



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Svitzer Australia Pty Limited
(AG2023/2084)

SVITZER AUSTRALIA PTY LIMITED NATIONAL TOWAGE ENTERPRISE AGREEMENT 2023

Maritime industry

DEPUTY PRESIDENT EASTON

SYDNEY, 11 JULY 2023

Application for approval of the Svitzer Australia Pty Limited National Towage Enterprise Agreement 2023.

[1] Svitzer Australia Pty Limited (**the Employer**) has made an application for the approval of the *Svitzer Australia Pty Limited National Towage Enterprise Agreement 2023* (**the Agreement**). The application was made under s.185 of the *Fair Work Act 2009* (**the Act**). The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings, a copy of which are attached as Annexure A to this decision. The undertakings can be accepted under s.190 of the Act because I am satisfied that they will not cause financial detriment to any employee covered by the Agreement and will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the agreement pursuant to s.191 of the Act.

[3] Subject to the Employer's undertakings, I am satisfied that each relevant requirement in sections 186, 187, 188 and 190 of the Act has been met.

[4] Svitzer sent an explanatory statement to employees detailing the changes to the Agreement and how they affect the employees prior to the vote, but apparently did not send the same document to the union bargaining representatives. The Australian Institute of Marine and Power Engineers (**AIMPE**) and The Australian Maritime Officers' Union (**AMOU**) were bargaining representatives to the matter and were in support of the Agreement. The AIMPE and AMOU disagreed with the statements made in the Form F17 regarding the agreement explanation. The AIMPE raised concerns with some incorporated material not being provided and the explanatory statement provided to the employees. The AMOU generally agreed with the context of the explanatory material sent to employees, however raised that a number of the explanations could be clearer. The Maritime Union of Australia of the Construction, Forestry, Maritime, Mining and Energy Union (**MUA**) made no submissions in relation to this matter.

[5] I note that Clause 43.2 – Discharge of accrued leave is potentially inconsistent with the National Employment Standards (NES). Noting the undertaking provided by the Employer, I am satisfied that the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[6] The MUA, AIMPE, and AMOU were bargaining representatives for the Agreement and have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the MUA, AIMPE and AMOU.

[7] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 18 July 2023. The nominal expiry date of the Agreement is 11 July 2027.

Variation

[8] In the course of approving the Agreement two apparent defects in Clause 8 - Enterprise Flexibility were identified:

- (a) clause 8 does not require the employer to ensure that any individual flexibility arrangement agreed to under the flexibility term not include a term that would be an unlawful term if the arrangement were an enterprise agreement (see s.203(2)(ii)); and
- (b) clause 8 does not require the employer to give a copy of an individual flexibility arrangement agreed to within 14 days (see s.203(7)(b)).

[9] On 5 July 2023 the Employer proposed amendments to clause 8 to rectify these defects. The MUA, AIMPE and AMOU were invited to provide submissions on the Employer’s proposal but did not do so.

[10] Section 218A of the Act provides:

“218A Variation of enterprise agreements to correct or amend errors, defects or irregularities

(1) The FWC may vary an enterprise agreement to correct or amend an obvious error, defect or irregularity (whether in substance or form).

(2) The FWC may vary an enterprise agreement under subsection (1):

(a) on its own initiative; or

(b) on application by any of the following:

(i) one or more of the employers covered by the agreement;

(ii) an employee covered by the agreement;

(iii) an employee organisation covered by the agreement.

(3) If the FWC varies an enterprise agreement under subsection (1), the variation operates from the day specified in the decision to vary the agreement.”

[11] Section 218A of the Act allows the Commission to correct or amend obvious errors, defects or irregularities (whether in substance or form). Its evident purpose is to remove complexity associated with varying enterprise agreements in certain limited circumstances.

[12] It is significant in understanding the context of s.218A that the Commission can vary an agreement on its own initiative (s.218A(2)(a)). The power to vary an agreement under s.218A is not unlike the slip rule provisions in s.602. An agreement can be varied under s.218A to the extent necessary to remove the error, defect or irregularity - and no further.

[13] I am satisfied that Clause 8 of the Agreement is a defect in substance within the meaning of s.218A(1) of the Act. I am content to vary the Agreement on my own initiative to rectify the defects (PR764128). The variation will operate from the date the Agreement commences.

[14] The Agreement attached to this Decision is the Agreement as varied and will operate from 18 July 2023.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2023/2084

Applicant:

Svitzer Australia Pty Limited

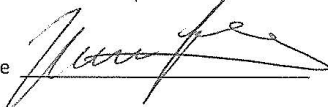
Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Vivian Faraj, Chief Strategy and People Officer of Svitzer Australia Pty Limited have the authority given to me by Svitzer Australia Pty Limited to give the following undertakings with respect to the Svitzer Australia Pty Limited National Towage Agreement 2023:

1. In relation to the matters addressed at clause 14A of the Agreement, Svitzer additionally undertakes that it will apply the Agreement terms as follows and on the following conditions:
 - (i) Svitzer will not outsource work performed by Employees covered by the scope of this Agreement in the first 12 months of this Agreement's operation. During this period, in unforeseen circumstances, another towage provider may be contracted to cover a temporary period where Svitzer are unable to provide towage.
 - (ii) Svitzer is not otherwise restricted from subcontracting or outsourcing, subject to Svitzer ensuring that it complies with:
 - (A) Any legislation in relation to outsourcing from the date of Royal Assent; and
 - (B) Any consultation obligations under this Agreement.
2. This undertaking does not interfere with or impact the provisions of clause 30.2.4 of the Agreement which relates to the conditions of subcontracting for Outside Work.
3. This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

Undertaking 1 and 2 are provided in response to a request by the union bargaining representatives. The Unions are in agreement with the full undertaking. Svitzer is providing this undertaking on the basis that it will be accepted in full.

Signature 

Date 5 July 2023

Public



ORDER

Fair Work Act 2009

s.218A - application to vary an agreement to correct or amend errors, defects or irregularities

Svitzer Australia Pty Limited
(AG2023/2084)

DEPUTY PRESIDENT EASTON

SYDNEY, 11 JULY 2023

Application for variation of the Svitzer Australia Pty Limited National Towage Enterprise Agreement 2023.

Further to my decision in [2023] FWCA 2131, I order that the *Svitzer Australia Pty Limited National Towage Enterprise Agreement 2023* be varied as follows:

[1] Clause 8.3 is deleted and replaced with the following:

“8.3 The agreement between Svitzer and the individual Employee must:

8.3.1 be confined to a variation in the application of one or more of the terms listed in clause 8.1;

8.3.2 include terms that are about permitted matters under section 172 of the Act;

8.3.3 not include unlawful terms under section 194 of the Act; and

8.3.4 result in the Employee being better off overall than the Employee would have been if no individual flexibility agreement had been agreed to.”

[2] In Clause 8.5 insert after the words “give the individual Employee a copy of the agreement” the words “within 14 days”.

The variation will operate from the date the Agreement commences, being 18 July 2023.



DEPUTY PRESIDENT

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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.

SVITZER AUSTRALIA PTY LIMITED NATIONAL TOWAGE ENTERPRISE AGREEMENT 2023

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PART 1 - APPLICATION AND OPERATION

1. Title

This Agreement is entitled the Svitzer Australia Pty Limited National Towage Enterprise Agreement 2023 (“Agreement”).

2. Operation of Agreement

2.1 This agreement comes into operation on the Commencement Date.

2.2 The nominal expiry date of this Agreement is 4 years from the date of approval by the Fair Work Commission.

3. Definitions and Interpretation

3.1 Definitions

3.1.1 **Act** means the *Fair Work Act 2009* (Cth) or its successor.

3.1.2 **AIMPE** means the Australian Institute of Marine and Power Engineers.

3.1.3 **AMOU** means the Australian Maritime Officers Union.

3.1.4 **Award** means the Marine Towage Award 2020, as varied or replaced.

3.1.5 **Commencement Date** means the date when this Agreement comes into operation as provided in the Act.

3.1.6 **Contract towage** means when a tug is towing a vessel from one location to another location, where that tow or other services of a non-emergency nature has been contracted for and pre-planned by the employer.

3.1.7 **‘Day of Recall’** and **‘day worked’** means the shift that an Employee who is being recalled or engaged is required to work regardless of the number of calendar days over which the shift may fall.

3.1.8 **Emergency maintenance work** means work which is necessary to reinstate into service a tug which would otherwise be out of service.

3.1.9 **Emergency operations** means when a tug is called on at short notice to leave a port to assist a vessel broken down or in distress (excluding salvage work).

3.1.10 **Employee** means an Employee of Svitzer Australia Pty Limited to whom this Agreement applies, who is employed in the classification of Master, Engineer or Rating.

3.1.11 **Financial Year** means each year commencing 1 July and ending 30 June, subject to the provisions of clause 50 – Transitional Arrangements.

3.1.12 **FWC** means Fair Work Commission or its successor.

- 3.1.13 **Maintenance** includes, corrective, preventative, planned, critical and non-critical maintenance.
- 3.1.14 **MUA** means Maritime Union of Australia Division of the Construction, Forestry, Maritime, Mining and Energy Union.
- 3.1.15 **NES** means the National Employment Standards as contained in the *Fair Work Act 2009* (Cth).
- 3.1.16 **Nominated Voyage** means a free-running voyage as specified in clause 29 and Schedule 2A of this Agreement.
- 3.1.17 **Outside Work** means work on a tug which proceeds to sea on a special voyage outside the limits of bays, rivers or regulated port boundaries or limits but within Australian territorial waters, excluding Nominated Voyages.
- 3.1.18 **Parties** means Svitzer Australia Pty Limited, a Union covered by this Agreement, and the Employees covered by this Agreement.
- 3.1.19 **Port Operating Procedures** or **POPs** means the operating procedures applying in a particular port which set out details in respect of the matters referred to in clause 40.1 for that particular Port.
- 3.1.20 **Salvage work** means work performed under a contract for salvage or under the Lloyd's Open Form of Salvage Agreement.
- 3.1.21 **Special Voyage** means a voyage for which it is necessary to set watches including any special free running voyage, delivery voyage, contract towage or emergency operations.
- 3.1.22 **Svitzer** means Svitzer Australia Pty Limited (ACN 000 045 009).
- 3.1.23 **Tug and Barge operations** means the movement of contract cargoes by combined tug and barge (up to a maximum of 10,000 tonnes) between different ports or locations in Australia.
- 3.1.24 **Trainee** means an Employee of Svitzer who is employed as a Trainee under clause 15.6 and who is sponsored by Svitzer to undergo a Traineeship.
- 3.1.25 **Traineeship** means a structured course of accredited training, under which a Trainee acquires skills and competence and relevant qualifications to become eligible to work on Svitzer's tug fleet under this Agreement.
- 3.1.26 **Union** means the AMOU or AIMPE or MUA respectively.
- 3.1.27 **Unions** means the AMOU, AIMPE and MUA collectively.

3.2 Interpretation

- 3.2.1 It is the intention of the parties that all of the provisions of this Agreement pertain to the employment relationship [or are ancillary thereto] and the Agreement will be given that effect wherever possible. It is also the intention of the parties that if any clause or sub-clause is found not to pertain to the employment relationship [or be ancillary thereto] or otherwise found not to be enforceable, then the particular clause or sub-clause will be inoperative but the remainder of the Agreement will continue in force.
- 3.2.2 A reference in this Agreement to an instrument includes a reference to the instrument as amended or varied from time to time.

4. Application

4.1 The Agreement covers and binds:

- 4.1.1 Svitzer Australia Pty Limited; and
- 4.1.2 The AMOU, AIMPE and MUA providing that, in approving the Agreement, FWC notes that the Agreement covers the respective Union; and
- 4.1.3 Employees and Trainees employed by Svitzer, in relation to work performed by Employees on tug boats in or about the ports specified in Schedule 1.

4.2 Exclusions

4.2.1 This Agreement does not cover Employees employed by Svitzer:

- (i) in work covered by the Dredging Industry Award 2010 or its successor;
- (ii) in work on lines boats and mooring launches;
- (iii) in all tugboat operations in the port of Darwin or any other port not specified in Schedule 1;
- (iv) the tug and barge operations at the Koolan Island Project (WA).
- (v) Contract towage or Tug and Barge operations that are the subject of another enterprise agreement.
- (vi) Who performs any work that falls within the scope of the following enterprise agreements (or their successor):
 - (a) *Svitzer Port of Darwin Masters Towage Agreement 2023;*
 - (b) *Svitzer Port of Darwin Engineers Towage Agreement 2023;*
 - (c) *Svitzer Port of Darwin Ratings Towage Agreement 2023;*
 - (d) *Svitzer Australia Pty Limited Port Kembla Lines and Mooring Enterprise Agreement 2017;*
 - (e) *SVITZER Australia Port of Eden Lines and Launch Services Agreement 2019;*
 - (f) *Svitzer Australia Pty Ltd and Maritime Unions Port of Fremantle Lines and Launches Enterprise Agreement 2019;*
 - (g) *Svitzer East Coast Operations Centre Enterprise Agreement 2021;*
 - (h) *Svitzer Australia Pty Ltd Maritime Offshore Oil and Gas Industry (Integrated Ratings, Cooks, Caterers and Seafarers) Enterprise Agreement 2019;*
 - (i) *Svitzer Australia Pty Ltd Australian Institute of Marine and Power Engineers Offshore Oil and Gas Industry Enterprise Agreement 2010;*
 - (j) *Svitzer Australia Pty Ltd and Australian Maritime Officers Union Offshore Oil and Gas Enterprise Agreement 2010;*

- (k) *Svitzer Australia Pty Limited and MUA Newcastle Lines and Mooring Enterprise Agreement 2019; or*
- (l) *Any other enterprise agreement covering Svitzer Australia Pty Limited that is subsequently approved by the Fair Work Commission after the commencement date of the Agreement.*

5. Operation and Relationship with other Industrial Instruments

5.1 Interaction with Award

- 5.1.1 The Award and its terms have no effect in relation to work described in clause 4.1.3 unless otherwise provided in this Agreement.

5.2 Interaction with other Agreements

- 5.2.1 This Agreement replaces the Svitzer Australia Pty Limited National Towage Enterprise Agreement 2016.
- 5.2.2 This Agreement excludes any other agreement that may otherwise cover the Parties in relation to work described in clause 4.1.3.

5.3 Interaction with POPs

The POPs are incorporated as a term of this Agreement for the particular Port concerned. However, for the avoidance of any doubt, and notwithstanding any other term of this Agreement, this Agreement prevails over applicable Port Operating Procedures, which have no effect to the extent of any inconsistency with any term of this Agreement.

6. No Extra claims

- 6.1 Subject to this Agreement, from the Commencement Date until the nominal expiry date, there will not be any extra claims, with respect to the terms and conditions of employment of Employees bound by this Agreement.

7. Variation of this Agreement

- 7.1 This Agreement may be varied prior to its nominal expiry date either to reflect agreements reached in response to changed circumstances as provided in clause 13, for the purposes of ensuring appropriate consistency with the terms and conditions granted to other comparable Employees in the Company's towage operations, or otherwise.

8. Enterprise flexibility

- 8.1 Notwithstanding any other provision of this Agreement, Svitzer and an individual Employee may agree to vary the application of certain terms of this Agreement to meet the genuine individual needs of the Company and the individual Employee. The terms Svitzer and the individual Employee may agree to vary the application of are those concerning:
 - 8.1.1 arrangements for when work is performed or leave taken;
 - 8.1.2 the cashing out of an Employee's entitlements to paid leave under this Agreement. However any such agreement must ensure the Employee retains the minimum leave balances stipulated by the Act, and that the Employee be paid at least the full

- amount that would have been payable to the Employee had the Employee taken the leave that the Employee has forgone;
- 8.1.3 for Masters and Engineers, the performance of additional functions such as management support functions.
- 8.2 Svitzer and the individual Employee must have genuinely made the agreement without coercion or duress.
- 8.3 The agreement between Svitzer and the individual Employee must:
- 8.3.1 be confined to a variation in the application of one or more of the terms listed in clause 8.1;
- 8.3.2 include terms that are about permitted matters under section 172 of the Act;
- 8.3.3 not include unlawful terms under section 194 of the Act; and
- 8.3.4 result in the Employee being better off overall than the Employee would have been if no individual flexibility agreement had been agreed to.
- 8.4 The agreement between Svitzer and the individual Employee must also:
- 8.4.1 be in writing, name the parties to the agreement and be signed by Svitzer and the individual Employee;
- 8.4.2 state each term of this Agreement that Svitzer and the individual Employee have agreed to vary;
- 8.4.3 detail how the application of each term has been varied by agreement between Svitzer and the individual Employee;
- 8.4.4 detail how the agreement results in the individual Employee being better off overall in relation to the individual Employee's terms and conditions of employment; and
- 8.4.5 for an agreement under clause 8.1.2, each cashing out of a particular amount of paid leave must be documented in a separate written agreement;
- 8.4.6 state the date the agreement commences to operate.
- 8.5 Svitzer must give the individual Employee a copy of the agreement within 14 days and keep the agreement in the Employee's individual records.
- 8.6 Except as provided in clause 8.4.1 the agreement must not require the approval or consent of a person other than Svitzer and the individual Employee.
- 8.7 The agreement may be terminated:
- (i) by Svitzer or the individual Employee giving four weeks' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
- (ii) at any time, by written agreement between Svitzer and the individual Employee.
- 8.8 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between Svitzer and an individual Employee contained in any other term of this Agreement.

PART 2 – CONSULTATION AND DISPUTE RESOLUTION

10. Continuity of Operations and Dispute Resolution Procedure

- 10.1 The following procedure shall apply to settle disputes about any matters arising under this Agreement and in relation to the NES.
- 10.2 The parties to a dispute must genuinely attempt to resolve the dispute at the workplace level as follows.
- 10.2.1 As soon as practicable after a dispute arises an Employee must speak to his or her immediate supervisor or manager and give the supervisor or manager an opportunity to resolve the dispute.
- 10.2.2 If the dispute remains unresolved, the Employee may request a representative, which may be a Union delegate or officer, to progress the matter with the immediate supervisor or manager
- 10.2.3 Where the delegate or representative of the Union on the tug becomes aware of any such matter he or she may take it up with the local manager.
- 10.2.4 In the case of a matter arising at federal level, the Employee's representative or relevant federal official of the union concerned and the appropriate regional or national company representative concerned shall discuss the matter and endeavour to resolve it.
- 10.2.5 If the matter cannot be settled it shall be referred to FWC for conciliation and/or arbitration.
- 10.3 Dispute Settlements - The above steps shall not preclude the right of any party to refer a dispute to the Fair Work Commission. In these circumstances, FWC shall retain its discretion to either refer the parties back to a continuation of this procedure (where FWC considers that course as appropriate), or conduct conciliation proceedings and where the FWC cannot settle the matter by conciliation, determine the matter.
- 10.4 Work shall continue pending determination of any matter or dispute in accordance with the above procedures except in circumstances where an Employee holds a reasonable concern about an imminent risk to his or her health or safety. Subject to relevant provisions of work health and safety law, even if the Employee has a reasonable concern about an imminent risk to his or her health or safety, the Employee must not unreasonably fail to comply with a direction by Svitzer to perform other available work that is safe and appropriate for the Employee to perform. The fact that the Employee continues to work will not prejudice the Employee or Svitzer.
- 10.5 Continuity of Operations
- Pending the completion of the procedure set out in this clause, work shall continue without interruption. No party shall engage in unlawful action and pending the resolution of the dispute the status quo shall apply. The rights of individuals or parties under the Act shall not be prejudiced by the fact that work has continued under this process normally and without interruption.

11. Consultation, Communication and Information Sharing

This clause does not affect the operation of clauses 13 (Reduction, Cessation and Growth) or clause 40.3 (Variations to the POPs).

11.1 This term applies if the Employer:

11.1.1 has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the Employees; or

11.1.2 proposes to introduce a change to the regular roster or ordinary hours of work of Employees

Major change

11.2 For a major change referred to in paragraph 11.1.1:

11.2.1 the Employer must notify the relevant Employees of the decision to introduce the major change; and

11.2.2 subclauses 11.3 to 11.9 apply.

11.3 The relevant Employees may appoint a representative for the purposes of the procedures in this term.

11.4 If:

11.4.1 a relevant Employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

11.4.2 the Employee or employees advise the Employer of the identity of the representative;

the employer must recognise the representative.

11.5 As soon as practicable after making its decision, the Employer must:

11.5.1 discuss with the relevant Employees:

(i) the introduction of the change; and

(ii) the effect the change is likely to have on the Employees; and

(iii) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and

11.5.2 for the purposes of the discussion—provide, in writing, to the relevant Employees:

(i) all relevant information about the change including the nature of the change proposed; and

(ii) information about the expected effects of the change on the Employees; and

(iii) any other matters likely to affect the Employees.

11.6 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

-
- 11.7 The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 11.8 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in paragraph 11.2 (11.2.1) and subclauses 11.3 and 11.5 are taken not to apply.
- 11.9 In this term, a major change **is likely to have a significant effect on Employees** if it results in:
- 11.9.1 the termination of the employment of Employees; or
 - 11.9.2 major change to the composition, operation or size of the Employer's workforce or to the skills required of Employees; or
 - 11.9.3 the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - 11.9.4 the alteration of hours of work; or
 - 11.9.5 the need to retrain Employees; or
 - 11.9.6 the need to relocate Employees to another workplace; or
 - 11.9.7 the restructuring of jobs.

Change to regular roster or ordinary hours of work

- 11.10 For a change referred to in paragraph 11.1.2:
- 11.10.1 the Employer must notify the relevant Employees of the proposed change; and
 - 11.10.2 subclauses 11.11 to 11.15 apply.
- 11.11 The relevant Employees may appoint a representative for the purposes of the procedures in this term.
- 11.12 If:
- 11.12.1 a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - 11.12.2 the Employee or Employees advise the employer of the identity of the representative;
- the Employer must recognise the representative.
- 11.13 As soon as practicable after proposing to introduce the change, the Employer must:
- 11.13.1 discuss with the relevant Employees the introduction of the change; and
 - 11.13.2 for the purposes of the discussion—provide to the relevant Employees:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what the employer reasonably believes will be the effects of the change on the Employees; and

- (iii) information about any other matters that the Employer reasonably believes are likely to affect the Employees; and
- (iv) invite the relevant Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

11.14 However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.

11.15 The Employer must give prompt and genuine consideration to matters raised about the change by the relevant Employees.

11.16 In this term:

relevant Employees means the Employees who may be affected by a change referred to in subclause (1).

11.17 General

11.17.1 The parties agree that effective consultation and communication under this Agreement, based on the following principles, is essential in ensuring the Agreement contributes to the success of the Company:

- (i) consultation and communication must provide opportunities for participation of all work groups or ranks in respect of common matters under this Agreement;
- (ii) fair and equitable treatment of Employees ensured - for individuals, members of their particular work group or rank, and all tugboat crew members in a port;
- (iii) Employees' respective representational rights and obligations under clause 14 must be respected;
- (iv) dispute resolution mechanisms under this Agreement, including clause 10 must be adhered to.

11.17.2 Information sharing will be achieved through both formal and informal means, such as presentations, newsletters and other appropriate avenues.

11.17.3 It is agreed between the parties that consultation will occur between management and the Employees principally at the port level. Formal structures will be established to enable consultation to take place on a regular basis. . This will occur in the following forums:

- (i) National Advisory Board;
- (ii) Port Advisory Group
- (iii) Workplace Council;
- (iv) Svitzer Workforce Planning and Development Committee established for each classification or work group.

11.18 Consultation Forums

11.18.1 National Advisory Board:

This comprises Senior Management and two representatives from each of the three Maritime Unions, and is the senior consultative forum where detailed commercial issues will be discussed which enables union officials to appreciate the commercial and operational requirements of the business including data in 11.18.2(a)-(h)). The National Advisory Board operates in accordance with its Charter made on 17 February 2012.

11.18.2 Port Advisory Group:

This is the forum for local communication and information sharing to enable all towage Employees to have input in the local daily operation of the business. The Port Advisory Group shall comprise representatives of each department and Svitzer management.

- (i) Svitzer will, subject to compliance with privacy laws (by de-identifying all individuals) and provided the information is not commercially sensitive or confidential, share with Employees via quarterly newsletter or reports the following available data about their home port:
 - (a) crew recalls;
 - (b) casual usage;
 - (c) scratch crew usage;
 - (d) port volumes;
 - (e) unplanned absences;
 - (f) permanent part-time Employee utilisation;
 - (g) accrued leave banks; and
 - (h) Maintenance – planned, unplanned, and Employee engagement under Clause 40.1.1(ii).

11.18.3 Workplace Council

- (i) The workplace council will meet at least once during the term of this Agreement. The workplace council is not a forum for the discussion of industrial disputes or individual grievances, but rather provides a forum for the exchange of views between representatives of the Employees and senior management, where, in addition to local consultative processes and through sharing information about industry matters and company prospects, greater trust and respect can be established.
- (ii) The workplace council will comprise one representative from each Port specified in Schedule 1 for each classification specified in clause 24.1.1, and a national officer of each Union. It is anticipated the workplace council would be scheduled over 2 days.
- (iii) Svitzer will ensure that appropriate members of the senior management, corporate staff and port manager/s attend the meeting to enable detailed and open discussion of the issues.

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- (iv) The cost of travel, meals and accommodation required to facilitate attendance at the workplace council meeting will be met by Svitzer.
 - (v) It is agreed that as a requirement of participation in this process, the participants will convey the information received at the council to the relevant Employees within their region fairly and impartially, unless the information is identified as being confidential by Svitzer, in which case the representative will respect such confidentiality.

11.18.4 Svitzer Workforce Planning and Development Committee

Clause 19.4 describes the composition, functions and operation of this Committee.

11.19 Consultation and new class of vessel

11.19.1 When Svitzer proposes to introduce a harbour tug into the Australian fleet it will advise the Unions.

11.19.2 Senior Management will then consult with the relevant Employee representatives including the officials of the Unions regarding the vessel, and where appropriate and agreed, the extent and nature of any inspection trip to be undertaken by Employees and/or Employee organisation representatives, and the program for introducing the new vessel at the destination Port.

11.19.3 Svitzer will arrange for an independent and internationally reputable asbestos surveyor to inspect each new vessel for asbestos, and provide the Union with a copy of the inspection report, prior to the arrival of the new vessel in Australia. Any remedial action shall be undertaken as per the requirements of Svitzer's Asbestos Management Plan which has been developed to manage all obligations in all circumstances under all applicable regulatory frameworks for asbestos management, using a single and nationally consistent approach.

12. Authorised Meetings

12.1 Meetings of Employees

Meetings of Employees will be allowed without loss of salary, provided that the meetings and their duration are arranged so as to avoid any disruption whatsoever to operations.

13. Reduction, Cessation or Growth in Business

13.1 The parties have entered into this Agreement in the expectation that the terms of this Agreement will apply for the life of the Agreement.

13.2 However, if circumstances affecting the business, either across the board or in a particular port will lead to a reduction, cessation or growth of port business, Svitzer and the Union will confer in an attempt to resolve any issues arising from the change in circumstances. The parties will attempt to resolve such issues in accordance with the dispute resolution procedure, clause 10 of this Agreement, including by reference to FWC to have FWC determine the reasonableness of any proposals to address the changed circumstances. Where found to be reasonable by FWC, the Company proposals will be implemented.

13.3 In the event of substantial changes in roster arrangements (which may include roster arrangements providing for the introduction of "captivity" for a port) or the level of towage operations or other relevant circumstances, the parties agree to review, and where necessary, adjust the salaries referred to in clause 24 of this Agreement.

13.4 If, as a result of the review referred to above, it is necessary to alter salary levels, the parties agree to take such steps as are required by the Act and clause 7 to vary this Agreement accordingly.

14. Rights and Responsibilities of Delegates

14.1 The parties to this Agreement believe that good workplace relations are essential for the well being of Employees and as a pre-requisite for a safe and productive enterprise.

14.2 Part of this includes acknowledgement of the role of workplace delegates and in enhancing efficiency the following principles are agreed:

- (a) The delegate has the right to fair treatment and to perform their role without discrimination in their employment.
- (b) The delegate has the right to formal recognition by the company and its representatives.
- (c) The delegate has the right to consult with workplace staff and management and will be given reasonable access around the workplace to facilitate this.
- (d) The delegate has the right to reasonable paid time off to participate in approved forums and meetings with the company during the Employees normal duty cycle, and all reasonable endeavours will be made to schedule these activities when the delegate is at work, shipping requirements permitting.

Where a delegate is required to attend a scheduled forum or meeting during a leave day, the day of leave will be restored to that delegate.

For the purpose of sub-clause (d), 'approved forum' means:

- (i) Bargaining meetings for a new enterprise agreement that covers the Employees (one delegate from each department from each state), the parties will agree what is a fair and appropriate schedule for the bargaining process. The parties will endeavour to conclude bargaining within 10 meetings; and
 - (ii) Formal consultation sessions regarding a major change that is likely to have a significant effect on the Employees (provided that the delegates workgroup is directly affected, a maximum 1 delegate per union) from the affected port(s).
 - (iii) Formal consultation sessions regarding changes to the POPs in accordance with clause 40.3
 - (iv) A conference before the Fair Work Commission in relation to a dispute where it is necessary for the relevant delegate to attend (a maximum of 1 delegate per union).
- (e) The delegate has the right to relevant training as agreed.
 - (f) The delegate has the right to reasonable access to workplace equipment such as facsimile, photocopying, e-mail, internet etc. provided that this does not interfere with the normal operations of other staff.
 - (g) The delegate has the right to place necessary union information on company noticeboards.
 - (h) The delegate has the right to take reasonable leave without pay to work with the Union at a time agreed with the company.

- 14.3 It is acknowledged by the parties that in carrying out their role workplace delegates also have a number of responsibilities. These include:
- (a) Acting in a courteous and professional manner in their role;
 - (b) The responsibility to raise workplace issues in a timely fashion and work co-operatively with the Company to resolve issues.
 - (c) Workplace delegates must deal in a professional manner with all Employees, regardless of union membership status.
 - (d) Adhere to Svitzer policies and procedures whilst carrying out their role. This includes using equipment made available in a manner consistent with Svitzer policies on acceptable use of e-mail and internet, harassment and discrimination.

14A Outsourcing

Svitzer will not outsource work performed by Employees covered by the scope of this Agreement unless it complies with its consultation obligations under this Agreement.

PART 3 - ENGAGEMENT AND TERMINATION OF EMPLOYMENT

15. Categories of Employment and Engagement

15.1 Employment Categories

15.1.1 An Employee under this Agreement may be engaged in one of the following employment categories:

- permanent full time,
- permanent part time,
- Employee engaged for a specified period of time / task, or
- casual employment,

in accordance with clauses 15.2 to 15.6 respectively.

15.1.2 At the time of engagement an Employee will be advised in writing of:

- (i) the category of employment in which the person is employed and
- (ii) as appropriate, the duration or expected duration of the engagement and the specified period of time or task;
- (iii) any requirement and likely duration of induction in relation to clause 23.

15.2 Full-time employment

15.2.1 A permanent full time Employee is an Employee who is engaged to work on a full time basis in accordance with this Agreement and the Port Operating Procedures in the port in which the Employee is engaged.

15.3 Permanent Part-time employment

15.3.1 Subject to the terms of this Agreement, a part time Employee receives, on a pro-rata basis, equivalent salary and conditions as a full-time Employee.

15.3.2 A permanent part time Employee is an Employee who is engaged for a prescribed proportion (%) of full time employment (less than 100%), and who is required to work at least the number of corresponding days per Financial Year. (For example, an Employee who is engaged in a 50% permanent part-time role will be required to work at least 91 days per Financial Year.)

15.3.3 Review of permanent part time Employee's percentage (%)

- (i) The proportionality of the engagement of each permanent part-time Employee will be reviewed each year on the employee's anniversary date of their engagement.
- (ii) The review will include consideration of the proportion of days worked by the employee in the previous year, and the reasons for any major divergence between the Employee's percentage and the proportion of work actually performed.

- (iii) If there is major divergence between the employee's percentage and the proportion of work actually performed by the employee, the employee's percentage will be either increased or decreased for the next 12 months to reflect the previous year's work activity, unless there are exceptional circumstances that explain the divergence; an adjustment to the percentage will not fall below the prescribed percentage (%) of full time employment under which the Employee was first engaged.
- (iv) A permanent part time employee may seek the result of the review within 30 days from the date of their anniversary and elect to increase their percentage (%) based on this review. The Company will consider the criteria in this clause and act reasonably in considering the request.

For the purpose of sub-clause 15.3.3(iii):

- (a) 'exceptional circumstances' includes but is not limited to unplanned leave; long service leave, or long planned leave, which is relieved by the relevant permanent part-time Employee, one off increase in volume in the relevant port associated with non-recurring work.
- (b) When considering whether to increase or decrease the Employee's percentage, the Company will also take into account future forecast volume in the Port including but not limited to, for example, due to forecasted volume due to a pandemic or as a result of another towage provider entering the relevant port or loss of business or contract or potential increase in the volume due to customer win.
- (v) An Employee must not be engaged and re-engaged to avoid any obligation under this clause 15.3.3.

15.3.4 Job sharing

Job sharing arrangements between permanent full-time employees may be implemented where there has been mutual agreement between the employees concerned and the Company, and consultation has occurred with the Union.

15.4 Employment for a specified period of time or specified task

- 15.4.1 An Employee engaged for a specified period of time or a specified task is an Employee who works on either a permanent full time or permanent part time basis, but is engaged for a specified period of time or specified task.
- 15.4.2 This clause applies to all Employees covered by this Agreement. Notwithstanding the provisions of any POPs, Svitzer may engage fixed term employees for a specified task or period in the following circumstances
 - (a) To provide cover for short or long term sick leave;
 - (b) To provide cover for short or long term long service leave;
 - (c) to provide cover for short or long term workers compensation;
 - (d) to provide cover for crew who are training;
 - (e) to provide cover for project work;
 - (f) to provide cover for establishment of new towage work (up to a maximum period of employment of 18 months);

- (g) to provide cover for temporary work (up to a maximum period of employment 18 months);
- (h) to provide cover for maternity and paternity leave; or
- (i) as otherwise agreed between the parties

This provision shall only apply to fixed term or specific task contracts entered into after the commencement of this Agreement.

The parties have agreed, by an exchange of letters process, to a review of the current fixed term contracts.

15.5 Casual employment

15.5.1 A casual Employee is an Employee who is not regularly rostered to work, but is engaged daily for periods of one day or more.

15.5.2 Casual conversion

Casual Employees employed by Svitzer may have their casual employment converted to permanent employment, which may be either full-time or part-time employment, in accordance with Part 2-2, Division 4A – 'Offers and Requests for Casual Conversion' of the Act as varied from time to time.

15.5.3 Terms of casual engagement

- (i) Subject to clause 15.5.3(ii), daily start and finish times and the timing and duration of breaks for casual Employees will align with those times that apply to permanent Employees in the port.
- (ii) Where Svitzer requires the casual Employee(s) to work at different times due to unusual operational requirements, the start time will commence at the start time notified.
- (iii) Where the start time notified is brought ahead and the casual Employee is available for duty then the casual engagement will commence from the new start time.

15.6 Trainees

15.6.1 A person may be engaged as a Trainee. Remuneration and conditions of Trainees are set out in clause 24.5.

15.6.2 When Trainees satisfactorily complete their Traineeship, they will become eligible to apply to Svitzer for available employment as an Employee under one of the employment categories specified in clauses 15.2 to 15.5 above. However, there is no implied right for Trainees to be so engaged.

16. Selection and Recruitment

16.1 For all types of Employees, Svitzer will invite an agreed Employee from the area of operation concerned to be present in interviews and with the relevant manager when reviewing the applications from external candidates, without payment, to offer feedback on qualifications (as per the terms of this Agreement) and safety. This is subject to compliance with privacy laws and Svitzer's privacy policies. Svitzer's privacy policies are not incorporated into this Agreement.

16.2 Notwithstanding anything contained to the contrary in this Agreement or the POPs, Svitzer has the absolute discretion on who to recruit provided it complies with all of clause 16.

16.3 Qualification of Employees

When Svitzer is making hiring decisions, successful candidates must hold at least the minimum certification requirements in the table below (if any). Svitzer will also take into account the other matters contained in the table.

Masters	Engineers	Rating
<p>(i) Specific skills and competencies relating to the towage industry or potential to develop them;</p> <p>(ii) Master < 45m Near Coastal minimum certificate as may be amended from time to time by AMSA</p> <p>(iii) Demonstrated personal attributes of teamwork, communication, problem solving, suitability and ability to meet the requirements of the position;</p> <p>(iv) A detailed knowledge of International/National/State legislation as it applies to the towage industry.</p>	<p>(i) Svitzer agrees to engage engineer Employees who possess either class 1, class 2, or class 3 Certificates of Competency as required to meet the needs of the business.</p> <ul style="list-style-type: none"> • In the case of the holder of a class 3 Certificate of Competency, that person will also hold a trade qualification as either a fitter and turner, diesel fitter, electrical fitter or other relevant or equivalent engineering trade (refer to MO505 for expanded list of trades). • An Engineer Candidate, who possesses a Class 3 Certificate without the above trade qualification, must have previous documented sea service of at least 364 days engaged as a chief engineer in charge of a vessel with multiple propulsion machinery with at least one propulsion engine power of >1,500KW • For Engineer recruitment in ports where there are no suitable Engineer candidates that meet the above agreed minimum qualifications, before interviews are scheduled, Svitzer will contact the AIMPE for assistance to attract a broader pool of Engineer candidates, including discussing and agreeing the candidacy of an Engineer Class 3 applicant without the above trade qualifications or experience. The AIMPE Tug Convenor will be consulted in the assessment of the 	<p>(i) Specific skills and competencies relating to the towage industry or potential to develop them;</p> <p>(ii) When employing Ratings in any Employment Category, Svitzer will engage Employees who hold, at a minimum, a valid <i>“General Purpose Hand – Near Coastal”</i> Certificate of Competency, issued by the Australian Maritime Safety Authority</p> <p>(iii) In the Ports of Brisbane, Victorian Ports, Adelaide, Newcastle and Fremantle, when employing Ratings in any Employment Category, it is acknowledged by the parties that the skills and competencies obtained through an <i>“Integrated Rating”</i> Certificate are beneficial for this role</p> <p>(iv) Demonstrated personal attributes of teamwork, communication, problem solving, suitability and ability to meet the requirements of the position.</p>

	<p>Engineer Class 3 under this subclause. Consultation is subject to privacy laws in the recruitment process. Agreement between the parties about Engineer candidacy under this subclause shall not be unreasonably withheld</p> <p>The Traineeship will be structured so as to enable a Trainee to meet at least the minimum certification requirement of Class 3 with a relevant trade qualification.</p> <p>(ii) Demonstrated personal attributes of teamwork, communication, problem solving, suitability and ability to meet the requirements of the position;</p>	
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16.4 Probation for permanent Employees

16.4.1 Specified Probationary periods are as follows:

- (i) In the case of Masters a six (6) month period of probation; or
- (ii) in the case of other Employees a three (3) month period. (Provided that where Svitzer considers that the performance of the Employee was not satisfactory during the probationary period it may, at its discretion, extend the probationary period for one month.)

16.4.2 At the conclusion of the period of probation Svitzer will, subject to the satisfactory performance of the Employee during the probationary period, confirm the appointment.

16.4.3 If the performance of the Employee during the initial period or the extended period of probation is deemed unsatisfactory by Svitzer it may terminate the Employee's employment at that time with one week's notice (or payment in lieu).

16.4.4 It is agreed that the process set out in this clause is reasonable, and must be agreed to in advance, by any prospective Employee.

16.5 Fitness for duty

It is a requirement that Employees, once recruited, remain fit for duty. In this respect Employees will attend for medical examination as required by Svitzer and at Svitzer's expense.

16.6 Security clearance for duty

16.6.1 Employees must have security clearance for work in the form of a valid and current Maritime Security Identification Card (MSIC) issued by the relevant government

authority.

16.6.2 Where a permanent Employee must obtain a MSIC in order to take up an offer of employment by Svitzer, the cost of the issue and the periodic renewal of the MSIC will be met by the Company. Where a MSIC card is lost and there is a valid reason for the loss the Company will meet the cost of replacement for one lost card during the term of this Agreement.

16.6.3 Where a casual Employee must obtain a MSIC in order to take up an offer of employment by Svitzer, the cost of the issue will be met by the Company.

17. Employee Duties

The duties of Employees under this Agreement are set out in clauses 17.1 to 17.3 below by reference to the respective classification of the Employee:

17.1 Masters Duties

17.1.1 To achieve maximum flexibility, tug Employees shall work as a team with each Employee working as reasonably required to the level of their classification, job description, skills, training, competence, certification and applicable legislation in a co-operative effort, to ensure the safe and efficient operation of the tug. Where necessary, Employees will undertake training in order to maintain and enhance their skills.

17.1.2 The master (acting as Ship Security Officer) will fill the role of the SSO Designate under the Maritime Transport and Offshore Facilities Security Act 2003 (Cth).

17.1.3 The duties of a master include, but are not limited to:

- (i) The command of the tug and its crew;
- (ii) Act as tug manager and coordinating the attendance of crew as required for operations, the provision of stores, and ensuring readiness for operations;
- (iii) Compliance with policies and procedures authorized by Svitzer, including Quality control;
- (iv) Assurance and I.S.M. systems and procedures;
- (v) Management of disciplinary procedures relating to tug crews as required;
- (vi) Supervision and assistance with tug maintenance as necessary;
- (vii) Where required, the preparation of operational reports;
- (viii) Induction training of visitors, Employees and other persons authorised by Svitzer to access the vessel;
- (ix) Monitoring and review of work health and safety standards and procedures associated with tug operations and reporting as appropriate;
- (x) Ensuring compliance with relevant environmental regulations.

- (xi) Participation in operational improvement exercises, including but not limited to towage simulation exercises, advisory support during discussions with port authorities, pilots and other parties, and liaison with Svitzer management regarding the improvement of operational procedures;
- (xii) Compliance with roster arrangements and Svitzer's Standing Orders;
- (xiii) Participation in safety training;
- (xiv) For designated trainers in accordance with clause 19.3.4, conducting on-the-job training for Trainee masters;
- (xv) Participation in skills and competency training including the training of other crew members, and Trainees.

17.1.4 In the application of this clause, for the avoidance of doubt, it is agreed that nothing in the making of this Agreement is intended to reduce, diminish or detract from the scope of the existing duties of Masters covered by this Agreement, as detailed in this clause 17.1 (for example, duties associated with the command of the tug and its crew, supervision and assistance with tug maintenance, monitoring and review of work health and safety standards and procedures associated with tug operations and reporting) or as elsewhere detailed in this Agreement.

17.2 **Engineers Duties**

17.2.1 Engineers duties include, but are not limited to:

- (i) The performance of statutory functions and responsibilities in accordance with Marine Order 505;
- (ii) Compliance with Port Operating Procedures agreed between the parties, including quality assurance and ISM procedures in so far as they relate to the engineer's duties;
- (iii) Maintenance and repair of marine plant and equipment, including emergency maintenance work;
- (iv) Tug maintenance in accordance with the class approved programmed maintenance schedule and budget and obligations under Marine Order 505;
- (v) Supervision of personnel undertaking and assisting in the engineering function;
- (vi) Responsibility for signing off on maintenance work completed;
- (vii) Preparation of maintenance and operational reports as required;
- (viii) To be responsible for the safe operation of the vessels engines, generators and associated machinery and equipment whilst on towage services;
- (ix) To ensure that all machinery (deck and engine) is maintained to operational standards at all times;
- (x) To carry out routine maintenance and repairs as and when necessary, and to take responsibility for ensuring that the class approved Planned Maintenance System is carried out onboard.

- (xi) Participation in agreed safety training, including the training of other crew members;
- (xii) Participation in skills and competency training relevant to the Engineers duties and employment;
- (xiii) Assisting other crew members on deck as agreed;
- (xiv) Monitoring and review of relevant work health and safety standards and procedures and reporting as appropriate;
- (xv) Undertaking duty at dockings, including monitoring and supervising other personnel as necessary and appropriate.
- (xvi) Wear the industrial and protective clothing provided in accordance with clause 27, as well as any additional protective equipment as necessary.
- (xvii) Ensuring day to day compliance with relevant environmental regulations;
- (xviii) Participation in operational improvement exercises and liaison with Svitzer management regarding improved operational procedures, leading to a culture of continuous improvement.

17.2.2 In addition to the above, Employees will undertake such duties as are reasonably agreed by the parties, provided that the duties are within the skills, competence and training of the Employee concerned to undertake.

17.2.3 Where required, Employees will undertake training in order to maintain and enhance their skills.

17.2.4 Employees must maintain and keep valid any certificate required by them to perform their duties. The cost and leave will be provided by Svitzer.

17.3 Ratings Duties

17.3.1 The duties of a rating include, but are not limited to:

- (i) Deck and General Purpose duties of harbour, free running and outside towage work;
- (ii) Marine and salvage operations;
- (iii) Operation of fire fighting equipment and the provision of assistance to firefighting personnel;
- (iv) Operation of oil spill and other environmental protection equipment;
- (v) Maintenance of tugs, towage equipment, firefighting and environmental protection equipment and relevant shore based facilities;
- (vi) The handling of stores and equipment including fork lift operations;
- (vii) Assistance in the engine room;
- (viii) Compliance with policies and operating procedures authorised by Svitzer and consistent with statutory obligations, including safety, Quality Assurance and ISM procedures;

- (ix) Cooking during outside work;
- (x) General seamanship duties; and
- (xi) As required, watch keeping duties, and where appropriately qualified acting in the capacity of mate;
- (xii) Participation in safety training;
- (xiii) Participation in skills and competency training;
- (xiv) For designated trainers in accordance with clause 19.3.4 conducting on-the-job training for Trainee ratings;
- (xv) The training of other crew members, and Trainee ratings, where Employees have the appropriate skills and qualifications to do so;
- (xvi) Wear the industrial and protective clothing provided in accordance with clause 28, as well as any additional protective equipment deemed necessary by the Company.
- (xvii) Ensuring day to day compliance with relevant environmental regulations;
- (xviii) Participation in operational improvement exercises and liaison with Svitzer management regarding improved operational procedures, leading to a culture of continuous improvement.

17.3.2 In addition to the above, Employees will undertake such duties as are reasonably required by the Company, provided that the duties are within the skills, competence and training of the Employee concerned to undertake.

17.3.3 Where required, Employees will undertake training in order to maintain and enhance their skills.

17.3.4 In the application of this clause, for the avoidance of doubt, it is agreed that nothing in the making of this Agreement is intended to reduce, diminish or detract from the scope of the existing duties of Ratings covered by this Agreement, as detailed in this clause 17.3 (for example, duties associated with the maintenance of tugs, towage equipment, fire fighting and environmental protection equipment and relative shore based facilities) or as elsewhere detailed in this Agreement

17.4 In the application of this clause 17, for the avoidance of doubt Svitzer will have regard to its work health and safety obligations under law.

18. Work Health and Safety

18.1 This Agreement will not conflict with relevant Work Health and Safety laws which confer a duty of care on the parties.

18.2 Work Health and Safety legislation requires Svitzer to provide a safe working environment by taking reasonable measures to minimize the risks associated with identified hazards, providing Employees with training in safe work methods and by being rigorous in investigating all hazardous occurrences and incidents. It also requires Employees to comply with all reasonable requirements of the Company in these respects.

18.3 Work Health and Safety Committees

18.3.1 Svitzer will provide tools and training to Work Health and Safety Committees to enable regular assessment of the incidence of fatigue and fatigue mitigation strategies. The parties will continue to consult at a senior level so as to ensure that fatigue is managed appropriately.

18.3.2 Wherever possible the Committee meeting must be arranged on a day when the majority of Employee members are on-duty (and programmed around shipping requirements). If, in order to create a quorum of Employee representatives, an Employee representative must attend a Committee meeting during a leave day the day of leave will be restored to that Employee.

18.4 Svitzer will provide expert injury management services in order to expedite the full recovery and the earliest possible return to work of an injured Employee.

18.5 Health and Safety Representative (HSR) Training

Where applicable Work Health and Safety laws require an Employee HSR to undertake a HSR course of training, that HSR training must be undertaken on a work day to the extent it is practical to do so, taking into account obligations under the relevant Work Health and Safety legislation. To the extent the HSR course of training must be undertaken or completed on a day that falls on a rostered leave day and the HSR agrees to attend the training, the Employee will receive a day in lieu of leave, but no additional remuneration will be paid.

18.6 Employees must exercise duty of care to both themselves and others in the workplace. If an injury occurs Employees will do all that is within their capacity to participate in injury management and rehabilitation programs in order to achieve full recovery and an early return to work. Employees will cooperate fully in all safety initiatives implemented by Svitzer.

19. Training and Skill Development

19.1 Skill Enhancement

19.1.1 Principles

A well trained, skilled competent and flexible workforce is essential to meet the objectives of any modern company. It serves a number of purposes including:

- (i) Enhancing the Employee's capacity to perform within his or her classification;
- (ii) Providing the Employee with opportunities for promotion to shore based management functions and specialist positions within the company;
- (iii) Providing the Employee with opportunities for personal and professional growth and career progression.

19.1.2 Training will be delivered and undertaken in accordance with the following:

- (i) Employees will be trained so as to ensure that the current and future needs of Svitzer and Salvage are met;
- (ii) Employees will gain access to training on their merit and according to the perceived potential of the Employee;

- (iii) Training will be made available in order to meet the requirements of State and Federal legislation.

19.2 Trainees (new entrants)

To further ensure that the future needs of Svitzer are met, regarding access to an appropriate number of properly qualified Trainees, Svitzer commits to the engagement of Trainees in accordance with the principles set out in this sub-clause.

19.2.1 The principles for the Traineeship are as follows:

- (i) Upon the commencement of this Agreement, Svitzer will commence recruitment of Trainees consistent with its operational needs.
- (ii) Training wages will be in accordance with clause 24.5;
- (iii) Certification objectives will be in accordance with clause 16.3.

19.3 Training Conditions

19.3.1 Svitzer will meet the costs of study, including course costs, and ancillary reasonable travel / accommodation and victualling costs for any study or training course that Svitzer requires the Employee to undertake. To avoid doubt, this clause also applies to revalidation courses.

19.3.2 Where Svitzer appoints an Employee to conduct designated on-the-job training the Employee will receive recognised (formerly described as 'train the trainer') training at no cost to the Employee.

19.3.3 Revalidation courses

- (i) When an Employee is required to attend a training course for the purposes of revalidation of certificate on a day when the Employee is rostered for duty, that day will be regarded as a normal Employee day. Where the course falls on a day of leave the leave day will not be reinstated.
- (ii) The course costs relating to revalidation courses for an Employee will be met by Svitzer up to the standard at which the Employee was engaged provided it relates to the certificate of competency held at the time of revalidation. For Engineers and Masters, Svitzer is not required to revalidate STCW COC endorsements (other than the Certificate of Safety Training (CoST) for Engineer Class 3 for those Engineers who hold CoST).
- (iii) Masters who are employed as at the date this Agreement is made, will be entitled to receive a revalidation certificate allowance, if their employment comes to an end as a result of a redundancy on the following terms and conditions:

(A) The revalidation allowance is a one-off fee of \$500.

(B) This amount will only be payable if their current certificate of competency required by Svitzer to complete their duties, would expire in less than 12 months period from the date of the end of their employment.

(C) This amount will not be payable for a Master who receives an amount of more than \$150,000 net in redundancy payments.

19.3.4 Prescribed training courses

In this clause 19.3.4, a prescribed training course means an approved training course or program that will enhance the Employee's ability to perform their prescribed duties in a safe, skilful and competent manner, including:

- (a) Workplace health and safety training and drills;
- (b) First aid training;
- (c) IT training where applicable to the Employee's role;
- (d) technology training to support the performance of an Employee's duties;
- (e) Computerised planned maintenance system training;
- (f) Safety management system on-line training;
- (g) Any other training that arises from agreed business improvement initiatives, including any training identified through the Port Advisory Groups and the Svitzer Workforce Planning and Development Committee for the respective classification.

To avoid any doubt, a prescribed training course does not include revalidation courses, or "train the trainer" training, or "SCOPE" training courses.

Where a prescribed training course falls during a period of leave:

Employees will be available to undertake such training course without additional payment or compensation on up to five (5) leave days per Financial Year (which will not accumulate from year to year); and

After the first 5 days per year are utilised, each leave day during which a prescribed training course is undertaken will be restored to the Employee (that is, such training day will be treated as a "dead day") without any additional compensation. In respect of Health and Safety Representative (HSR) Training, refer to clause 18.5.

19.3.5 Other Training conditions particular to Employee's classification

For Masters: Svitzer, following appropriate consultation with Masters employed within the port or region, agrees to appoint a Master or Masters as Check Master/s who will be responsible for the training/assessment of new and existing tug masters.

19.4 Svitzer Workforce Planning and Development Committee (for each classification)

19.4.1 Charter and Composition of the Committee

- (i) The National Advisory Board described in clause 11.18.1 operates in accordance with its Charter made on 17 February 2012. The Charter sets out the Board's objectives, which include discussion on Workforce Planning, Training and Skills and Qualifications for Svitzer Employees.
- (ii) At Agreement commencement, a Svitzer Employee Workforce Planning and Development Committee will be established for each classification under this Agreement and will comprise of two (2) Employee representatives nominated by the Employees from the relevant classification, the Fleet Director and Technical Management representative.

19.4.2 Functions of the Committee

- (i) Consistently with the Company's current and future workforce requirements, the Committee will exercise the following functions:
 - (a) Consult with and communicate with the National Advisory Board concerning Svitzer Workforce Planning and Development matters;
 - (b) Review current and future workforce requirements for the respective Employee classification;
 - (c) Develop and implement a plan for Employee training;
 - (d) Review training required for tugs and tug technology;
 - (e) Review the impact of the National Law regulating commercial vessels to identify issues impacting on Employee certificates of competency, make recommendations to address issues, including interim arrangements and develop recruitment standards to meet the operational requirements of a tug and port that meets requirements specified at clause 16.3 in this Agreement;
- (ii) Consider and make recommendations for allocating training budgets and expenditure pursuant to this clause 19.4 and clause 19.5.

19.4.3 Operation of the Committee

- (i) Svitzer shall make available relevant information and data to carry out the above functions.
- (ii) The Committee may agree to meet jointly.
- (iii) The Committee shall meet at least three times per year, and a further meeting may be held by agreement.
- (iv) The Union may be consulted by the Committee.
- (v) The National Advisory Board will be provided with the opportunity to comment on the reviews conducted and recommendations made by the Committee.
- (vi) Svitzer and the Union shall meet to discuss the implementation of recommendations from the Committee.

19.5 Training Expenditure

As from the Commencement Date, and for each calendar year until the nominal expiry date of this Agreement, Svitzer will, consistently with the Company's current and future workforce requirements:

- 19.5.1 set aside a training budget equal to one (1) per cent of its wages bill for Employees (based on the annual Port Salary under Schedule 1 for each Full-Time Equivalent [FTE]) under this Agreement;
- 19.5.2 in consultation with the relevant Svitzer Workforce Planning and Development Committee, undertake and direct this expenditure towards relevant training that is described in this clause 19;

19.5.3 implement agreed recommendations made by that Committee in relation to the allocation of this training expenditure.

20. Termination of Employment

20.1 Notice of termination by employer—permanent Employees

20.1.1 In order to terminate the employment of a permanent Employee, Svitzer must give to the Employee respective classification the following written notice:

Period of continuous service	Tug Masters	Engineers	Ratings
	[Weeks]		
1 year or less	2	2	1
More than 1 year but not more than 3 years	4	4	2*
More than 3 years but not more than 5 years	6	6	3*
More than 5 years	8	8	4*

* The above period of notice will be increased by 1 week if the Employee is over 45 years old and he or she has completed at least 2 years of continuous service with Svitzer.

20.1.2 Payment instead of the notice prescribed in clause 20.1.1 may be made.

20.1.3 Svitzer may terminate an Employee’s employment by giving part of the notice prescribed in clause 20.1.1 and part payment instead thereof.

20.1.4 In calculating any payment instead of notice, the salary an Employee would have received in respect of ordinary time the Employee would have worked during the period of notice if the Employee’s employment had not been terminated must be used.

20.2 Job search entitlement

Where Svitzer has given notice of termination to an Employee, the Employee must be allowed up to one day’s time off without loss of pay, which may be a day of leave, for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the Employee after consultation with the Company.

20.3 Termination without notice

Despite the provisions of this clause, Svitzer may terminate the employment of an Employee without notice, or payment in lieu of notice, for serious misconduct.

20.4 Notice of termination—permanent Employees

20.4.1 An Employee other than a casual Employee may terminate his or her employment by giving Svitzer the following written notice:

- A. In the case of Tug Masters and Engineers – 4 weeks notice;
- B. In the case of Ratings - 2 weeks notice.

20.5 Casual Employees

The employment of a casual Employee terminates at the end of each period of duty.

21. Redundancy

21.1 This clause applies to Permanent Full Time and Permanent Part Time Employees and does not apply to Employees engaged for a specified period of time / task, or to casual Employees.

21.2 Redundancy Process

This clause does not override the consultation obligations in clause 11. Where a position is surplus to company requirements in a Port and Svitzer decides that it will implement redundancies, the following process will be followed:

21.2.1 Svitzer will notify and consult with the Employees and the Union in relation to the number of proposed redundancies (either full time or part time) and the reason/s why they are to occur. This consultation may also include consultation regarding changes to the Port Operating Procedures in the relevant Port to facilitate redundancies;

21.2.2 Following consultation, Svitzer may make Employees in the identified Port(s) with less than 2 years' full time continuous service (or 2 years permanent part time service for a permanent part time position) on the date that consultation commenced under clause 21.2.2 (and/or on the date any POPs consultation commenced which was associated with the redundancies), involuntary redundant prior to undertaking further steps below;

21.2.3 expressions of interest will then be sought in the port from employees holding the same position as those proposed to be made redundant where the redundancies are to occur;

21.2.4 If insufficient expressions of interest are received, Employees in adjacent ports may, at Svitzer's discretion, be offered voluntary redundancy as a means to avoid compulsory redundancies. In this circumstance Employees in the port where the redundancies occur will, as a pre requisite agree to transfer, and this will be discussed with the Union; and

21.2.5 If there remain insufficient expressions of interest in voluntary redundancies, Svitzer will implement redundancies on a last on first off basis in the port where the reduction in numbers is required.

Those Employees made compulsorily redundant will be encouraged to apply for any new positions. However, Svitzer will not be obligated to notify any former employee of the new role or under any obligation to re-employ the former employee.

21.3 Redundancy pay

21.3.1 In circumstances where a permanent Employee is or would be entitled to Redundancy Pay under the NES, Redundancy Pay for that Employee will be calculated according to the following table:

Years of continuous service	Weeks pay per year*
0 – 15	4 weeks

Years of continuous service	Weeks pay per year*
16 – 25	3 weeks
26 – 30	2 weeks
31 years and over	1 week

* Redundancy Pay will be capped at a total of 70 weeks' pay and no payment in excess of 70 weeks' pay will be made under this clause. This does not impact any other entitlements under this Agreement for notice or leave.

21.3.2 It is the Company and the Unions' preference to avoid redundancy if possible. The parties acknowledge however that there may be commercial or operational reasons why redundancy may still take place.

21.3.3 Redundancy will be calculated at the Employee's port salary (pro-rata for permanent part-time Employees) as defined in Schedule 1.

21.4 Job search entitlement

21.4.1 An Employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay, which may be a day of leave, during each week of notice for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the Employee after consultation with the Company.

21.4.2 If the Employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Employee must, at the request of the Company, produce proof of attendance at an interview or they will not be entitled to payment for the time absent. For this purpose a statutory declaration is sufficient.

21.4.3 This entitlement applies instead of clause 20.2.

21.5 Transfer to lower paid duties

Where, by agreement between the Company and a permanent Employee, the Employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the Employee would have been entitled to if the employment had been terminated and Svitzer may, at the Company's option, make payment instead of an amount equal to the difference between the former salary and the salary for the number of weeks of notice still owing. In these circumstances, the Employee is not entitled to redundancy pay.

21.6 Transfer and Relocation

This clause 21.6 applies when an Employee remains in employment but is permanently transferred from one operational location to another by virtue of the Employee's position becoming redundant.

21.6.1 Svitzer shall reimburse an Employee for out of pocket expenses where that Employee is permanently transferred from one operational location to another in circumstances where the Svitzer Employee is surplus in one port and is transferred to another port to fill a vacancy.

Reimbursement will be in accordance with clause 21.6.2 to clause 21.6.6.

21.6.2 Svitzer shall pay to the Employee in respect of any reasonable time spent travelling between the two ports (for the purpose of relocation) a travelling allowance of

\$45.60 per day for the Employee and a further \$38.01 per day for each dependent of the Employee including the Employee's spouse.

21.6.3 Svitzer shall pay to such Employee by way of a resettlement allowance the amount of \$12,428.46 if the Employee has a spouse and/or dependent children, or the amount of \$3,958.91 if the Employee is single and without dependants.

21.6.4 The amounts contained in clauses 21.6.2 and 21.6.3 above shall be adjusted each twelve months at the beginning of the calendar year or as soon as figures become available in accordance with movements in the Consumer Price Index for the preceding calendar year. These amounts shall be included on the Employees group certificate for taxation purposes.

21.6.5 The resettlement allowance contained in clause 21.6.3 above will include but not be limited to costs incurred in respect of:

- (i) Agent's commission on sale of house, legal fees on sale of house, any advertising or auction fees/expenses associated with the sale of the property and disposal of perishables, i.e. food, pot plants, etc.;
- (ii) Any expenses incurred on a "preliminary" visit to the new Port by Employee and/or family including fares and accommodation;
- (iii) Any storage costs associated with personal effects being stored in the destination Port or Port of origin;
- (iv) Any costs associated with transfer of goods from storage in the destination or origin Port/s to the new residence.
- (v) Any accommodation charges on arrival in the destination Port pending more suitable longer-term accommodation being obtained.
- (vi) Any costs associated with the purchase of a new home in the destination Port.

21.6.6 Removal Expenses

Employees shall be entitled to reimbursement of reasonable removal expenses subject to the following:

- (i) Reimbursement of removal expenses shall include all personal effects including one motor vehicle only and no boats, caravans or trailers.
- (ii) Storage charges or the cost of transfer of personal effects to or from the storage shall be deemed to form part of the resettlement allowance and shall not be reimbursed as a removal expenses.
- (iii) Employees shall obtain two quotes from reputable removalists and submit them to Svitzer.

PART 4 – SALARIES, ALLOWANCES AND RELATED MATTERS

22. Payment of Salaries

22.1 All salaries, related payments and allowances will be paid fortnightly (one week in advance and one week in arrears for permanent Employees, and in arrears for permanent part-time Employees paid under clause 24.2.1 and casual Employees). No Employee will be disadvantaged as a result of the implementation of this sub-clause. During the nominal term of the Agreement, the parties may hold discussions concerning the operation of the pay system.

22.2 Fortnightly and daily salaries are calculated as follows:

22.2.1 The fortnightly rate is the annual salary rate divided by 26;

22.2.2 The daily rate is the fortnightly rate divided by 14.

22.3 Deductions and payroll corrections

22.3.1 Svitzer may deduct from any amount payable to an Employee the amount of any overpayment of wages or allowances, and any other amount that is refundable to the Company under this Agreement. Overpayments of wages or allowances will be repaid on the basis that, unless Svitzer and the Employee agree otherwise:

- (i) no less than 14 days written notice will be given to the Employee of the amount it seeks to recover;
- (ii) the deduction will not exceed 10 per cent of the Employee's gross salary per fortnight.

22.3.2 Payroll corrections: Payroll errors will be rectified as a matter of priority.

23. Induction Payment – Masters and Engineers

23.1 A Tug Master or Engineer newly recruited into Svitzer's towage operations under this Agreement who is engaged in the port on a supernumerary basis (that is, other than as part of the normal crew complement), because the said Employee is required to complete a period of induction:

23.1.1 in order to comply with any local knowledge requirements imposed by the relevant port authority or other regulatory authority on a Tug Master, or

23.1.2 to complete a necessary period of familiarisation with a new class of vessel

will be paid the amount set out in clause 23.2 for each day worked during the induction period. The induction period under this clause 23.1 will not exceed:

- (i) one (1) month for Engineers; or
- (ii) three (3) months for Masters.

This payment will be paid in lieu of the otherwise applicable salary under clause 24.

23.2 The induction payment in clause 23.1 is an amount equivalent to 75% of the prevailing annual salary that would apply to a full-time Master or Engineer in the port under clause 24.1 and Schedule 1.

24. Salaries

24.1 Salaries - Permanent full-time Employees

- 24.1.1 Full-time Employees will be paid a salary relevant to the Employee's home port in accordance with Schedule 1.
- 24.1.2 If Svitzer requires a permanent Employee to temporarily work in an outport, the Employee will be entitled to the salary applicable to the outport or the salary applicable to the Employee's home port, whichever is the greater, in respect of that temporary work.
- 24.1.3 A full time Employee who is recalled from a period of leave to complete a Docking, Lay-Up or Outside Work will be paid 200% of the daily salary rate for each Day of Recall worked or one day's pay plus one day of accrued leave.
- 24.1.4 A Full time Employee who is recalled from a period of leave to complete any other work other than what is included in 24.1.3, will be paid:
- (a) 200% of the daily rate for each Day of Recall worked; or
 - (b) At their election, 1 day of accrued leave only without any additional payment capped at 5 days per calendar year. The cash payment option will occur unless notified to the Company to the contrary by the Employee.
- 24.1.5 Once recalled, the Employee is not restricted as to the type of work to be completed, including either towing, Maintenance, or Emergency Maintenance. During a recall period, an Employee will not be required to work alone consistent with Svitzer safety management procedures.
- 24.1.6 The recall entitlements under clause 24.1.3 and 24.1.4 will not impact the Employee's entitlement to continue to receive the salary in accordance with clause 24.1.1. For example, an Employee who is recalled from a period of leave will continue to receive their fortnightly salary for the relevant pay period plus the entitlement for recall for the number of days recalled.

24.2 Salaries - Permanent part-time Employees

- 24.2.1 Permanent part-time employees will receive pro rata the equivalent salary of full time employees. This payment includes the daily salary rate relevant to the Employee's home port in accordance with Schedule 1, plus an additional payment equating to 100% of the daily salary rate for each day worked. The additional payment incorporates a payment for leave (including annual leave) being a minimum of 5 days free of duty each month. Note: under clause 40.1.1(v), employees can elect to take up to 7 days free of duty. No further leave will accrue.
- 24.2.2 The part time employee's pro-rata salary will be paid in equal fortnightly instalments according to the prescribed proportion of full time employment agreed with the employee under clause 15.3.1 or 15.3.3.
- 24.2.3 The permanent part time Employee will be paid no less than their pro rata annual salary for each Financial Year, provided the permanent part-time Employee does not unreasonably refuse available work. If an Employee commences employment

part way through a Financial Year, the payment will be pro rated by reference to their commencement date.

- 24.2.4 A permanent part time Employee is not restricted as to the type of work to be completed, including either towing, Maintenance, or Emergency Maintenance if they are engaged to do work in a port.
- 24.2.5 If the permanent part time Employee has worked in excess of the minimum number of days for the Financial Year that correspond to their pro-rata salary, then:
- (a) for the remainder of the Financial Year during their employment, the permanent part-time Employee will receive two (2) days' pay (that is, the daily salary rate relevant to the Employee's home port in accordance with Schedule 1, plus an additional payment of 100% of the daily salary rate), for each day worked;
 - (b) At their election, 1 day of accrued leave only without any additional payment capped at 5 days per calendar year for any days above 182 days. The cash payment option under (a) will occur unless notified to the Company to the contrary by the Employee.

Example: When a permanent part-time Employee who is engaged to work 75% of the days worked by a full time employee works 137 days, per year then, for each additional day worked in the same year, the Employee will receive:

- 2 days pay (no leave accrual);
- if they work above 182 days, they may at their election choose to receive either the 2 days cash or 1 day of accrued leave only capped at 5 days per calendar year

- 24.2.6 The pro-rata Salary in clause 24.2.2 remains payable, irrespective of the number of days worked by the permanent part-time Employee, provided the permanent part-time Employee does not unreasonably refuse available work.

24.3 Salaries - Employees engaged for a specified period of time or specified task

Employees engaged for a specified period of time or specified task will be paid as a permanent full time Employee or as a permanent part time Employee, depending on their mode of engagement.

24.4 Salaries - casual Employees

- 24.4.1 A casual Employee's salary will be calculated per day, as from the start time described in clause 15.5.3, in 24 hour blocks from that time.
- 24.4.2 Casual Employees will be paid a casual loading of 100% of the daily salary rate, in addition to the daily salary rate, for that port for each day worked.
- 24.4.3 Where a Casual Employee works overtime, they will receive the penalty payment in accordance with clause 33 (penalty payment – extended hours). For the avoidance of doubt, they will not receive the Casual Loading for those extended hours.
- 24.4.4 The Casual Loading is paid instead of leave (including annual leave), paid personal/carer's leave, notice of termination, redundancy benefits and the other attributes of full-time or part-time employment.

24.5 Trainees (new entrants)

Trainees will be paid a training salary, based on each stage of their Traineeship, as set out in the table in Schedule 1A.

24.6 All inclusive salary

The salaries and payments under Part 4 of this Agreement (including the Schedules) include all allowances, disabilities and penalty payments payable to Employees for all work performed, and no further amounts will be payable except as explicitly provided for in this Agreement.

25. Superannuation

25.1 Superannuation Contributions

25.1.1 Svitzer and its Employees who are members of the Svitzer Defined Benefit Plan will contribute to the fund in accordance with the Trust Deed. The plan is a sub plan of the Maritime Super (or successor fund) (the Defined Benefit Plan). The Defined Benefit Plan is closed to new members.

Note: Under the Trust Deed, Defined Benefit Plan members (upon retirement after attaining the age of 60 years or between the ages of 55 years and 60 years with the consent of the Company), are entitled to the greater of their notional Accumulation Benefit and their individual Defined Benefit entitlement (including accumulation component). However the terms of the Trust Deed are in no way to be taken as an express or implied term of this Agreement.

25.1.2 For Employees who were members of the Adsteam Superannuation Fund Accumulation Plan as at 24 March 2006 (and who are not members of the Defined Benefit Plan) Svitzer will contribute 14% of their salary under Schedule 1. In addition, Svitzer, through the fund, will continue to meet the cost of death and total and permanent disablement insurance cover; temporary disablement insurance cover; and, administration costs of the fund, for this group of Employees.

25.1.3 For Employees not covered by clauses 25.1.1 or 25.1.2, Svitzer will contribute 15.5% of their salary under Schedule 1, which will be in full satisfaction of all or any obligations upon Svitzer to make contributions, meet the cost of administration, salary continuance and death and disability or other insurance.

25.1.4 The calculation of contributions in respect of Permanent Part Time Employees and casual Employees will be based on gross earnings provided that employer contributions in a Financial year will not exceed the contributions that would have been payable to a full-time Employee of the same classification in the port where the Employee primarily worked.

25.1.5 The contributions made by Svitzer in compliance with this clause 25 are inclusive of all contributions required by statute.

25.1.6 Svitzer will remit contributions on a monthly basis.

25.2 Choice of Fund

25.2.1 To the extent permitted by law, contributions under clause 25.1.3 will be made into one of the following complying funds of the Employees' choice:

- Svitzer's current complying fund (other than for casual Employees); or
- Maritime Super (or successor fund) for Masters and Ratings or;

- Australian Retirement Fund for Masters; or
- Maritime Officers Superannuation Trust (accumulation fund) for Engineers; or
- The Employees' current complying fund; or
- Another complying fund as notified to Svitzer by the Employee submitting a superannuation standard choice form. .

25.2.2 Employees who receive contributions under clause 25.1.2 may elect to have contributions made in accordance with clause 25.1.3. Where an Employee makes such an election, the obligation of Svitzer to make contributions in accordance with clause 25.1.2 is permanently extinguished.

25.2.3 Svitzer at all times retains a right of refusal to contribute to a fund where the fund of the Employees choice is not a complying fund, in which case the fund used will be that specified in clause 25.2.4 or (if such funds are not complying) another complying fund nominated by Svitzer.

25.2.4 Where an Employee neglects to exercise a choice the default fund will be as follows (provided the fund is a complying fund):

- (i) Svitzer's complying fund for Masters and Engineers; and
- (ii) Maritime Super (or successor fund) for Ratings.

25.3 Salary Sacrifice

25.3.1 Employees may elect, in writing, to sacrifice a specified proportion of their earnings into their superannuation account as additional employer contributions. These salary sacrificed amounts may be subject to differential tax treatment depending upon the amount sacrificed. The tax effect of such sacrificed contributions is a matter for the Employee concerned. In this regard Employees are encouraged to seek independent financial advice.

25.3.2 The amount sacrificed will be paid into the complying superannuation fund which receives superannuation contributions on behalf of the Employee under clause 25.2.

25.3.3 The Employee may make an election once in each quarter. The election must be made in writing on a prescribed form and will take effect at the commencement of the next quarter commencing on one of the following dates: 1 January, 1 April, 1 July or 1 September.

25.3.4 The Employee must advise Svitzer of the election at least one month before the election taking effect.

25.3.5 Employees may cancel the salary sacrifice arrangements at any time.

25.3.6 The effect of such a salary sacrifice arrangement on an Employee's salary is as follows-

- (i) For the purposes of pay and leave pay the reduced salary will be used to calculate the amount payable.
- (ii) For the purposes of long service leave entitlement (on cashing out or employment being terminated), redundancy, payment in lieu of the period of notice on termination of employment and calculating

defined benefit superannuation retirement benefits, the salary before any salary sacrifice will be used.

26. Travel Expenses

26.1 Employees will be entitled to reasonable travel and accommodation expenses in the following circumstances:

- (i) where travel is undertaken at the requirement of Svitzer for any reason; or
- (ii) where the Employee's service begins or ends elsewhere than at the Employee's home port

and Svitzer does not provide transport or accommodation.

Unless otherwise agreed with the Employee, the relevant amounts determined from time to time by the Australian Taxation Office will be used to calculate reasonable amounts for domestic travel allowance expenses under this clause. (For reference refer the ATO website at <http://law.ato.gov.au/atolaw/view.htm?Docid=TXD/TD201217/NAT/ATO/00001&PiT=99991231235958>.)

26.2 Travel by air will be economy class, and be booked by Svitzer. Accommodation will also be booked by Svitzer of a standard equal to that generally provided in major motel chains.

26.3 Where Svitzer authorises an Employee (prior to the Employee undertaking the travel) to utilise the Employee's personal vehicle to undertake travel under clause 26.1, the Employee will be entitled to receive the applicable kilometre rate applied by the Australian Taxation Office (ATO) from time to time in respect of such travel.

26.4 A permanent Employee who volunteers to undertake outside work or required to travel overseas on Svitzer business, will be entitled to be reimbursed their out-of-pocket passport expenses. A list for this purpose will be maintained in each Port.

26.5 Travel and reasonable expenses may be withheld by Svitzer where an Employee's employment is terminated on the grounds of misconduct on the part of the Employee.

26.6 Notwithstanding the provision for the payment of travel and reasonable expenses (in lieu of victualling and accommodation allowances) as set out in this clause, alternative arrangements may be applied by agreement between Svitzer and an Employee in special circumstances.

27. Industrial and Protective Clothing

27.1 Svitzer will issue the following industrial and protective clothing suitable for the environment in which the tug operates to all permanent Employees on engagement and replace these items without cost to the Employee on a fair wear and tear basis.

- 4 x Shirts (long sleeved, short sleeved or polo);
- 3 x Shorts or Trousers;
- 2 x Overalls (white for Engineers) - cotton or tropical;
- 2 x Pairs of Safety Boots;
- 1 x Pair of Sea Boots;

- 1 x Cold Weather Jacket;
- 1 x Safety Helmet;
- 1 x Hat for sun protection;
- 1 x ¾ Length Wet Weather Coat;
- 1 x Pair of Wet Weather Trousers;
- 1 x Jumper.

N.B. Employees may elect to take an additional two overalls in lieu of the shirts and shorts/trousers listed above.

27.2 In addition to the above Svitzer will supply:

- UV lotion as required; and
- 1 x Pair of sunglasses of Australian UV standard quality suitable for maritime use. Clip-ons will be provided as required. Where an Employee uses prescription safety sunglasses or glasses Svitzer will reimburse the Employee up to \$272 per annum, on presentation of a receipt showing the expenditure.

27.3 Casual Employees will be provided with a reasonable issue of clothing sufficient to perform their work with adequate protection.

27.4 The items specified in this clause will be replaced on production of evidence that they are worn out. Lost items must be replaced by the Employee at the Employee's own cost unless the Employee can demonstrate that the loss was in no way due to the negligence of the Employee.

27.5 Employees must wear the industrial and protective clothing provided in accordance with this clause, as well as any additional protective equipment deemed necessary by Svitzer. Failure to do so may result in disciplinary action being taken.

27.6 Notwithstanding the provisions of this clause, where a port manager is satisfied that additional personal protective equipment is warranted, such additional items of equipment may be provided at the manager's discretion.

28. Communications

28.1 Mobile Telephones (personal communications device)

28.1.1 Svitzer will pay a communications allowance of \$37.50 per fortnight to a permanent Employee. (For the absence of doubt, the national corporate network plan will cease to apply and Employees must migrate to their own personal account.)

28.1.2 The purpose of this clause is to enable and require Employees to

- (i) purchase, maintain and insure for personal loss or damage the necessary communications device or devices for electronic communications between the Company and the Employee; and
- (ii) be and remain reasonably contactable by mobile phone and SMS messaging in accordance with clause 40 and the Port Operating Procedures.

28.1.3 The Company will not be liable for any additional costs or charges associated with maintaining a mobile phone or communications device(s), including:

- call charges,
- SMS messaging,
- network access or rental,
- excess usage charges or
- loss or damage to mobile communications devices and related insurance.

28.1.4 The allowance in clause 28.1.1 includes an amount to enable the Employee to take out insurance for personal loss or damage to their mobile communications device or devices. For the absence of doubt, Svitzer will not provide any compensation for personal loss or damage to an Employee’s communications device and clause 36 [Compensation for Personal Effects Lost] has no application to the Employee’s mobile communications devices.

28.2 Access to internet and email onboard tugs

28.2.1 During the nominal term of this Agreement Svitzer will continue to implement reasonable internet and email access within the Australian fleet.

28.2.2 The issue and use of the communications equipment described in this clause 28 will be subject to compliance with Svitzer Information Technology (IT) policy as determined by Svitzer from time to time. This policy will be available to Employees at the nearest port or on Svitzer’s vessels.

29. Nominated Voyages Allowance

29.1 For each hour during which an Employee is engaged on a Nominated Voyage between two locations specified in Schedule 2A (Nominated Voyages), the Employee will be paid the allowance specified in the table in Schedule 2A.

29.2 The allowance in clause 29.1 is not payable with respect to the Nominated Voyages which are identified with an asterisk (*) in Schedule 2A.

30. Outside Work

30.1 Application

This clause does not apply to Salvage work which work is covered by clause 32 or to work on a Nominated Voyage under clause 29.

30.2 Crewing on Outside Work

30.2.1 Subject to clause 30.2.2, when tugs are required to perform Outside Work additional personnel will be engaged and crewing will be in accordance with the following tables:

(i) Masters:

Type of Voyage	UMS Tug on a voyage less than 72 hours	Non-UMS Tug on voyage less than 72 hours	Voyage more than 72 hours
Free running	2	2	3

Contract towage	2	2	3
Emergency operations (or Salvage work)	2*	3	3

(ii) Engineers:

Type of Voyage	UMS Tug	Non UMS Tug
Free running	2	2*
Contract towage	2	2*
Emergency operations (or Salvage work)	2	2**

If the voyage is to exceed 72 hours, a third engineer will be engaged.

** If the voyage is to exceed 48 hours, a third engineer will be engaged.

(iii) Ratings:

Type of Voyage	Number of Ratings
Free running (subject to cl.30.2.2):	
• Up to 18 hours	2
• More than 18 hours	3
• Contract towage	5
• Emergency operations (or Salvage work)	6

30.2.2 In the application of clause 30.2.1 Svitzer will at all times have regard to the following matters:

- (i) the views of crew members;
- (ii) obligations under relevant maritime and other laws;
- (iii) the duration of the voyage;
- (iv) operational requirements;
- (v) fatigue management;
- (vi) previous voyages of a similar nature; and
- (vii) the weather forecast for the area of operations.

30.2.3 Employees engaged on Outside Work (other than on a Nominated Voyage) will be so engaged on a voluntary basis. However, once employees agree to perform such work, they will be required to perform the work, except in exceptional circumstances.

30.2.4 If Svitzer elects to engage a contractor to internally relocate a tug under a free

running voyage, including an international relocation, Svitzer will ensure that, during such relocation, Employees of the contractor are employed on terms and conditions that are no less favourable than the terms and conditions set out in this Agreement.

30.3 Allowance for Outside work

- 30.3.1 An Employee who performs Outside Work on any day (including Saturdays, Sundays and Public holidays) on an irregular basis will be entitled to payment in accordance with the relevant table in Schedule 2B, in lieu of the salary provided under clause 24 or Schedule 1 for that day.
- 30.3.2 The amounts contained in clause 30.3.1 and in clause 30.3.4 will only be payable to Employees from the time that the tug leaves the wharf to proceed to sea until it ties up at the wharf on return.
- 30.3.3 Outside Work commitments do not affect a permanent Employee's entitlements to "even-time leave" under clause 41.3.
- 30.3.4 In addition to the payment in clause 30.3.1, a casual Employee is entitled to be paid a 100% loading of their home port daily salary rate for each day worked.

31. Salvage Work

31.1 Performance of Salvage work

- 31.1.1 Employees may perform salvage work on a voluntary basis.
- 31.1.2 Work health and safety considerations under clause 18, and the training principles under clause 19, have particular application to training for salvage work.

31.2 Crewing for Salvage work

When tugs are required to perform salvage work additional personnel will be engaged and crewing will be in accordance with the respective crewing tables for Emergency Operations (Salvage work) in clause 30.2.1, and the principles in clause 30.2.2.

31.3 Payments for Salvage work

- 31.3.1 An Employee who performs salvage work on any day (including Saturdays, Sundays and Public holidays) will be entitled to payment in accordance with the relevant table in Schedule 2B, in lieu of the salary provided under clause 24 and Schedule 1 for each such day.
- 31.3.2 The amounts contained in clause 31.3.1 will only be payable from the time that the tug leaves the wharf to proceed to sea on any salvage work voyage until it ties up at the wharf on return.
- 31.3.3 Salvage Work commitments do not affect a permanent Employee's entitlements to "even-time leave" under clause 41.3, such that:
 - (i) for a permanent Employee whose leave periods are rostered under the prevailing port roster at the time the Employee proceeds on Salvage Work, the Employee receives a day of leave for each day of Salvage Work that falls on a day the Employee would have been rostered-off (off-duty);

- (ii) for other permanent Employees, the Employee proportionally receives a day of leave in respect of each day of Salvage Work, as part of their “even-time leave” entitlement.

32. Emergency maintenance

32.1 Application and definition

32.1.1 The allowance specified in clause 32.2 does not apply to Employees specifically engaged to undertake Emergency Maintenance work, Employees performing duty at dockings, Employees in receipt of a Nominated Voyage allowance under clause 29, a payment for outside work under clause 30, salvage work under clause 32, or a penalty payment under clause 33 on a particular day.

32.1.2 For the purposes of this clause 32, Ordinary Hours means:

- (i) for tug crews working 12-hour “captive” shifts – 12 hours per day 7 days per week;
- (ii) for all other tug crews – a spread of 8 hours between 0700 and 1700, 5 days per week, Monday to Friday (excluding public holidays).

32.2 Emergency Maintenance

An Employee who performs Emergency Maintenance work on board a tug, as required or requested by the Company, outside Ordinary Hours, will be paid an additional allowance in accordance with the amount specified in the relevant table in Schedule 2C.

33. Penalty payment - extended hours

33.1 The penalty specified in this clause 33 does not apply to Employees in receipt of payment for Outside work under clause 30, Salvage work under clause 32, an emergency payment allowance under clause 32, or an extreme weather alert under clause 34, on a particular day.

33.2 Where Svitzer requires an Employee to work continuously:

33.2.1 in the ports referred to in clause 33.3, for more than 12 hours subject to the conditions specified in that clause for the respective ports; or

33.2.2 in other circumstances, more than 14 hours,

to meet operational requirements, the Employee will receive a penalty payment for each hour or part thereof by which those hours are exceeded. The penalty payment will be calculated in accordance with the relevant table in Schedule 2D.

33.3 In:

33.3.1 the port of Brisbane and in Victorian Ports, the penalty payment referred to in clause 33.2.1 and Schedule 2D may at the election of the Employee, be paid as accrued leave at the rate of one hour of accrued leave for each additional half-hour actually worked. Accrued leave must be taken in full days. Twelve (12) hours of accrued leave will constitute a full day of accrued leave under this sub-clause.

33.3.2 Port Botany Sydney, where an employee works continuously for more than 12 hours during a Captive Shift the penalty payment referred to in clause 33.2.1 and Schedule 2D will apply after 12 hours. In this clause 33.3.2, a Captive shift means a duty shift worked by a crew member which requires the crew member to crew a

tugboat for shipping or an unexpected emergency, on immediate response, pursuant to the operating or licence conditions that are imposed by the Port Authority of New South Wales from time to time.

- 33.4 Leave is reserved for the Parties to discuss the application of clause 33.3.2 in respect of ports that newly introduce “captive” shifts requiring employees to work continuously for more than 12 hours.

34. Extreme weather alert allowance

- 34.1 In this clause “an extreme weather event” means a watch or warning issued by the Australian Government Bureau of Meteorology or its State/Territory counterparts, involving “Storm Force” wind-speeds or above (including a cyclone alert and warning), a flood or tsunami alert, and a Port Harbour Master directs Svitzer, or Svitzer determines, to deploy Employees on board a tug in response to that event.
- 34.2 For each hour (including during Saturdays, Sundays and public holidays) on which an Employee is on board a tug and available for the performance of any duty during an extreme weather event, an Employee will be paid an allowance in accordance with the table in Schedule 2E.
- 34.3 Where tug crews work a 12-hour “captive” shift, this allowance will not be payable during that “captive” shift.

35. Port-specific allowances and deductions

Employees will be entitled to the port-specific allowances referable to the port in which they are engaged as set out in Schedule 2E, where the Employee meets the conditions for the payment of such allowance.

36. Compensation for Personal Effects Lost

If an Employee should sustain loss of, or damage to, personal effects or equipment at work, Svitzer will compensate the Employee for such damage or loss by cash payment to the equivalent value of the loss or damage up to a maximum of \$2400, provided that the maximum compensation for the loss of or damage to any single item will be \$903. Refer also to clause 28.1.4.

37. Accident Pay

- 37.1 In the event of an Employee requiring time off work as a result of an accident where workers' compensation is paid, including any period off work as a result of a recurrence or aggravation of the injury, the Employee will be paid for a total period of up to 52 weeks at the Employee's daily salary rate.
- 37.2 After 52 weeks' payment, continuing benefits will be provided in accordance with statutory entitlements applicable under State Workers' Compensation Law. At this point Svitzer may review the continuing employment of the Employee, taking into account the available medical advice as to the likelihood of a return to full duties and the requirements of the relevant State Workers' Compensation Law. On completion of the review Svitzer will decide whether or not it is appropriate to continue the Employee's employment and take appropriate action.
- 37.3 Svitzer will provide equivalent insurance cover for accidents occurring on the journey, via the most direct route, between the Employee's home and place of employment where the Workers' Compensation Scheme in the relevant State no longer provides such cover. Car

pooling arrangements that have been approved by local management will be deemed to be the direct route for the purposes of this clause.

- 37.4 If an Employee receives a lump sum payment in redemption of weekly payments under the legislation, Svitzer's liability to pay Accident makeup pay under this clause ceases from the date of the redemption.
- 37.5 If the Employee recovers damages from Svitzer or from a third party in respect of the injury, independently of the legislation, the Employee must repay to Svitzer the component referable to loss of income up to the date of settlement, and the Employee will not be entitled to any further Accident make-up pay.

38. Counselling Services

Svitzer has engaged the services of an independent counselling organization, Hunterlink, to provide assistance to Employees where personal, financial or health related problems affect the Employee or his or her immediate family. The service is free and confidential and where the parties identify an Employee who may benefit from such a service, it is agreed that they will encourage the Employee to take advantage of it.

39. Compensation for Loss of Certificate of Competency

- 39.1 A permanent full-time or part-time Employee who is unable to carry out the duties required by the Company because he/she has been refused revalidation of his/her certificate of competency by the appropriate Authority because of failure on examination to comply with the medical requirements prescribed by legislation (or any Regulations or Orders made thereunder) and has failed to satisfy the appropriate authority that he/she can, notwithstanding his/her inability to comply with such medical requirements, satisfactorily perform the duties appropriate to the certificate and who:

- (i) is found by further independent medical examination to be permanently unable to carry out their required duties and to revalidate a certificate of competency; or
- (ii) is found by further independent medical examination to comply with the above medical requirements and/or to be capable of carrying out their required duties but is still unable to satisfy the appropriate Authority that his/her certificate should be revalidated.

shall be entitled to compensation in the manner and on the conditions set out below.

- 39.2 Subject to clauses 39.4 and 39.5 hereof, an Employee to whom clause 39.1 applies shall be entitled to receive on the termination of his/her employment under this Agreement, a payment at the appropriate Port salary in accordance with the following table:

Age	Number of months salary (full-time Employee)
Under 30	24 months
30 but less than 35	21 months
35 but less than 40	18 months
40 but less than 45	15 months
45 but less than 50	12 months
50 but less than 55	9 months
55 but less than 60	6 months
60 and over	Nil

- 39.3 Where an Employee suffers an illness or injury entitling him/her to any compensation, damages or other benefits (called "benefits") from the Company and/or any third party under any applicable legislation (whether Federal or State) and/or at common law and/or equity and/or under any contract, deed or other arrangement and such benefits include a component referable to loss of earnings, then the value of that component shall be deducted from the amount payable to the Employee under clause 39.2. Svitzer shall value the amount of any such component to be taken into account.
- 39.4 An Employee shall not be entitled to the benefit of clause 39.2 where:
- 39.4.1 He/she dies;
- 39.4.2 His/her failure to comply with the prescribed medical requirement arises from any one of the following:
- (i) self-inflicted or self-induced illness or injury; or
 - (ii) an illness or injury suffered whilst he/she is voluntarily involved in or in connection with any activity for financial reward or gain or which unnecessarily subjects him/her to risk of injury and which activity is substantially unrelated to his/her employment; or
 - (iii) He/she is offered reasonably suitable alternative employment, suitable to the individuals' skills and abilities, (provided however that Svitzer may in any such case defer for a period of six months from the date of acceptance of the alternative employment the question of entitlement to compensation under this Scheme).
- 39.5 An Employee shall not be entitled to receive the benefits for Loss of Certificate of Competency more than once.
- 39.6 Where a disagreement arises as to the entitlement of an Employee to compensation under this clause, the matter will be dealt with in accordance with clause 10 Disputes Procedure of this Agreement.

PART 5 - HOURS OF WORK AND RELATED MATTERS

40. Hours of Work and Related Matters

40.1 Scheduling and Hours of Work & Related Matters

40.1.1 Port rosters

- (i) Towage operations are carried out over 24 hours per day on every day of the year;
- (ii) Maintenance:
 - A. Employees recognise that Planned Maintenance (as per the Company's planned maintenance system) is required to be complete and up to date. It is the Company's intention that Planned Maintenance is conducted during the designated maintenance hours as included in the local Port Operating Procedures (if any) (**Designated Maintenance Hours**), subject to the conditions in this sub-clause (ii).
 - B. Regardless of (and notwithstanding) any provision of any Port Operating Procedures, Employees, following a discussion in accordance with sub-clause (C), may be required by the Company to perform 'Overdue Maintenance' outside of the Designated Maintenance Hours on their allocated tug without additional payment.

'Overdue Maintenance' in this clause is:

 - critical maintenance which is overdue or forecasted to be overdue in the next 7 days; or
 - Non-critical maintenance that is more than 4 days overdue.
 - C. The Company will take into account the views of the relevant Employees on whether Planned Maintenance can be completed at any other time taking into account operational requirements including whether there are spare parts available to enable the Employees to complete the required Maintenance.
 - D. The performance of Maintenance is subject to work health and safety obligations.
 - E. Arrangements for Maintenance outside the Designated Maintenance Hours on spare tugs outside the roster and tugs that are periodically not crewed as per the roster only, will be included in the POPs to meet local operational requirements.
- (iii) rosters will as far as practicable include the detail of work days, the component of predictable leave days, and the number of crews on duty and on leave required to man the roster;
- (iv) Off-duty periods for permanent full-time Employees:
 - (a) leave for permanent full-time Employees should to the greatest practical extent be predictable;
 - (b) leave in running arrangements may be implemented where it is impracticable to predict leave periods to their full extent or (notwithstanding clause 15.2.1) when an Employee's employment is converted to full-time employment under clause 15.3.3(iv).

(v) Off-duty periods for permanent part-time Employees:

Permanent full-time Employees are the main source of crewing the port roster and permanent part-time Employees supplement the roster. Where a port cannot support a roster for permanent part-time Employees, off-duty periods will be programmed as follows:

- A. Permanent part-time Employees may nominate to take seven (7) days free of duty each month (non-cumulative); or
- B. Permanent part-time Employees instead may make an annual election to take five (5) days free of duty each month (non cumulative) PLUS one off-duty period of 25 days, amounting to a “30 day block-out duty free period” per calendar year. Where agreement between Svitzer and the Employee is not possible on the programming of the “30 day block-out duty free period”:
 - i. the Employee must give the Company 3 months’ notice of their requested nominated “30 day block-out duty free period”; and
 - ii. Svitzer must not unreasonably refuse the Employee’s request.

Permanent part-time Employees must otherwise be available for relief work duty in accordance with clause 40.1.7.

40.1.2 **Work orders:**

- (i) should include details of the procedures to be used for the giving, receipt and acknowledgement of work orders;
- (ii) SMS messages may be used to communicate orders for the purpose of minimising off-duty disruption to Employees;
- (iii) Employees should not be contacted unnecessarily during breaks.
- (iv) Allocation of work

40.1.3 **Availability**

The objective of any duty roster is to ensure that sufficient Employees are available at any time to satisfy customers’ requirements on no more than 2 hours’ notice, unless the Port Operating Procedures specify otherwise to meet those requirements.

40.1.4 **Hours of work, regular duty requirements and off-duty periods**

- (i) Scheduled hours of work should not exceed 12 hours. That is:
 - A. under the Port Operating Procedures, the last towage job in a period of continuous duty must not be scheduled more than 11 hours and 45 minutes after that period has commenced; and
 - B. jobs commenced prior to the 12th hour shall be completed.

The parameters for scheduling the last job in the period must be set out in the Port Operating Procedures.

- (ii) If an Employee is required to be on continuous duty for 14 hours or more, the Employee must be given a rest break of 10 hours at the cessation of that period of duty before the commencement of the next period of duty.
- (iii) A period of continuous duty must not exceed 16 hours

- (iv) A nominated rest break of 6 hours or more breaks the continuity of a period of duty.
- (v) Employees will be entitled to a meal break on completion of 5 hours' duty. Meal breaks must be taken flexibly. For the avoidance of doubt meal breaks must not be taken in a manner or at a time that would interrupt port operations.

40.1.5 **Maximum Days of Work**

Employees must not work more than 14 days in excess of the number of days a full-time Employee is required to work in a calendar year under the operating roster in the port (Maximum Days). For the purpose of this clause 40.1.5, the following days will be disregarded in calculating the Maximum Days:

- Work days when the Employee does not perform ship-assist operations on a tug boat in any port (harbour towage);
- days when an Employee attends shoreside meetings;
- Outside Work days;
- days attending emergencies, and
- days undertaking docking work and layups.

40.1.6 **Fatigue management**

The parties will keep fatigue management and the operation of the roster under review in each port, through the local Work Health and Safety committee, so as to ensure the proper and efficient management of fatigue. Because of the unpredictability of vessel movements the strict application of the STCW Code as above may not always be possible, however, an Employee must be provided with minimum aggregate rest of 77 hours in 7 days consistently with Marine Orders Part 28, section 4.

40.1.7 **Relief arrangements to be utilised in the Port and casual usage.**

- (i) Relief work requirements to supplement the roster will usually be covered:
 - A. first call –permanent part-time Employees who must be reasonably available for the first call (other than during an off-duty period pursuant to clause 40.1.1(v), or when they are otherwise unavailable under this Agreement);
 - B. second call – casual Employees;
 - C. third call - permanent full-time Employees on rostered leave or Employees in job share arrangement.
 - D. fourth call – permanent part-time Employees who were unavailable for the first call. On a fourth call, permanent part-time Employees must be available (other than during an off-duty period pursuant to clause 40.1.1(v), or when they are otherwise unavailable under this Agreement).

An Employee in a job share arrangement may voluntarily nominate to have the same availability and order of call preference as a permanent part time Employee, to provide relief on a periodic basis in addition to their roster.

However, notwithstanding any term of the POPs, the Company may (in exceptional circumstances) depart from this order of pick to meet operational requirements or continuity of service issues following discussions with the relevant local delegate

(ii) Permanent full-time Employees on rostered leave are not obliged to be available for relief work, however subject to clause 40.1.5, every Employee and the Unions will ensure that, under normal circumstances as described in the Port Operating Procedures, the port operations are not compromised by unavailability of relief personnel to cover short term or unplanned absences.

(iii) Casual usage:

The incidence of relief days, measured over a representative period (say 6 months), shall be reviewed in conjunction with the annual review of the Port Operating Procedures.

40.1.8 Other issues of an operational nature, specific to the Port.

Port Operating Procedures should not prevent or unreasonably restrict Svitzer's ability to meet customer and port requirements on Saturdays, Sundays or Public Holidays.

40.2 Port operating procedures

- (a) Each port has a set of Port Operating Procedure.
- (b) The parties acknowledge and agree that changes to the Port Operating Procedures will be in accordance with clause 40.3 and the full set of the changed Port Operating Procedures must be signed by the relevant General Manager and an authorised union representative from each Union.
- (c) The Port Operating Procedures may include content about the subject matters in clause 40.1.
- (d) A copy of this Agreement and the Port Operating Procedures will be kept in a convenient location at the Port.
- (e) During the term of this Agreement, the Company and the Unions will meet to develop a Port Operating Procedures template and it is the objective of the parties that a new template (following consultation) will be introduced within 12 months.

40.3 Variations of Port Operating Procedures

- (a) Where Svitzer wishes to propose a variation to the Port Operating Procedures, the Port Manager will notify the Employees in the relevant port together with their nominated employee representatives, and the union officials in writing of the proposed changes.
- (b) Consultation at the local port level will continue, with a view to reaching consensus about the changes and will commence as soon as possible (no later than 7 days from the date of the notification).
- (c) If no agreement is reached with all 3 unions, within 14 days from the date of commencement of consultation, either party may refer the matter to the Fair Work Commission under the dispute resolution clause. In cases where the POPs are being varied to address a competitive threat to the Port including but not limited to as a result of the entry of another provider or loss of major contract(s), the parties agree that any conciliation process will be expedited before the matter is referred to arbitration. The parties will use their best endeavours to ensure they are available for consultation sessions and conciliation conferences in a timely manner. In conducting any arbitration, the FWC will also have regard to the effect of changes on reducing the risk of the Company exiting the Port(s).
- (d) Any dispute raised by the parties in relation to the application or adherence to the applicable Port Operating Procedure in the relevant Port (including changes to the Port Operating Procedures) shall be dealt with in accordance with the Continuity of

Operations and Dispute Resolution Procedure found at Clause 10 of this Agreement. While the dispute is being resolved, the status quo in place prior to the change will remain until the dispute is settled.

- (e) Where agreement is reached, or once any dispute has been determined by the FWC, Svitzer may implement the new POPs on 21 days notice, or any other longer period determined by the Company.

PART 6 – LEAVE

41. Leave

41.1 This clause operates in conjunction with the NES. The provisions of this clause are intended to satisfy the provisions in the NES concerning maximum weekly hours of work, annual leave and public holidays.

41.2 The roster that prevails in the port under the applicable Port Operating Procedures will provide for the number of days free of duty set out in clause 41.3 averaged over the applicable roster cycle.

41.3 Entitlement to leave (“even-time leave”) and Days Free of Duty

41.3.1 A permanent full-time Employee will be entitled to 182 days free of duty in each year (which may be averaged over the applicable roster cycle), or to proportionate leave for any continuous service of less than a year.

41.3.2 Permanent Part-time Employees

- (i) A permanent part-time Employee will be entitled to the days free of duty granted to a full time Employee on a pro rata basis. As part of these days free of duty, permanent part time Employees will be entitled to a minimum of 5 days paid leave each month as outlined in clause 24.2.1. This leave forms part of the free of duty days that are programmed in accordance with clause 40.1.1(v) and that are paid for by the 100% loading identified in clause 24.2.1.

For example:

- A permanent part time Employee who is engaged in a 50% part time position will be entitled to 91 paid days free of duty in each year of continuous service; or
- A permanent part time Employee who is engaged in a 75% part time position will be entitled to 137 paid days free of duty in each year of continuous service.

41.3.3 An Employee who is engaged for a specified period of time or a specified task, will be entitled pro-rata, to the leave granted to a full-time Employee based on the period of the respective engagement.

41.4 The leave prescribed in this clause 41 includes the following entitlements of full-time Employees (who may otherwise have been engaged on a Monday to Friday basis in accordance with the terms of the Award):

- (i) 104 days of leave, being in lieu of weekends;
- (ii) 5 weeks of paid annual leave for shiftworkers;
- (iii) public holiday entitlements;
- (iv) an additional 28 days leave in recognition of the 35-hour week.

41.5 For each day of absence referred to in clause 37, an Employee's leave entitlement under this clause 41 will be debited by one day.

42. Discharge of accrued leave

42.1 For the avoidance of doubt, accrued leave does not refer or include even time leave conferred under clause 41. Accrued leave is a form of time in lieu.

42.2 Where a permanent Employee accumulates leave that is not discharged under the prevailing roster (accrued leave), the Employee may discharge the accrued leave by taking the leave in accordance with clause 42.3, or by cashing out the leave in accordance with clause 42.4.

42.3 Taking accrued leave

Any accrued leave may be applied for and taken at the permanent Employee's request as follows:

- (a) upon the Employee giving the Company three (3) months written notice - at any time, unless 2 or more employees of the same classification in the port have already been granted approval to take their leave on the same day(s); or
- (b) otherwise, subject to management approval which will not be unreasonably withheld.

42.4 Cashing out accrued leave

The accrued leave may be discharged as a cash amount, at the permanent Employee's written election, as follows:

42.4.1 For accrued leave generated as a result of Salvage Work pursuant to clause 31.3.3(i), each day of rostered leave that would have fallen during a period of Salvage Work may be cashed-out at the rate of two (2) days pay for each leave day discharged (at the Employee's home port daily salary rate in Schedule 1). This election must be exercised within 30 days of the completion of the Salvage Work.

42.4.2 For accrued leave generated otherwise (including as a result of call-backs pursuant to clause 24.1.3, or as a result of the application of clause 33.3), each day of accrued leave may be cashed out at the rate of one day's pay for each leave day discharged (at the Employee's home port daily salary rate in Schedule 1).

42.4.3 Any accrued leave may be salary sacrificed in advance to the Employees' superannuation account (at the Employee's home port daily salary rate in Schedule 1).

42.5 As at 1 December each year, all accrued leave balances (excluding leave which has been approved under clause 42.3) will be automatically cashed out, save for a maximum balance of 14 days. Any accrued leave that is discharged under this clause (including leave that is not cashed out by an election under clause 42.4), is cashed out at the rate of one day's pay for each leave day discharged (at the Employee's home port daily salary rate in Schedule 1).

43. Personal/Carer's Leave

43.1 Personal/carer's leave under NES

43.1.1 In accordance with the National Employment Standards, a permanent full-time Employee is entitled to paid personal/carer's leave of 10 days per year of service, if the leave is taken:

- (i) because the Employee is not fit for work because of a personal illness or injury affecting the Employee (sick leave), or

- (ii) to provide care or support to a member of the Employee's immediate family or household who requires care or support because of a personal illness, personal injury or an unexpected emergency affecting the member.

43.1.2 Personal leave under clause 43.1.1 accumulates progressively during a year of service and accumulates from year to year.

43.2 Carer's leave

43.2.1 In addition to Personal leave under clause 43.1, a permanent full-time Employee will be entitled to 5 days Carers leave in any one year without loss of pay. Leave under this clause 43.2 may be taken for the purpose specified in clause 43.1.1(ii), or in a domestic violence situation under clause 43.2.2.

43.2.2 Domestic Violence situation

Carers leave under this clause 43.2.2 includes leave that the Employee reasonably needs:

- (a) to obtain medical or professional attention as a result of having suffered domestic violence; or
- (b) to care for or support a member of the Employee's immediate family or household because of domestic violence affecting the member.

Svitzer will need to be satisfied, on reasonable grounds, that domestic violence has occurred and may require proof presented in the form of a document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer, to grant a leave benefit under this clause 43.2.2.

43.2.3 For reference, it is noted that support in cases of domestic violence is available under the counselling service described in clause 38.

43.2.4 Carer's leave under this clause does not accumulate from year to year. Carer's leave under this clause is used before Personal leave.

43.3 Unpaid Carer's Leave

In the case of an Employee who is required to care for an immediate family member who is suffering a long term illness, the Employee may, with the consent of the Company, take unpaid leave for the purpose of providing care to that immediate family member. While unpaid leave is taken there will be no break in the continuity of employment of the Employee, however, no entitlements based on length of service will apply in relation to that period.

43.4 Notification

43.4.1 Employees must notify their Manager as soon as practicable of any absence for personal / carer's leave, and the expected duration of the absence.

43.4.2 Svitzer may require an Employee to provide evidence in the form of a medical certificate (if reasonably practicable), or a statutory declaration, that the personal / carer's leave is being taken for a reason specified in clauses 43.1 - 43.3. Svitzer will not require the Employee to produce a medical certificate in relation to an absence due to personal illness of two (2) days or less unless the Employee's personal / carer's leave record or the circumstances under which the leave was claimed, reasonably justifies such a requirement.

43.4.3 An Employee is not entitled to take personal/carers leave unless the Employee complies with this clause 43.4.

43.5 This clause does not apply to any period during which the Employee is entitled to workers compensation payments.

44. Compassionate Leave

44.1 This clause incorporates compassionate leave entitlements available under applicable legislation and is to be read subject to legislation.

44.2 Compassionate leave relates to occasions when a member of the Employee's immediate family or household contracts or develops a personal illness that poses a serious threat to their life, or sustains a personal injury that poses a serious threat to their life, or dies. This incorporates bereavement leave.

44.3 An Employee is entitled to compassionate leave of up to 3 days without deduction of salary. In the case of bereavement leave, the Employee is entitled to a further 4 days compassionate leave to be taken in one continuous period after the death of the member of the Employee's immediate family or household.

44.4 Svitzer may require the Employee to provide reasonable evidence that the leave is to be taken for such an incident.

44.5 This clause does not apply during any period of leave.

45. Unpaid Leave

45.1 An Employee may request to take unpaid leave for a specified period of time. The request must be in writing and set out the details of, and reasons for, the leave sought.

45.2 Svitzer may place such conditions on the granting of the request as it thinks appropriate. (Ordinarily one condition will be that the Employee must first exhaust their paid leave entitlements other than long service leave.) The Company may refuse the request for unpaid leave on reasonable business grounds.

46. Community Service Leave

46.1 Community service leave (which includes leave to attend jury service) is available under, and in accordance with, the terms and conditions, set out in the NES under the Act.

47. Parental Leave

47.1 An Employee is entitled to parental leave (maternity and paternity leave and adoption leave) as specified in applicable legislation. This clause is to be read subject to legislation.

47.2 Each permanent Employee will be entitled to two (2) weeks paid parental leave which must commence from the date of the birth or at the time of adoption of a child, and must be taken in one continuous period. For reference, unpaid parental leave is available under the National Employment Standards in the Act.

47.3 This clause does not apply during any period of leave.

48. Long Service Leave

- 48.1 Long Service Leave will accrue in accordance with the relevant State Long Service Leave legislation. For the purpose of administration, where the legislation refers to an entitlement in weeks, each week shall be equal to 5 days.
- 48.2 The Long Service Leave entitlement of each Employee who qualifies for Long Service Leave will be reduced by 1 day for each day of rostered duty taken as Long Service Leave.
- 48.3 Where a public holiday falls during a period of Long Service Leave, the period of Long Service Leave will not be extended. (This is due to the fact that the leave entitlement under clause 48 of this Agreement already includes public holiday entitlements.)
- 48.4 Discharge of Long Service Leave must be in blocks of days that conform with the roster pattern applicable in the port concerned. Long Service Leave can only be taken during periods when the Employee is rostered on for duty.
- 48.5 In ports where the system of work relies upon leave in running (un-rostered leave), the days on which long service leave is taken will be deemed to have been work days. For example, when a full 13 weeks long service leave entitlement (65 days) is taken in a year, the Employee will only be required to work on 118 days.

49. Defence Leave

- 49.1 In accordance with the provisions of the Defence Reserve Service (Protection) Act 2001, an Employee who is an Australian Defence Force reservist (**Reservist**) is entitled to leave without pay for the period where they are engaged by the Australian Defence Force (**Defence Leave**).

49.1.1 Notification of Defence Leave

- (a) Employees must provide 3 months' notice of the requirement to take Defence Leave and where that is not possible, as much notice as is practicable.
- (b) At the time of providing the notice referred to in sub-clause (a) above, the Employee must:
- (i) to the extent practicable, notify the expected duration of the absence; and
 - (ii) in accordance with the Defence Reserve Service (Protection) Act 2001, provide Svitzer with an AE380, Tri Service Notice Reserve Service.

PART 7 – OTHER

50. Transitional arrangement for PPTs

The transitional arrangements in clause 1 of this Schedule apply to all permanent part-time Employees employed between the period 1 January 2023 and 31 August 2023 (**Transitioning PPTs**).

For the purpose of this clause, **PPT Guarantee** means, the prescribed proportion (%) of full time employment for each Financial Year (less than 100%) as agreed between Svitzer and the Employee as at the commencement of their employment in their employment letter and as varied from time to time by agreement.

50.1 Review of salaries for Affected Transitioning PPTs

- 50.1.1 On or shortly after 1 September 2023, Svitzer will conduct a reconciliation with respect to the Transitioning PPTs and identify any Transitioning PPTs who have worked days in excess of their pro rata PPT Guarantee for the period 1 January 2023 to 31 August 2023 (**Affected Transitioning PPTs**).
- 50.1.2 Affected Transitioning PPTs will receive 200% of their daily salary rate relevant to permanent part time Employee's home port in accordance with Schedule 1 for each day worked in excess of their pro rata PPT Guarantee for the period 1 January 2023 to 31 August 2023.
- 50.1.3 Svitzer will make any required payments under this Schedule to Affected Transitioning PPTs by 1 November 2023.

50.2 Transitioning PPTs – other

- 50.2.1 From 1 September 2023, the PPT Guarantee for all permanent part-time Employees will be reset and commence afresh, with the PPT Guarantee to be pro-rated over the balance of the 2023-24 Financial Year (and otherwise applied in accordance with this Agreement).
- 50.2.2 A Transitioning PPT who has not met their pro rata PPT Guarantee by 31 August 2023 will not be required to do so.

Example 1: A permanent part-time Employee with a 50% PPT Guarantee employed on 1 January 2023 and remaining employed as at 31 August 2023, works 80 days between 1 January 2023 and 31 August 2023.

- The pro rata PPT Guarantee for the period 1 January 2023 to 31 August 2023 is equal to 50% of 182 days (pro-rated down to 121 days - to represent 8 months of the 12 month calendar year), being a total of 60 days.

- The permanent part-time Employee is an Affected Transitioning PPT.

- The permanent part-time Employee has worked 20 days in excess of their pro rata PPT Guarantee for the period 1 January 2023 to 31 August 2023 and therefore under the transitional arrangements, will receive a payment from Svitzer equivalent to 20 days at 200% of their daily salary rate.

Example 2: A permanent part-time Employee with a 50% PPT Guarantee, commenced employment 1 March 2023 and remains employed as at 31 August 2023, works 60 days between 1 March 2023 and 31 August 2023:

- | |
|---|
| <ul style="list-style-type: none">- The pro rata PPT Guarantee for the period 1 March 2023 to 31 August 2023 is equal to 50% of 182 days (pro-rated down to 91 days - to represent 6 months of the 12 month calendar year), being a total of 45.5 days.- The permanent part-time Employee is an Affected Transitioning PPT.- The permanent part-time Employee has worked 14.5 days in excess of their pro rata PPT Guarantee for the period 1 March 2023 to 31 August 2023 and therefore under the transitional arrangements, will receive a payment from Svitzer equivalent to 14.5 days at 200% of their daily salary rate. |
|---|

2. PPTs who commence midway through a Financial Year after commencement of this Agreement

This clause 2 applies to PPTs who commence midway through a Financial Year after commencement of this Agreement.

For these PPTs, their PPT Guarantee is pro-rated down by reference to the number of days left in the Financial Year in which they commenced.

51. Masters Indemnity

51.1 Masters shall be indemnified by Svitzer against all monetary claims, damages and expenses (including reasonable legal expenses) incurred by the Master arising from any act or omission of the Master while acting within the scope of the Master's employment or authority in relation to Australian maritime safety or environmental laws, and subject to the following limitations and conditions:

- (a) **Maritime navigation offences:** notwithstanding anything else in this Agreement (but subject to sub-clause 51(d) only), Svitzer will not indemnify Masters for any fines payable or any associated costs including legal advice in relation to the Master's liability to pay the fines in relation to breaches by the Masters of maritime safety or environmental laws or regulations.
- (b) **Environmental offences:** notwithstanding anything else in this Agreement, Svitzer will not provide any indemnification in relation to breaches of any environmental laws if the offence has occurred, because of a departure by the Master from Svitzer's operating procedures and policies.
- (c) **Indemnity in support of Svitzer's interest:** Svitzer will provide assistance to Masters including reimbursement or paying for reasonable expenses incurred by Masters when they are acting in support of Svitzer's interest only in investigations of maritime law investigations or environmental offences against Svitzer.
- (d) **Assistance to Masters during investigations:** Svitzer will provide the Masters with reasonable assistance and support (and reasonable legal expenses) during investigations commenced by a regulatory body against the Masters for alleged breaches by the Masters of environmental or maritime laws in the following circumstances and on the following conditions only:
 - (i) Svitzer has formed a view (acting reasonably) in respect of an incident that the Master had not breached any of Svitzer's policies or processes or the law; and

- (ii) Svitzer will arrange for the external lawyer (if court proceedings are commenced) and the legal expenses will be capped at \$10,000 in legal fees.

51.2 No indemnification will be provided under this Agreement in relation to any matter in which the Master has:

- (a) Engaged in fraud; serious or wilful misconduct; or
- (b) has been found to have been under the influence of alcohol or drugs (other than prescription drugs approved for the Master's use by Svitzer at the time of the relevant incident).

51.3 For the avoidance of doubt:

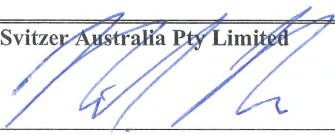

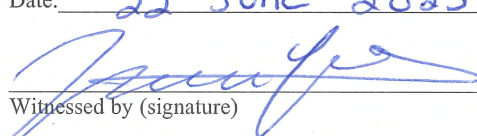
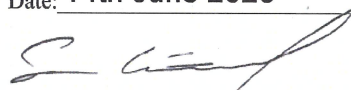
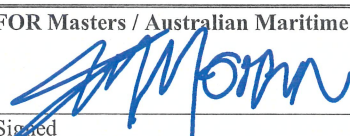
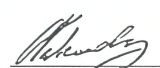
- (a) the reimbursement of reasonable legal expenses is not in relation to legal advice given to the Master about his or her breach of employment contract.
- (b) the indemnity in this clause also extends in circumstances where the Master is providing training to other masters, which is also within the scope of Master's employment or authority and on the conditions and limitations included in this clause.

52. Master's Overriding Authority

52.1 The Master has overriding authority to take required action considered necessary for the safety of the crew, the vessel or for the protection of the environment. Neither the owner, management, charterer or any other person will constrain the Master from complying with his or her responsibilities under Australian law, including the *Navigation Act 2012 (Cth)* and the state implementations of the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*. Masters have the authority and responsibility to request management assistance, as he or she may consider necessary in order to make decisions to preserve human life, protect the environment or prevent damage to property.

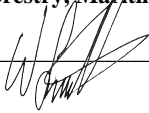

PART 7 – EXECUTION

Signatures

FOR Svitzer Australia Pty Limited 	FOR Engineers / Australian Institute of Marine and Power Engineers 
Signed	Signed
NICOLAJ NOES	Martin Byrne
Name in full (printed)	Name in full (printed)
Managing Director	Federal Secretary
Title in full	Title in full
Address: 7 Cooper Street Balmain NSW	Address: 52 Buckingham Street, Surry Hills NSW 2010.
Date: 22 June 2023	Date: 14th June 2023
	
Witnessed by (signature)	Witnessed by (signature)
VIVIAN FARAJ	Sam Littlewood
Witness name in full (printed)	Witness name in full (printed)
FOR Masters / Australian Maritime Officers Union 	FOR Ratings / Maritime Union of Australia Division of the Construction, Forestry, Maritime, Mining and Energy Union
Signed	Signed
Jarrod Moran	
Name in full (printed)	Name in full (printed)
Senior Industrial Officer	
Title in full	Title in full
Address: Level 1, 52 Buckingham St Surry Hills, NSW	Address:
Date: 13 June 2023	Date:
	
Witnessed by (signature)	Witnessed by (signature)
Chris Neiberding	
Witness name in full (printed)	Witness name in full (printed)

PART 7 – EXECUTION

Signatures

FOR Svitzer Australia Pty Limited	FOR Engineers / Australian Institute of Marine and Power Engineers
_____ Signed	_____ Signed
_____ Name in full (printed)	_____ Name in full (printed)
_____ Title in full	_____ Title in full
Address: _____	Address: _____
Date: _____	Date: _____
_____ Witnessed by (signature)	_____ Witnessed by (signature)
_____ Witness name in full (printed)	_____ Witness name in full (printed)
FOR Masters / Australian Maritime Officers Union	FOR Ratings / Maritime Union of Australia Division of the Construction, Forestry, Maritime, Mining and Energy Union
_____ Signed	_____ Signed 
_____ Name in full (printed)	Warren Smith _____ Name in full (printed)
_____ Title in full	Deputy National Secretary _____ Title in full
Address: _____	Address: 365/375 Sussex Street Sydney NSW 2000
Date: _____	Date: 21/06/2023
_____ Witnessed by (signature)	_____ Witnessed by (signature) 
_____ Witness name in full (printed)	Lisa Mott _____ Witness name in full (printed)

SCHEDULES

Schedule 1 – Salaries (Refer clause 24)

Annual Salaries during the nominal Term of this Agreement - See Note¹ as to adjustments to Port Salaries

Port	Annual Salaries per Classification	
	New Salary on commencement of Agreement	
	Masters and Engineers	Ratings
Adelaide	\$ 218,691	\$ 133,113
Albany	\$ 187,904	\$ 114,325
Brisbane ²	\$ 216,859	\$ 145,478
Cairns	\$ 157,458	\$ 118,930
Eden	\$ 138,196	\$ 99,975
Fremantle	\$ 199,591	\$ 121,987
Fremantle (composite)	\$ 203,013	\$ 128,331
Geraldton	\$ 197,300	\$ 120,043
Kwinana	\$ 207,326	\$ 133,981
Melbourne	\$ 219,856	\$ 158,650
Mourilyan	\$ 157,458	\$ 118,931
Newcastle	\$ 222,387	\$ 145,359
Port Kembla	\$ 216,438	\$ 137,961
Spencer Gulf ³	\$ 175,623	\$ 111,485
Sydney ⁴	\$ 209,012	\$ 134,894
Westernport	\$ 212,321	\$ 146,581

When tendering for new work, including in ports where Svitzer no longer operate, Svitzer may, at its discretion, use this EA as the foundation for any proposal. It is acknowledged by the parties that there will be occasions when this scenario will not be practicable.

Notes		
1	National	The salaries above already include an adjustment of 5% from 1 April 2023 and will be adjusted as follows: <ul style="list-style-type: none"> - 1 January 2024: CPI (maximum 5% minimum 2%) based on September 2023 CPI Annual Increase; - 1 January 2025: CPI (maximum 4% minimum 2%) based on September 2024 CPI Annual Increase; - 1 January 2026: CPI (maximum 4% minimum 2%) based on September 2025 CPI Annual Increase; - 1 January 2027: CPI (maximum 4% minimum 2%) based on September 2026 CPI Annual Increase. A one off payment of \$2,500 per employee who is entitled to vote on this Agreement, to be paid in the first pay cycle after a majority yes vote on the Agreement.
2	Brisbane	Salary includes bridge toll and telephone allowance
3	Spencer Gulf Commuters	Employees who elect to receive accommodation provided by Svitzer will incur a deduction from their salary as prescribed in Schedule 3.
4	Sydney	The salaries in the above table are in full satisfaction of any requirement from the Port of Sydney for immediate response in (“Captivity”) and Captive shifts in Port Botany, Sydney.

Schedule 1B – Training Salaries (Refer clause 24.5)

Note: The Training Wages contained in the table in Schedule 1A will be adjusted proportionally on and from 1 January each year based on the adjustment in Salaries as described in Schedule 1.

Masters and Engineers	% of full-time Masters / Engineers salary *	Training Salaries	
		Prior to Commencement Date	From Commencement Date
Trainee Stage 1 (Entry level)	50%	\$59,910	\$62,501
Trainee Stage 2 (Intermediate Stage).	60%	\$71,891	\$75,001
Trainee Stage 3 (Final Stage)	75%	\$89,864	\$93,752

*Based on the lowest Master / Engineer rate for the relevant period.

Ratings	% of full-time Ratings salary *	Training Salaries	
		Prior to Commencement Date	From Commencement Date
Trainee Stage 1 (Entry level)	50%	\$39,014	\$45,215
Trainee Stage 2 (Intermediate Stage).	60%	\$46,816	\$54,259
Trainee Stage 3 (Final Stage)	75%	\$58,520	\$67,823

*Based on the lowest Ratings rate for the relevant period.

Schedule 2 - National Allowances

Note: The Allowances contained in the tables in Schedules 2A to Schedule 2E below will be adjusted on and from each year (commencing on the first anniversary of the Commencement Date and therefore on each anniversary during the term of this Agreement) by the annual percentage movement in the Consumer Price Index (Cat No. 6401.0) [weighted average of the eight (8) capital cities] for the 12 months ending September in the preceding year.

Schedule 2A - Nominated Voyages Allowance (refer clause 29)

State	Travel Between	And	Allowance (per Hour)
SA	Port Adelaide	Stanvac	\$29
	Port Adelaide	Giles Point	
	Port Adelaide	Kleins Point	
	Port Adelaide	Ardrossan	
	Port Adelaide	Port Lincoln	
	Port Pirie	Port Bonython	
	Port Pirie	Whyalla	
	Whyalla	Port Bonython	
Vic.	Melbourne	Westernport	\$29
	Geelong	Westernport	
NSW	Port Jackson	Botany Bay	\$29
	Port Jackson or Botany Bay	Newcastle or Port Kembla	
	Port Kembla	Newcastle	
QLD	Gladstone	Rockhampton	\$29
	Halftide Harbour**	Mackay**	
	Mourilyan Harbour**	Lucinda**	
	Mourilyan Harbour#	Townsville #	
	Mourilyan Harbour*	Cairns*	
	Townsville	Cairns	
	Townsville	Lucinda	
	Cairns**	Lucinda**	
	Cairns#	Euston Reef #	
	Brisbane**	Towage requirements between M7 buoy and Port Limits**	

Notes:

* The allowances that previously attached to Nominated Voyages marked with an asterisk (*) are no longer payable separately as they have been incorporated into relevant salaries.

** This allowance is not payable under this Schedule.

No longer payable separately to Ratings/GPHs as allowances have been incorporated into their relevant salaries.

Schedule 2B - Allowance for Outside work and Salvage work (refer clauses 30 and 31)

Outside Work (and Salvage work)	Outside Work Payment (Daily)			
	Prior to Commencement Date		From Commencement Date	
	Masters and Engineers	Ratings	Masters and Engineers	Ratings
Free Running Voyage and Delivery Voyage	\$824	\$514	\$941	\$576
Contract Towage	\$1,015	\$704	\$1,137	\$788
Emergency Operations (and Salvage work)	\$1,219	\$896	\$1,365	\$1,004

Schedule 2C – Emergency Maintenance Allowance (refer clause 32)

Emergency Maintenance Allowance	Emergency Maintenance Allowance (Hourly)			
	Prior to Commencement Date		From Commencement Date	
	Masters and Engineers	Ratings	Masters and Engineers	Ratings
	\$88	\$53	\$97	\$59

Schedule 2D - Penalty payment - extended hours (refer clause 33)

Penalty Payment	Penalty Payment (Hourly)			
	Prior to Commencement Date		From Commencement Date	
	Masters and Engineers	Ratings	Masters and Engineers	Ratings
	\$88	\$53	\$99	\$60

Schedule 2E - Extreme weather alert allowance (refer clause 34)

Extreme Weather Alert Allowance	Extreme Weather Alert Allowance (Hourly)			
	Prior to Commencement Date		From Commencement Date	
	Masters and Engineers	Ratings	Masters and Engineers	Ratings
	\$88	\$53	\$99	\$60

Schedule 3– Port Specific Allowances and Deductions (refer clause 35)

Note: The Allowances contained in the tables in Schedule 3 below will be adjusted on and from the first anniversary of the Commencement Date and thereafter on each anniversary each year during the term of this Agreement) by the annual percentage movement in the Consumer Price Index (Cat No. 6401.0) [weighted average of the eight (8) capital cities] for the 12 months ending September in the preceding year.

State	Port	Description of Allowance	Eligibility and Application	From the Commencement Date
QLD	Brisbane	Voyage beyond M7 Buoy	Allowance is payable when towage assistance is rendered beyond the M7 buoy to the geographical limits of the Port of Brisbane. Payable per hour per hour from departure to return to base.	\$97
	Cairns and Mourilyan	Lucinda Voyage allowance (Masters and Engineers only)	Allowance is payable for any free-running voyage undertaken at Svitzer's requirement, between Cairns and Lucinda, and Mourilyan Harbour and Lucinda. Payable per day (or part thereof) from the time tug leaves the wharf.	\$227
SA	Spencer Gulf	Higher Duties Allowance	On any day when Svitzer requires a Rating/ General Purpose Hand who holds a valid "Master up to 35 metres Near Coastal" Certificate [previously known as a Certificate IV in Maritime Operations] , to relieve the Master and perform duties of a Master, the Employee will be entitled to a daily higher duties allowance differential that equates to the difference between 75% of the daily Master's salary and the daily Ratings / GPH salary.	
SA	Spencer Gulf	Rental deduction (Spencer Gulf Commuters)	Applies to Employees who receive company-provided accommodation. The deduction will be made fortnightly from the Employee's wages on the basis specified below: (Casual Employees' deduction will be calculated pro-rata.) <i>per fortnight:</i>	It doesn't exist anymore \$

State	Port	Description of Allowance	Eligibility and Application	
				From the Commencement Date
WA	Fremantle and Kwinana	Gale Watch	<p>Where:</p> <ul style="list-style-type: none"> • Fremantle Ports or the Harbour Master requires Svitzer to deploy a tug in the Outer and/or Inner Harbours in response to a Bureau of Meteorology warning involving Gale Force winds that is current and applicable in the port area; and • an Employee crews that tug outside ordinary hours (for this purpose - before 0700 or after 1500 Monday to Friday excluding public holidays), during the warning, <p>the Employee will receive the said allowance.</p> <p>This allowance will not be payable where an Employee is entitled to an Extreme weather alert allowance under clause 34.</p>	

IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2023/2084

Applicant:

Svitzer Australia Pty Limited

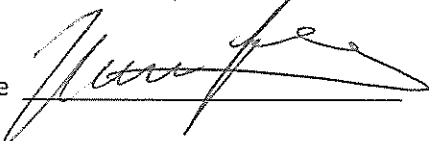
Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Vivian Faraj, Chief Strategy and People Officer of Svitzer Australia Pty Limited have the authority given to me by Svitzer Australia Pty Limited to give the following undertakings with respect to the Svitzer Australia Pty Limited National Towage Agreement 2023:

1. In relation to the matters addressed at clause 14A of the Agreement, Svitzer additionally undertakes that it will apply the Agreement terms as follows and on the following conditions:
 - (i) Svitzer will not outsource work performed by Employees covered by the scope of this Agreement in the first 12 months of this Agreement's operation. During this period, in unforeseen circumstances, another towage provider may be contracted to cover a temporary period where Svitzer are unable to provide towage.
 - (ii) Svitzer is not otherwise restricted from subcontracting or outsourcing, subject to Svitzer ensuring that it complies with:
 - (A) Any legislation in relation to outsourcing from the date of Royal Assent;
and
 - (B) Any consultation obligations under this Agreement.
2. This undertaking does not interfere with or impact the provisions of clause 30.2.4 of the Agreement which relates to the conditions of subcontracting for Outside Work.
3. This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

Undertaking 1 and 2 are provided in response to a request by the union bargaining representatives. The Unions are in agreement with the full undertaking. Svitzer is providing this undertaking on the basis that it will be accepted in full.

Signature 

Date 5 July 2023