

**REGISTER OF
CONTRACT AGREEMENTS**

CONTRACT AGREEMENT NO: EA14/3

TITLE: Kimbriki Environmental Enterprises Pty Ltd Administration Staff Enterprise Agreement 2013 - 2016

I.R.C. NO: IRC14/225

DATE APPROVED/COMMENCEMENT: 3 April 2014 / 1 July 2013

TERM: 36 months

**NEW AGREEMENT OR
VARIATION:** Replaces EA12/2.

GAZETTAL REFERENCE: 4 July 2014 (376 I.G. 668)

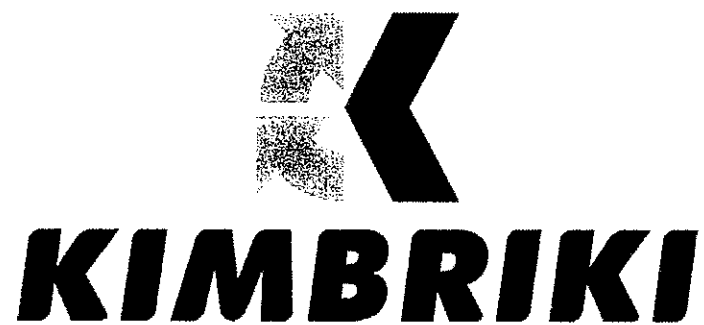
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COVERAGE/DESCRIPTION OF

EMPLOYEES: The agreement covers administrative employees employed by Kimbriki Environmental Enterprises Pty Ltd at Kimbriki Road, Terrey Hills NSW 2084, who would otherwise fall within the coverage of the Local Government (State) Award 2010.

PARTIES: Kimbriki Environmental Enterprises Pty Ltd -&- the New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union



**KIMBRIKI ENVIRONMENTAL
ENTERPRISES PTY LTD
ADMINISTRATION STAFF
ENTERPRISE AGREEMENT**

2013 - 2016

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1 STATEMENT OF INTENT

This Enterprise Agreement is made in accordance with the provisions of sections 29 to 47 of the *Industrial Relations Act 1996*, and will be known as the Kimbriki Environmental Enterprises Pty Ltd Administration Staff Enterprise Agreement and will provide the basis for determining the entitlements of employees of Kimbriki Environmental Enterprises Pty Ltd (**KEE**) in the areas addressed by the Agreement.

This Agreement will apply to administration staff employed at the Kimbriki Centre by KEE

The parties to the agreement are committed to co-operating positively to increase the structural efficiency of KEE and to provide employees with access to more fulfilling, varied and better-paid work. The Agreement:

- 1.1. provides a basis for working together in achieving improved performance and customer service.
- 1.2. reflects a commitment by all employees of KEE to act in a responsible manner to each other.
- 1.3. also provides an opportunity for improved remuneration and employment security linked to the acquisition of new skills and knowledge.
- 1.4. represents a commitment by the KEE and its employees to provide a team approach to meet the needs of the community.
- 1.5. allows the parties to enter into the processes of change together to continually improve the quality, efficiency and productivity of KEE and to provide improved customer service.
- 1.6. reflects a commitment by all employees to participate in broadening the range of skills they exercise. To undertake related training, KEE will provide training necessary to achieve these objectives.
- 1.7. aims to achieve the following objectives:
 - (i) Improving productivity and performance management.
 - (ii) Providing flexible working arrangements to meet the needs of customers, employees and KEE.
 - (iii) Developing employee skills that, in turn, will provide enhanced career opportunities and improved job satisfaction.
- 1.8. Key performance indicators (KPI's) were developed by management in consultation with the staff during the life of the previous enterprise agreement.
 - (i) Management will consult with the employees at the facility when developing new KPI's.
 - (ii) Where there is no agreement between Management and the employees in respect to the KPI's developed the matter will be handled consistently with the grievance resolution procedure outlined in this agreement.

2. THE PARTIES

The Parties to this Agreement are Kimbriki Environmental Enterprises Pty Ltd and the New South Wales Local Government, Clerical Administrative, Energy, Airlines & Utilities Union (USU).

3. DURESS

This Agreement has been entered into without duress by any party.

4. DURATION

The Agreement will come into operation from the first pay period to commence on or after 1 July 2013 and will remain in force until 30 June 2016.

5. ANTI-DISCRIMINATION

- 5.1. It is the intention of the Parties bound by this agreement to seek to achieve the object in section 3(f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a Carer.
- 5.2. It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this agreement the Parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this agreement are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the Parties to make application to vary any provision of the agreement which, by its terms or operation, has a direct or indirect discriminatory effect.
- 5.3. Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 5.4. Nothing in this clause is to be taken to affect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (ii) offering or providing junior rates of pay to persons under 21 years of age;
 - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (iv) a party to this agreement from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 5.5. This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

6. DEFINITIONS

Act means the Industrial relations Act 1996 (NSW).

Award means the Local Government (State) Award 2010 or any Award that replaces that Award.

Chief Executive Officer means a person appointed by the Board to discharge the duties and responsibilities of the office as delegated by the Board. When carrying out these duties, the Chief Executive Officer is acting on behalf of the Board.

Competency based training refers to training concerned with the attainment and demonstration of specified skills, knowledge and their application to meet industry standards.

Days - unless otherwise specified, any reference to 'days' will mean calendar days.

KEE means Kimbriki Environmental Enterprises Pty Ltd.

Kimbriki Centre means the Kimbriki Resource Recovery Centre at Kimbriki Road, Terrey Hills.

Ordinary Pay means remuneration for the employee's normal weekly number of hours of work calculated at the ordinary time rate of pay. Ordinary pay will include, but not be limited to the following penalties and allowances where they are regularly received:

- Saturday, Sunday and shift penalties
- disability allowances
- on call allowance
- first aid allowance
- community language and signing work allowances.

The following allowances will be excluded from the composition of ordinary pay:

- overtime payments
- travelling allowances
- car allowances
- meal allowances

Superannuation contributions means all contributions to a complying superannuation fund, and includes (without limitation) any superannuation contributions required to be made under the relevant superannuation legislation, and any additional superannuation contributions made by way of salary sacrifice.

Union or USU means the New South Wales Local Government, Clerical Administrative, Energy, Airlines & Utilities Union.

7. RELATIONSHIP TO AWARD

- 7.1. This Agreement will wholly replace the Award and/or any other applicable Award or Enterprise Agreement and will provide the basis for determining the rates of pay/terms and conditions of employment of employees employed by KEE in the classifications set out in this Agreement.
- 7.2. Increases in the basic rates of pay and allowances which occur in the Award will be reflected by increases in this Agreement. Such increases will be of the same quantum and operative on the same date as increases in the Award.
- 7.3. Any increases prescribed by this Agreement will be in addition to increases that flow from variations to the Award.

8. SKILL DESCRIPTORS

The agreement structure consists of skill based bands and levels that are defined according to the following skill descriptors:

8.1. Administrative / Technical / Trades Band 2, Level 1

- (i) **Authority and accountability:** Responsible for the completion of work requiring the application of trades, administrative or technical skills.
- (ii) **Judgement and problem solving:** Skills in assessing situations and in determining processes, tools and solutions to problems. Guidance is available.
- (iii) **Specialist knowledge and skills:** Positions will have demonstrated competence in a number of key skill areas related to major elements of the job.
- (iv) **Management skills:** Positions may require skills in the supervision or co-ordination of small groups.
- (v) **Interpersonal skills:** Communication skills to explain situations or advise others.
- (vi) **Qualifications and experience:** Appropriate work-related trade, technical or administrative qualifications or specialist skills training.

8.2. Administrative / Technical / Trades Band 2, Level 2

- (i) **Authority and accountability:** Responsibility as a trainer/co-ordinator for the operation of a small section which uses staff and other resources, or the position completes tasks requiring specialised technical / administrative skills.
- (ii) **Judgement and problem solving:** Skills to solve problems which require assessment of options with freedom within procedural limits in changing the way work is done or in the delegation of work. Assistance may be readily available from others in solving problems.
- (iii) **Specialist knowledge and skills:** Positions will have specialised knowledge in a number of advanced skill areas relating to the more complex elements of the job.

- (iv) **Management skills:** May require skills in supervising a team of staff, to motivate and monitor performance against work outcomes.
- (v) **Interpersonal skills:** In addition to interpersonal skills in managing others, the position may involve explaining issues/policy to the public or others and reconcile different points of view.
- (vi) **Qualifications and experience:** Thorough working knowledge and experience of all work procedures for the application of technical / trades or administrative skills, based upon suitable certificate or post-certificate-level qualifications.

8.3. **Administrative / Technical / Trades Band 2, Level 3**

- (i) **Authority and accountability:** May be responsible to provide a specialised / technical service and to complete work which has some elements of complexity. Make recommendations within KEE and to the public or other organisations.
- (ii) **Judgement and problem solving:** Problem solving and judgements are made where there is a lack of definition requiring analysis of a number of options. Typical judgements may require variation of work priorities and approaches.
- (iii) **Specialist knowledge and skills:** Positions have advanced knowledge and skills in a number of areas where analysis of complex options is involved.
- (iv) **Management skills:** May supervise groups of operational and / or other administrative / trades / technical employees. Employees supervised may be in a number of different work areas, requiring motivation, monitoring and co-ordination to achieve specific outputs.
- (v) **Interpersonal skills:** Skills to communicate with subordinate staff and the public and/or negotiation / persuasive skills to resolve disputes with staff or the public.
- (vi) **Qualifications and experience:** An advanced certificate, associate diploma, appropriate in-house training or equivalent combined with extensive experience in the application of skills in the most complex areas of the job.

8.4. **Professional / Specialist Band 3, Level 1**

- (i) **Authority and accountability:** Provides specialised / technical services to complete assignments or projects in consultation with other professional staff. May work with a team of technical or administrative employees requiring the review and approval of more complex elements of the work performed by others.
- (ii) **Judgement and problem solving:** Problems require assessment of a range of options having elements of complexity in reaching decisions and making recommendations. Precedent is available from sources within KEE, and assistance is usually available from other professional / specialist staff in the work area.
- (iii) **Specialist knowledge and skills:** Positions require considerable knowledge in a specific area with a sufficient level of skills and knowledge to resolve issues having elements of complexity that may not be clearly defined.

- (iv) **Management skills:** Positions at this entry level to the Professional / Specialist Band are not required to possess management skills.
- (v) **Interpersonal skills:** Persuasive skills are required to participate in technical discussions to resolve problems, explain policy and reconcile viewpoints.
- (vi) **Qualifications and experience:** Professional / specialist positions require professional qualifications to apply theoretical knowledge to practical situations.

8.5. Professional / Specialist Band 3, Level 2

- (i) **Authority and accountability:** Provides a specialised/technical service in the completion of work and / or projects which have elements of complexity (composed of many parts that may be more conceptual than definite).
- (ii) **Judgement and problem solving:** Positions require the interpretation of information and development of suitable procedures to achieve agreed outcomes. Problem solving and decision making require analysis of data to reach decisions and / or determine progress.
- (iii) **Specialist knowledge and skills:** Experience in the application of technical concepts and practices requiring additional training are required at this level.
- (iv) **Management skills:** May manage a number of projects involving people and other resources requiring project control and monitoring as well as motivation and co-ordination skills.
- (v) **Interpersonal skills:** Interpersonal skills in leading and motivating staff in different teams / locations may be required, as well as persuasive skills to resolve problems or provide specialised advice.
- (vi) **Qualifications and experience:** Positions at this level would have supplemented base level professional qualifications with additional skills training. Considerable practical experience or skills training would be required to effectively control key elements of the job.

8.6. Professional / Specialist Band 3, Level 3

- (i) **Authority and accountability:** Provides a professional advisory role to people within or outside KEE. Such advice may commit KEE and have significant impact upon external parties dealing with KEE. The position may manage several major projects or sections within a department of KEE.
- (ii) **Judgement and problem solving:** Positions have a high level of independence in solving problems and using judgement. Problems can be multi-faceted requiring detailed analysis of available options to solve operational, technical or service problems.
- (iii) **Specialist knowledge and skills:** The skills and knowledge to resolve problems where a number of complex alternatives need to be addressed.
- (iv) **Management skills:** May be required to manage staff, resolve operational problems and participate in a management team to resolve key problems.

- (v) **Interpersonal skills:** Interpersonal skills in leading and motivating staff may be required. Persuasive skills are used in seeking agreement and discussing issues to resolve problems with people at all levels. Communication skills are required to enable provision of key advice both within and outside KEE and to liaise with external bodies.
- (vi) **Qualifications and experience:** Tertiary qualifications combined with a high level of practical experience and an in-depth knowledge of work.

8.7. Professional / Specialist Band 3, Level 4

- (i) **Authority and accountability:** Accountable for the effective management of major sections or projects within their area of expertise. As a specialist, advice would be provided to executive level and to KEE on major areas of policy or on key issues of significance to the organisation. The position's influence would have an important role in the overall performance of the function.
- (ii) **Judgement and problem solving:** Positions would determine the framework for problem solving or set strategic plans with minimal review by senior management. At this level, the position may represent senior management or KEE in the resolution of problems. The oversight of problem solving and assessment of the quality of judgements made by less qualified staff will apply at this level.
- (iii) **Specialist knowledge and skills:** Positions require knowledge and skills for the direction and control of a key function of KEE or major functions within a department. Positions require expert knowledge and skills involving elements of creativity and innovation in addressing and resolving major issues.
- (iv) **Management skills:** Positions may direct professional or other staff in the planning, implementation and review of major programs, as well as participating as a key member of a functional team.
- (v) **Interpersonal skills:** Interpersonal skills in leading and motivating staff will be required at this level. Positions require the ability to negotiate on important matters with a high degree of independence. Positions are required to liaise with the public and external groups and organisations.
- (vi) **Qualifications and experience:** Specialist tertiary qualifications in an appropriate field of study combined with extensive practical experience in all relevant areas in order to plan develop and control major elements of work.

9. RATES OF PAY

- 9.1. The rates of pay are established for positions with the skills descriptors as defined in **clause 8**, Skill Descriptors of this Enterprise Agreement.
- 9.2. The rates of pay are set out below.
- 9.3. KEE will introduce a salary system to complement the skills-based structure and rates of pay of the agreement.
- 9.4. An employee's current weekly rate of pay for Workers Compensation purposes will be the rate paid to the employee under the salary system.

Hourly rates

A1

1	24.8693
2	25.8649
3	27.1120
4	28.4480
5	29.8497
6	31.3126
7	32.8552
8	34.4782
9	36.1674

A2/P1

1	28.2453
2	29.3558
3	30.5081
4	31.7125
5	32.9635
6	34.2666
7	35.6210
8	37.3306

A3/P2

1	33.7962
2	35.1413
3	36.5291
4	37.9683
5	39.4734
6	41.0350
7	42.6578

P3

1	39.3606
2	40.9176
3	42.5451
4	44.2287
5	45.9789
6	47.7990
7	49.6992

P4

1	47.7050
2	49.6100
3	51.5668
4	53.6175
5	55.7340
6	57.9545
7	60.2544

10. SALARY SYSTEM

- 10.1. A salary system determines how employees are paid. An employee will be paid the salary system rate of pay that recognises the skills the employee is required to apply on the job.
- 10.2. The salary system will have a structure that complements the entry level rates of pay and skill descriptors in the agreement by identifying grades. Each grade will contain a number of salary points/steps for progression that are over and above the entry level rates of pay.
- 10.3. Positions will be assigned a salary grade(s) within the structure. A position may extend across more than one grade in KEE's salary system or level as prescribed by **clause 8** Skills Descriptors of this agreement.
- 10.4. Progression through the salary system will be based upon the acquisition and use of skills. Where skills based progression is not reasonably available within the salary range for the position, employees will have access to progression based on the achievement of performance objectives relating to the position. Such performance objectives will be set in consultation with the employee(s).
- 10.5. Subject to **clause 10.4**, skills for progression relevant to the position will be assigned to each salary point/step within the grade, or set at the annual assessment provided that such criteria will provide an opportunity to progress through the salary system.
- 10.6. Except where otherwise provided, employees will be assessed for progression through the salary range for their position at least annually or when they are required to use skills that would entitle them to progress in the salary system.
- 10.7. At the time of assessment, KEE will advise the employee of the skills and/or the performance objectives required for the employee to progress to the next salary point/step and will review the employee's training needs.
- 10.8. The salary system will include a process by which employees can appeal against their assessment.
- 10.9. Employees will have access to information regarding the grade, salary range and progression steps of the position.
- 10.10. Where KEE changes its salary system employees shall not suffer a reduction in pay or salary range

11. USE OF SKILLS

- 11.1. KEE may direct the employee to carry out such duties that are within the limits of the employee's skill, competence and training.
- 11.2. An employee will be paid the rate of pay that recognises the skills the employee is required to apply on the job.
 - (i) The skills paid for will not be limited to those prescribed by the job description and may, where appropriate, include skills possessed by the individual which are required by KEE to be used as an adjunct to the employee's normal duties.
 - (ii) Subject to **clause 16.2 (ii)**, Allowances, Additional Payments and Expenses, employees who are required by KEE to use such additional skill(s) in the performance of their duties will have the use of these skill(s) considered in the evaluation of the position.

12. PAYMENT FOR RELIEF DUTIES/WORK

- 12.1. An employee required to relieve in a position which is at a higher level within the salary system will be paid for that relief. The rate to be paid will be determined by considering the skills / experience applied by the employee relieving in the position but will be at least the minimum rate for that position in accordance with the salary system except where the higher level skills have been taken into account within the salary of the relieving employee.
- 12.2. Payment for use of skills relieving in a higher paid position will be made for the time actually spent relieving in the higher position and is not payable when the relieving employee is absent on paid leave or an agreement holiday. An employee on annual leave may be entitled to a higher rate of pay in accordance with the provisions of **clause 21.3 (v)** of this agreement.

13. PAYMENT OF EMPLOYEES

- 13.1. Employees will be paid fortnightly or any other period by agreement on a fixed regular pay day.
- 13.2. KEE will fix a regular payday, between Monday and Friday inclusive. KEE may alter the payday if there is prior agreement with the employees affected and the employees will not unreasonably withhold their agreement.
- 13.3. Payment will be by direct credit to the employee's nominated account.
- 13.4. KEE will be entitled to deduct from the employee's pay such amounts as the employee authorises in writing.
- 13.5. An employee's ordinary pay will not be reduced when the employee is prevented from attending work due to bushfire or other climatic circumstances beyond their control.

14. SALARY SACRIFICE

- 14.1. KEE and an employee may agree to enter into a salary sacrifice arrangement, which allows an employee to receive a part of their pre-tax salary as a benefit rather than salary. Such agreement will not unreasonably be withheld.
- 14.2. Benefits that may be salary sacrificed include additional superannuation and motor vehicles supplied by KEE under lease back arrangements where the amount to be salary sacrificed for leaseback of a KEE motor vehicle is that part of the lease back fee that exceeds KEE's fringe benefit tax liability.
- 14.3. The value of the benefits will be agreed between KEE and employee and will include fringe benefits tax where applicable.
- 14.4.
 - (i) The salary sacrifice arrangement, including the benefits to be salary sacrificed and their value including fringe benefit(s) tax, will be in writing and signed by both KEE and the employee.
 - (ii) The employee may request in writing to change the benefits to be salary sacrificed twice per year and KEE will not unreasonably refuse the request.
- 14.5. The employee's gross pay is their pre-tax ordinary pay less the values of the salary sacrifice benefit including fringe benefit(s) tax.
- 14.6. The value of a salary sacrifice benefit and applicable fringe benefit tax will be treated as an approved benefit for superannuation purposes and will not reduce the employee's salary for employer contributions.
- 14.7. The value of salary sacrifice benefits and applicable fringe benefits tax will be ordinary pay for calculating overtime and termination payments.
- 14.8. The employee is responsible for seeking appropriate financial advice when entering into any arrangement under this clause.
- 14.9.
 - (i) KEE will ensure that the salary sacrifice arrangement complies with taxation and other relevant laws.
 - (ii) KEE has the right to vary and/or withdraw from offering salary sacrifice to employees with appropriate notice if there is any alteration to relevant legislation that is detrimental to salary sacrifice arrangements.
- 14.10. A salary sacrifice arrangement will cease on the day of termination of employment.
- 14.11. A salary sacrifice arrangement will be suspended during periods of leave without pay.
- 14.12. KEE may maintain and/or enter into other salary sacrifice arrangements with employees.

15. SUPERANNUATION FUND CONTRIBUTIONS

Subject to the provisions of the relevant legislation, KEE will make superannuation contributions to the Local Government Superannuation Scheme or to any other superannuation fund of the employee's choice in accordance with the relevant legislation.

16. ALLOWANCES, ADDITIONAL PAYMENTS AND EXPENSES

16.1. Expenses

All reasonable expenses, including out-of-pocket, accommodation and travelling expenses, incurred in connection with the employee's duties will be paid by KEE and, where practicable will be included in the next pay period. The method and mode of travelling or the vehicle to be supplied or to be used will be arranged mutually between KEE and the employee. Travelling arrangements will be agreed between KEE and the employee.

16.2. First Aid Work

(i) First Aid Work

Where an employee is required by KEE to be in charge of a first aid kit and/or to administer first aid and the use of such adjunct skills are not paid for in accordance with the salary system established by KEE, the employee will be paid an allowance of \$13.30 per week.

(ii) Additional Skills Criteria

(a) Where an employee is required by KEE to use first aid skills in the performance of their duties:

- KEE will provide the employee with the opportunity to obtain accreditation from a first aid accreditation agency
- The employee will be prepared to be identified as possessing the additional skill(s)
- The employee will be available to use the additional skill(s) as required by KEE.

(b) Such training will form part of KEE's training plan and budget, in accordance with the requirements of **clause 28** of this agreement

16.3. Meal Allowance

A meal allowance of \$14.08 will be paid to employees instructed to work overtime:

- (i) For two hours or more prior to their agreed commencing time
- (ii) For two hours immediately after their agreed finishing time.
- (iii) On days other than ordinary working days, provided that a meal allowance is not payable where, by agreement, a meal is provided by the employer.

17. MOTOR VEHICLE LEASEBACK

17.1. General

The parties to this award recognise that leaseback vehicles may be provided to employees as a condition of employment (e.g. as an incentive for accepting employment) or as a discretionary benefit that is not a condition of employment.

A leaseback vehicle will be considered to be a condition of employment for an employee unless it was clearly identified that it was not being provided on such a basis at the time that it was provided.

Factors to consider when determining whether a leaseback vehicle is a condition of an employee's employment include:

- Weather the vehicle was offered as an incentive to attract and or retain the employee; and
- The period that the employee has had access to a lease back vehicle

17.2. Termination of Leaseback Arrangement

- (i) **Condition of employment** – Unless otherwise provided in this clause, where KEE and an employee enter into a leaseback vehicle arrangement and the employee is entitled to a leaseback vehicle as a condition of employment, the arrangement may only be terminated by agreement.
- (ii) **Not a condition of employment** – Unless otherwise provided, where KEE and an employee enter into a leaseback vehicle arrangement and the employee is not entitled to a leaseback vehicle as a condition of employment, KEE shall give a minimum of six (6) months written notice of termination of the arrangement.

Notwithstanding the above, where the leaseback vehicle agreement was entered into prior to 1 November 2010, KEE shall give a minimum of 12 months' notice to terminate the agreement.

- (iii) **Other** – KEE may terminate or suspend access to a leaseback vehicle arrangement immediately on termination of employment, loss of licence, serious breach of the leaseback vehicle agreement or if the employee accepts a new position with KEE that does not include access to a leaseback vehicle.

17.3. Variation of Leaseback Vehicle Arrangements

- (iv) **Variations to leaseback arrangements** – Proposals to vary leaseback vehicle arrangements, including the formula for calculating the leaseback vehicle fee shall be referred to KEE's Consultative Committee in accordance with clause 30 of this Agreement.
- (v) **Variations to leaseback fees** – KEE shall not increase the leaseback vehicle fee an employee is required to pay in any one year by more than ten (10) percent or the percentage movement in the index figure published by the Australian Bureau of Statistics for Eight Capitals, private motoring sub-group (Cat No 6401.0), whichever is the greater. This subclause shall not apply where the leaseback vehicle fee is adjusted to reflect changes in the type of vehicle being used (including changes in vehicle options, the class, model or make of vehicle).
- (vi) **Variations in hours of work and/or extended periods of absence** – Notwithstanding subclause (v) above, where an employee's hours of work change significantly or the employee is absent on approved leave for an extended period, KEE and the employee shall hold discussions in relation to whether the employee will be allowed to retain

possession of the vehicle and/or whether the leaseback vehicle fee is to be adjusted. In the absence of agreement, Clause 33, Grievance and Disputes Procedures, shall apply.

18. HOURS OF WORK

- 18.1. The ordinary hours of work for full time employees will be 72 hours per fortnight.
- 18.2. The ordinary hours for employees working 72 hours per fortnight will be arranged on the following bases:
- 40 hours within one week and 32 hours in one week provided that at least two days off will be granted – that is employees will work five (5) days of eight hours in one week and four days of eight hours in the alternate week
- 18.3. The ordinary hours for employees will be between Monday and Friday.
- 18.4. An employee's commencement and/or finishing times may be altered by agreement. Such an agreement must be in writing and must be genuine with no compulsion to agree.
- 18.5. An unpaid meal break of a minimum of 30 minutes will be given and taken within the first five hours of continuous work. In the case of unforeseen circumstances, the meal break may be delayed and will be taken as soon as practicable, subject to the observance of appropriate occupational health and safety standards.
- 18.6. Part time employees will be rostered to work an eight hour day. Overtime for part time employees is payable when an employee is directed to work in excess of 72 hours per fortnight pay cycle or directed to work outside the core hours on any one day.
- 18.7. Part time employees may be required to work reasonable additional hours to ensure KEE services are maintained during period of employee leave.
- 18.8. A part time employee may refuse to work additional hours in circumstances where the working of such additional hours would result in the part time employee working hours which are unreasonable
- 18.9. For the purpose of clause 18.8 what is unreasonable or otherwise will be determined having regard to:
- * any risk to the employee
 - * the employee's personal circumstances including any family and carer responsibilities

19. OVERTIME

19.1. General

- (i) Except where otherwise provided all time worked by direction before the agreed commencement of ordinary hours, or later than the agreed completion of ordinary hours, will be paid for at the rate of time and a half for the first two hours and double time thereafter.
- (ii) Overtime worked on Saturday will be paid for at the rate of time and a half for the first two hours and double time thereafter, provided any overtime worked after 12 noon Saturday will be at double time.
- (iii) Overtime worked on Sunday will be paid for at the rate of double time.
- (iv) Overtime will be claimed within 30 days of it being worked. KEE will keep a record of such overtime. Overtime accruals will not be forfeited and will be paid at the appropriate overtime rate on termination or at other agreed time.

- (v) An employee (other than a casual) who works four or more hours of overtime:
- (a) between the completion of ordinary work on one shift and the commencement of ordinary work on the next shift so that they have not had at least ten consecutive hours off duty between those times, or
 - (b) on days other than ordinary working days so that they have not had ten consecutive hours off duty in the fourteen hours preceding the employee's ordinary commencement time on the next ordinary working day, will be released after completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If an employee is instructed to resume work without having had ten consecutive hours off duty, the employee will be paid at double ordinary rates until released from duty and then will be entitled to a ten hour break without loss of pay.

This subclause only applies to employees who are on call or called back to work:

- for four hours or more, or
 - on consecutive days without having had a ten hour break, or
 - on more than one occasion during the day outside of the four hour period.
- (vi) Where there is prior agreement between KEE and the employee, an employee directed to work in excess of ordinary hours may elect either to be paid the appropriate overtime rate or be granted time in lieu equivalent to the actual hours worked. This sub-clause will not apply to employees who are on call or called back to work.
- (vii)
- (a) Subject to **clause 19.1 (vii) (b)**, KEE may require an 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.
 - (c) For the purposes of **clause 19.1 (vii) (b)**, what is unreasonable or otherwise will be determined having regard to:
 - any risk to the employee;
 - the employee's personal circumstances including any family and carer responsibilities;
 - the needs of the workplace;
 - the notice, if any, given by the employer of the overtime and by the employee of their intention to refuse it and
 - any other matter

19.2. Call Back

- (i) For the purposes of this agreement, an employee will be deemed to be on a call back if the employee is recalled to work overtime without receiving notice before ceasing work.
- (ii) Any employee who is called back to work as defined in **clause 19.2 (i)** will be paid for a minimum of four hours' work at the appropriate overtime rate for each

time so recalled, provided that any subsequent call backs occurring within a four hour period of a call back will not attract any additional payment. An employee working on a call back will be paid the appropriate overtime rate from the time that such employee departs for work.

- (iii) Except in the case of unforeseen circumstances arising, the employee will not be required to work the full four hours if the job that the employee was recalled to perform is completed within a shorter period. This subclause will not apply in cases where the call back is continuous subject to a reasonable meal break with the commencement of ordinary hours.

20. Holidays

20.1. General

- (i) The days on which holidays will be observed are as follows: New Years' Day; Australia Day; Good Friday; Easter Saturday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day and all locally proclaimed holidays within KEE's area, and all special days proclaimed as holidays to be observed throughout the whole of the State of NSW.
- (ii) In addition to the days provided for in **clause 20.1 (i)**, employees who are Aboriginal and Torres Strait Islanders will be entitled to one day during NAIDOC week so that they can participate in National Aboriginal and Islander Day celebrations.
- (iii) Where any of the holidays prescribed by this agreement fall on a day ordinarily worked by the employee, the employee will not have a reduction in ordinary pay.
- (iv) Except as otherwise provided, where an employee is required to work on a holiday as prescribed by this agreement, the employee will be paid at double time and a half inclusive of payment for the day with a minimum payment of four hours worked.
- (v) Where an employee is required to work ordinary hours on a holiday as prescribed by this agreement, KEE and the employee may agree that the employee be paid time and a half for the hours worked on a holiday and in addition, be granted equivalent time off in lieu to be paid at ordinary time for each holiday worked. Such leave will be taken at a mutually convenient time.

20.2. Union Picnic Day

- (i) Union Picnic Day will for the purposes of this agreement be regarded as an additional holiday for employees who are financial members of the union. The Union Picnic Day will be on such day as is agreed between KEE and the union.
- (ii) The union(s) will advise KEE of financial members as at the time of the Union Picnic Day. Such advice must be given at least two weeks prior to the Union Picnic Day.
- (iii) Employees who are not financial members of the union(s) and who *are* required to work on Union Picnic Day will be paid ordinary pay for their normal working day.
- (iv) Employees who are not financial members of the union(s) and who are not required to work on Union Picnic Day, may apply to KEE to take annual leave, time off in lieu of overtime, leave without pay, such other leave as may be approved by KEE, or may be required by KEE to make up time.

- (v) Employees who are financial members of the union(s) who are required to work on Union Picnic Day may elect to be paid double time and a half OR to be paid time and one half and receive one day off in lieu.

21. LEAVE PROVISIONS

21.1. Sick Leave

- (i) Employees who are unable due to sickness to attend for duty will be entitled during each year of service to sick leave of 3 weeks at the ordinary rate of pay subject to the following conditions: -
 - (a) KEE will be satisfied that the sickness is such that it justifies the time off; and
 - (b) that the illness or injury does not arise from engaging in other employment; and
 - (c) proof of illness to justify payment will be required after 3 separate periods of absence in each service year or where an absence exceeds 2 working days.
 - (d) when requested, proof of illness will indicate the employee's inability to undertake their normal duties.
- (ii) Proof of illness may include certification from a qualified medical/health practitioner, registered with the appropriate government authority.
- (iii) KEE may require employees to attend a doctor nominated by KEE at KEE's cost
- (iv) Sick leave will accumulate from year to year so that any balance of leave not taken in any one year may be taken in a subsequent year or years
- (v) Where an employee has had 10 years' service with KEE, such period to include employment with Warringah Council prior to engagement with KEE, and the sick leave entitlement as prescribed has been exhausted, KEE may grant such additional sick leave as, in its opinion, the circumstances may warrant.
- (vi) KEE will provide employees with insurance cover, up until the age of sixty-five years, where should they not be able to return to work after a period of ninety days absence due to illness they will receive payment of sickness benefit of seventy-five (75%) of their ordinary rate of pay for a period of up to two years.
- (vii) Section 50 of the Workers Compensation Act 1987 dealing with the relationship between sick leave and workers compensation applies.

21.2. Carer's Leave

- (i) Use of Sick Leave: An employee, other than a casual employee, with responsibilities in relation to a class of person set out in **clause 21.2 (iv) (b)** below who needs the employee's care and support will be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement, provided for at **clause 21.1** of this agreement, for absences to provide care and support for such persons when they are ill, or who require care due to an unexpected emergency. Such leave may be taken for part of a single day.

- (ii)
 - (a) Carer's leave is not intended to be used for long term, ongoing care. In such cases, the employee is obligated to investigate appropriate care arrangements where these are reasonably available.
 - (b) Where more than ten days sick leave in any year is to be used for caring purposes KEE and employee will discuss appropriate arrangements which, as far as practicable, take account of KEE's and employee's requirements.
 - (c) Where the parties are unable to reach agreement the grievance and disputes procedures at **clause 33** of this agreement should be followed.
- (iii) The employee will, if required,
 - (a) establish either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person; or
 - (b) establish by production of documentation acceptable to KEE or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care by the employee.

In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.

- (iv) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (a) the employee being responsible for the care of the person concerned; and
 - (b) the person concerned being:
 - i. a spouse of the employee; or
 - ii. a defacto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person, or
 - iii. a child or an adult child (including an adopted child, a step child, foster child or an ex nuptial child), parent (including a foster parent, step parent and legal guardian), parents of spouse, grandparent, grandchild or sibling (including half, foster and step sibling) of the employee or spouse or de facto spouse of the employee; or
 - iv. a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
 - v. a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
 - a. 'relative' means a person related by blood, marriage or affinity;
 - b. 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - c. 'household' means a family group living in the same domestic dwelling.

- (v) An employee may elect, with the consent of KEE, to take unpaid leave for the purpose of providing care and support to a class of person set out in **clause 21.2 (iv) (b)** above who is ill or who requires care due to an unexpected emergency.
- (vi) An employee will, wherever practicable, give KEE notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee will notify the employer by telephone of such absence at the first opportunity on the day of absence.
- (vii) Carer's Entitlement for Casual Employees
 - (a) Subject to the evidentiary and notice requirements in **clause 21.2 (iii) and 21.2 (vi)** casual employees are entitled to not be available to attend work, or to leave work if they need to care for a person prescribed in **clause 21.2 (iv) (b)** of this clause who are sick and require care and support, or who require care due to an unexpected emergency, or the birth of a child.
 - (b) KEE and the employee will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 48 hours (i.e. two days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
 - (c) KEE must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.
- (viii) Time off in Lieu of Payment for Overtime: An employee may, with the consent of KEE, elect to take time in lieu of payment of overtime accumulated in accordance with the provisions of **clause 21.2** of this agreement for the purpose of providing care and support for a person in accordance with **clause 21.2 (iv) (b)** above.
- (ix) Make-up time: An employee may elect, with the consent of KEE, to work 'make-up time', under which the employee takes time off during ordinary hours, and works those hours at a later time, within the spread of ordinary hours provided in the agreement, at the ordinary rate of pay for the purpose of providing care and support for a person in accordance with **clause 21.2 (iv) (b)** above.
- (x) Annual Leave and Leave Without Pay: An employee may elect with the consent of KEE to take annual leave or leave without pay for the purpose of providing care and support for a person in accordance with **clause 21.2 (iv) (b)**. Such leave will be taken in accordance with **clause 21.3, Annual Leave and clause 21.12, Leave Without Pay** of this agreement.

21.3. Annual Leave

- (i) Annual leave of absence consisting of 4 weeks and two days at the ordinary rate of pay, exclusive of public holidays observed on working days will be granted to an employee, after each 12 months service and, except as provided for in **clause 21.3 (ii)** of this clause, will be taken on its due date or as soon as is mutually convenient thereafter to KEE and the employee.

(ii) KEE may direct an employee to take annual leave by giving at least four weeks prior notification in the following circumstances:

(a) where the employee has accumulated in excess of eight weeks annual leave

(b) a period of annual close-down of up to and including 4 weeks.

Provided that:

i. Where an employee has accrued more annual leave than the period of the annual close down, the balance of such leave will be taken in accordance with **clause 21.3** of this clause.

ii. In the case of employees who are not entitled to annual leave or do not have an entitlement sufficient to cover the period of the close-down, KEE will endeavour to provide meaningful duties as are within the limits of the employee's skill, competence and training for the whole or part of the close-down.

iii. In the event that meaningful duties are not available the employee may be directed to take leave without pay, or by agreement with KEE may take annual leave in advance of the entitlement provided that in the event of the employee leaving employment before the entitlement becomes due, such annual leave will be repaid by a deduction from the employee's termination pay.

iv. In the event that leave without pay is directed to be taken, such leave will be regarded as service for the purpose of the accrual of long service leave, sick leave and annual leave.

(iii) Payment to an employee proceeding on annual leave will be made by KEE at the employee's ordinary rate of pay for the period of annual leave either before the commencement of the employee's annual leave, or by agreement through the usual pay periods.

(iv) On resignation or termination of employment, KEE will pay to the employee:

(a) their ordinary rate of pay for all untaken leave credited for completed years of service, and

(b) for an incomplete year, one twelfth of their ordinary rate of pay multiplied by the number of completed weeks of service in that year.

Provided that the employee will not receive payment for more than four weeks annual leave for any period of twelve months.

(v) Where an employee receives a varying rate of pay for 6 months or more in the aggregate in the preceding 12 month period, the employee's ordinary rate of pay will be deemed to be the average weekly rate of pay earned during the period actually worked over the 12 months immediately preceding the annual leave or the right to payment under this clause.

(vi) Subject to KEE approval based on operational needs, employees may enter into a purchased annual leave agreement with KEE to purchase up to an additional 4 weeks annual leave per annum by taking a reduced salary spread over 52 weeks in accordance with the KEE policy as amended from time to time.

21.4. Long Service Leave

(i) entitlement

- (a) An employee of KEE will be entitled to Long Service Leave at the ordinary rate of pay as follows:

LENGTH OF SERVICE	ENTITLEMENT
After 5 years' service	6.5 weeks
After 10 years' service	13 weeks
After 15 years' service	19.5 weeks
After 20 years' service	30.5 weeks
For every completed period of 5 years' service thereafter	11 weeks

- (b) Where an employee has completed more than five years' service with KEE and is terminated for any cause, long service leave will be deemed to have accrued for the employee's total length of service and an amount equivalent to such long service leave, less such leave already taken, computed in monthly periods and equivalent to 1.3 weeks for each year of service up to 15 years and 2.2 weeks for each year of service from 15 years onwards.

(ii)

(i)

- (a) Long service leave will be taken at a time mutually convenient to KEE and employee in minimum periods of one week provided that all long service leave accruing on or after 01 July 2009 will be taken within five years of it falling due.
- (b) Payment to an employee proceeding on long service leave will be made by KEE at the employee's ordinary rate of pay for the period of long service leave either before the commencement of the employee's long service leave, or by agreement through the usual pay periods.
- (c) An employee who has become entitled to a period of leave and the employee's employment is terminated by resignation, death or dismissal for any cause will be deemed to have entered upon leave at the date of termination of the employment and will be entitled to payment accordingly.
- (d) For the purpose of calculating long service leave entitlement in accordance with **clause 21.4 (i) (a)** of this clause, for employees transferred to KEE from Warringah KEE, all prior continuous service with any other KEE within New South Wales will be deemed to be service with KEE.

For the purpose of this clause, service will include the following periods:-

- (a) Any period of service with any of Her Majesty's Forces provided that the employee enlisted or was called up direct from the service of a KEE.
- (b) Service will mean all service with a KEE irrespective of the classification under which the employee was employed.

- (iv) There will be deducted in the calculation of the employee's service all leave of absence without payment not specifically acknowledged and accepted by KEE as service at the time leave was taken.
- (v) Long service leave will be exclusive of annual leave and any other holidays as prescribed by **clause 20**, Holidays of this agreement, occurring during the taking of any period of long service leave.
- (vi) When the service of an employee is terminated by death KEE will pay to the employee's estate the monetary equivalent of any untaken long service leave standing to the employee's credit at the time of the employee's decease.
- (vii) Where an employee's service is terminated through shortage of work, material or finance or through illness certified by duly qualified medical practitioner and such employee is re- employed by KEE within 12 months of termination of service, prior service will be counted for the purpose of this clause.

21.5. Parental Leave (GENERAL)

Relationship with federal legislation – Clauses 19E, 19F, 19G and 19I of this award shall apply in addition to:

- (i) Chapter 2, Part 2-2, Division 5 – 'Parental leave and related entitlements' of the National Employment Standard (**NES**) under the *Fair Work Act 2009* (Cth); and
- (ii) the *Paid Parental Leave Act 2010* (Cth).

Note: Division 5 of the *Fair Work Act 2009* (Cth) relates to:

- unpaid parental leave, including unpaid adoption leave
- unpaid special maternity leave
- transfer to a safe job and no safe job leave

21.6. Requests for Flexible Working Arrangements

Relationship with federal legislation – Chapter 2, Part 2-2, Division 4, Requests for Flexible Working Arrangements of the *Fair Work Act 2009*, shall apply.

21.7. Paid Parental Leave

- (i) **Definitions** – in this clause:

- (a) **PPL instalments** shall mean instalments paid during the paid parental leave period under the *Paid Parental Leave Act 2010* (Cth).
- (b) **parental leave make-up pay** shall mean the employee's ordinary pay, inclusive of PPL instalments. A casual employee's ordinary pay shall be calculated by averaging the employee's ordinary time earnings in the 12 months immediately prior to the employee commencing paid parental leave.

- (ii) **Eligibility**

This clause shall apply to an employee who is receiving PPL instalments as a primary or secondary claimant under the *Paid Parental Leave Act 2010* (Cth).

- (iii) **Entitlement to parental leave make-up pay**

- (a) An employee shall be entitled parental leave make up pay for the period that they are receiving PPL instalments, up to a maximum of 18 weeks.
- (b) Parental leave make-up pay shall be counted as service for the purposes of long service, annual and sick leave accruals and superannuation.
- (c) Requalification period – An employee shall not be entitled to a further period of parental leave make up pay unless the employee has returned to work for KEE for at least 3 months since their previous period of parental leave.

(iv) **Employee's right to choose**

- (a) An employee who satisfies the eligibility criteria for paid maternity leave or paid special maternity leave under Clause 21.7, Paid Parental Leave, of the *Kimbriki Environmental Enterprises Pty Ltd Administrative Staff Enterprise Agreement 2012 - 2013*, may elect to receive paid maternity leave and / or paid special maternity leave in accordance with the provisions of the *Kimbriki Environmental Enterprises Pty Ltd Administrative Staff Enterprise Agreement 2012 - 2013* in lieu of the entitlement to parental leave make-up pay under this award.
- (b) This subclause shall not apply where another employee of KEE receives parental leave make-up pay in connection with the pregnancy or birth of the child.

21.8 Concurrent Parental Leave

An employee, other than a casual, who is a supporting parent shall be entitled to up to 10 days paid concurrent parental leave from their accrued sick leave balance at the time their partner gives birth to a child or at the time the employee adopts a child provided that the employee has had 12 months continuous service with KEE immediately prior to the commencement of their concurrent parental leave.

21.9 Adoption Leave

(i) **Eligibility**

This clause applies to an employee who is entitled to adoption-related leave under the *Fair Work Act 2009* (Cth).

(ii) **Pre-adoption Leave**

- (a) An employee, other than a casual, who is entitled to unpaid pre-adoption leave under the *Fair Work Act 2009* (Cth) is entitled to up to 2 days paid pre-adoption leave at ordinary pay for the period of such leave.
- (b) An employee who is entitled to a period of paid pre-adoption leave is entitled to take the leave as:
 - (1) single continuous period of up to 2 days; or
 - (2) any separate periods to which the employee and KEE agree.

(iii) **Adoption Leave**

- (a) An employee, other than a casual, who has or will have primary responsibility for the care of an adopted child is entitled to up to 4 weeks paid adoption leave at ordinary pay from the date the child is placed with the employee for adoption.
- (b) Paid adoption leave must not extend beyond 4 weeks of the date of placement of the child.
- (c) This subclause shall not apply where an employee of KEE receives parental leave make-up pay in connection with the adoption of the child.

21.10. Other Paid Leave

(i) **Jury Service Leave**

An employee required to attend for jury service during the employee's ordinary working hours will be reimbursed by KEE an amount equal to the difference between the amount in respect of the employee's attendance for such jury service and the amount of wage the employee would have received in respect of the ordinary time the employee would have worked had the employee not been on jury service. An employee will notify KEE as soon as possible of the date upon which the employee is required to attend for jury service. Further the employee will give KEE proof of attendance, the duration of such attendance and the amount received in respect of such jury service.

(ii) **Union Training Leave**

KEE will agree to release employees without pay to attend an accredited trade union training course with pay and such agreement will not unreasonably be withheld.

(iii) **Union Conference Leave**

Accredited delegates to the union's annual conferences will be granted paid leave for the duration of the conference provided that KEE's operational requirements are met and the union notifies KEE of the accredited delegates nominated to attend the conference at least one month prior to the commencement of the conference.

21.11. Bereavement Leave

- (i) Where an employee is absent from duty because of the death of a person in accordance with paragraphs (a)-(e) below and provides satisfactory evidence to KEE of such, the employee, other than a casual, will be granted four (4) days leave with pay upon application. Persons in respect of whom bereavement leave may be claimed will include:
 - (a) a spouse of the employee; or
 - (b) a de facto spouse, who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
 - (c) a child or an adult child (including an adopted child, a step child, foster child or an ex nuptial child), parent (including a foster parent, step parent and legal guardian), parents of spouse, grandparent, grandchild or sibling (including half, foster and step sibling) of the employee or spouse or de facto spouse of the employee; or

- (d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or
- (e) a relative of the employee who is a member of the same household, where for the purposes of this paragraph:
 - (1) 'relative' means a person related by blood, marriage or affinity;
 - (2) 'affinity' means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - (3) 'household' means a family group living in the same domestic dwelling.

21.12. Bereavement Entitlements for Casual Employees

- (i) Subject to providing satisfactory evidence to KEE, casual employees are entitled to not be available to attend work, or to leave work upon the death in Australia of a person prescribed in **clause 21.11 (i)**.
- (ii) KEE and the employee will agree on the period for which the employee will be entitled to not be available to attend work. In the absence of agreement, the employee is entitled to not be available to attend work for up to 96 hours (i.e. four days) per occasion. The casual employee is not entitled to any payment for the period of non-attendance.
- (iii) KEE must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of KEE to engage or not engage a casual employee are otherwise not affected.

21.13. Leave Without Pay

- (i) Periods of leave without pay, may be granted at KEE's discretion and taken at a time mutually convenient to KEE and the employee, and will not be regarded as service for the purpose of computing long service leave, sick leave or annual leave. Such periods of leave without pay will not however, constitute a break in the employee's continuity of service.
- (ii) An employee will not be entitled to any payment for public holidays during an absence on approved leave without pay.

22. FLEXIBILITY FOR WORK AND FAMILY RESPONSIBILITIES

- 22.1. KEE and an employee, other than a casual, may agree on flexible work and leave arrangements to enable the employee to attend to work and family responsibilities. KEE will not unreasonably withhold agreement to flexible work and leave arrangements, provided its operational needs are met.
- 22.2. Flexible work and leave arrangements include but are not limited to:
- i. make up time;
 - ii. flexi time;
 - iii. time in lieu;
 - iv. leave without pay;
 - v. annual leave;
 - vi. part-time work;
 - vii. job share arrangements;
 - viii. variations to ordinary hours and rosters; and
 - ix. purchased additional annual leave arrangements in accordance with KEE policies and procedures, as varied from time to time.
- 22.3. The terms of a flexible work and leave arrangement will be in writing and may be varied from time to time, by agreement, to suit the specific needs of either party.

23. PHASED RETIREMENT

- 23.1. KEE is committed to developing and promoting flexible work and leave arrangements to enable their employees to better manage their transition into retirement.
- 23.2. Examples of flexible work and leave arrangements include:
- (i) Part-time work;
 - (ii) Flexi-time;
 - (iii) Leave without pay;
 - (iv) Job sharing arrangements;
 - (v) Variations to ordinary hours and rosters;
 - (vi) Job redesign; and
 - (vii) Purchased additional annual leave arrangements.
- 23.3. The terms of a flexible work and leave arrangements will be in writing and subject to KEEs approval in accordance with operational requirements and policies and procedures, as varied from time to time .

24. PART-TIME EMPLOYMENT

- 24.1. A part-time employee will mean an employee who is engaged on the basis of a regular number of hours which are less than the full-time ordinary hours in accordance with **clause 18**, Hours of Work of this agreement.
- 24.2. Prior to commencing part-time work KEE and the employee will agree upon the conditions under which the work is to be performed including:
- (i) The hours to be worked by the employee, the days upon which they will be worked and the commencing times for the work.
 - (ii) The nature of the work to be performed.
 - (iii) The rate of pay as paid in accordance with this agreement
- 24.3. The conditions may also stipulate the period of part-time employment.
- 24.4. The conditions may be varied by consent.
- 24.5. The conditions or any variation to them must be in writing and retained by KEE. A copy of the conditions and any variations to them must be provided to the employee by KEE.
- 24.6.
- (i) Where it is proposed to alter a full-time position to become a part-time position such proposal will be referred to the consultative committee for information.
 - (ii) In such cases KEE and the employee will agree upon the conditions, if any, of return to full-time work.
- 24.7. A part-time employee may work more than their regular number of hours at their ordinary hourly rate by agreement. Where an employee works hours outside the spread of hours in **clause 18**, Hours of Work of this agreement, the provisions of **clause 19**, Overtime, will apply.
- 24.8. Part-time employees will receive all conditions prescribed by the agreement on a pro-rata basis of the regular hours worked. An adjustment to the accrued leave entitlements may be required at the conclusion of each service year based on the proportion of actual hours worked.
- 24.9. Where a public holiday falls on a day where a part-time employee would have regularly worked the employee will be paid for the hours normally worked on that day.
- 24.10. A change to full-time employment from part-time employment or to part-time employment from full-time employment will not constitute a break in the continuity of service. All accrued entitlements will be calculated in proportion to the hours worked in each employment arrangement.

25. CASUAL EMPLOYMENT

- 25.1. A casual employee will mean an employee engaged on a day to day basis.
- 25.2. A casual employee will be paid the hourly rate for ordinary hours worked in accordance with **clause 18**, Hours of Work.
- 25.3. Casual employees who work on Saturday and/or Sunday are entitled to penalty rates prescribed by **clause 19.1**. The penalties are calculated on the ordinary hourly rate.
- 25.4. Casual employees who work outside the relevant spread of hours identified at **clause 18** are entitled to a shift penalty. The penalty is calculated on the ordinary hourly rate.
- 25.5. A casual employee will not be offered to work overtime in a position held by a permanent employee if such permanent employee is available to work that overtime. Overtime will be paid where a casual employee works outside the ordinary hours for that position in accordance with **clause 18**.
- 25.6. In addition to the amounts prescribed by **clause 25.2**, a twenty-five percent loading, calculated on the ordinary hourly rate, will be paid. This loading will not attract any penalty. This loading will be paid in lieu of all leave and severance pay, except for paid parental leave, prescribed by the agreement. Casual loading is not payable on overtime.
- 25.7. Casual employees engaged on a regular and systematic basis will:
- (i) Have access to annual assessment under KEE's salary system.
 - (ii) Have their service as a casual counted as service for the purpose of calculating long service leave where the service as a casual employee is continuous with their appointment to a permanent position on KEE's structure. In calculating the long service leave entitlement in such cases there will be a deduction of the long service leave accrued whilst the employee was employed as a casual.
- 25.8. A casual employee will not replace an employee of KEE on a permanent basis.
- 25.9. Carer's entitlements will be available for casual employees as set out in of **clause 21.2 (vii)**, of this agreement.
- 25.10. Bereavement entitlements will be available for casual employees as set out in of **clause 21.11**, of this agreement.
- 25.11. Parental leave entitlements will be available for casual employees in accordance with the *Fair Work Act 2009*.

26. JOB SHARE EMPLOYMENT

- 26.1. Job sharing is a form of part-time employment where more than one employee shares all the duties and responsibilities of one position.
- 26.2.
- (i) Job sharing will be entered into by agreement between KEE and the employees concerned.
 - (ii) Such agreement will be referred to the consultative committee for information.
- 26.3. KEE and the job sharers will agree on the allocation of work between job sharers.
- 26.4.
- (i) The ordinary hours of work of the position will be fixed in accordance with **clause 18, Hours of Work** of this agreement.
 - (ii) The job sharers in conjunction with KEE will agree on the hours to be worked. Such agreement will specify the regular number of ordinary hours to be worked by each job sharer.
- 26.5.
- (i) In the absence of a job sharer the remaining job sharer(s) may be required by KEE to relieve the absent job sharer provided the remaining job sharer(s) are reasonably available.
 - (ii) In such cases the relieving job sharer(s) will be paid their ordinary rate of pay for the time relieving.
- 26.6. A job sharer may work more than their regular number of hours at their ordinary hourly rate by agreement. Where an employee works hours outside the spread of hours in **clause 18, Hours of Work** of this agreement the provisions of **clause 19, Overtime**, will apply.
- 26.7. KEE must establish appropriate communication mechanisms between the job sharers to facilitate the handing over of tasks from one job sharer to another.
- 26.8.
- (i) Job sharers will have access to all provisions of this agreement including training and development.
 - (ii) Job sharers will receive pro-rata pay and conditions in proportion to the ordinary hours worked by each job sharer.
 - (iii) An adjustment to accrued leave entitlements may be required at the conclusion of each service year based on the proportion of actual hours worked.
 - (iv) A change to job sharing from full-time or part-time employment or from job sharing to full-time or part-time employment will not constitute a break in the continuity of service. All accrued entitlements will be calculated in proportion to the hours worked in each employment arrangement.
- 26.9. In the event of a job sharer vacating the position KEE will review the position and will consider filling the vacancy or offering the remaining job sharer(s) increased hours.
- 26.10. The terms of a job share arrangement or any variation to it must be in writing. A copy of

the arrangement and any variation to it must be provided to the job sharer(s) by KEE.

27. GOVERNMENT FUNDED TRAINEESHIPS

27.1.

- (i) The objective of this clause is to assist in the establishment of a system of traineeships which provides approved training in conjunction with employment in order to enhance the skill levels and future employment prospects of trainees.
- (ii) The system is neither designed nor intended for those who are already trained and job ready.
- (iii) Nothing in this subclause will be taken to replace the prescription of training requirements for all other employees bound by this agreement.

27.2. Except as in hereinafter provided, all other terms and conditions of this agreement will apply.

27.3.

- (i) This subclause will apply to trainees engaged to undertake a traineeship which is a system of training approved by the relevant state training authority. The trainee and KEE will be bound by a training agreement made in accordance with this agreement and will not operate unless this condition is met.
- (ii) A traineeship will not commence until the relevant Traineeship Agreement has been registered with the relevant State Training Authority.

27.4. KEE will ensure that the trainee is permitted to attend the training course or program provided for in the Traineeship Agreement and will ensure that the trainee receives the appropriate on-the-job training in accordance with the Traineeship Agreement.

27.5. KEE will provide a level of supervision in accordance with the Traineeship Agreement during the traineeship period.

27.6. Training will be directed at:

- (i) the achievement of key competencies required for successful participation in the workplace and / or
- (ii) the achievement of competencies required for successful participation in an industry.

27.7. Until consultation and negotiations with the relevant industry union(s) upon the terms of the proposed Traineeship Scheme and the Traineeship has occurred a Traineeship Scheme will not be given approval. An application for approval of a Traineeship Scheme will identify the relevant industry union(s) and demonstrate to the satisfaction of the approving authority that the abovementioned consultation and negotiations have occurred.

27.8. Any existing employment arrangements for the Australian Traineeship System (ATS) or the Career Start Traineeship (CST) will not apply to KEE bound by this agreement, except in relation to ATS or CST trainees who commenced a traineeship with KEE before KEE was bound by this agreement.

27.9.

- (i) Trainees will not displace existing employees from employment.
- (ii) Trainees will only be engaged in addition to existing staff positions and employment levels.
- (iii) The provisions of **clause 27.9 (ii)** above do not apply to the engagement of Indigenous trainees.

27.10. A trainee will be engaged on a full time basis for the period of at least twelve months. By agreement in writing, and with the consent of the relevant State Training Authority, the relevant KEE and the trainee may vary the duration of the Traineeship and the extent of approved training provided that any agreement to vary is in accordance with the relevant Traineeship Scheme. This clause will not restrict KEE's ability to engage a trainee under a school-based traineeship.

27.11.

- (i) KEE will not terminate the trainee's service without providing written notice of termination in accordance with the training agreement and subsequently to the relevant State Training Authority as appropriate.
- (ii) Where KEE chooses not to continue the employment of a trainee upon the completion of the traineeship, it will notify the relevant state training authority as appropriate, of its decision.

27.12. A trainee who fails to complete the traineeship or who cannot for any reason be placed in full-time employment with KEE on the successful completion of the traineeship, will not be entitled to any severance payments payable pursuant to termination, change or redundancy provisions or provisions similar thereto.

27.13. The trainee will be permitted to be absent from work without loss of continuity of employment and / or wages to attend the training in accordance with the Traineeship Agreement.

27.14. Where the employment of a trainee by an employer is continued after the completion of the traineeship period, such traineeship period will be counted as service with KEE for the purposes of this agreement or any other legislative entitlements.

27.15. Wages:

- (i) The weekly amount of pay payable to trainees will be defined according to the Skill Descriptors (8) of this agreement.

28. TRAINING AND DEVELOPMENT

- 28.1 The parties to this award recognise that increasing the efficiency and productivity of the industry requires an ongoing commitment to education, training and skill maintenance, development and enhancement. Accordingly, the parties commit themselves to:
- (a) developing a more highly skilled and flexible workforce
 - (b) providing employees with opportunities through appropriate education and training to acquire additional skills and
 - (c) removing barriers to the utilisation of skills in accordance with KEE's training plans.
- 28.2 All employees shall have reasonable and equitable access to education and training, such education and training shall:
- (a) be consistent with KEE's training plan
 - (b) enable employees to acquire the range of skills they are required to apply in their positions
 - (c) enhance employees' opportunities for mobility through KEE's organisation structures, through participation in KEE's training plans.
- 28.3 Training Plan and Budget
- (a) KEE shall develop a training plan and budget consistent with:
 - (1) the current and future skill requirements of KEE.
 - (2) the size, structure and nature of the operations of KEE.
 - (3) the need to develop vocational skills relevant to waste management industry.
 - (b) In developing the training plan, KEE shall have regard to corporate, departmental and individual training needs.
 - (c) The training plan shall be designed in consultation with the consultative committee.
 - (d) The training plan shall, where appropriate, provide for training that is consistent with the National Competency Standards.
 - (e) The training plan, shall provide for the assessment and recognition of employee's current competencies where possible.
 - (f) Selection of participants to receive KEE required training in accordance with KEE's training plan is to be based on merit and the needs of the employee as identified in the employee's performance appraisal.

28.4 If an employee is required by KEE to undertake training in accordance with the KEEs training plan:

- (a) KEE shall grant the employee paid leave to attend course requirements, including examinations, where the training is undertaken during ordinary working hours;
- (b) where the course requirements contain more than a 15% off-the-job component calculated over any 12 month period the extent to which KEE will grant paid leave to attend such course requirements shall be specified in the training plan;
- (c) KEE shall pay course fees at the commencement of each stage but shall not pay course fees if the employee is repeating;
- (d) KEE shall either provide transport or pay reasonable travelling expenses to enable employees to attend course requirements;
- (e) reasonable travel arrangements shall be agreed; and
- (f) where an employee is required to complete major assignment(s) KEE and the employee shall agree upon appropriate flexible work and study arrangements as are practicable.

28.5 KEE may grant an employee undertaking a course consistent with KEE's training plan, although not at KEE's requirement, leave with pay or leave without pay to attend course requirements provided that the employee gives reasonable notice of such requirements. Where the employee is not granted such leave KEE shall give preference in granting annual leave or other accrued leave to attend course requirements provided that the employee gives reasonable notice of such requirements. KEE may pay course fees at its discretion.

28.6 Development of a Competency Based Training System.

- (a) The parties to the award are committed to the development of a competency based system of vocational education and training for local government. Such a system involves the delivery, assessment and certification of training being related to the identification and demonstrated attainment of the knowledge, skills and their application required for effective performance in work at the required level, as defined in industry endorsed competency standards.
- (b) The parties shall continue to participate in the development of a competency based training system to ensure that the following are achieved:
 - (1) that competency standards developed provide the specification of the knowledge and skill and the application of that knowledge and skill to the standards of performance required in employment;
 - (2) that competency standards are reviewed in a systematic manner to ensure that they remain relevant to the actual needs of the industry;

- (3) that accredited courses and training programs deliver the required competencies and to ensure that assessment processes measure an employee's competency against prescribed standards of performance. These processes involve recognition of prior learning and assessment mechanisms;
- (3) that certification provides employees with formal recognition of the competencies they have achieved and demonstrated.

29. PERFORMANCE EVALUATION AND REWARD

- 29.1. All employees need to know and have confirmed the rôle, accountabilities and performance standards that are expected of them. Role clarity, acceptance of goals and regular feedback are essential to effective performance. A key aim should be to provide a means of recognising and rewarding high performance and to provide an early assessment and response to substandard performance. A review system also provides a basis for identifying development needs for individuals, and can be used as an important input to promotion decisions.
- 29.2. This agreement recognises that all employees will have on-going feedback about performance. The performance development process can be simplified to three stages:
 - (i) Joint development on objectives and performance standards;
 - (ii) Progress reviews; and
 - (iii) A formal performance review which is followed by decisions and outcomes.
- 29.3. Where a salary system provides for the payment of a performance component separate from a skills component, variations to payments under the performance component will not affect payments under the skills component.
- 29.4. KEE may make available a bonus payment for additional reward for employees whose performance within a review has been shown to be of a high standard

30. CONSULTATIVE COMMITTEES

30.1. Aim

The parties to the agreement are committed to consultative and participative processes. There will be a consultative committee at KEE which will:

- (i) Provide a forum for consultation between KEE and its employees;
- (ii) Positively co-operate in workplace reform to enhance the efficiency and productivity of KEE and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.

30.2. Size and Composition

- (i) The size and composition of the consultative committee will be two representatives of KEE's workforce.

- (ii) The consultative committee will include but not be limited to an employee representative of the USU.
- (iii) Officers of the USU may attend and provide input to meetings of the consultative committee, at the invitation of the consultative committee or their respective members.

30.3. **Scope and Consultative Committees**

- (i) The functions of the consultative committee will include:
 - (a) Agreement implementation
 - (b) Training
 - (c) Consultation with regard to organisation restructure
 - (d) Job redesign
 - (e) Salary systems
 - (f) Communication and education mechanisms
 - (g) Performance management systems
 - (h) Changes to variable working hours arrangements for new or vacant positions
- (ii) The consultative committee will not consider matters which are being or should be processed in accordance with agreement **clause 33** Grievance and Disputes Procedures.

30.4. **Meetings and Support Services**

- (i) The consultative committee will make recommendations based upon consensus. Where there is no consensus on a particular item, the recommendation to KEE should note the dissenting views.
- (ii) The consultative committee will meet as required.

31. **APPOINTMENT AND PROMOTION**

- 31.1. Where an internal applicant has applied for a new or vacant position and their application is unsuccessful, the employee may:
- (i) request in writing the reasons as to why they were not appointed; and
 - (ii) upon such request KEE will provide the reasons in writing.

32. **POLICIES**

KEE may at its discretion maintain the Kimbriki Wellness Program, Kimbriki Employee Assistance Program and Kimbriki Performance Policy, for the benefit of KEE employees (the Policies).

A breach of the Policies by KEE will not amount to a breach of this Agreement. The Policies may be amended, varied or revoked from time to time.

33. GRIEVANCE AND DISPUTE PROCEDURES

- 33.1. At any stage of the procedure, the employee(s) may be represented by their union and KEE represented by the CEO.
- 33.2. The union delegate will have reasonable time, without loss of pay, to discuss a grievance or dispute with management at the local level where prior approval is sought. Such approval will not be unreasonably withheld.
- 33.3. A grievance or dispute will be dealt with as follows:
- (i) The employee(s) will notify the supervisor, or other authorised officers of any grievance or dispute and the remedy sought, in writing.
 - (ii) A meeting will be held between the employee(s) and the CEO to discuss the grievance or dispute and the remedy sought within two working days of notification.
 - (iii) If the matter remains unresolved the CEO will provide the employee(s) with a written response. The response will include the reasons for not implementing any proposed remedy.
 - (iv) Where the matter remains unresolved, it may be referred to the employee's union and by the CEO for further discussion between the parties.
- 33.4. The Industrial Registrar may be advised of the existence of a dispute at any stage of this procedure.
- 33.5. During this procedure and while the matter is in the course of negotiation, conciliation and / or arbitration, the work practices existing prior to the dispute will as far as practicable proceed as normal.
- 33.6. **Disputes concerning industrial matters arising arising about the employment of KEE employees shall be referred to the Industrial Relations Commission of New South Wales as allowed pursuant to the provisions of section 146A of the *Industrial Relations Act 1996 (NSW)***

34. DISCIPLINARY PROCEDURES

34.1. Employee's Rights

Notwithstanding the procedures below, an employee will:

- (i) Have access to their personal files and may take notes and / or obtain copies of the contents of the file.
- (ii) Be entitled to sight, note and / or respond to any information placed on their personal file which may be regarded as adverse.
- (iii) Be entitled to make application to delete or amend any disciplinary or other record mentioned on their personal file which the employee believes is incorrect or misleading.
- (iv) Be entitled to request the presence of a union representative and / or the involvement of their union at any stage.

- (v) Be entitled to make application for accrued leave for whole or part of any suspension during the investigation process.

34.2. **Employer's Rights And Obligations**

Notwithstanding the procedures contained below, KEE will:

- (i) Be entitled to suspend an employee with or without pay during the investigation process provided that:
 - (a) Suspension without pay during an investigation will be for a period of not more than two weeks, except where the progress of the investigation is delayed due to the unavailability of the employee and/or their representative in which case the period of suspension without pay may be extended for a further period of up to 7 days or such greater period by agreement.
 - (b) If, after investigation, the reasons for the suspension are found to be inappropriate, the employee will not suffer any loss of pay for the period under suspension.
 - (c) The suspension will not affect the employee's continuity of service for the purposes of accruing leave entitlements.
 - (d) KEE will not unreasonably refuse an application for paid leave under this provision.
 - (e) By agreement an employee may be transferred to another position or place of work.
- (i) Properly conduct and speedily conclude an investigation into the alleged unsatisfactory work performance or conduct.
- (ii) Be entitled to take other disciplinary action before and / or during the procedures in cases of misconduct or where the employee's performance warrants such action.
- (iii) In appropriate circumstances be entitled to terminate an employee's services in accordance with **clause 36**, Termination of Employment of this agreement.
- (iv) Be entitled to request the presence of a union representative at any stage.

34.3. **Procedures**

- (i) Where an employee's work performance or conduct is considered unsatisfactory, the employee will be informed in the first instance of the nature of the unsatisfactory performance or conduct and of the required standard to be achieved, by the employee's immediate supervisor or other appropriate officer of KEE.
- (ii) Unsatisfactory work performance or conduct will include, but not be limited to, neglect of duties, absenteeism and non-compliance with policies and procedures including safety standards and Code of Conduct. A written record will be kept on the appropriate file of such initial warning. The employee will be entitled to sight and sign such written record and add any notations regarding the contents of such record.

- (iii) Where there is re-occurrence of unsatisfactory work performance or conduct, the employee will be warned formally in writing by the appropriate officer of KEE and counselled. Counselling should reinforce the standard of work or conduct expected and, where the employee is failing to meet these required standards, a suitable review period for monitoring the employee's performance; the severity of the situation; and whether disciplinary action will follow should the employee's work performance or conduct not improve. A written record will be kept of such formal warning and counselling. The employee will be entitled to sight and sign such written record and add any notations regarding the contents of such record
- (iv) If the employee's unsatisfactory work performance or conduct continues or resumes following the formal warning and counselling, the employee will be given a final warning in writing giving notice of disciplinary action should the unsatisfactory work performance or conduct not cease immediately.
- (v) If the employee's work performance or conduct does not improve after the final warning penalties may be imposed by KEE in accordance with **clause 34.4** below.
- (vi) All formal warnings will be in writing.
- (vii) Nothing in this clause will affect the right of KEE to implement and follow disciplinary procedures in dealing with serious and wilful misconduct by an employee and proceed to impose the penalties in **clause 34.4** without the requirement to issue a warning.
- (viii) Delegates will be provided reasonable time without loss of pay, to represent members in disciplinary matters at the local level, provided prior approval is sought. Such approval will not be unreasonably withheld.

34.4. **Penalties**

- (i) After complying with the requirements above, KEE may:
 - (a) Demote the employee to a lower paid position, provided that the employee will not suffer a reduction in the rate of pay for 2 weeks from the date of the demotion.
 - (b) Suspend an employee without pay from work for a specified period of time.
 - (c) Terminate the employment of the employee.

35. WORK HEALTH AND SAFETY

35.1. Objective

KEE will provide a safe place of work and work practices in accordance with the provisions of the relevant work health and safety legislation.

35.2. Accommodation And Shelter

KEE will make appropriate provision for employees with regard to accommodation and shelter and will satisfy the provisions of the relevant work health and safety legislation.

35.3. Specific Provisions

- (i) KEE will supply employees with protective clothing and equipment suitable to the nature of the work performed and the work environment and that will satisfy the relevant legislation.
- (ii) All plant and equipment will be fitted with air conditioning where practicable.
- (iii) Plant will be of high visibility and fitted with a flashing light or a light visible from all points around the vehicle.
- (iv) Where any acidic or caustic products are used by employees, adequate facilities will be provided to enable them to wash any affected areas and an adequate quantity of barrier cream will be provided.
- (v) Employees will be supplied with sufficient cool water containers to ensure that adequate clean, cool drinking water is available throughout the day.
- (vi) No employee will be required to work alone outside of built-up areas without all available communications to allow continuous contact in all conditions.
- (vii) Where an employee during the course of work, sustains damage to clothing, which is not attributable to the employee's negligence, the employee will be compensated by KEE to an agreed amount.
- (viii) In the case of extreme and unusual weather conditions which could be assessed as hazardous, KEE will review and conduct a risk assessment to determine what action, if any, needs to be put in place to minimise unnecessary exposure and risks to its employees during such unusual occurrences.
- (ix). As part of the efforts to achieve the highest standards of safety and health, KEE will maintain an alcohol and drug free policy. All employees must be free from the influence of alcohol and illegal drugs whilst at work. Employees who breach KEE's policy will be subject to counselling and/or disciplinary action. The consumption of alcohol and illegal drugs during the course of the shift is prohibited. Breaches of this policy may result in summary dismissal.

35.4. Labour Hire And Contract Businesses

- (i) For the purposes of this subclause, the following definitions will apply:
 - (a) A "labour hire business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or

unit trust, corporation and/or person) which has as its business function, or one of its business functions, to supply staff employed or engaged by it to KEE for the purpose of such staff performing work or services for KEE.

- (b) A "contract business" is a business (whether an organisation, business enterprise, company, partnership, co-operative, sole trader, family trust or unit trust, corporation and/or person) which is contracted by KEE to provide a specified service or services or to produce a specific outcome or result for KEE which might otherwise have been carried out by KEE's own employees.
- (ii) If KEE engages a labour hire business and/or a contract business to perform work wholly or partially on KEE's premises, KEE will do the following (either directly, or through the agency of the labour hire or contract business):
- (a) Consult with employees of the labour hire business and/or contract business regarding the workplace occupational health and safety consultative arrangements;
 - (b) Provide employees of the labour hire business and/or contract business with appropriate occupational health and safety induction training including the appropriate training required for such employees to perform their jobs safely;
 - (c) Ensure employees of the labour hire business and/or contract business wear appropriate personal protective equipment and/or clothing and comply with safe work method statements; and
 - (d) Ensure employees of the labour hire business and/or contract business are made aware of any risks identified in the workplace and the procedures to control those risks.
- (iii) Nothing in this **clause 35.4** is intended to affect or detract from any obligation or responsibility upon a labour hire business arising under the *Work Health and Safety Act 2011* or the *Workplace Injury Management and Workers Compensation Act 1998*.
- (iv) Where a dispute arises as to the application or implementation of this clause, the matter will be dealt with pursuant to the disputes settlement procedure of this agreement.
- (v) This clause has no application in respect of organisations which are properly registered as Group Training Organisations under the *Apprenticeship and Traineeship Act 2001* (or equivalent interstate legislation) and are deemed by the relevant State Training Authority to comply with the national standards for Group Training Organisations established by the ANTA Ministerial Council.

36. TERMINATION OF EMPLOYMENT

- 36.1. An employee will give to KEE two weeks' notice of their intention to terminate their employment. If no such notice is provided, KEE will be entitled to deduct pay equivalent to the required notice from any entitlements payable under this agreement.
- 36.2. KEE and an employee may agree to a shorter period of notice for the purpose of this subclause, in special circumstances.
- 36.3. In cases of serious misconduct, KEE may summarily dismiss an employee following a proper investigation and provided the employee is afforded procedural fairness. Where an employee is summarily dismissed, **clause 36.4** will not apply.
- 36.4. KEE will give to an employee a period of notice of termination in accordance with the following scale or by payment in lieu thereof:

EMPLOYEE'S PERIOD OF CONTINUOUS SERVICE	PERIOD OF NOTICE
Less than 2 years	At least 2 weeks
2 years and less than 3 years	At least 3 weeks
3 years and less than 5 years	At least 4 weeks
5 years and beyond	At least 5 weeks

- 36.5. The provision of this clause will be read subject to the provisions of **clause 37**, Workplace Change and Redundancy, of this agreement.

37. WORKPLACE CHANGE AND REDUNDANCY

37.1. KEE's Duty to Notify

- (i) Where KEE has made a definite decision to introduce major changes in production, program, organisation structure or technology that are likely to have significant effects on employees, KEE will notify the employees who may be affected by the proposed changes and the unions to which they belong.
- (ii) "Significant effects" include termination of employment, major changes in the composition, operation or size of KEE's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where the agreement makes provision for the alteration of any of the matters referred to herein an alteration will be deemed not to have significant effect.

37.2. KEE's Duty to Discuss Change

- (i) KEE will discuss with the employee(s) affected and the union to which they belong, inter alia, the introduction of the changes referred to in **clause 37.1**, what affects the changes are likely to have on the employee(s) and measures to avert or mitigate the adverse changes on the employee(s) and will give prompt consideration to matters raised by the employee(s) and / or their union in relation to the changes and may reconsider its original decision.

- (ii) The discussion will commence as early as practicable after a definite decision has been made by KEE to make the changes referred to in **clause 37.1**.
- (iii) For the purposes of the discussion, KEE will provide to the employee(s) concerned and the union to which they belong, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on the employee(s) and any other matters likely to affect the employee(s).

37.3. Discussion Before Termination

- (i) Where KEE has made a definite decision that it no longer wishes the job the employee has been doing done by anyone pursuant to **clause 37.1** and that decision may lead to the termination of employment, KEE will hold discussions with the employee directly affected and with the union to which they belong.
 - (ii) The discussion will take place as soon as it is practicable after KEE has made a definite decision which will invoke the provision of **clause 37.3 (i)** and will cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of the terminations of the employee(s) concerned. Measures to mitigate the adverse effect on employees may include consideration of re-training opportunities, redeployment, recruitment advice, the payment of relocation allowances, provision of additional notice, access to an employee assistance program, financial advice and such other assistance as may be reasonably available.
- (iii) For the purposes of the discussion, KEE will, as soon as practicable, provide to the employee(s) concerned and the union to which they belong, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and category of employee(s) likely to be effected and the number of employee(s) normally employed and the period over which the terminations are likely to be carried out. Provided that KEE will not be required to disclose confidential information the disclosure of which would adversely affect the KEE.

37.4. Notice to Centrelink

Where a decision has been made to terminate employees, KEE will notify Centrelink as soon as possible giving relevant information including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

37.5. Notice of Termination

- (i) Five weeks notice to terminate or pay in lieu thereof will be given.
- (ii) Where an employee is to be terminated because of the introduction of technology the employee will be entitled to the following:
 - (a) Three (3) months notice of termination or
 - (b) Payment in lieu of the notice in paragraph 1 above. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
 - (c) Notice or payment of notice under this paragraph will be deemed to be

service with KEE for the purposes of calculating leave entitlements under this agreement.

37.6. Redundancy Pay

- (i) This subclause will apply where an employee is terminated due to redundancy. KEE will be exempt from the operation of this subclause where the employee concerned has been offered, but has refused to accept, an alternative position within KEE's organisation structure of comparable skill and accountability levels and remuneration no less than the position previously held by the employee.
- (ii) In addition to any required period of notice, and subject to **clause 37.5**, the employee will be entitled to the following:

COMPLETED YEARS OF SERVICE WITH KEE	ENTITLEMENT
Less than 1 year	Nil
1 year and less than 2 years	5 weeks pay
2 years and less than 3 years	9 weeks pay
3 years and less than 4 years	13 weeks pay
4 years and less than 5 years	16 weeks pay
5 years and less than 6 years	19 weeks pay
6 years and less than 7 years	22 weeks pay
7 years and less than 8 years	25 weeks pay
8 years and less than 9 years	28 weeks pay
9 years and less than 10 years	31 weeks pay
10 years and thereafter	34 weeks pay

- (a) An employee who resigns during the period of notice is entitled to the same redundancy payments provided in this clause as if they had remained in KEE's employment until the expiry of the notice period.
- (b) During a period of notice of termination given by the KEE, an employee will be allowed up to one day off without loss of pay during each week of notice for the purpose of seeking other employment. Where required by KEE the employee will provide proof of attendance at an interview.
- (c) A redundant employee will be entitled to the payment of a job search allowance of up to \$2,000 to meet expenses associated with seeking other employment subject to proof of expenditure or on production of an invoice, and/or other appropriate documentation. The employee's entitlement to claim the job search allowance is limited to a period of up to 12 months from their termination of service with KEE or until the employee secures alternative employment, whichever is the sooner.
- (d) If the employee agrees to be redeployed by KEE into a lower paid position, the employee's existing salary and conditions will be maintained for a period equivalent to the amount of notice and redundancy pay that the employee would be entitled to under this Agreement. Provided that should the employee resign during the period of salary maintenance, as provided for by this subclause, the balance of any notice and redundancy pay that the employee would have been entitled to for the remainder of the period of salary maintenance will be paid on termination.

- (e) KEE will, upon receipt of a request from an employee to show employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification or the type of work performed by the employee.
- (f) KEE will, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by the Department of Social Security.
- (g) In the event that KEE determines that a position is redundant, KEE where practicable, will firstly offer such redundancy on a voluntary basis.
- (h) Nothing in this agreement will be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the union and KEE bound by this agreement.
- (i) Subject to an application by KEE and further order of the Industrial Relations Commission of New South Wales, KEE may pay a lesser amount (or no amount) of severance pay than that contained in **clause 37.6 (ii)** above if KEE obtains acceptable alternative employment for an employee.
- (j) Nothing in this clause will restrict an employee with ten years service or more and KEE from agreeing to further severance payments.

38. RENEGOTIATION OF THE AGREEMENT


The parties to this Agreement will meet to renegotiate the provisions contained herein three (3) months prior to 1 July 2016. Should there be no agreement between the parties the existing provisions will remain in force until rescinded by the making of a new Enterprise Agreement or terminated in accordance with the Act.

39. SIGNATORIES TO THE AGREEMENT

In signing this Agreement, the parties agree that the rates of pay and the implementation of the conditions provided for in this Agreement will take effect from the first pay period to commence on or after 1 July 2013.

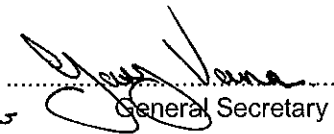
Christine Kaaro

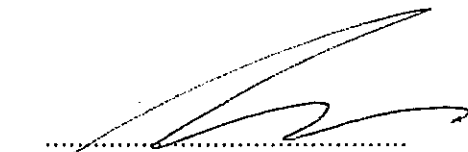
SIGNED on behalf of
KEE
In the presence of


.....
Company Secretary
Aaron Hudson
CEO


.....
Witness

SIGNED on behalf of the
NEW SOUTH WALES LOCAL
GOVERNMENT, CLERICAL ADMINISTRATIVE,
ENERGY, AIRLINES & UTILITIES UNION

ACTING 
.....
General Secretary


.....
Witness