

8.4 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 employer of the identity of the representative.

the employer must recognise the representative.

8.5 As soon as practicable after making its decision, the employer 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 employer 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.
- 8.6 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 8.7 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 8.8 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 employer, the requirements set out in paragraph 8.2(a) and subclause 8.3 and 8.5 are taken not to apply.
- 8.9 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 employer'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

- 8.10 For a change referred to in paragraph 8.1(b):
- (a) the employer must notify the relevant employees of the proposed change; and
 - (b) subclauses 8.11 to 8.15 inclusive apply.
- 8.11 The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 8.12 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 employer of the identity of the representative;

the employer must recognise the representative.

8.13 As soon as practicable after proposing to introduce the change, the employer 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 employer reasonably believes will be the effects of the change on the employees; and
 - (iii) information about any other matters that the employer 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).

8.14 However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

8.15 The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

8.16 In this term:

relevant employees means the employees who may be affected by a change referred to in subclause 8.1.

9. DISPUTE RESOLUTION

9.1 The purpose of this clause is to provide, during the period of an employee's employment, a procedure to deal with particular types of disputes affecting the employee.

9.2 In the event of a dispute about a matter arising under the Agreement or in relation to the NES, the following sets out the procedure to settle the dispute –

Step 1 The parties to the dispute must first attempt to resolve the dispute at the workplace by discussions between the employee(s) concerned and the relevant supervisor.

- Step 2** If the discussions at Step 1 do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the employee(s) concerned and the Regional/Area Manager or General Manager as appropriate.
- Step 3** If the dispute is unable to be resolved at the workplace and both Steps 1 and 2 have been taken, the employee(s) concerned will provide the Company with written notice of the matter in dispute and the resolution sought, and specifying that the dispute procedure under the Agreement is to be used to resolve the dispute. The Company will provide a written response as soon as reasonably practicable in the circumstances.
- Step 4** If the dispute is unable to be resolved at the workplace and Step 3 has been taken, a party to the dispute may refer the dispute to the FWC. The process to be utilised by the FWC include mediation, conciliation and arbitration.
- 9.3 A party intending to refer a dispute to the FWC must first provide the other party with written notice of the intention to refer the dispute to the FWC if it is not resolved within 7 days.
- 9.4 The Company or employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 9.5 While the dispute resolution procedure is being followed, work must continue in accordance with the Agreement and the FW Act. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the Company to perform work, which is safe and appropriate for the employee to perform, whether at the same or another workplace.
- 9.6 The FWC may exercise the procedural powers available under the FW Act, and all parties to the dispute will be bound by any arbitrated decision made by the FWC, subject to appeal in accordance with the FW Act.
- 9.7 To avoid doubt, this clause does not cover disputes about whether or not the Company had reasonable business grounds under sections 65(5) or 76(4) of the FW Act.
- 9.8 The dispute resolution procedure stops operating on the cessation of an employee's employment and any dispute resolution that had commenced lapses, including any matter referred to the FWC.

PART 3 – TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT

10. TYPES OF EMPLOYMENT

10.1 Employees under the Agreement will be employed in one of the following categories:

- full-time;
- part-time; or
- casual.

10.2 At the time of engagement the Company will inform each employee of the terms of their engagement and in particular whether they are to be full-time, part-time or casual.

11. FULL-TIME EMPLOYMENT

A full-time employee is an employee who is engaged to work an average of 76 ordinary hours per fortnight.

12. PART-TIME EMPLOYMENT

12.1 A part-time employee is an employee who:

- Works an average of no less than 48 nor more than 76 ordinary hours per fortnight; and
- Receives, on a pro rata basis, equivalent pay and conditions to full-time employees who do the same kind of work.

12.2 A part-time employee will be rostered for a minimum of 4 consecutive hours on any shift.

12.3 At the time of engagement, the Company and a part time employee will agree, in writing, on a regular pattern of work and the average number of ordinary hours to be worked each fortnight.

12.4 The Company and the part time employee may vary the ordinary hours of the work agreement at any time in writing and such variation remains in force for the period stipulated in the agreed variation agreement.

12.5 All time worked in excess of the ordinary hours work agreement agreed under subclauses 12.3 and 12.4, will be deemed overtime and paid for at the rates prescribed in Clause 27 – Overtime.

13. CASUAL EMPLOYMENT

- 13.1 A casual employee is an employee engaged as such and is paid for all hours worked the relevant hourly rate of pay plus a casual loading as compensation for annual leave, personal/carer's leave, notice of termination, redundancy benefits and the other entitlements of full-time or part-time employment.
- 13.2 A casual employee is entitled to a minimum payment for 2 hours work for each shift.
- 13.3 A casual employee must be paid at the termination of each engagement, but may agree to be paid weekly or fortnightly.
- 13.4 **Conversation to full-time or part-time employment**
- (a) A **regular casual employee** means a casual employee who is employed by the Company on a regular and systematic basis during a period of at least 12 months.
 - (b) A regular casual employee may elect (subject to the provisions of this clause) to have their contract of employment converted to full-time or part-time employment.
 - (c) The Company may refuse the election on reasonable grounds.
 - (d) The conversation, if agreed, will take effect from the commencement of the next pay cycle following such agreement.

14. TERMINATION OF EMPLOYMENT

14.1 Notice by the Company

- (a) The Company may terminate an employee's employment if the Company
 - (1) has given the employee in writing the minimum period of notice of the day of the termination; or
 - (2) has paid to the employee (or to another person on the employee's behalf) compensation in lieu of notice.
- (b) The minimum period of notice, except for a casual, is to be worked out as follows:
 - (1) First work out the period of notice using the table below; and
 - (2) then increase the period of notice by 1 week if the employee:

- (a) is over 45 years old; and
- (b) has completed at least 2 years of continuous service with the Company at the end of the day the notice is given.

Employee's period of continuous service with the Company at the end of the day the notice is given	Minimum period of notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (c) The minimum period of notice for a casual employee is 1 day.
- (d) The required amount of compensation in lieu of notice must at least be the amount the Company would have been liable to pay to the employee (or to another person on the employee's behalf) for the hours the employee would have worked had the employment continued until the end of the minimum period of notice.
- (e) The notice provisions will not be required in cases of serious misconduct (including, but not limited to, theft, assault and fraud) or for employees employed for a specified period of time or task.
- (f) The notice provisions may not apply in circumstances that relate to the transfer of the business of the Company.

14.2 Notice by an Employee

- (a) The notice of termination required to be given by an employee is the same as that required to be given by the Company, except that the additional notice based on the employee's age is not required.
- (b) If the employee fails to give the required notice, or work during the notice period, by agreement with the employee the Company may withhold monies due to the employee not exceeding the amount the employee would have been paid under this Agreement for the notice period, less any period of notice given and worked.

14.3 Job Search Entitlement

If the Company has given notice of termination to an employee, the employee is entitled to up to one day's time off work without loss of pay for the purpose of seeking other employment. Such time off is to be taken at a time suitable to the employee after consultation with the Company.

15. REDUNDANCY

15.1 Redundancy pay is provided for in the NES, which provides that an employee (other than a casual employee) is entitled to be paid redundancy pay if the employee's employment is terminated at the Company's initiative because the Company no longer requires the job done by the employee to be done by anyone, except where this is due to the ordinary and customary turnover of labour.

15.2 Transfer to lower paid duties

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

15.3 Employee leaving during notice period

An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee will be entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but will not be entitled to payment instead of notice.

15.4 Job search entitlement

- (a) An employee given notice of termination in circumstances of redundancy will be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee will, at the request of the Company, be required to produce proof of attendance at an interview or they will not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

PART 4 – CLASSIFICATIONS AND MINIMUM WAGE RATES

16. WORK ORGANISATION AND DUTIES

16.1 Employees will be employed in a classification shown in the Agreement but may be required to work in other classifications within the Agreement or undertake other reasonable duties within the limits of their competence.

16.2 An employee will participate in training as required, and assist in the training of other employees as and when necessary or as required by the Company.

17. CLASSIFICATIONS

Employees will be classified in one of the classifications in Schedule A according to the duties that they are required by the Company to perform.

18. WAGE RATES

18.1 An employee must be paid not less than the following **base rate of pay** for work in accordance with the relevant classification from the first full pay period after the Agreement comes into operation:

Level	Classification	Base Rate of Pay					
		Current	Column 1	Column 2	Column 3	Column 4	Column 5
Level 1	Customer Service Officer (First 6 months of experience)	\$16.25	\$16.80	\$17.35	\$17.91	\$18.49	\$19.09
Level 2	Customer Service Officer (Prospector)	\$19.62	\$20.29	\$20.95	\$21.63	\$22.33	\$23.06
Level 3	Customer Service Officer (Avon Link – Without Buffet)	\$19.62	\$20.29	\$20.95	\$22.63	\$22.33	\$23.06
Level 4	Senior Customer Service Officer	\$20.56	\$21.26	\$21.95	\$22.66	\$23.40	\$24.16

18.2 The base hourly rates in clause 18.1 show the increases effected during this agreement in accordance with the following schedule:

	Operative Date	Rate of Increase
• Column 1:	From the beginning of the first pay period to commence on or after 1 July 2012	3.40%
• Column 2:	From the beginning of the first pay period to commence on or after 1 July 2013	3.25%
• Column 3:	From the beginning of the first pay period to commence on or after 1 July 2014	3.25%
• Column 4:	From the beginning of the first pay period to commence on or after 1 July 2015	3.25%
• Column 5:	From the beginning of the first pay period to commence on or after 1 July 2016	3.25%

18.3 Supported wage system

The provisions of the relevant award will apply as a term of this Agreement.

18.4 National training wage

The provisions of the relevant award will apply as a term of this Agreement.

19. ALLOWANCES AND FACILITIES

19.1 Accommodation & Meals

- (a) An employee, who is required to stay away from their home station after completing their shift, will be provided with reasonable accommodation at the Company's expense.
- (b) In addition to the accommodation provided in 19.1, the employee will be entitled to a meal allowance in accordance with the following scale:

	Perth	Kalgoorlie
Breakfast	\$20.00	\$20.00
Dinner	\$38.00	\$38.00
Incidentals	\$6.00	\$6.00

19.2 Inconvenience Allowance

- (a) An employee who is required to stay away from their home station for periods greater than 12 hours, will be paid an inconvenience allowance at the rate of one hour's ordinary pay for each hour or part thereof (calculated to the nearest quarter hour) that is in excess of the 12 hour minimum.
- (b) To avoid doubt, the 12 hour minimum unpaid period commences from the time that the employee ceases duty after completion of the work shift.

19.3 Uniforms

- (a) The Company will provide uniforms to be worn by the employee at the Company's expense. All uniforms must be worn in accordance with the Company's policies and maintained in a clean and serviceable condition by the employee.
- (b) Such uniforms will be replaced by the Company on a fair wear and tear basis in consultation with the employee/s concerned.

19.4 Personal Protective Equipment

- (a) Employees will be issued with the relevant personal protective equipment as is appropriate to their work requirements.

- (b) Employees will ensure that all such issues are worn and maintained in accordance with the employer's (or applicable Occupational Safety and Health Act 1984) requirements.
- (c) The employer will issue personal protective equipment on either a periodic or fair wear and tear basis, as determined by the employer, having regard to the occupational safety and health obligations or any specific product requirements.
- (d) Any changes proposed to personal protective equipment will be managed through appropriate occupational safety and health processes.

19.5 First aid allowance

An employee appointed by the Company to perform first aid duty who has undertaken a first aid course and who is the holder of a current recognised first aid qualification such as a certificate from the St John Ambulance (or similar body) will be paid a weekly first aid allowance of \$8.50.

19.6 Location allowance

A location (or district) allowance will be paid in accordance with clause 21.4(b) of the *Hospitality Industry (General) Award 2010*, which provision ceases to operate on 31 December 2014.

19.7 Broken Shift allowance

An employee will be paid an additional allowance of \$3.50 per day if required to work a broken shift. Provided that where the spread of hours is greater than 12 hours per day the employee will be paid at overtime rates for the portion of the shift that exceeds the 12 hour spread.

19.8 Travel Time

- (a) An employee required to travel as a passenger whilst travelling away from or returning to their home station in order to report for or from duty, will be paid at ordinary time rates for that journey up to a maximum of 8 hours in any 24 hour period. If the travelling time exceeds 8 hours, the employee will be paid at 50% of the ordinary rate for that extra travel.
- (b) Where the employee is travelling in order to act in a higher position or having acted in that higher position, they will be paid the travelling time allowance appropriate to the higher graded position.
- (c) Travel time occurring on Saturday, Sunday or a Public Holiday will be paid at the rate in subclause 26.1.

19.9 **Adjustment of Money Allowances**

During the term of this agreement, the monetary allowances in this clause will increase, from the beginning of the first pay period following 1 July each year, in the same proportion as the wage increases in Clause 18.2 of this agreement.

19.10 To avoid doubt and notwithstanding the provisions of subclause 19.9, no employee will be entitled to any retrospective adjustment of monetary allowances for work performed prior to the first pay period to commence on or after the approved operative date in accordance with subclause 3.1 of this agreement.

20. **HIGHER DUTIES**

20.1 An employee engaged for two or more hours of one day on duties carrying a higher rate than their ordinary classification must be paid the higher rate for such day. If for less than two hours the employee must be paid the higher rate for the time so worked.

20.2 A higher paid employee will, when directed by the Company, temporarily relieve a lower paid employee without loss of pay.

21. **PAYMENT OF WAGES**

21.1 The Company will pay wages fortnightly by payment into an employee's bank account by electronic funds transfer, without cost to the employee.

21.2 Upon a written request from an employee, the Company will deduct an amount for Union membership fees from an employee's pay.

22. **SUPERANNUATION**

22.1 **Company contributions**

(a) The Company is required to make such superannuation contributions to a superannuation fund for the benefit of an employee as will avoid the Company being required to pay the superannuation guarantee charge under superannuation legislation with respect to that employee.

(b) The Company is required to make superannuation contributions for each employee whose **ordinary time earnings** (for working up to 76 ordinary hours per fortnight) equal \$350.00 or more in a calendar month.

22.2 **Voluntary employee contributions**

Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise the Company to pay on behalf of the employee a specified amount from the post-taxation wages of the employee

into the same superannuation fund as the Company makes the superannuation contributions.

22.3 Superannuation fund

The Company will make the superannuation contributions to a complying fund in accordance with the provisions of the relevant award.

22.4 Absence from work

The Company must also make the superannuation contributions while the employee is on any paid leave.

PART 5 – HOURS OF WORK AND RELATED MATTERS

23. ORDINARY HOURS OF WORK

23.1 The ordinary hours of work of a full-time employee are an average of 76 hours per fortnight worked at any time from Monday to Sunday inclusive. The ordinary hours of a part time employee will be the average mutually agreed in accordance with Clause 12 of this Agreement worked at any time from Monday to Sunday inclusive.

23.2 The average of up to 76 ordinary hours per fortnight, over a period of not more than 12 months, is to be arranged to meet the operational requirements of the business.

23.3 Maximum Ordinary Hours Per Shift

(a) An employee may be required to work ordinary hours on any day of the week, with a maximum shift of 10 ordinary hours on any one day (excluding unpaid meal breaks).

(b) An employee must not be required to work ordinary hours on more than 10 days in each fortnight.

23.4 Minimum break between shifts

(a) An employee, finishing work at the home depot, will be provided with a minimum 10 hour break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day.

(b) An employee, finishing work away from the home depot, will be provided with a minimum 8 hour break between the finish of ordinary hours on one day and the commencement of ordinary hours on the following day.

24. ROSTERS

24.1 Guide Roster

The employer will provide a guide roster showing the anticipated ordinary hours of work for each employee (other than a casual employee) over a discrete period of 8 calendar weeks. This roster is a guide only and is subject to train-schedule alterations effected by TRANSWA or the requirements of the company's business needs.

24.2 Work Roster

A work roster showing normal starting and finishing times for full-time and part-time employees and the name of each employee must be prepared by the Company and must be posted in a conspicuous place accessible to the employees concerned.

24.3 The work roster may be altered by mutual consent at any time or by amendment of the roster on seven days' notice. Where practicable two weeks' notice of rostered day or days off should be given provided that the days off may be changed by mutual consent or through sickness or other cause over which the Company has no control.

24.4 Wherever possible the employer will, at the employee's request, roster that employee's hours of work to enable the employee to balance work, family and community commitments.

24.5 To the extent that business operations allow, rosters will be published to allow all employees to share equally in the available work.

25. BREAKS

25.1 Meal break

(a) An employee, including a casual employee, will be given a paid meal break of at least 30 minutes during a shift of five hours or greater, which is to be taken within five and a half hours of the employee's start time.

(b) If an employee is not given the meal break in clause 25.1.1, the Company must pay the employee an additional payment from the end of six hours until either the meal break is given or the shift ends. Such additional payment will be calculated at the rate of 50% of the rate of pay for their classification (as set out in clause 18.1) for each hour or part thereof. This additional payment will not apply in situations where the employee has been given a meal break by the Company but the employee has elected not to take that break.

26. **ADDITIONAL RATES FOR ORDINARY HOURS**

26.1 **Additional Rates (Generally)**

- (a) An employee performing ordinary hours work on the following days will be paid the following percentage of the appropriate base rate of pay in Clause 18 for the relevant classification:

	Monday to Friday %	Saturday %	Sunday %	Public holiday %
Full-time and part-time	100	150	200	250
Casual (inclusive of the 25% casual loading)	125	175	225	275

26.2 **Public holidays**

- (a) An employee other than a casual working on a public holiday will be paid for a minimum of four hours' work.

26.3 **Shift Work**

- (a) On an afternoon shift which commences before 18:00 hours and the ordinary time of which concludes at or after 18:30 hours, an employee who works that shift will be paid \$2.29 per hour or 15% of the **Standard Base Rate** (whichever is the greater) in addition to their base rate for all ordinary hours worked.
- (b) On a night shift which commences at or between 18:00 hours and 03:59 hours, an employee who works that shift will be paid \$2.66 per hour or 20% of the **Standard base Rate** (whichever is the greater) in addition to their base rate for all ordinary hours worked.
- (c) On an early morning shift which commences at or between 04:00 hours and 05:30 hours, an employee who works that shift will be paid \$2.29 per hour or 15% of the **Standard Base Rate** (whichever is the greater) in addition to their base rate for all ordinary hours worked.
- (d) For any shift where the ordinary time commences or finishes at or between 01:01 hours and 03:59 hours, an employee who works that shift will be paid an allowance of \$2.66 per hour or 20% of the **Standard Base Rate** (whichever is greater) in addition to their base rate for all ordinary hours worked.

26.4 Work to be subject to only one penalty.

- (a) Except as provided by Clause 25 – Breaks, where time worked is required to be paid at more than the ordinary time rate such time

will not be subject to more than one penalty, but will be subject to that penalty which is to the employee's greatest advantage.

- 26.5 To avoid doubt no employee will be entitled to any retrospective adjustment of additional rates for ordinary hours for work performed prior to the first pay period to commence on or after the approved operative date in accordance with subclause 3.1 of this agreement.

27. OVERTIME

27.1 Reasonable overtime

- (a) Subject to clause 27.1.2 the Company may require an employee, other than a casual employee, to work reasonable overtime at overtime rates.
- (b) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable having regard to:
- any risk to the employee's health and safety;
 - the employee's personal circumstances including any family responsibilities;
 - the needs of the workplace or enterprise;
 - the notice (if any) given by the Company of the overtime and by the employee of their intention to refuse it; and
 - any other relevant matter.

27.2 Entitlement to overtime rates

- (a) A full-time employee is paid at overtime rates for any work done outside of the hours set out in clause 23 – Ordinary hours of work.
- (b) A part-time employee is paid at overtime rates in the circumstances specified in clause 12.4 of this Agreement.

27.3 Overtime rates

- (a) The following overtime rates are payable to employees depending on the time at which the overtime is worked:

	1.5 times ordinary rate	2.0 times ordinary rate	2.5 times ordinary rate
Monday to Friday	First 2 hours	After 2 hours	-
Between midnight Friday and midnight Sunday	-	All hours	-
On a non-working day off –	-	All hours	-

minimum 4 hours pay			
Public holiday – minimum 4 hours pay	-	-	All hours

- (b) The four hour minimum payment does not apply to work which is part of the normal roster which began the day before the rostered day off.
- (c) Overtime worked on any day stands alone.

27.4 Time off in lieu

- (a) At the employee's request and with the agreement of the Company, the employee may take time off in lieu of payment for any overtime worked.
- (b) Such time off in lieu will be equivalent to the overtime rate that would have been payable to the employee for the overtime worked and will be taken at a time agreed between the Company and the employee which meets the operational needs of the Company.

PART 6 – LEAVE AND PUBLIC HOLIDAYS

28. ANNUAL LEAVE

28.1 Leave entitlement

- (a) Annual leave is provided for in the NES. It does not apply to casual employees. The NES provides for 4 weeks of paid annual leave for each year of service with the Company or 5 weeks of paid annual leave per year of service with the Company if the employee is a shift worker.
- (b) For the purpose of the additional week of leave provided by the NES, a **shift worker** is a seven day shift worker who is regularly rostered to work on Sundays and public holidays in a business in which the worker's shifts are continuously rostered 24 hours a day for seven days a week.

28.2 Payment for annual leave

- (a) The NES prescribes the basis for payment for annual leave, including payment for untaken leave upon the termination of employment.
- (b) In addition to the payment provided for in the NES, the Company is required to pay an additional leave loading of 17.5% of that payment.

28.3 Requirement to take leave notwithstanding terms of the NES

The Company may require an employee to take annual leave by giving at least four weeks' notice in the following circumstances;

- (1) as part of a close-down of its operations or a part of its operations;
or
- (2) where more than eight weeks' leave is accrued.

28.4 Cash out of paid annual leave

The Company and an employee may agree to the employee cashing out an amount of paid annual leave subject to the following terms and conditions:

- (1) after the cashing out of annual leave the employee's remaining accrued entitlement to paid annual leave will be not less than 4 weeks;
- (2) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the Company and the employee; and
- (3) the employee will be paid the full amount that would have been payable to the employee had the employee taken the leave that the employee has foregone.

29. PERSONAL/CARER'S LEAVE & COMPASSIONATE LEAVE

29.1 Paid personal/carer's leave

- (a) The NES provides for an employee, other than a casual employee, with 10 days of paid personal/carer's leave per year of service with the Company.
- (b) The NES provides that an employee (other than a casual employee) who is unable to attend work:
 - (a) on account of personal illness or injury; or
 - (b) because the employee is required to provide care or support to a member of their immediate family or household who requires care or support because they are sick or injured or has an unexpected emergency;

is entitled to take accrued paid personal/carer's leave subject to meeting the notice and evidence requirements.

29.2 Unpaid carer's leave

(a) The NES provides that an employee who is required to provide care or support to a member of their immediate family or a member of their household who requires care or support because of illness or injury or an unexpected emergency and who:

- (a) has exhausted their entitlement to paid carer's leave; or
- (b) is a casual employee

is entitled to take up to 2 days unpaid carer's leave for each such occasion.

29.3 Compassionate leave

(a) The NES provides that an employee is entitled to take up to 2 days compassionate leave when a member of the employee's immediate family or household:

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

(b) Compassionate leave is paid, except for a casual employee.

30. COMMUNITY SERVICE LEAVE

Community service leave (for jury service and voluntary emergency management activities) is provided for in the NES.

31. PUBLIC HOLIDAYS

31.1 Public holidays are provided for in the NES. An employee (other than a casual employee) is entitled to be paid their base rate of pay for ordinary hours that are not worked on a public holiday that falls on a day that otherwise would have been worked.

31.2 A full-time employee whose non-working day falls on a public holiday must be paid an extra day's pay or receive an additional day of annual leave.

31.3 To avoid doubt, a part time employee is entitled to a public holiday, without loss of ordinary time pay, if that public holiday falls on a day agreed under subclauses 12.3 and 12.4 to be a rostered working day. A part time employee who works on a public holiday must be paid in accordance with subclause 26.1 for all ordinary hours worked on that day.

32. PARENTAL LEAVE

Parental leave is provided for in the NES.

33. LONG SERVICE LEAVE

Long service leave is provided for in the Long Service Leave legislation.

34. STAND DOWN

34.1 The Company may stand down an employee during a period in which the employee cannot usefully be employed because of one of the following circumstances:

- (1) industrial action (other than industrial action organised or engaged in by the Company);
- (2) a breakdown of machinery or equipment, if the Company cannot reasonably be held responsible for the breakdown;
- (3) a stoppage of work for any cause for which the Company cannot reasonably be held responsible.

34.2 If the Company stands down an employee under clause 34.1, the Company is not required to make payment to the employee for that period.

34.3 An employee's absence during a stand down period counts as service.

PART 7 – OTHER PROVISIONS

35. TRADE UNION REPRESENTATIVES

35.1 Workplace representatives

The Company acknowledges the role of the appropriate Union in representing its members in workplace matters. An employee elected or appointed as an employee representative (including, for example, as a Union delegate) in the workplace in which they are employed will, upon notification to the Company, be recognised as such. The Company will allow reasonable time for any elected representative of the Union to carry out those activities provided they do not disrupt the Company's operations.

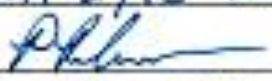
35.2 Trade union training leave

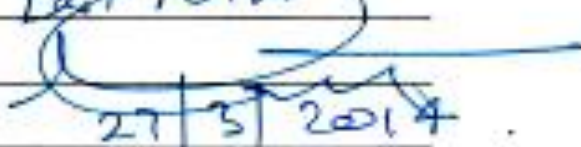
Subject to the operational requirements of the business, the Company will allow one Union approved employee representative per calendar year up to two days of paid leave to attend a training course conducted by the Union, or a provider nominated by the Union. The purpose of such a course will be to provide the representative with the skills and competencies to perform their employee representative functions effectively. An application to the Company for the granting of such paid leave must be in writing

SIGNATORIES

The Employees

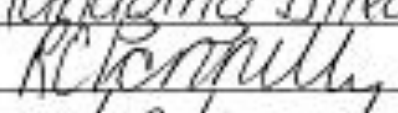
On behalf of the employees

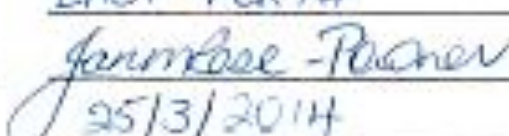
Name: PAUL ROBINSON
Address: UNIT 2/10 NASH ST PERTH
Signature: 
Date: 27/03/2014

Witness
Name: Matthew Loughty
Address: 316 Lord St
East Perth
Signature: 
Date: 27/3/2014

The Company

On behalf of the Company

Name: Rochelle E Connelly
Address: 316 Lord Street
East Perth.
Position: Managing Director
Signature: 
Date: 25/03/14

Witness
Name: JAN ROSE-POLNER
Address: 316 LORD ST
EAST PERTH
Signature: 
Date: 25/3/2014

SCHEDULE A – CLASSIFICATION DEFINITIONS

1.1 Customer Service Officer Level 1 (Trainee)

(a) Key Responsibilities

(i) This is a position for a trainee Customer Service Officer. Can be called upon to perform the role of a Customer Service Officer during their training and assessment period.

(ii) Trainee assessed during probation period.

(b) Indicative Tasks:

Their task is to learn Customer Service Officer tasks.

1.2 Customer Service Officer Level 2 (Prospector)

(a) Key Responsibilities

(i) To ensure that the quality of service provided to passengers reflects the overall standard necessary to meet passenger requirements.

(ii) Can be called upon to relieve in a designated position.

(b) Indicative Tasks

An employee at this level may be required to perform all or some of the following tasks:

(i) Pre-departure train set-up.

(ii) Provide comfort, assistance and information to passengers.

(iii) Buffet operation – pre-departure set-up:

- Sales/service/revenue collection.
- End-of-trip closure and stock take.

(iv) Maintain train cleanliness and tidiness.

(v) Ticket sales if required and collect revenue.

(vi) Carry out emergency procedures as directed.

(vii) Complete documentation as required.

(viii) Deal with customer complaints and problems.

(ix) Supervision of level 1 (Trainees) as required.

(x) Other duties as directed within their skill, competence and training.

1.3 Customer Service Officer Level 3 (Avon Link – without buffet)

(a) Key Responsibilities

- (i) To ensure that the quality of service provided to passengers reflects the overall standard necessary to meet the employer's passenger requirements.
 - (ii) Can be required to work alone and perform safe working duties in accordance with the Books of Rules and General Appendix as required.
- (b) Indicative Tasks
- An employee at this level may be required to perform all or some of the following tasks:
- (i) Pre-departure train set-up.
 - (ii) Provide comfort, assistance and information to passengers.
 - (iii) Sell tickets, collect revenue, and reconcile revenue with ticket sales.
 - (iv) Maintain train cleanliness and tidiness.
 - (v) Carry out emergency procedures as directed by the engine driver.
 - (vi) Complete documentation as required.
 - (vii) Deal with customer complaints and problems.
 - (viii) Other duties as directed within their skill, competence and training.

1.4 Senior Customer Service Officer Level 4

- (a) Key Responsibilities
- (i) To ensure that the quality of service provided to passengers reflects the overall standard necessary to meet the employer's passenger requirements.
 - (ii) Supervise Customer Service Officers.
 - (iii) Perform safe working duties in accordance with the Book of Rules and General Appendix as required.
 - (iv) Can be called upon to relieve in a lower designated position.
- (b) Indicative Tasks
- An employee at this level may be required to perform all some of the following tasks:
- (i) Most if not all of the tasks for Customer Service Officer on the Prospector.
 - (ii) Co-ordinate/supervise/being in charge of Customer Service Officers on the same train.
 - (iii) Provide services using specific procedures to special classes of passengers.
 - (iv) Train Operation.
 - (v) Ensure on-train facilities are operational and equipment and amenities meet standards.

- (vi) Interact with locomotive crew for train operation.
- (vii) Carry out emergency procedures as directed by the engine driver or delegate as required.
- (viii) Deal with unresolved passenger problems.
- (ix) Responsible for revenue collection.
- (x) Other duties as directed within their skills, competence and training.

[2014] FWCA 2423
FAIR WORK COMMISSION

DECISION

Fair Work Act 2009
s 185 - Application for approval of a single-enterprise agreement

Delron Cleaning Pty Ltd t/as Delron Hospitality Management
(AG2014/5128)

DELRON CLEANING PTY LTD (PROSPECTOR AND AVON LINK/MERREDIN ON-TRAIN CUSTOMER SERVICE OFFICERS) ENTERPRISE AGREEMENT 2013

Rail Industry

DEPUTY PRESIDENT SAMS

SYDNEY, 11 APRIL 2014

Application for approval of the Delron Cleaning Pty Ltd (Prospector and Avon Link/Merredin On-Train Customer Service Officers) Enterprise Agreement 2013.

[1] This is an application, pursuant to s 185 of the *Fair Work Act 2009* (the ‘Act’), filed by Delron Cleaning Pty Ltd t/as Delron Hospitality Management (the ‘applicant’) which seeks the approval of the Fair Work Commission (the ‘Commission’) of a single enterprise agreement to be known as the *Delron Cleaning Pty Ltd (Prospector and Avon Link/Merredin On-Train Customer Service Officers) Enterprise Agreement 2013* (the ‘Agreement’). The Agreement was negotiated with the Australian Rail, Tram and Bus Industry Union (the ‘Union’). The Agreement is to cover 19 employees who are engaged by the applicant as on-train customer service officers in Perth, Western Australia. For the purposes of s 186(3) of the Act, I am satisfied that the group of employees to be covered by this Agreement has been fairly chosen.

[2] The employees were last notified of their representational rights on 7 November 2012, and voting for the Agreement’s approval took place on 11 March 2014. The time limits under s 181(2) of the Act are thereby satisfied. In a secret ballot, 10 of the 19 employees who voted in the ballot, agreed to approve the Agreement. The application for approval of the Agreement was lodged on 27 March 2014, thereby satisfying s 185(3) of the Act.

[3] In the Employer’s Declaration in support of the application (Form F17) Ms R Connelly, Managing Director, identified the *Hospitality Industry (General) Award 2010* [[MA000009](#)] (the ‘Hospitality Award’) ‘*or perhaps*’ the *Rail Industry Award 2010* [[MA000015](#)] (the ‘Rail Award’) as well as the *Prospector and AvonLink on Train Customer Service Officers Award* [AN160264] as the relevant reference instruments for the purposes of the Better Off Overall Test (the ‘BOOT’). Ms

Connelly said that the Agreement provides for a number of conditions that are in excess of, or are more beneficial than the terms of the relevant reference instruments and that there are no less beneficial terms. The Agreement provides for higher rates of pay, shift penalty rates and a number of additional allowances. Rates of pay are to be increased by 3.4% on 1 July 2012, 3.25% on 1 July 2013, 3.25% on 1 July 2014, 3.25% on 1 July 2015 and 3.25% on 1 July 2016. I am satisfied that the Agreement passes the BOOT. The Agreement provides for the mandatory flexibility and consultation terms at clauses 7 and 8 respectively, and a disputes resolution procedure at clause 9 provides for conciliation and arbitration by the Commission.

[4] At a hearing of the application on 9 April 2014, Mr D *Jones* of the Chamber of Commerce and Industry of Western Australia appeared with Ms J *Rose-Powner* and Mr R *Catalano* for the applicant and Mr K *Singh* appeared with Mr P *Robinson* for the Union. The Union had filed a Declaration in relation to the application (Form 18) giving notice that it wishes to be covered by the Agreement (s 183). For the purposes of s 201(2) of the Act, I note that the Union is to be covered by the Agreement. However, the Union's F18 set out that it did not support the approval of the Agreement on the basis that the Agreement identified the *Hospitality Award* as the 'relevant Award' rather than the *Rail Award*. Even so, Mr *Jones* and Mr *Singh* agreed that whichever of the two reference instruments was used as the comparison instrument, the Agreement would pass the BOOT. With this in mind, I made no formal finding as to which Award was the appropriate reference instrument. With the agreement of the parties, I determined that I would approve the Agreement on the understanding that the reference to the *Hospitality Award* in the F17 could not be used as a precedent in any future proceedings in which the question of which Award would ordinarily cover employees of the applicant, might arise.

[5] Mr *Jones* outlined the main features of the Agreement and submitted that all of the legislative requirements for approval of the Agreement have been satisfied and the Agreement should be approved by the Commission. Mr *Jones* also said that the pay increases due on 1 July 2012 and 1 July 2013 under the Agreement would be backpaid to the employees.

[6] Having heard the parties' submissions and upon reviewing the terms of the preapproval process documentation and the Agreement itself, I am satisfied that all of the requirements of the Act, in particular ss 180, 186, 187 and 188, in so far as relevant to this application, have been met. Accordingly, I approve a single enterprise agreement known as the *Delron Cleaning Pty Ltd (Prospector and Avon Link/Merredin On-Train Customer Services Officers) Enterprise Agreement 2013*. Pursuant to s 54 of the Act, the Agreement shall operate from 16 April 2014 and have a nominal expiry date of 30 June 2017.



DEPUTY PRESIDENT

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