



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Best & Less Pty Ltd T/A Best & Less
(AG2018/3219)

BEST & LESS ENTERPRISE AGREEMENT

Retail industry

DEPUTY PRESIDENT COLMAN

MELBOURNE, 4 DECEMBER 2018

Application for approval of the Best & Less Enterprise Agreement 2018.

[1] An application has been made for approval of an enterprise agreement known as the *Best & Less Enterprise Agreement 2018* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Best & Less Pty Ltd T/A Best & Less. The agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[3] Subject to the undertakings referred to above, and on the basis of the material contained in the application and accompanying statutory declaration, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[4] The Shop, Distributive and Allied Employees Association being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) and based on the statutory declaration provided by the organisation, I note that the Agreement covers the organisation.

[5] The Agreement was approved on 4 December 2018 and, in accordance with s.54, will operate from 11 December 2018. The nominal expiry date of the Agreement is 31 May 2022.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.: **AG2018/3219**

Applicant: **Best & Less Pty Ltd**

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, **Teresa Gallo, Chief People Officer for Best & Less Pty Ltd**, give the following undertakings with respect to the **Best & Less Enterprise Agreement** ("the Agreement"):

1. I have the authority given to me by **Best & Less Pty Ltd** to provide this undertaking in relation to the application before the Fair Work Commission.

2. We undertake that in place of clause 4.3(e), the following clause has effect:

Employees engaged for more than two hours during one day or shift on duties carrying a higher rate than their ordinary classification are to be paid the higher rate for such day or shift. If engaged for two hours or less during one day or shift, the employee is to be paid the higher rate for the time worked only.

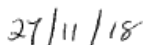
3. We undertake that the following clause take effect at 4.3(g):

An employee in the County of Yancowinna in New South Wales (Broken Hill) will in addition to all other payments be paid an hourly allowance for the exigencies of working in Broken Hill of 4.28% of the standard rate as defined in the modern award.

4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature



Date

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of the agreement.

Best & Less Enterprise Agreement

Rollout Version, 30 May 2018

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Part 1 Preliminary

1.1 Operation of Agreement

- (a) This Enterprise Agreement will be known as the Best & Less Enterprise Agreement.
- (b) This Enterprise Agreement will have application to all retail store employees of Best & Less who perform work in the classifications specified in this Enterprise Agreement.
- (c) This Enterprise Agreement will commence 7 days after it has been approved by the Fair Work Commission.
- (d) This Enterprise Agreement will nominally expire on the 31 May 2022.
- (e) This is a comprehensive Enterprise Agreement and will not be read in conjunction with any Industrial Agreement or Industrial Award except as expressly provided for within this Enterprise Agreement.
- (f) The NES and this Enterprise Agreement combine to form the minimum conditions of employment for team members covered by this Enterprise Agreement.
- (g) A copy of this Enterprise Agreement and the NES will be made available to team members at each retail worksite or made available electronically.
- (h) Best & Less trainees will be paid in accordance with the Enterprise Agreement’s rates of pay and conditions.

1.2 Definitions

- (a) Best & Less refers to Best & Less Pty Ltd. ABN: 29 003 724 696.
- (b) ‘child’ includes a child, foster child, adopted child, step child or child who is the subject of a permanent care order.
- (c) ‘continuous service’ means service for any team member under a contract of employment that has not been terminated, or has been terminated and the team member has been reemployed by Best & Less within 3 months of the termination.
- (d) ‘FWC’ means Fair Work Commission.
- (e) ‘immediate family’ includes a spouse, de-facto partner, child, parent, grandparent, grandchild or sibling of the team member or a child, parent, grandparent, grandchild or sibling of a spouse or de-facto partner of the team member.
- (f) ‘modern award’ means the General Retail Industry Award 2010.

- (g) 'mutually agreed' within this Enterprise Agreement means agreement is taken to be granted by a team member if work subject to the mutual agreement is performed by the team member. If a team member is concerned that they have not mutually agreed they should immediately raise the concern via the Enterprise Agreement Grievance Procedure. If a team member indicates they have not mutually agreed to a matter or wishes to remove their mutual agreement this change will be made by Best & Less within 7 days.
- (h) 'NES' means the National Employment Standards.
- (i) 'ordinary hours' means 76 hours per 2 week cycle for a full time team member and their contracted hours per 2 week cycle for a part time team member.
- (j) 'ordinary hourly rate of pay' means the permanent ordinary hourly rate of pay column in the wage tables at Part 9 of this Enterprise Agreement.
- (k) 'permanent team members' are full time team members and part time team members.
- (l) 'SDA' means the Shop Distributive and Allied Employees' Association (a registered trade union).
- (m) 'shift' means the period of time elapsing from the time a team member commences work to the time the team member ceases work.

Part 2 General Employment Matters

2.1 Terms of Engagement

Every team member will be advised in writing at the time of engagement or any change to the nature of their engagement:

- (i) Whether they are a full time team member, a part time team member or a casual team member;
- (ii) Their team member classification;
- (iii) Their contracted hours per 2 week cycle, if a part time team member;
- (iv) The team member's days and times of availability; or
- (v) Any other specific terms of appointment that may be agreed between the parties.

2.2 Grievance Procedure

- (a) Step 1: Grievances between a team member and Best & Less about matters arising under this Enterprise Agreement and the NES will be discussed at the first instance between the team member and the team member's immediate manager.
- (b) Step 2: If the team member does not feel the matter has been adequately resolved the team member may raise the matter with their Store Manager.
- (c) Step 3: If the team member does not feel the matter has been adequately resolved the team member may raise the matter with their Regional Manager.
- (d) Step 4: If the team member does not feel the matter has been adequately resolved the team member may raise the matter with the Head of Retail Operations or Head of People & Culture.
- (e) Step 5: If the team member does not feel the matter has been adequately resolved the team member may refer it to FWC for conciliation and only after all reasonable attempts to settle the matter by conciliation have failed, for arbitration.
- (f) Until the matter is determined work as usual must continue at the discretion of Best & Less. No party will be prejudiced by this continuance of work.
- (g) Any party to a grievance may request that a person attend and represent them at any step of the process. This representative may be an official of the SDA.
- (h) The parties must co-operate to ensure these procedures are followed as quickly as possible.

2.3 Primary Work Location

- (a) A team member's primary work location is the store at which the team member works the majority of their working hours.
- (b) If a team member elects to work hours in more than one location on a one-off or on-going basis, the travelling time and expenses section of this Enterprise Agreement will not apply unless mutually agreed otherwise.
- (c) To cater for the changing needs of the business or to improve a team member's employment prospects or opportunities within the business, a team member's primary work location may be changed to a store within reasonable travelling time and if so, the travelling time and expenses section of this Enterprise Agreement will not apply.

Part 3 Employment Categories

3.1 Full Time Team Member

Full time team members are those team members engaged to work 76 hours per two week cycle (which is an average of 38 hours per week).

3.2 Part Time Team Member

- (a) Part time team members will be advised of their contracted ordinary hours on employment or any agreed change to their contracted ordinary hours. These ordinary hours will be between 12 hours and less than 76 hours per fortnightly cycle (which is an average of between 6 hours and less than 38 hours per week).
- (b) A part time team member may work beyond their contracted ordinary hours, up to a maximum of 76 hours in a 2 week cycle and be paid at their ordinary hourly rate of pay. A team member must agree to work these additional hours, otherwise overtime rates apply. The variation will be recorded in writing on the roster and the updated roster reposted.
- (c) If in any fortnightly cycle a part time team member wishes to be rostered less than their ordinary hours they can make a request to store management to work less hours. If this request is approved the team member must complete a Leave Form to request the reduced hours be provided as either paid Annual Leave or Unpaid Leave.

3.3 Casual Team Member

- (a) Casual team members are team members engaged on an hourly basis.
- (b) A casual team member will receive a casual loading component of 25%.
- (c) Due to the casual loading, casual team members have no entitlement to the provisions contained in the Annual Leave and Personal Leave sections, although a casual team member will be provided unpaid Carer's Leave and unpaid Compassionate Leave as specifically provided for in the relevant clauses of the Personal Leave section.

3.4 Maximum Term Contract

- (a) Best & Less may engage team members on a maximum term contract as a permanent team member.
- (b) Prior to entering a maximum term contract, the team member will be advised in writing of the exact date of commencement and completion of the maximum term contract. The completion date may be varied, on the giving of notice (as per clause 8.1(a)), in instances where a team member on a maximum term contract is replacing another team member on a period of leave that finishes earlier than originally advised by the team member taking the leave (eg a team member returning from parental leave earlier than originally advised).
- (c) If an existing team member is contracted to work on a maximum term contract they will revert to their original position at the conclusion of the maximum term contract.

- (d) It is important for all parties to be aware that a maximum term contract must not run beyond its completion date. If this seems a possibility a further maximum term contract needs to be agreed in writing and countersigned by the team member concerned prior to the completion of the maximum term contract in operation. A team member will not be engaged on continuously rolling maximum term contracts.

Part 4 Classification and Wage Structure

4.1 Wages and Wage Increases

- (a) The wages that will apply from the commencement of this Enterprise Agreement are set out in Part 9 of this Enterprise Agreement.
- (b) From 2019, Best & Less will increase the Enterprise Agreement wage tables (Part 9 herein) in accordance with determinations of the Fair Work Commission.
- (c) In July of each year, or on any other change to the modern award wage rates, Best & Less will publish a Best & Less Wage Notice setting out the ordinary hourly rates of pay, junior rates and penalties for each Best & Less classification level and the Enterprise Agreement allowances.

4.2 Responsibilities

- (a) Best & Less team members will be required to undertake a varying range of responsibilities, and work as reasonably directed. These responsibilities may include, but are not limited to:

Best & Less – Team Member Responsibilities *

- | | |
|----------------------|---|
| (i) Customer Service | (ii) Replenishment |
| (iii) Merchandising | (iv) Housekeeping & Incidental Cleaning |
| (v) Administration | (vi) Loss Prevention |
| (vii) WHS Procedures | (viii) Audit Requirements |
| (ix) Training | (x) Stocktake |

*Responsibilities may include work of a manual nature

- (b) These responsibilities may change over time with the addition of other responsibilities as Best & Less may reasonably require to meet the operating needs of the business and will be within the limits of the team member's skills, competence or training.
- (c) The team member will work as part of a team to ensure that productivity standards are achieved. The team member will conscientiously and diligently carry out responsibilities in respect of the Best & Less business and will use his or her best endeavours to promote and enhance the Best & Less business.

4.3 Classification Structure

- (a) The Best & Less Classification Structure has been designed to encourage career progression within the business. Its objective is to provide team members who demonstrate a high standard of work performance and commitment with a career path. Accordingly, progression through the Best & Less Classification Structure will be based upon:
 - (i) Evaluation of a demonstrated on the job competency
 - (ii) A performance evaluation program
 - (iii) Acquired skills through structured training programs
 - (iv) The recommendation of relevant managers
 - (v) The operational needs of the business
 - (vi) A position being available

- (b) Team members are to perform general responsibilities within their knowledge and training plus complement and assist the classifications requiring greater and lesser experience.
- (c) Within each of the classification levels there are a range of job roles. A team member may be assigned to one or a number of these roles as part of their regular working week although a team member may be required on a one-off or an ongoing basis to work in any of the roles that are within their classification level.
- (d) The Best & Less Classification Structure allows Best & Less to reward team members in a transparent manner in accordance with the level they are appointed to. The structure will mean that team members are treated equitably.
- (e) If a team member is required to perform work at a higher classification level they will be paid at the ordinary hourly rate of pay for that classification level whilst so appointed.
- (f) A team member may be required to perform working hours within any area of the business within the limits of the team member's skills, competence or training.

Best & Less Classification Structure

<u>Level</u>	<u>Roles</u>	<u>Relativity</u>	<u>Job Specifications</u>
<u>Best & Less Level 1</u>	Sales Assistant	100%	Employed to perform the Best & Less Responsibilities This level includes those on the Future Leaders program
<u>Best & Less Level 2</u>	ASM Relief	115%	Employed to perform the Best & Less Responsibilities Those expressly required to temporarily perform the duties of ASM in the absence of the ASM (for the hours so employed)
<u>Best & Less Level 3</u>	SM Relief	125%	Employed to perform the Best & Less Responsibilities Those expressly required to temporarily perform the duties of the SM (SM means Store Manager) in the absence of the SM (for the hours so employed)

- (g) Best & Less Level 1 team members (permanent and casual), under the age of 21 years, will receive wages based on the below listed percentages of the team member's relevant classification:

20 years and employed more than 6 months	100%
20 years and employed less than 6 months	90%
19 years	80%
18 years	70%
17 years	60%
16 years	50%
15 years and under	45%

4.4 Penalties

All team members will receive the below listed percentages as per the modern award, and changes thereto that may occur to the modern award during the life of the Enterprise Agreement:

<u>Spread of Hours of Work</u>	<u>Permanent</u>	<u>Casual*</u>
Monday to Friday - 7am to 6pm	100%	125%
Monday to Friday – 6pm to 9pm**	125%	125%
Saturday – 7am to 6pm**	125%	135%
Sunday – 9am to 6pm**	150% or the relevant modern award level Sunday dollar amount plus 1 cent, whichever is the higher.	175% or the relevant modern award level Sunday dollar amount plus 1 cent, whichever is the higher.
Public Holidays	225%	250%

*Includes the 25% casual loading.

**Where Best & Less trading hours extend beyond 9pm Monday to Friday or 6pm on Saturday or Sunday, the finishing time for ordinary hours on all days of the week will be 11pm.

4.5 Meal Allowances

A team member required to work more than one hour of overtime after the team member's rostered finishing time, without being given 24 hours' notice, will be either provided with a meal or paid a meal allowance as per modern award clause 20.1.

4.6 Travelling Time and Expenses

- (a) Where a team member is required to temporarily transfer from one store to another, they will be entitled to any additional travelling time outside of their rostered hours, paid at their ordinary rate (including penalties, if applicable) as specified in this Enterprise Agreement. Team members will also be reimbursed any extra travelling costs:
 - (i) For using public transport, and/or
 - (ii) At the rate per kilometre as per modern award transport allowance clause 20.6.
- (b) If a team member is required, as a result of the transfer, to live away from their normal residence Best & Less will provide, at no cost to the team member a reasonable living away from home allowance and accommodation where applicable.
- (c) Payments under this clause will cease if the team member is permanently transferred to the new store or returns to their original store.
- (d) Where Best & Less transfers a team member from one township to another, Best & Less will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the team member and the team member's family.
- (e) Where a team member commences and/or ceases work after 10.00pm on any day or prior to 7.00am on any day and the team member's regular means of transport is not available and the team member is unable to arrange their own alternative transport, Best & Less will reimburse the team member for the cost of a taxi fare from the place of employment to the team member's usual place of residence. This will not apply if Best & Less provides or arranges proper transportation to and/or from the team member's usual place of residence, at no cost to the team member. Provided always that a team member may elect to provide their own transport.

4.7 Superannuation

- (a) Best & Less will contribute superannuation on behalf of all eligible team members to REST as per the Superannuation Guarantee Legislation.
- (b) Contributions will be made on a monthly basis.
- (c) A team member may make personal superannuation contributions in addition to those made by Best & Less on the following basis:
 - (i) The team member must authorise Best & Less in writing to pay the additional contributions into their fund and allow Best & Less to make payroll deductions in order to do so;
 - (ii) Upon receipt of written authorisation from the team member Best & Less will commence making these additional team member monthly payments on behalf of the team member;
 - (iii) A team member may vary the amount of their additional contributions once each year by written authorisation. Best & Less will alter the additional team member contributions within 14 days of receipt of such authorisation; and
 - (iv) Additional team member contributions requested must be expressed in whole dollars.
- (d) In circumstances where a team member seeks to have their superannuation contributions paid into an alternative fund they can make a written request to Best & Less. Best & Less is not required to agree to the request and will consider any requests on its individual merits and on a case-by-case basis.
- (e) Best & Less will make superannuation contributions on paid leave and for work-related injury or illness in accordance with modern award clause 22.5.

Part 5 Hours of Work

5.1 Team Member Availability

- (a) A team member's times and days of availability will be agreed at the time of employment.
- (b) A team member will be rostered within their agreed times and days of availability unless mutually agreed otherwise.
- (c) If for any reason a team member wishes to alter these days and times of availability this must be raised by the team member with their Store Manager. Any genuine request will be considered in line with the operational requirements of Best & Less. Where agreed by Best & Less this may lead to a change in the team member's days and times of availability. As part of this agreement, it may be necessary to change the team member's employment category, classification and/or ordinary hours.
- (d) Work after 6pm on Christmas Eve and after 6pm on New Year's Eve will be voluntary.
- (e) Existing team members, with the appropriate performance and skill level, will have first preference to hours that become available when another team member leaves the employment of Best & Less.

5.2 Permanent Team Member Roster

- (a) The permanent team member roster establishes the starting and finishing times and days of work that permanent team members will be required to perform their working hours in a 2 week rostering cycle.
- (b) A team member's roster will not be frequently varied.
- (c) Each 2 week roster cycle will commence every second Monday.
- (d) The permanent team member roster will be posted a minimum of 7 days in advance of the 2 week cycle to which it relates.
- (e) Best & Less will roster team members in accordance with the team member's agreed times and days of availability. In instances where there are no written agreed times and days of availability Best & Less will respect the genuine personal responsibilities of the team member and have regard to whether the team member can arrange safe transport home.

- (f) One-Off Roster Change: Once the permanent team member's roster is set for a 2 week period a one-off change(s) to the rostered hours may occur:
 - (i) As mutually agreed; or
 - (ii) Following consultation with the team member and then on the giving of 7 days notice.
- (g) In making a one-off roster change Best & Less will be mindful of a team member's genuine inability to agree to the change due to personal circumstances or on the basis the proposed change would mean the team member would not have a safe form of transport home.
- (h) A one-off roster change will not be made to avoid the payment of Enterprise Agreement entitlements.
- (i) A copy of the permanent team member roster will be kept in a prominent place in each Best & Less store and, where possible, will also be made easily available electronically.

5.3 Casual Team Member Possible Roster

- (a) On a weekly basis Best & Less will provide possible starting and finishing times and days of work for casual team members via a possible roster.
- (b) A casual team member will be advised of changes, if any, to their possible roster at least 24 hours prior to the start of the proposed work where possible.
- (c) If a casual team member will not be able to work a possible shift they must contact their immediate manager and notify him or her of their unavailability and the reason for it at least 24 hours prior to a possible start time. In more pressing and urgent times of unavailability a casual team member must attempt to be in contact with his or her immediate manager as soon as reasonably practicable.
- (d) A copy of the casual team member possible roster will be kept in a prominent place in each Best & Less store and, where possible, will also be made easily available electronically.

5.4 Working Hours Principles

- (a) This section sets out the principles by which Best & Less can establish the permanent team member roster and the casual team member possible roster. If a team member performs approved work beyond these principles the work will be paid as set out in the overtime section.
- (b) Working hours:
 - (i) Are no more than 76 ordinary hours per 2 week cycle;
 - (ii) Are no more than 9 ordinary hours per shift, provided that for one day per week a team member can be rostered for 11 ordinary hours;
 - (iii) Are at least 3 consecutive ordinary hours per shift except as otherwise provided for in Stand-Alone Team Member Training and Stocktake.
 - (iv) Cannot be worked on more than 10 shifts per 2 week cycle;
 - (v) Cannot include work on more than 6 consecutive days; and
 - (vi) All team members will be granted a 12 hour rest period between the completion of work on one day and the commencement of work on the next day. Work includes any reasonable additional hours or overtime. By agreement between Best & Less and a team member the period of 12 hours may be reduced to not less than 10 hours.
- (c) Provided that the minimum engagement period for a casual team member will be one hour and 30 minutes if all of the following circumstances apply:
 - (i) The team member is a full-time secondary school student; and
 - (ii) The team member is engaged to work between the hours of 3.00 pm and 6.30 pm on a day which they are required to attend school; and
 - (iii) The team member agrees to work, and a parent or guardian of the team member agrees to allow the team member to work, a shorter period than three hours; and

- (iv) Employment for a longer period than the period of the engagement is not possible either because of the operational requirements of the employer or the unavailability of the team member.
- (d) A permanent team member will receive 2 consecutive days off once per week or 3 consecutive days off once per fortnight, unless mutually agreed otherwise.
- (e) A permanent team member will not be required to work more than 2 Sundays per 4 weeks, unless mutually agreed otherwise.

5.5 Consultation on Change to a Regular Roster or Normal Working Hours

- (a) Where a team member has a regular roster or normal working hours, which Best & Less seeks to change, Best & Less will consult with the team member about the change, including providing the team member information about the change, inviting the team member to comment on the impact of the change (including any impact in relation to their family or caring responsibilities). Best & Less will genuinely consider and respond in writing to the team member's comments on the impact of the change.
- (b) A team member may request that a person attend and represent them during consultation on change to a regular roster or normal working hours.

5.6 Stand-Alone Team Member Training

- (a) Stand-alone team member training (ie training not connected to a shift) will be voluntary and will occur on paid time.
- (b) Where a team member attends stand-alone team member training, the Working Hours Principles (clause 5.4) will apply, although on up to 4 occasions per calendar year a team member may be rostered a minimum of 90 minutes in place of the 3 hour minimum at clause 5.4(b)(iii).

5.7 Overtime

- (a) Any work done that falls outside the conditions set in the working hours principles will be classified as overtime.
- (b) Best & Less may require a team member to work reasonable overtime.
- (c) Overtime is only payable if the team member's store management approves the overtime.
- (d) If a team member attends work solely in overtime hours the team member will receive a minimum payment for 3 hours of overtime (except as otherwise provided for in Stand-Alone Team Member Training and Stocktake).
- (e) Overtime will be paid as follows:
 - (i) Monday to Saturday - 150% of the permanent team member's ordinary hourly rate of pay for the first 3 hours (175% for a casual team member*), 200% thereafter (225% for a casual team member*).
 - (ii) Sunday - 200% of the permanent team member's ordinary hourly rate of pay (225% for a casual team member*).
 - (iii) Public Holiday – 250% of the permanent team member's ordinary hourly rate of pay (275% for a casual team member*).

*Of the applicable permanent team member ordinary hourly rate of pay.

- (f) If a team member is asked to work hours beyond their normal finishing time Best & Less will be mindful of a team member's genuine inability to work the hours on the basis the team member would not have a safe form of transport home.

5.8 Meal Breaks and Rest Breaks

(a) Paid rest break and unpaid meal breaks entitlements are:

	<u>Paid Rest Break</u>	<u>Unpaid Meal Break</u>
If a team member works more than 4 hours and up to 5 hours:	15 minutes	None
If a team member works more than 5 hours and up to 7 hours:	15 minutes	30 or 45 or 60 minutes
If a team member works more than 7 hours and up to 8 hours:	20 minutes	30 or 45 or 60 minutes
If a team member works more than 8 hours and up to 10 hours:	2 x 15 minutes	30 or 45 or 60 minutes
If a team member works more than 10 hours:	2 x 15 minutes	2 x 30 or 45 or 60 minutes

(b) Paid rest breaks include walking time.

(c) Breaks are to be taken as determined by Best & Less in consultation with team members.

(d) If mutually agreed, a team member who works up to 5 hours may elect to have an unpaid meal break.

(e) No team member will work more than 5 hours without a meal break.

(f) A 30 minute unpaid meal break will only be provided if mutually agreed.

(g) The length of each team member's unpaid meal break will be as determined by Best & Less in line with its operational requirements.

(h) A team member will not receive a break within 1 hour of their starting and finishing time or within 1 hour of another Break.

5.9 Flexible Working Arrangements

(a) A team member with at least 12 months continuous service who:

- (i) Is a parent or guardian, or has the responsibility for the care, of a child who is school age or younger;
- (ii) Is a carer (as defined in the Carer Recognition Act 2010);
- (iii) Has a disability;
- (iv) Is 55 or older;
- (v) Is experiencing family or domestic violence; or
- (vi) Is caring for or supporting an immediate family member or household member who requires care or support because of family or domestic violence.

May make a request in writing to Best & Less for a change in working arrangements. This could include changes to hours of work, patterns of work and changes in location of work.

(b) To be eligible, a casual team member needs to have an ongoing expectation of work and be a long term casual ie someone who has been employed on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months.

(c) Best & Less will only refuse a request on reasonable business grounds.

(d) Best & Less will provide a written response within 21 days. In instances where Best & Less refuses the request the written response will include the reasons for the refusal.

5.10 Stocktake

- (a) On no more than 6 occasions a year a team member may work a Stocktake provided they have received at least 14 days notice of the requirement.
- (b) Where a team member attends work only to perform stocktake the Working Hours Principles (clause 5.4) will apply although a team member may be rostered a minimum of 2 hours in place of the 3 hour minimum at clause 5.4(b)(iii).

Part 6 Public Holidays

6.1 Public Holidays

- (a) Team members will be entitled to public holidays in the manner as proclaimed, declared, prescribed, legislated or gazetted by each State or Territory government.
- (b) Additionally, Best & Less will:
 - (i) Recognise Easter Saturday as a public holiday in Western Australia; and
 - (ii) In NSW, the first Tuesday in November will be an additional day off but this day will not be paid as a public holiday. Instead, where possible, it will be provided as a day off to each full time team member and part time team member who regularly works Tuesday. If it is not provided as a day off, a replacement mutually agreed day off will be provided within one month.
- (c) A team member cannot be required to work on any public holiday.
- (d) Subject to the provisions of this part of the Enterprise Agreement, all work on a public holiday will be paid at the penalty rate set out in the Penalties table (clause 4.4 herein) with a minimum payment for 3 hours work.
- (e) Where a store does not open on a public holiday and a permanent team member would have been rostered to work on such a day, and they do not work, they will be entitled to payment for the day for the hours normally rostered to work.
- (f) Where a store opens for trade on a public holiday, a permanent team member who would normally be rostered to work may request to work that day (or part thereof) and will be paid the appropriate public holiday rate for time so worked, but they will not receive a replacement day off for the day. If a permanent team member works part of a public holiday they will receive payment, at the ordinary rate hourly of pay, for their regularly rostered hours that were not worked.
- (g) Where a team member works part of a shift on a public holiday they will be paid the public holiday rate for the portion of time worked on the public holiday. All other time worked on the shift will be paid in the normal manner prescribed in this Enterprise Agreement (including penalties, if applicable as appropriate).

6.2 Public Holiday Replacement Day Principles for Permanent Team Member

- (a) A Public Holiday that falls on the day a Permanent Team member is Normally Rostered to Work

Should a public holiday fall on a day on which a permanent team member would normally be rostered to work, and they do not work, they will be paid for the hours normally rostered to work.
- (b) A Public Holiday that falls on a Permanent Team Member's Non-Working Day
 - (i) Should any of the public holidays, apart from public holidays proclaimed, declared, prescribed, legislated or gazetted on a weekend, fall on a full time team member's non-working day, such team member will receive a mutually agreed day off in lieu thereof within 28 days.
 - (ii) A part time team member will receive the same benefits as a full time team member where they work an average of 10 days per 2 week cycle or for a Public Holiday that falls on a day that they are regularly rostered to work.

Part 7 Leave

7.1 Annual Leave

- (a) Permanent team members will be entitled to 4 weeks paid annual leave per annum accruing progressively on ordinary hours of work (and flex-up hours for part time team members).
- (b) The taking of annual leave is subject to the operational requirements of Best & Less and the approval for the leave having been authorised in writing by Best & Less. Best & Less will not unreasonably refuse any annual leave requests.
- (c) Annual leave should be taken within a period not exceeding 12 months from the date it accrues.
- (d) Best & Less may require a team member to take annual leave:
 - (i) On the giving of at least 4 weeks notice, where it is a part of a close-down of its operations; or
 - (ii) On the giving of at least 8 weeks notice but no more than 12 months' notice, where more than 8 weeks' leave is accrued by the team member.
- (e) Where a recognised public holiday occurs during any period of a permanent team member's annual leave, on a day the team member's regular roster covers, the public holiday will not be counted as a day of annual leave.
- (f) A team member may request, in writing, to cash out a particular portion of their annual leave. Each request will be determined by Best & Less on a case-by-case basis and in consideration of the Best & Less budgetary and operational requirements. Paid annual leave will not be cashed out if it would result in the team member's remaining annual leave accruals being less than 4 weeks. Annual leave loading, where applicable, will be paid on any annual leave cashed out.
- (g) Annual leave loading of 17.5% will be paid on annual leave payments or the relevant weekend penalty rates, whichever is the greater but not both.
- (h) Annual leave payments will be made in the normal pay cycle as if the permanent team member had been working although a team member may elect to have their annual leave payments made in advance of the annual leave.
- (i) Any accrued annual leave entitlements, inclusive of annual leave loading, will be paid to a permanent team member upon termination of employment.
- (j) If during a period of annual leave a team member takes another form of paid leave (eg personal leave) or unpaid community service leave the team member will be re-credited their annual leave for the period of the other leave or absence.

7.2 Personal Leave

- (a) A permanent team member will be entitled to 10 days personal leave per year, accruing progressively on ordinary hours of work (and flex-up hours for part time team members).
- (b) Personal leave is sick leave, carers leave and compassionate leave (although compassionate leave absences are not deducted from personal leave accruals).
- (c) If a permanent team member requires personal leave they must personally contact their store management as soon as reasonably practical.
- (d) Permanent team members are not entitled to be paid for their accumulated personal leave on termination.
- (e) Authorised personal leave, whether paid or unpaid, does not break a permanent team member's continuity of service.

Sick Leave

- (f) Sick leave may be used when a permanent team member is not well enough to work because of a personal illness or injury.
- (g) Where the team member is sick, Best & Less requires evidence of the need for the leave via a medical certificate, if it is reasonably practicable to do so, otherwise a statutory declaration, dated at the time of absence for:
 - (i) Absences in excess of one day; or
 - (ii) On a single day absence if it occurs either side of a day on which the team member does not work.
- (h) Where a team member has a recurring pattern of sick leave, Best & Less may require that future sick days be supported by evidence as reasonably required by Best & Less.

Carers Leave

- (i) Carers leave may be used when a permanent team member needs to provide care or support to a member of the team member's immediate family, or a member of the team member's household, who requires care or support because of a personal illness or injury or an unexpected emergency.
- (j) Where the team member is taking carers leave, Best & Less may require evidence of the need for the leave via a medical certificate or a statutory declaration in the case of an unexpected emergency.
- (k) Unpaid carers leave of 2 days per occasion is available to permanent team members who have exhausted their accrued personal leave.
- (l) Unpaid carers leave of 2 days per occasion is available to casual team members.

Compassionate Leave

- (m) Upon the death of an immediate family member or a member of a team member's household a permanent team member is entitled to 3 days paid compassionate leave per occasion.
- (n) A permanent team member will be entitled to an extra 2 days paid compassionate leave per occasion where:
 - (i) The death is of a spouse, de facto spouse, parent or child (including step or foster child); or
 - (ii) The funeral is interstate or overseas, and the team member is attending the funeral.Provided that the maximum amount of paid compassionate leave on any one occasion will be 5 days.
- (o) If a member of a permanent team member's immediate family or household contracts or develops a personal illness or sustains an injury that poses a serious threat to their life, the permanent team member will be entitled to 2 days paid compassionate leave per occasion.
- (p) The team member may be required to provide evidence of the requirement to take compassionate leave to the reasonable satisfaction of Best & Less.
- (q) Unpaid compassionate leave of 2 days per occasion is available to casual team members.
- (r) Requests for unpaid compassionate leave, extensions to the length of compassionate leave or use of annual leave entitlements for compassionate leave purposes will be considered by Best & Less on a case-by-case basis.

7.3 Domestic and Family Violence Leave

- (a) Team members who experience family or domestic violence and require time off work to attend to medical appointments, legal proceedings, and/or any other related activities will be entitled to paid leave of 5 days per year (at the applicable ordinary hourly rate of pay) for permanent employees. Where this is exhausted the team member will be entitled to:
 - (i) Use of personal leave for permanent employees; or
 - (ii) Access to unpaid leave.
- (b) These types of domestic violence leave can be accessed by providing suitable evidence, such as a document issued by a doctor, a district nurse, the police service, a court, a lawyer or a statutory declaration.
- (c) Disclosures of Domestic and Family Violence by a team member will be treated confidentially.
- (d) Where a team member supports a person experiencing domestic or family violence, the team member, on meeting the evidence requirements at (b) above, will be able to access carer's leave to accompany them to court, hospital or to mind children.

7.4 Unpaid Leave

- (a) Best & Less will consider team member requests for unpaid leave. Unpaid Leave may include a team member requesting time off for study, to travel or other personal reasons.
- (b) The granting of unpaid leave will be on a case-by-case basis at the discretion of Best & Less although it will not be authorised where the team member has accrued leave available.
- (c) Whilst on unpaid leave all entitlements to annual leave, personal leave, long service leave or superannuation will be frozen from the date of commencing such leave to the date of returning from such leave.
- (d) Such absence will not break continuity of employment for the team member concerned.

7.5 Long Service Leave

All team members covered by the Best & Less Enterprise Agreement will be entitled to long service leave in accordance with the provisions of their State or Territory Long Service Leave Act or Commission Order.

7.6 Parental Leave

- (a) Team members will be entitled to parental leave in accordance with the NES.
- (b) A summary of the parental leave NES is:
 - (i) Parental leave is available to all eligible team members who have 12 months or more continuous service immediately preceding the commencement of the leave.
 - (ii) The leave is unpaid, and is available for a period of up to 52 weeks for the primary care-giver in one unbroken period. Team members may also take any other forms of leave to which they are entitled, such as annual leave or long service leave, in substitution for some or all of this 52 week period.
 - (iii) A team member who is a primary care-giver may request up to an additional 52 weeks leave. Best & Less will give genuine consideration to each request and will only refuse a request on reasonable business grounds. If Best & Less refuse a request they will provide written details to the team member of the reasons for the refusal.
 - (iv) A team member who is a non primary care-giver will be provided with up to 1 week's unpaid parental leave.
 - (v) Casuals will be entitled to parental leave in circumstances where they have been employed for a period of 12 months on a regular and systematic basis and, but for the expected birth, would have a reasonable expectation of continuing to be employed on that basis.
- (c) Additional to the NES:
 - (i) A team member who is a non primary care-giver will be provided with up to an additional 4 week's unpaid parental leave. Team members may also take any other forms of leave to which they are entitled, such as annual leave or long service leave, in substitution for some or all of this 4 week period.
 - (ii) A team member will be entitled to unpaid pre-natal leave to attend interviews or examinations as required to obtain approval for Adoption, Permanent Care Orders/long term Foster Care; and
 - (iii) Parental Leave will be available to employees who commence a Permanent Fostering Arrangement or become responsible for a child under a Permanent Care Order.
 - (iv) A full time team member, who has been on parental leave as a primary care-giver, may request to return to work from the leave on a part time basis. Best & Less will give genuine consideration to each request in accordance with its operational requirements. On return to full time employment, or in the case of a part time employee to their pre-parental leave hours, the team member will return to the team member's pre-parental leave position or if that position is no longer available, a position nearest in hours, pay and status for which the team member is qualified and suited.
- (d) On a team member returning to work from parental leave as a primary care-giver due consideration will be given to the team member's genuine family responsibilities when preparing their roster.
- (e) Whilst on parental leave as a primary care giver, a team member may request to be employed by Best & Less on a separate employment contract as a casual team member. This can only occur on Best & Less receiving a written request from the team member concerned and on the understanding that the arrangement does not in any way impact on the team member's accruals, entitlements or permanent employment contract unless Best & Less terminates the contract of employment due to misconduct reasons. Best & Less will offer hours of work to such a team member subject to the normal principles of a casual engagement and the operational requirements of Best & Less. A permanent team member on parental leave may not work on a separate casual contract during that period where the team member is receiving the government parental leave payment.

7.7 Blood Donor Leave

A permanent team member may be provided paid time off, on up to 4 occasions per year, to donate blood provided that:

- (i) The leave will involve no more than 2 paid hours per occasion;
- (ii) Prior authorisation for the leave is obtained from store management;
- (iii) Proof of attendance is provided on request; and

The leave does not impede the genuine operational requirements of Best & Less.

7.8 Community Service Leave

- (a) A team member who engages in an 'eligible community service' is entitled to be absent from employment to engage in the activity plus reasonable travel associated with the activity and reasonable rest time following the activity.
- (b) 'Eligible community service' includes:
 - (i) Jury service;
 - (ii) Voluntary emergency management activity*; or
 - (iii) Any activity prescribed by the regulations to the Fair Work Act.

*This includes an activity that involves 'dealing with an emergency or a natural disaster'; and the activity is voluntary; and the team member is a member of the recognised management body; and the team member was requested to engage in the activity (or it was reasonable for them to assume a request would be made).

- (c) A team member must provide Best & Less notice of the leave as soon as practicable including notification of the expected period of the leave. Best & Less may require a team member to provide them reasonable evidence they have been engaging in an eligible community service activity.
- (d) Team members will not be paid for community service leave except jury service where a team member will be paid.
- (e) For jury service: Best & Less may require the team member to provide Best & Less reasonable evidence the team member has taken all necessary steps to obtain any amount of jury service pay to which the team member is entitled (even if it is nil). A team member is not entitled to be paid for jury service unless the team member provides the requested evidence. If the team member provides the evidence the total amount payable is reduced by the total amount of jury service pay.

7.9 Natural Disaster Leave

- (a) Team members will not be required to attend work or will be allowed to leave work where there is a natural disaster which poses a genuine threat to a team member's property or creates a need for a team member to care for a member of their immediate family or household or poses a genuine threat to a team member gaining access to their home.
- (b) Where a team member is unable to attend for work as rostered due to a natural disaster, the employee may request access to natural disaster leave. Requests will not be unreasonably refused.
- (c) In such circumstances Best & Less will do what they can to avoid loss of pay to a permanent team member. Depending on the circumstances a permanent team member may receive up to two days paid leave. If, at the conclusion of the two days paid leave a permanent team member is still unable to report to work as a result of a natural disaster then Best & Less:
 - (i) Will consider providing additional paid leave;
 - (ii) Will discuss with the team member the taking of annual leave to cover the time off work; or
 - (iii) May mutually agree with the team member, where possible, for make-up time to be worked.

Part 8 Contract of Employment

8.1 Terms of Engagement

- (a) Every permanent team member will be engaged on a weekly basis terminable by the following table (or if Best & Less wish on the making of the relevant payment in lieu of notice):

<u>Team member's Continuous Service</u>	<u>Period of Notice</u>
Less than 1 year	1 week
1 and less than 3 years	2 weeks
3 and less than 5 years	3 weeks
5 years and over	4 weeks

- (b) If a team member fails to give notice or work the required notice Best & Less is not obliged to pay the team member for the period of notice not worked and may withhold any period of notice from the team member's final pay (not including annual leave payments).
- (c) Best & Less may decide to terminate a team member's employment prior to the end of the notice period. If so, the team member will be paid for the notice period in lieu of notice.
- (d) If a team member is over 45 years of age and has had at least 2 years continuous service they will receive an extra 1 weeks' notice.
- (e) Any team member who is guilty of serious misconduct may be instantly dismissed and will only be paid up to the time of dismissal.
- (f) Subject to the requirements of section 324 of the Fair Work Act, if a team member fails to return Best & Less property or owes Best & Less money, Best & Less have the right to withhold termination payments until such time as the Best & Less property is returned or an arrangement for the return of the property or payment of the money has been agreed in writing.

8.2 Payment of Wages

- (a) Wages will be paid weekly by way of electronic funds transfer in arrears. The transfer will be made within 4 working days of the end of the pay period and Best & Less will pay any costs associated with such transfer.
- (b) Best & Less may elect to move from weekly wage payments in arrears to fortnightly wage payments in arrears on the giving of 3 months' notice. The transfer will continue to be made within 4 days of the end of the pay period.
- (c) If Best & Less decide to move to fortnightly wage payments, Best & Less will assist any individual team member who may incur financial problems as a result of the change from weekly to fortnightly pay.
- (d) Termination payments will be made by way of electronic funds transfer within 4 working days of the end of the termination pay period and Best & Less will pay any costs associated with such transfer.

8.3 Termination, Change and Redundancy

Best & Less will comply with the National Employment Standard's Redundancy division should it be necessary to make any positions redundant.

8.4 Supported Wage

Any team member employed on a Supported Wage under the Supported Wage System in accordance with the Australian Industrial Relations Commission's Full Bench Decision of 10 October 1994 (Print L5723) will be paid the rates of pay applicable at the time of employment under the Supported Wage System.

8.5 Dress Code and Appearance Standards

- (a) Best & Less take great pride in its professionalism. An extension of Best & Less professionalism is the requirement that team members must always present themselves, for and during work, in a professional and business-like manner at a standard that is acceptable to Best & Less.
- (b) Where Best & Less requires a team member to wear a uniform Best & Less will pay a laundry allowance as per modern award clause 20.2(b).
- (c) If a team member does not meet these requirements they may be directed to not start or cease work, without pay, until such time as the team member meets the required standard.

Protective Clothing

- (d) Supply of tools for team members: Best & Less will provide the tools necessary for team members to perform all work required by Best & Less to be done.
- (e) Protective clothing: if it is necessary for a team member to wear protective clothing it will be provided by Best & Less, at no cost to the team member. Such clothing will remain the property of Best & Less. Best & Less will launder and maintain protective clothing on a regular basis.

8.6 Individual Flexibility Arrangement

- (a) Best & Less and a team member covered by this Enterprise Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of this Enterprise Agreement if:
 - (i) The agreement deals with 1 or more of the following matters:
 - Arrangements about when work is performed;
 - Overtime rates;
 - Penalty rates;
 - Allowances; and
 - (ii) The arrangement meets the genuine needs of Best & Less and the team member in relation to 1 or more of the matters mentioned in sub-clause 8.6(a)(i); and
 - (iii) The arrangement is genuinely agreed to by Best & Less and the team member.
- (b) Best & Less must ensure that the terms of the individual flexibility arrangement:
 - (i) Are about permitted matters under section 172 of the Fair Work Act 2009; and
 - (ii) Are not unlawful terms under section 194 of the Fair Work Act 2009; and
 - (iii) Result in the team member being better off overall than the employee would be if no arrangement was made.
- (c) Best & Less must ensure that the individual flexibility arrangement:
 - (i) Is in writing; and
 - (ii) Includes the name of Best & Less and the team member; and
 - (iii) Is signed by Best & Less and the team member and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (iv) Includes details of:
 - The terms of the Enterprise Agreement that will be varied by the arrangement; and
 - How the arrangement will vary the effect of the terms; and
 - How the team member will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (v) States the day on which the arrangement commences.
- (d) Best & Less must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (e) Best & Less or the team member may terminate the individual flexibility arrangement:
 - (i) By giving no more than 28 days written notice to the other party to the arrangement; or
 - (ii) If Best & Less and the team member agree in writing at any time.

8.7 Workplace Consultation

- (a) Best & Less will consult with a team member about any major workplace changes that is likely to have a significant effect on the team member.
- (b) Significant effect includes:
 - (i) The termination of the employment of team members;
 - (ii) Major change to the composition, operation or size of the Best & Less workforce or to the skills required of team members;
 - (iii) The elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - (iv) The alteration of hours of work;
 - (v) The need to retrain team members;
 - (vi) The need to relocate team members to another workplace; or
 - (vii) The restructuring of jobs.
- (c) A team member will be entitled to have representation for the purposes of consultation regarding the major workplace change.
- (d) Best & Less will discuss with the team members affected and their representatives, if any, the introduction of the major changes, the effects the changes are likely to have on team members and measures to avert or mitigate the adverse effects of such changes on team members. Best & Less will give prompt consideration to matters raised by team members and/or their representatives in relation to the changes.
- (e) Best & Less will commence discussions as early as practicable after a definite decision has been to make the major changes.

8.8 Abandonment of Employment

- (a) Subject to the requirements of section 117 of the Fair Work Act, if a team member does not report to work for 3 consecutive shifts, excluding approved Leave absences, Best & Less will be entitled to assume the team member has abandoned their employment. As a result the team member will be deemed to have resigned their employment without notice effective from their last shift or their last authorised shift of absence, whichever is the latter.
- (b) A team member terminated due to abandonment of employment will be re-employed by Best & Less if they have a genuine reason for not contacting Best & Less to inform the company of their inability to attend work.

8.9 Suspension of Employment

- (a) If on reasonable grounds Best & Less suspects that a team member has been involved in serious misconduct Best & Less may, if an investigation is required, suspend the team member on full pay in order that Best & Less can properly investigate the alleged serious misconduct. No suspension will take place without the approval of the Head of Retail Operations or Head of People & Culture.
- (b) If a team member is suspended the team member is not to attend or contact any Best & Less workplace during the investigation without the consent of the Head of Retail Operations or Head of People & Culture. This consent will not be unreasonably denied in instances where the team member needs to contact other team members to assist in the preparation of their response to the alleged serious misconduct.

8.10 SDA Notices


The SDA may post authorised union notices on Best & Less team member noticeboards providing Best & Less have been advised in advance of the proposed posting of the notice.

Part 9 Enterprise Agreement Wages from 2 July 2018

<u>Level 1 Wages</u>		
	<u>Permanent</u>	<u>Casual</u>
	<u>Ordinary Hourly Rate of Pay</u>	<u>Base Hourly including casual loading</u>
21 yrs and over	\$20.8532	\$26.0665
20 years, > 6 months service	\$20.8532	\$26.0665
20 years, < 6 months service	\$18.7679	\$23.4598
19 years	\$16.6825	\$20.8532
18 years	\$14.5972	\$18.2465
17 years	\$12.5119	\$15.6399
16 years	\$10.4266	\$13.0332
15 years and under	\$9.3839	\$11.7299
<u>Level 2 Wages</u>		
	<u>Permanent</u>	<u>Casual</u>
	<u>Ordinary Hourly Rate of Pay</u>	<u>Base Hourly including casual loading</u>
21 yrs and over	\$23.9812	\$29.9765
<u>Level 3 Wages</u>		
	<u>Permanent</u>	<u>Casual</u>
	<u>Ordinary Hourly Rate of Pay</u>	<u>Base Hourly including casual loading</u>
21 yrs and over	\$26.0665	\$32.5831

Signature Section

Signed for Best & Less Pty Ltd:


..... (Signature)

14/11/18
..... (Date)

Rodney Orrock
CEO

Address:
657 Parramatta Road
Leichhardt, NSW

A person duly authorised by the employer to sign on the employer's behalf

Signed by SDA:


..... (Signature)

14/11/18
..... (Date)

Gerard Dwyer
National Secretary

Authority: Bargaining Representative

Address:
Level 6, 53 Queen Street
Melbourne, Victoria

An authorised officer of an association which has been authorised to enter into the agreement

IN THE FAIR WORK COMMISSION

FWC Matter No.: **AG2018/3219**

Applicant: **Best & Less Pty Ltd**

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, **Teresa Gallo, Chief People Officer for Best & Less Pty Ltd**, give the following undertakings with respect to the **Best & Less Enterprise Agreement** ("the Agreement"):

1. I have the authority given to me by **Best & Less Pty Ltd** to provide this undertaking in relation to the application before the Fair Work Commission.
2. We undertake that in place of clause 4.3(e), the following clause has effect:

Employees engaged for more than two hours during one day or shift on duties carrying a higher rate than their ordinary classification are to be paid the higher rate for such day or shift. If engaged for two hours or less during one day or shift, the employee is to be paid the higher rate for the time worked only.
3. We undertake that the following clause take effect at 4.3(g):

An employee in the County of Yancowinna in New South Wales (Broken Hill) will in addition to all other payments be paid an hourly allowance for the exigencies of working in Broken Hill of 4.28% of the standard rate as defined in the modern award.
4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

27/11/18

Date