

KMART NATIONAL AGREEMENT 2024



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PART 1 – APPLICATION AND OPERATION

1. TITLE

- 1.1 This **Agreement** will be known as the *Kmart National Agreement 2024*.

2. COVERAGE AND APPLICATION

- 2.1 This **Agreement** covers and applies to team members in **Retail Stores** who are employed by Kmart Australia Limited ('**Kmart**):
- 2.1.1 in the classifications contained in **clause 7** of this **Agreement**; or
- 2.1.2 to undertake a Certificate II in Retail or Certificate III in Retail Operations.
- 2.2 This **Agreement** does not cover:
- 2.2.1 team members employed within **Retail Stores** salaried management positions, including team members appointed or promoted by Kmart into salaried management positions; or
- 2.2.2 apprentices or trainees engaged by an external Registered Training Organisation who are completing the on-the job training component of their traineeship at Kmart.
- 2.3 The Agreement will also cover:
- 2.3.1 the Shop, Distributive and Allied Employees' Association ('**SDA**'); and
- 2.3.2 the Australian Workers' Union (Queensland Branch) ('**AWU**').
- 2.4 This **Agreement** operates in complete substitution of any award or enterprise agreement which covers team members covered by this **Agreement**.

3. DURATION

- 3.1 This **Agreement** will commence:
- 3.1.1 if the **FWC** approves the **Agreement** before 3 February 2025, on Monday 10 March 2025;
- 3.1.2 if the **FWC** approves the **Agreement** on or after 3 February 2025, on the first Monday in the first full fixed four (4) week roster cycle commencing four (4) weeks after the date **Agreement** is approved by the **FWC**.
- 3.2 The nominal expiry date of this **Agreement** will be four (4) years after the date the **Agreement** is approved by the **FWC**.
- 3.3 There will be no extra claims during the life of this **Agreement**.
- 3.4 The **Unions** and Kmart will endeavour to commence bargaining for a new **Agreement** approximately three (3) months before the nominal expiry date of this **Agreement**.

4. POSTING OF AGREEMENT

- 4.1 A copy of this **Agreement** will be made available by Kmart to all team members.

5. INTERACTION WITH THE NES

- 5.1 The entitlements and benefits provided in this **Agreement** are inclusive of, and not in addition to, any benefit or entitlement under the **NES** and the **FW Act**.
- 5.2 Where there is an inconsistency between this **Agreement** and the **NES**, and the **NES** provides a greater benefit to the team member, the **NES** provision will apply to the extent of the inconsistency.

PART 2 – TYPES OF EMPLOYMENT & CLASSIFICATIONS

6. TYPES OF EMPLOYMENT

6.1 Team members will be employed by Kmart as one of the following employment types:

6.1.1 full-time;

6.1.2 part-time; or

6.1.3 casual.

6.2 Kmart may also employ a team member on a limited tenure basis as set out in **clause 6.6**.

6.3 Full-time Team Members

A full-time team member is engaged to work an average of 38 hours per week over a fixed four (4) week roster cycle.

6.4 Part-time Team Members

6.4.1 A part-time team member is a team member engaged as such and who works:

(a) reasonably predictable hours of work;

(b) at least 12 hours per week or 48 hours in a fixed four (4) week roster cycle; and

(c) less than 38 ordinary hours per week.

6.4.2 A part-time team member employed prior to the commencement of the **Agreement** can elect to retain their existing agreed hours of less than 12 hours per week. This election may be withdrawn by the team member providing four (4) weeks notice (taking effect from the first full pay period after the four (4) weeks' notice).

6.4.3 A part-time team member's ordinary hours may be averaged over a fixed four (4) week roster cycle.

6.4.4 When a part-time team member is first employed, they will be provided with a regular pattern of work in accordance with **clause 14.5.1**.

6.4.5 A part-time team member is entitled to annual leave, personal leave, and compassionate leave arising under the **NES** or this **Agreement** on a proportionate basis, according to the team member's ordinary hours of work.

6.5 Casual Team Members

6.5.1 A casual team member is one that is engaged as such.

6.5.2 The rates of pay for all hours worked by casual team members under this **Agreement** are inclusive of a casual loading of 25%.

6.5.3 Casual team members are not eligible for the paid leave entitlements available to full-time and part-time team members, except for paid family and domestic violence leave and long service leave (where applicable).

6.5.4 Conversion from casual employment

- (a) A casual team member who would like to change their employment status to full-time or part-time employment may issue written notification in accordance with the **NES**.
- (b) Where a casual team member's employment status changes in accordance with the **NES**, the form of employment the team member is converting to will be recorded in **writing**.
- (c) Unless otherwise agreed, the conversion to full-time or part-time employment will take effect from the commencement of the next pay period.

6.6 Limited Tenure Team Members

- 6.6.1 Kmart may employ team members on a limited tenure basis. A limited tenure team member can be employed on either a full-time or part-time basis.
- 6.6.2 Except where specified in **clause 6.6**, a limited tenure agreement will be:
 - (a) not less than four (4) weeks in duration; and
 - (b) not more than 12 months' duration.
- 6.6.3 **Clause 6.6.2** does not apply where a limited tenure is to replace a team member who has taken parental leave.
- 6.6.4 A minimum duration of one (1) week applies where limited tenure is being used for the purpose of replacing a team member who has taken:
 - (a) annual leave;
 - (b) long service leave;
 - (c) unpaid leave; or
 - (d) concurrent parental leave.
- 6.6.5 A minimum duration of two (2) weeks and no less than 15 hours per week will apply where limited tenure is being used for the purposes of:
 - (a) a store refit or store retrofit;
 - (b) carrying out layout changes or room resets;
 - (c) reorganisation in accordance with planograms;
 - (d) stocktake;
 - (e) catalogue launches; or
 - (f) Easter or Christmas trade.
- 6.6.6 A limited tenure agreement can be extended once by agreement between Kmart and the team member, provided the total period of the limited tenure is consistent with **clause 6.6** and any applicable requirements in the **FW Act**.
- 6.6.7 Prior to commencing a period of limited tenure, the team member will be advised in **writing** of the nature of the work, the hours to be worked, the proposed weekly earnings and the start and end dates of their limited tenure.
- 6.6.8 **New Team Members**

Where Kmart employs a new team member to carry out work under a limited tenure agreement, the employment will end:

- (a) according to the end date in the limited tenure agreement; or
- (b) at an earlier time by notice being provided by either Kmart or the team member in accordance with **clause 40 (Termination of Employment)**.

6.6.9 Team members already employed by Kmart

- (a) Limited tenure agreements for team members already employed by Kmart before entering a limited tenure agreement will conclude at the end date specified in the limited tenure agreement or at an earlier time by Kmart or the team member providing one week of notice.
- (b) Where a team member already employed by Kmart accepts a limited tenure agreement, the team member is not a team member engaged under a contract of employment for a specified period of time for the purposes of section 386(2) of the **FW Act**.
- (c) At the conclusion of a limited tenure period, an existing team member will revert to a position that is no less advantageous to the team member than the position held by the team member immediately prior to entering the limited tenure agreement.
- (d) Where an existing casual team member accepts a limited tenure agreement, at the conclusion of the limited tenure period:
 - (i) they will be paid any accrued but unused annual leave; and
 - (ii) any personal leave accrued during the limited tenure period will be available to use during a future limited tenure agreement, or if the casual team member commences full-time or part-time employment.

7. CLASSIFICATIONS

- 7.1 Team members will be classified in accordance with the classifications set out in **clause 7.5**. Kmart will notify a team member in **writing** of their classification and any changes to it.
- 7.2 A team member may be required to perform any function or work in any area at their classification level, provided that those duties are within their skills, competencies, and training. However, team members may not be engaged to carry out **systematic cleaning** (as defined in **clause A.21**).
- 7.3 Subject to **clause 7**, Kmart may reasonably require the performance of other duties/responsibilities within the team member's normal classification and the corresponding **GRIA** level outlined in **clause 7.5**.
- 7.4 A team member who is required by Kmart to temporarily work in a lower classification will continue to receive the rate of pay applicable to their ordinary classification.
- 7.5 The classifications covered by this **Agreement** are as follows. Classification descriptions are contained in **Appendix B**:

| Classification | GRIA Level |
|------------------------------------|---|
| Retail Assistant | Retail Assistant duties/responsibilities are in line with the Retail Employee Level 1 classification in the GRIA . |
| 'Ride-on' Trolley Collector | 'Ride-on' Trolley Collector duties/responsibilities are in line with the Retail Employee Level 2 classification in the GRIA . |
| Clerical Administrator | Clerical Administrators perform work at a higher level than a Retail Assistant and their duties/responsibilities are in line with the Retail Employee Level 4 classification in the GRIA . |
| Assistant Supervisor | Assistant Supervisors perform work at a higher level than a Retail Assistant and their duties/responsibilities are in line with the Retail Employee Level 4 classification in the GRIA . |
| Supervisor | Supervisors perform work at a higher level than an Assistant Supervisor and their duties/responsibilities are in line with the Retail Employee Level 6 classification in the GRIA . |

7.6 Higher Duties

- 7.6.1 When Kmart requires a team member to perform duties at a higher classification than their normal classification on any day or shift:
- (a) for more than two (2) hours, the team member will be paid the higher rate of pay for the whole day or shift; or
 - (b) for two (2) hours or less, the team member will be paid the higher rate of pay only for the actual time worked at the higher classification only. The balance of the shift will be paid at their normal classification rate of pay.

PART 3 – WAGES

8. RATES OF PAY AND PAY-RELATED MATTERS

8.1 Rates of pay – team members 20 years of age and over

- 8.1.1 Rates of pay for all hours worked are set out in **Appendix C**. Time worked includes any time spent working after a rostered shift has concluded when a team member is required to close registers, a department or the store.
- 8.1.2 Rates of pay will be adjusted during the **Nominal Term** of the **Agreement** from the first full pay period commencing on or after the date specified in the table below (**Adult Rates**):

| | 1 July 2024 | 1 July 2025 | 1 July 2026 | 1 July 2027 | 1 July 2028 |
|--------------------------------------|---|--|--|--|--|
| Base Rate of Pay (per hour) | Equivalent adult rate of pay as at the July 2024 AWR in the GRIA + 7 cents per hour | Equivalent adult rate of pay as at the July 2025 AWR in the GRIA + 10 cents per hour | Equivalent adult rate of pay as at the July 2026 AWR in the GRIA + 15 cents per hour | Equivalent adult rate of pay as at the July 2027 AWR in the GRIA + 20 cents per hour | Equivalent adult rate of pay as at the July 2028 AWR in the GRIA + 25 cents per hour |
| Casual Rate of Pay (per hour) | Base Rate of Pay + 25% | Base Rate of Pay + 25% | Base Rate of Pay + 25% | Base Rate of Pay + 25% | Base Rate of Pay + 25% |
| All other hours | Equivalent adult rate of pay in the GRIA (including penalties) + 1 cent per hour | | | | Subject to clause 8.1.3 |

- (a) **Base Rate of Pay** means the hourly rate of pay that applies to a full-time or part-time team member for ordinary hours of work Monday to Friday 7am - 6pm.
- (b) **Casual Rate of Pay** is the hourly rate of pay that applies to a casual team member for ordinary hours of work Monday to Friday 7am - 6pm (including the casual loading).
- (c) **AWR** means the percentage increase to the equivalent **GRIA** classification as determined by the **FWC** in the Annual Wage Review Decision.

- 8.1.3 From the first full pay period commencing on or after 1 July 2028, all other hours will be paid at the percentage of the **Base Rate of Pay** outlined in the '**GRIA** penalty' row in **Appendix C**.

8.2 Junior Rates – team members under 20 years of age

- 8.2.1 Junior team members will be paid the greater of:
- (a) the junior rates set out in the Pay Schedules of this **Agreement** in **Appendix C**; or
- (b) the rate of pay calculated by applying the minimum percentage specified in column 2 of Table 5 in the **GRIA** as at 1 July 2024 of the adult **Base Rate of Pay**; or

(c) the junior rates set out in Schedule B.3 of the **GRIA** (as varied or amended from time to time) plus 1 cent per hour.

8.2.2 Where a team member under the age of 20 is required by Kmart to work as a Clerical Administrator, Assistant Supervisor or Supervisor, they will be paid the applicable **Adult Rate**.

8.3 **One-off Payment**

8.3.1 If the **Agreement** is made by a majority of team members that cast a valid vote approving the **Agreement**, an **Eligible Team Member** will receive a single one-off payment as specified in this clause.

8.3.2 An **Eligible Team Member** will receive the following payment based on their employment type:

(a) A full-time **Eligible Team Member** will be paid \$500.

(b) A part-time **Eligible Team Member** will be paid a proportionate amount of \$500 based on the team member's weekly contract hours as at 25 August 2024. A part-time **Eligible Team Member** will receive a minimum payment of \$150.

(c) A casual **Eligible Team Member** will be paid a proportionate amount of \$500 based on the average weekly ordinary hours worked by the team member in the fixed four (4) week roster cycle ending on 25 August 2024. A casual **Eligible Team Member** will receive a minimum payment of \$125.

8.3.3 The amounts specified in **clause 8.3.2** will be paid less applicable taxation as required by law.

8.3.4 **Eligible Team Member** means a team member who:

(a) is employed by Kmart as at the date the vote for the **Agreement** closes; and

(b) is employed by Kmart at the date the one-off payment is made; and

(c) in the case of a casual team member, has worked at least two (2) shifts during the fixed four (4) week roster cycle ending 25 August 2024.

8.3.5 Employment type will be based on the team member's employment type as at 25 August 2024.

8.3.6 The one-off payment will be paid to **Eligible Team Members** within 21 days of the **FWC** approving the **Agreement**.

8.4 **Trainee Rates of Pay**

8.4.1 Trainees undertaking a Certificate II in Retail or a Certificate III in Retail Operations will be paid the Retail Assistant rate of pay for their age, unless the equivalent rate in the national training wage is higher. In this case, the relevant national training wage rate, plus one (1) cent per hour will apply for any hours where the Retail Assistant rate is lower.

8.4.2 Trainees are paid for any on-the-job training hours they undertake and any other hours to which the trainee would be entitled to be paid under the national training wage for the type of traineeship they are undertaking.

9. SUPERANNUATION

9.1 Kmart will make superannuation contributions to an eligible team member's nominated superannuation fund, as required by the relevant legislation and no less frequently than monthly.

9.2 Where a team member does not choose a fund, their contributions will be made into their stapled superannuation fund.

9.3 If a team member does not have a stapled superannuation fund, the default fund is the Retail Employees Superannuation Trust (**REST**).

9.4 Parental Leave

9.4.1 If a full-time or part-time team member receives superannuation contributions prior to a period of paid or unpaid parental leave, Kmart will continue to make superannuation contributions on behalf of the team member during a period of paid and unpaid parental leave, up to a maximum period of 12 months.

9.4.2 During a period of unpaid parental leave, superannuation contributions will be made at the **Base Rate of Pay** based on the team member's contracted ordinary hours immediately prior to the period of parental leave.

9.5 Personal Additional Contributions

9.5.1 A team member may authorise Kmart in **writing** to make personal contributions to their superannuation fund in addition to those made by Kmart.

9.5.2 On receipt of **written** authorisation from the team member, Kmart will commence making monthly payments to the fund on behalf of the team member. Payments will be made no later than 28 days after the end of the month in which the deduction was made.

9.5.3 A team member may vary their additional contributions in **writing** and Kmart will change the additional contributions within 14 days of this authorisation.

9.5.4 Additional personal contributions requested under this clause must be expressed in whole dollars.

9.6 Ability to Salary Sacrifice by Company Authorisation

A team member may, by mutual agreement with Kmart, participate in a salary sacrifice program in relation any benefit agreed to by Kmart and request to receive wages payable in accordance with this **Agreement**, minus the amount diverted into contributions to the program.

9.7 Absences

9.7.1 Kmart must make superannuation contributions provided for in **clause 9.1** and pay the amount authorised by the team member under **clause 9.6**:

(a) while on any form of paid leave;

(b) for a period of absence (to a maximum of 52 weeks) due to work-related injury or a work-related illness, if the team member is receiving workers compensation or is receiving regular payments from Kmart in accordance with statutory requirements and while employed by Kmart.

10. PAYMENT OF WAGES AND PAY SLIPS

- 10.1 Kmart will pay wages weekly in arrears. Wages will be paid no later than Wednesday of the following pay period. However, where a public holiday falls on a Monday or a Tuesday, wages will be paid no later than Thursday in that week.
- 10.2 Kmart will provide team members with at least four (4) weeks' **written** notice when payment of wages will be delayed (e.g. because a public holiday will fall on a Monday or Tuesday).
- 10.3 The pay week is Monday to Sunday inclusive. Payment for work performed that commences on Sunday night and continues into Monday will be made as part of the week the shift commences in.
- 10.4 In the case of a full-time or part-time team member, the wage paid will be calculated as an average of the wage for the fixed four (4) week roster cycle. For the purposes of the averaging of pays, for full-time team members the average payment will reflect 38 hours and for part-time team members the average payment will reflect the agreed contract hours.
- 10.5 **Pay slips**
- 10.5.1 Kmart provides pay slips to team members in an electronic form. However, a team member can request a printed copy.
- 10.5.2 Pay slips will include:
- (a) details of a team member's annual leave and long service leave entitlements; and
 - (b) superannuation information at least monthly.
- Where entitlements are not shown on a pay slip, entitlement details will be provided to the team member upon request (including in relation to accrued time off in lieu).
- 10.6 **Moving from weekly to fortnightly pay cycles**
- 10.6.1 Kmart may change from weekly to fortnightly pay cycles.
- 10.6.2 If this occurs, payment will be made at that same time required by **clause 10.1**, other than the requirement for payment to be made weekly.
- 10.6.3 If a team member will receive a smaller pay as a result of moving to fortnightly pay or receives their pay later than they otherwise would, Kmart will pay the team member in advance to the extent of any shortfall. Advance payments will be phased out over a maximum period of five (5) months.
- 10.6.4 Where **clause 10.6.3** applies, a team member may at any time opt to move to fortnightly pay cycles (without advance payment).
- 10.7 **Payment on termination**
- 10.7.1 On termination of a team member's employment, Kmart must pay the team member no later than seven (7) days after the day the employment terminates:
- (a) any wages under this **Agreement** for any complete or incomplete pay period up to the end of the day of termination; and

(b) all other amounts due under this **Agreement** or the **NES**.

10.7.2 The obligation to comply with **clause 10.7.1** is subject to any order of the **FWC** impacting the obligation to pay amounts to a team member upon termination. Kmart is not required to make payment of any amount that is an authorised deduction under this **Agreement** or the **FW Act**. This provision does not override any obligation at law for any long service leave payment to be paid at an earlier time.

11. ALLOWANCES, REIMBURSEMENTS AND TEAMWEAR

11.1 The allowances set out in this clause will not fall below the corresponding allowance in the **GRIA**.

11.2 Dress, Presentation and Uniform

11.2.1 When at work team members will:

- (a) be dressed in a neat, tidy and business-like manner at all times; and
- (b) dress in accordance with Kmart's Teamwear Policy, which does not form part of this **Agreement**, as amended, varied or replaced from time to time.

11.2.2 Kmart will continue to consult with the **Union** on any changes it may propose to Kmart's Teamwear Policy.

11.2.3 Uniform Allowance

- (a) Where Kmart requires a team member to wear a **Uniform**, the team member will receive a uniform allowance of:
 - (i) full-time team members — \$6.25 per week
 - (ii) part-time or casual team members — \$1.25 per shift
- (b) Other special clothing such as protective clothing will be laundered at Kmart's expense.

11.2.4 Special Clothing Reimbursement

Where Kmart requires a team member to wear any special clothing such as a **Uniform** or protective clothing, Kmart will reimburse the team member for any cost of purchasing such clothing and the cost of replacement items, when replacement is due to normal wear and tear.

11.3 First Aid Allowance

11.3.1 A team member who:

- (a) has a current first aid qualification from St John Ambulance Australia or a similar body; and
- (b) is appointed by Kmart to perform first aid duty,

will be paid an allowance of \$13.42 per week.

11.3.2 Kmart will maintain adequate first aid kits for use of team members in all locations.

11.4 **Meal Allowance – Overtime**

11.4.1 A team member required to work more than one (1) hour of overtime after the team member's ordinary time of ending work will be either provided with a meal or paid a meal allowance of \$22.99.

11.4.2 Where the overtime exceeds four (4) hours, a further meal allowance of \$20.85 will be paid.

11.4.3 The meal allowance will not be payable where:

- (a) a team member could reasonably return home for a meal within the period allowed; or
- (b) at least 24 hours' notice was provided to the team member of the requirement to work overtime.

11.5 **Recall Allowance**

11.5.1 Unless otherwise agreed, a team member recalled to work for any reason before or after completing their normal roster will be paid at the relevant overtime rate for all hours worked with a minimum of three (3) hours on each occasion.

11.5.2 The time worked will be calculated from the time the team member leaves home until the time they return home.

11.5.3 Recall allowance does not apply in the following circumstances:

- (a) where a team member voluntarily works additional ordinary hours on one of their rostered days off;
- (b) where a casual team member picks up an extra shift; or
- (c) where a part-time team member agrees to increase their hours of work under a temporary variation.

11.6 **Location Allowances**

11.6.1 **Northern Territory**

Kmart **Retail Stores** in the following locations will receive an additional weekly allowance:

- (a) Darwin: \$16.60 per week
- (b) Katherine: \$16.60 per week
- (c) Alice Springs: \$9.30 per week

11.6.2 **Western Australia**

Location allowances for applicable Kmart Western Australia **Retail Stores** are to be maintained as per the Western Australia Location Allowance General Order as amended from time to time.

11.6.3 **Broken Hill**

Team members working in the County of Yancowinna in New South Wales (Broken Hill) will be paid an additional allowance of \$1.16 per hour.

11.7 Payments related to travel and transport

11.7.1 Transport Allowance

Where Kmart requires a team member to use their own vehicle in the performance of their duties, the team member will be paid an allowance of \$0.98 per kilometre.

11.7.2 Travelling time reimbursement

- (a) When a team member is required to work at a place away from their usual place of employment, all time reasonably spent in reaching and returning from such place (in excess of the time normally spent travelling from their home to their usual place of employment), will be paid travelling time. In addition, any expenses reasonably incurred, in excess of those normally incurred in travelling between their home and their usual place of employment, will be reimbursed.
- (b) Where Kmart provides transport from a pick-up point, the team member will be paid travelling time for all time spent travelling from such pick-up point and returning to such pick-up point.
- (c) The rate of pay for travelling time will be the team member's **Base Rate of Pay**, except on Sundays and Public Holidays when it will be time and a half. Casual team members will also receive their casual loading.
- (d) This reimbursement will not apply to team members working in **Additional Retail Stores** in accordance with **clause 18**.

11.7.3 Temporary transfers reimbursement

Where Kmart requires a team member to move temporarily from one **Retail Store** to another for three (3) weeks or less, all additional transport costs incurred will be reimbursed by Kmart.

11.7.4 Permanent relocation reimbursement

If Kmart permanently relocates a team member's position from one location to another location and the distance between the two stores reasonably requires the team member to relocate their place of residence, Kmart will pay the whole of the moving expenses, for the team member and the team member's family.

11.7.5 Transport of team member reimbursement

- (a) For all team members except for **Night Shift Team Members**, Kmart will reimburse the cost of the taxi or rideshare fare from the place of employment to team member's usual place of residence if:
 - (i) a team member commences and/or ceases work after 10pm on any day or prior to 7am on any day; and
 - (ii) the team member's regular means of transport is unavailable; and
 - (iii) the team member is unable to arrange their own alternative transport.
- (B) This reimbursement will not apply if Kmart provides or arranges for proper transportation to and/or from the team member's usual place of residence, at no cost to the team member.

PART 4 – HOURS OF WORK AND ROSTERING

12. WORK AND CARE

- 12.1 Kmart understands team members may face challenges in balancing their work and commitments as carers.
- 12.2 Kmart acknowledges the importance of having conditions at work that contribute to team member engagement, health and productivity.
- 12.3 Kmart recognises:
 - 12.3.1 Team members have commitments out of work which may require their attention.
 - 12.3.2 Team members may have different caring responsibilities at different times in their lives.
 - 12.3.3 Life outside of work is acknowledged and valued, which is reflected in the way Kmart listens, respects and accommodates a team member's needs where possible.
 - 12.3.4 Team members should not be penalised or disadvantaged for having care responsibilities.
 - 12.3.5 Accommodating a team member's caring responsibilities can have a positive impact to team members, Kmart and the community.
 - 12.3.6 Working should provide team members with meaningful hours of work and the opportunity to earn a wage that contributes to meeting their needs.
 - 12.3.7 Secure, predictable and stable working hours and rosters can help team members manage their care responsibilities.

13. DAY WORK AND NIGHT SHIFT WORK

- 13.1 Team members are employed as either a **Day Work Team Member** or **Night Shift Team Member**.
- 13.2 **Day Work**
 - 13.2.1 **Day Workers'** ordinary hours of work may be between 5am to Midnight, Monday to Sunday.
 - 13.2.2 A **Day Worker's** ordinary hours of work must be rostered within the span of ordinary hours in **clause 13.2.1**. Where work is performed by **Day Work Team Members** outside of the span of ordinary hours, overtime rates will apply in accordance with **clause 15 (Overtime)**.
- 13.3 **Night Shift Work**
 - 13.3.1 **Night Shift Work** is work that commences at or after 11pm on one day and before 5am on the following day. Night shift rates of pay apply for the whole shift worked by a **Night Shift Team Member**.
 - 13.3.2 **Night Shift Work** does not apply to **Day Work Team Members**:
 - (a) who work within the ordinary span of hours for day work; or

- (b) who work overtime outside of the span of ordinary hours for day work.

13.3.3 All time worked during **Night Shift Work** will be paid in accordance with **clause 8** and **Appendix C**.

13.4 At any time, a team member may change from:

13.4.1 **Day Work** to **Night Shift Work**; or

13.4.2 **Night Shift Work** to **Day Work**.

However, changes cannot occur within a pay period.

14. ROSTERING PRINCIPLES

14.1 The rostering principles for ordinary hours of work for team members are set out in the table below.

| Rostering principle | Full-time Team Members | Part-time Team Members | Casual Team Members |
|---|--|---|---------------------|
| Maximum number of ordinary hours worked in a day | Nine (9) hours, provided that one (1) day per week can be rostered for 11 hours, unless the Four Day Week applies in accordance with clause 14.4.2 . These daily maximums are exclusive of meal breaks. | Nine (9) hours, provided that one (1) day per week can be rostered for 11 hours. These daily maximums are exclusive of meal breaks. | |
| Maximum number of shifts worked per day | One (1) continuous shift per day, including meal and rest breaks. | One (1) continuous shift per day, including meal and rest breaks, unless agreed Voluntary Second Start shifts are worked in accordance with clause 14.3 . | |
| Minimum break between shifts worked | 12 hours unless mutually agreed to reduce to no less than 10 hours. | | |
| Maximum number of days worked per fortnight for ordinary hours | Six (6) days in one week, per two week period, provided that in the other week in the two week period, a maximum of four (4) days is worked. | N/A | |
| Maximum number of consecutive days worked | Six (6) days. | | |
| Consecutive days off from ordinary hours | <ul style="list-style-type: none"> Two (2) consecutive days off every week; or Three (3) consecutive days off in a fortnight with another day off that stands alone; or Different arrangements as otherwise agreed in writing between Kmart and the team member. | N/A | |

| Rostering principle | Full-time Team Members | Part-time Team Members | Casual Team Members |
|--|--|-------------------------------|---------------------|
| | <p>A team member can still work Tuesday to Saturday, provided the team member is rostered off Sunday and Monday.</p> <p>Any agreement to depart from these rules will be recorded in writing and may be terminated by the team member with four (4) weeks' notice (taking effect from the first full pay period after the four (4) weeks' notice).</p> | | |
| Weekends off for regular Sunday workers (i.e. team members who work 3 out of 4 Sundays) | <p>If a team member works three (3) Sundays (in a fixed four (4) week roster cycle) they must have three (3) consecutive days off being a:</p> <ul style="list-style-type: none"> • Friday, Saturday and Sunday; or • Saturday, Sunday and Monday. <p>If the three (3) Sundays are worked in week A, week B and week C, the three (3) consecutive days off must be Friday, Saturday and Sunday in week D, otherwise overtime will be payable for time worked on any of these days.</p> <p>Different arrangements may be agreed in writing between Kmart and the team member. This agreement may be terminated by the team member with four (4) weeks' notice (taking effect from the first full pay period after the four (4) weeks' notice).</p> | | N/A |
| Maximum number of ordinary hours worked in a 4-week cycle | 152 hours | Less than 152 hours | 152 hours |
| Maximum number of days worked in 4-week cycle | <p>19 days or more by agreement, unless the Four Day Week applies in accordance with clause 14.4.2.</p> <p>Where a team member is working 19-days, the rostered day off will be set by Kmart on either a fixed-day or rotating day. The rostered day off can be substituted by mutual agreement.</p> | 20 days or more by agreement. | N/A |

14.2 Minimum Engagement

14.2.1 The minimum daily engagement for team members working ordinary hours is:

| Employment Type | Minimum Engagement |
|------------------------|--------------------|
| Full-time Team Members | Four (4) hours |

| Employment Type | Minimum Engagement |
|------------------------|--|
| Part-time Team Members | Four (4) hours subject to clause 14.2.2 |
| Casual Team Members | Three (3) hours |

14.2.2 A part-time team member employed prior to the commencement of the **Agreement** may elect in **writing** to retain a three (3) hour minimum shift engagement. This election may be withdrawn by the team member providing four (4) weeks notice (taking effect from the first full pay period after the four (4) weeks' notice).

14.3 Voluntary Second Start

14.3.1 A part-time or casual **Day Work Team Member** who is 18 years of age or older may agree in **writing** to work two (2) shifts on the same day (**Voluntary Second Start**).

14.3.2 A team member may agree to be rostered to work **Voluntary Second Start** shifts, only after having commenced employment with Kmart.

14.3.3 A part-time team member may request **Voluntary Second Start** shifts be included in their regular pattern of work for the purposes of **clause 14.5.2**. This can occur only after having commenced employment with Kmart.

14.3.4 Where a team member works a **Voluntary Second Start** shift:

- (a) a minimum shift engagement of three (3) hours applies to the **Voluntary Second Start** shift;
- (b) the **Voluntary Second Start** shift will be paid at the applicable rate of pay for the hours worked, and all work performed by a team member on the day that the **Voluntary Second Start** is performed will be treated as one (1) shift for the purpose of all other rostering provisions, including calculating a team member's entitlement to payment at overtime rates;
- (c) there will be a break of not less than two (2) hours between the first shift and the **Voluntary Second Start** shift on the day;
- (d) all work will be treated as one (1) shift for all purposes of this agreement (including rostering conditions and higher duties), except as specified in **clause 14.3**;
- (e) each shift and **Voluntary Second Start** shift will be treated separately for the purposes of determining entitlements to meal and rest breaks in **clause 16**;
- (f) the minimum break between shifts worked in **clause 14.1** and **clause 15.6** does not apply to the period between the two (2) shifts in the day; and
- (g) the recall allowance in **clause 11.5** will not apply to the **Voluntary Second Start** shift.

14.3.5 A part-time or casual team member may withdraw their agreement to work a **Voluntary Second Start** shift at any time in **writing**. Where a team member withdraws their agreement this will take effect from the later of either:

- (a) the start of the next fixed four (4) week roster cycle; or
- (b) at the conclusion of the published roster.

14.4 **Additional rostering principles – Full-time Team Members**

14.4.1 **Christmas Key Operational Period**

- (a) The **Christmas Key Operational Period** is the three (3) weeks prior to Christmas and the one (1) week after Christmas.
- (b) A full-time team member working a 19-day roster may agree to move their non-working day during the **Christmas Key Operational Period**, provided the non-working day is taken at a time nominated by the team member in either the fixed four (4) week roster cycle prior to or after the **Christmas Key Operational Period**.
- (c) Where Kmart wishes a full-time team member to transfer their non-working day, it will discuss this with the team member and the team member will respond no later than 30 November in that year.
- (d) Only one (1) non-working day can be moved during the **Christmas Key Operational Period** under **clause 14.4.1**.

14.4.2 **Four Day Work Week**

By agreement with Kmart, a full-time team member may be rostered to work ordinary hours over not more than four (4) days per week. Where there is agreement between Kmart and the team member under **clause 14.4.2**, the following rostering principles will apply:

- (a) The maximum number of ordinary hours that can be worked per day is 9.5 hours, worked on no more than four (4) days per week, provided that on one (1) day per week, 11 ordinary hours can be worked;
- (b) The maximum number of days worked in a fixed four (4) week cycle is 16 days
- (c) The full-time team member will be rostered to work a minimum of four (4) weekend shifts over the fixed four (4) week roster cycle (being a Saturday and/or Sunday).

14.5 **Additional rostering principles – Part-time team members**

14.5.1 When a part-time team member is first employed, Kmart and the team member will agree in **writing** on a regular pattern of work, specifying at least:

- (a) the hours that will be worked each day;
- (b) the days of the week that the hours will be worked;
- (c) the start and finishing time each day; and
- (d) the time of taking and duration of meal breaks.

14.5.2 Any agreement to vary the regular pattern of work will be made in **writing** before the varied hours commence. A variation under this clause may be of a temporary or permanent basis (including ad hoc or one-off variations).

14.5.3 Kmart will retain a copy of the agreement referred to in **clause 14.5.1** and **14.5.2**.

14.5.4 By agreement with Kmart, a part-time team member whose regular pattern of work provides for 20 days over a fixed four (4) week roster cycle, may instead work 16 days over a fixed four (4) week roster cycle.

14.5.5 **Standing consent**

(a) A part-time team member may elect to provide written standing consent to vary their regular pattern of work in order to work additional hours (without the payment of overtime) at the applicable rates of pay for the hours worked. This standing consent may be withdrawn by the team member at any time (up until accepting an offer for additional hours). A team member who has provided standing consent is not required to accept the offer to work additional hours on any occasion, and may refuse if offered additional hours.

(b) Where a part-time team member has, over a period of at least 12 months, consistently worked additional hours under **clause 14.5.5(a)**, the team member may request in **writing** that Kmart agree to increase their permanent ordinary hours. If Kmart agrees to the request, the new agreement will be recorded in **writing**. Kmart may refuse the request on reasonable business grounds in **writing**.

14.5.6 Kmart is committed to providing meaningful hours of work to part-time team members. Where possible, Kmart will offer any available additional hours of work to part-time team members before they are offered to casual team members. This may not be possible where such additional hours are inconsistent with a team member's availability, training or due to operational requirements.

14.6 **Casual Team Member Shift Changes**

14.6.1 Where a casual team member is offered a casual shift and has accepted that shift, they must provide two (2) hours' notice if they are unable to work that shift. In exceptional circumstances, where two (2) hours' notice cannot be provided, the team member must notify Kmart as early as possible, prior to the shift starting.

14.6.2 An accepted shift is one which has been offered by Kmart and has not been declined by the team member.

14.6.3 Notifications to or by a team member under **clause 14.6** may be made by any means, including by electronic means. Where Kmart notifies a team member, it must be via a means accessible by the team member.

14.6.4 The table below sets out how casual team members are paid where their shifts are changed.

| Scenario | How the casual team member is paid |
|--|---|
| Shift length extensions | |
| Kmart asks a team member to work longer than initially rostered | Paid for the actual hours worked, including any penalty or overtime rates that may be applicable. |
| Shift length reductions | |
| Shift length is reduced at the team member's initiative (e.g. they ask to go home because they feel unwell or arrive to work late). | Paid for the actual hours worked. |
| Shift length is reduced at Kmart's initiative with at least two (2) hours' notice, prior to the shift starting. | Paid for the actual hours worked. |
| Kmart reduces the shift length with less than two (2) hours' notice, prior to the shift starting or during the shift. | Paid for the rostered hours, prior to the reduction. |
| Team member agrees to a reduction in hours at any time (e.g. store is quiet and the team member agrees to go home early, as they have study to complete). | Paid for the actual hours worked. |
| Team member finishes working, before the rostered end time, for reasons other than Kmart seeking to reduce the casual team member's rostered hours (e.g. store is required to be closed for circumstances outside of Kmart's control). | Paid for the actual hours worked. |
| Shift cancellations | |
| Team member informs Kmart they cannot perform a rostered shift or does not attend for work <i>Note: notice should be provided per clause 14.6.1.</i> | No pay is owed. |
| Kmart cancels the shift with at least two hours' notice, prior to the shift starting. | No pay is owed. |
| Kmart cancels the shift with less than two hours' notice, prior to the shift starting. | Paid for the rostered hours prior to cancellation. |

15. OVERTIME

- 15.1 Kmart may require a team member to work reasonable overtime in accordance with this clause.
- 15.2 A team member may refuse to work overtime in circumstances where it would result in the team member working hours which are unreasonable having regard to:
- 15.2.1 any risk to team member health and safety;
 - 15.2.2 the team member's personal circumstances including any family responsibilities;
 - 15.2.3 the needs of the workplace or enterprise;
 - 15.2.4 whether the team member is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
 - 15.2.5 the notice (if any) given by Kmart of the overtime or any notice given by the team member of their intention to refuse it;
 - 15.2.6 the usual patterns of work in the store in which the team member works;
 - 15.2.7 the nature of the team member's role, and the team member's level of responsibility; and
 - 15.2.8 any other relevant matter.
- 15.3 The circumstances where overtime applies for different types of team members is set out below.

| Overtime trigger | Application |
|---|--------------------------------------|
| Work in excess of an average of 38 ordinary hours per week over a fixed four (4) week roster cycle | Full-time team members |
| Work in excess of 38 ordinary hours per week | Part-time and casual team members |
| Work outside the span of hours as defined in clause 13.2.1 (except for Night Shift Work) | All Day Work Team Members |
| Work outside or in excess of the roster principles prescribed in clause 14.1 | Full-time and part-time team members |
| Nine (9) hours, provided that one (1) day per week can be rostered for 11 hours | Casual team members |
| Hours worked by part-time team members in excess of the agreed hours in clause 14.5 | Part-time team members |

- 15.4 The minimum engagement for a separate overtime shift is three (3) hours.

15.5 Payment for overtime

15.5.1 Overtime is paid at an amount equal to the equivalent hourly overtime rate of pay in the **GRIA**, plus one (1) cent per hour. These rates are set out in the Pay Schedules of the **Agreement** in **Appendix C**. From the first full pay period on or after 1 July 2028, overtime will be calculated in accordance with **clause 8.1.3**.

15.5.2 In the case of a **Day Work Team Member** who has ordinary hours of work that start before 7am, or conclude after 11pm Monday to Saturday overtime will be calculated so that a **Day Work Team Member**:

- (a) receives a rate equivalent to the 150% overtime rate for a full-time and part-time team member or 175% overtime rate for a casual team member for not more than three (3) hours (inclusive of ordinary hours and overtime); and
- (b) receives the 200% overtime rate for a full-time team member and part-time team member, or 225% overtime rate for a casual team member thereafter.

15.5.3 Overtime is calculated on a daily basis and is non-cumulative.

15.6 Breaks between work periods

15.6.1 Where a team member restarts work without having 12-hours off work, the team member is entitled to be paid at:

- (a) for a full-time and part-time team member, the 200% rate; or
- (b) for a casual team member, the 225% rate;

set out in the '**GRIA** penalty' row in **Appendix C** (or the "all other hours" rate set out in **clause 8.1**) until the team member has a break of 12 consecutive hours. This applies instead of the overtime penalties set out in **clause 15.5**.

15.6.2 A team member may agree to reduce the period to 10 consecutive hours.

15.7 Time off in Lieu of Overtime

15.7.1 A full-time or part-time team member may agree in **writing** to take time off instead of being paid at overtime rates for overtime worked (**TOIL**).

15.7.2 The period of time off that a full-time or part-time team member is entitled to take is equivalent to the overtime payment that would have been made.

Example:

By agreeing to take TOIL, a team member who worked two (2) overtime hours at the time and a half rate, is entitled to three (3) hours' time off.

15.7.3 **TOIL** must be taken:

- (a) within six (6) months of the overtime being worked; and
- (b) at a time or times agreed by Kmart and the team member.

15.7.4 If a team member requests to be paid for **TOIL** that has not been taken as time off, Kmart must pay the team member for the overtime in the next pay period, at the overtime rate applicable for the overtime worked.

- 15.7.5 If **TOIL** is not taken within the period of six (6) months required by **clause 15.7.3**, Kmart must pay the team member for the overtime in the next pay period following the six (6) months, at the overtime rate applicable for the overtime worked.
- 15.7.6 On termination of a team member's employment, untaken **TOIL** will be paid at the overtime rate applicable for the overtime worked.
- 15.7.7 Kmart must not exert undue influence or pressure on a team member in relation to a decision to take or not take **TOIL**.

16. MEAL AND REST BREAKS

16.1 Breaks will be provided as follows:

| Hours worked | Paid Rest break (treated as time worked and inclusive of walking time) | Unpaid Meal break (except for Night Shift Team Members) |
|---|---|--|
| Less than 4 hours | No rest break | No meal break |
| 4 hours and up to and including 5 hours | One 15-minute rest break including walking time | No meal break |
| More than 5 hours but less than 7 hours | One 15-minute rest break including walking time | One meal break of 60 minutes (or 30 minutes by agreement) |
| 7 hours or more, but less than 10 hours | Two 15-minute rest breaks including walking time, taken in the first and second half of the shift | One meal break of 60 minutes (or 30 minutes by agreement) |
| 10 hours or more | Two 15-minute rest breaks including walking time, taken in the first and second half of the shift | One meal break of 60 minutes (or 30 minutes by agreement) A second meal break of 30 minutes |

- 16.2 **Night Shift Team Members** are entitled to the meal breaks in **clause 16.1**, however, the meal break is a paid break.
- 16.3 The time of taking meal breaks, as well as their duration, will be included in the roster, and are subject to the roster provisions of this **Agreement**.
- 16.4 Team members will not be required to take:
- 16.4.1 a meal break in conjunction with a rest break; or
- 16.4.2 any break within one (1) hour of the team member's start or finishing time.
- 16.5 A team member can agree to work up to six (6) ordinary hours and forego the meal break, provided that their rest break is taken at least two (2) hours prior to the end of their shift. A team member can withdraw their agreement and this will take effect from the first full pay period that is two (2) weeks after the notice is provided.
- 16.6 Other arrangements for rest breaks and meal breaks may be agreed upon in line with **clause 37** of this **Agreement**.

17. ROSTER CHANGES

17.1 Rosters Full-time and Part-time Team Members

- 17.1.1 Rosters will be set on a regular basis and may be changed with seven (7) days' **written** notice. Should a team member disagree with any roster change they will be provided with a minimum 14 days' **written** notice in lieu of the seven (7) days. As far as practicable, rosters will be set by mutual agreement.
- 17.1.2 Subject to **clause 17.1.1** a team member will be provided with a regular roster, which will not be subject to frequent variations from one cycle to another.
- 17.1.3 A team member's roster may not be changed with the intent of avoiding payment of penalties, loadings or other benefits applicable. If such circumstances arise the team member will be entitled to such penalty, loading or benefit as if the roster had not changed.
- 17.1.4 When establishing or changing rosters, Kmart will take into consideration:
- (a) the family responsibilities of the team member, being responsibilities to provide care or support to a dependent child of the team member or other **Immediate Family**; and
 - (b) the safe transport home of the team member.
- 17.1.5 Where Kmart initiates a change to a part-time team members regular roster where a part-time team member has been working additional hours under **clause 14.5.5 (a)**, for at least 6 months, the team member may request to increase their contract hours, by the average number of additional hours worked each week in the previous 26 weeks. Kmart shall not unreasonably refuse the request.
- 17.1.6 Roster changes, including one-off roster changes, can occur at any time by mutual agreement.
- 17.1.7 Where a full-time or part-time team member is impacted by daylight savings, they may:
- (a) If rostered to work at the time clocks are wound forward for daylight savings, work an additional one (1) hour after their rostered finishing time.
 - (b) If rostered to work at the time the clocks are wound back for daylight savings, finish one (1) hour earlier than their rostered finishing time.
 - (c) A team member is only entitled to be paid for actual hours worked.

- 17.2 Any team member who is rostered to work on registers for more than eight (8) hours on a day can provide 48 hours' notice to Kmart, requesting they be provided with alternative duties, so that the total time spent on registers will not exceed eight (8) hours.

18. WORK AT OTHER RETAIL STORES

- 18.1 All team members will be engaged at a base **Retail Store** ('**Base Retail Store**'), and in the case of a full-time or part-time team member they will be engaged to perform their base hours at a **Base Retail Store**.

- 18.2 A team member may elect at any time to work at **Retail Stores** other than their **Base Retail Store** ('**Additional Retail Stores**') without the payment of a travel allowance and/or travel time (including travelling time reimbursement set out in **clause 11.7.2**), provided that:
- 18.2.1 a team member will not work at more than one **Retail Store** per day; and
 - 18.2.2 the team member has agreed to work at **Additional Retail Stores** before doing so.
- 18.3 Where an election has been made under **clause 18.2**, Kmart will maintain a record of the **Base Retail Store** and **Additional Retail Stores**.
- 18.4 A team member may withdraw their election to work at **Additional Retail Stores** at any time by giving notice in **writing**. This withdrawal will take effect from the first full pay period 28 days' after the notice.
- 18.5 Where a full-time or part-time team member withdraws their election to work at **Additional Retail Stores**, the team member acknowledges that this may result in a decrease to their agreed hours, where agreed hours in addition to their base hours are worked at **Additional Retail Stores**.

19. WORKPLACE TRAINING

- 19.1 From time to time, Kmart may direct team members to undertake work-related training, either in store or online. Where this is required by Kmart, team members will be paid for training in accordance with the provisions of this **Agreement**. This includes provisions regarding minimum shift engagement and rostering.
- 19.2 If Kmart directs that training is undertaken outside of a team member's rostered shift, the team member and store management will agree on the day and time when the team member will undertake training. Where agreement cannot be reached, the training will be undertaken during a team member's rostered shift.

20. STAND DOWN

- 20.1 Kmart may stand down a team member without pay if the team member cannot be usefully employed because of any strike, breakdown in machinery, or stoppage of work by any cause for which Kmart cannot reasonably be held responsible.

PART 5 – PUBLIC HOLIDAYS AND LEAVE

21. PUBLIC HOLIDAYS

21.1 Full-time or part-time team members are entitled, without loss of pay (i.e. **Base Rate of Pay**, unless a higher penalty rate applies for the hours they would have otherwise worked), to public holidays provided for by the **NES**.

21.2 The following additional entitlements will apply:

| Day | Entitlement |
|---|--|
| Melbourne Cup Day (Vic) | Where a local day is declared or prescribed in a locality outside the metropolitan area and Melbourne Cup Day is not declared or prescribed in the locality, then the local day is taken as a public holiday in lieu of Melbourne Cup Day. |
| First Tuesday in November (NSW) Port Pirie Picnic Day (SA) | Such days will be treated as a public holiday and full-time and part-time team members will be entitled to either an additional day off (paid at the Base Rate of Pay) or an additional day's pay (at the Base Rate of Pay). Work on these days does not attract public holiday rates of pay. |
| Easter Saturday (WA) | Easter Saturday will be treated as a public holiday. |
| Easter Sunday (Tas) | Where Easter Sunday is gazetted, declared or prescribed as a public holiday in all Australian States and Territories except for Tasmania, Easter Sunday will be treated as a public holiday in Tasmania. |

21.3 **Substitute Public Holidays and Christmas Day Substitution**

21.3.1 If a public holiday or part day public holiday is substituted (by operation of the law of a state or territory), then the substituted day or part day is a public holiday and the original day or part day is not a public holiday.

21.3.2 Where substitution of a public holiday occurs (by operation of the law of a state or territory) and Christmas Day is not a public holiday, work on 25 December will attract an additional loading of 50% in addition to the applicable Saturday or Sunday rate of pay. The team member will also be entitled to the benefits of the substituted public holiday.

21.4 **Absences from work**

A team member who fails to attend a rostered shift the day before and/or after a public holiday, is required to provide evidence in the form of a medical certificate or statutory declaration in accordance with **clause 24.2.3**.

21.5 **Work on a Public Holiday**

A team member cannot be required, but may volunteer, to work on any public holiday.

21.6 **Pay on a Public Holiday**

21.6.1 Team members working on a public holiday will be paid in accordance with the public holiday rate of pay in **clause 8**. A minimum payment of three (3)

hours applies for work on a public holiday (instead of the minimum engagement provided for in **clause 14.2**).

21.6.2 A team member may elect to take time off in lieu of work (that equates to the time worked on the public holiday) or have an equivalent amount of time added to their annual leave. This is subject to:

- (a) the time to be taken in lieu or added to annual leave will be agreed in **writing** before the team member makes the election; and
- (b) time off in lieu must be taken 28 days before or after working the public holiday (however this timeframe may be extended to 56 days at the request of the team member).

21.7 **Where a Store is Closed on a Public Holiday**

Where a store does not open for trade on a Public Holiday, and a full-time or part-time team member would have been rostered to work on the public holiday, they will be entitled to the day off without loss of pay (excluding the public holiday rate of pay).

21.8 **Where a Store Opens for Trade on a Public Holiday**

21.8.1 If a team member would have had ordinary hours of work on a day on which a public holiday falls, they may either:

- (a) elect to work the public holiday or part thereof and, if Kmart agrees, they will be paid the public holiday rate of pay for time worked; or
- (b) choose not to work and receive the day off without loss of pay (excluding the public holiday penalty).

21.9 **Arrangements for when certain days are not public holidays**

21.9.1 Where Christmas Eve and New Year's Eve are not public holidays, work after 6pm will be subject to the following provisions:

- (a) Team members not wishing to work will advise Kmart at least four (4) weeks prior to Christmas Eve and New Year's Eve;
- (b) Kmart will then seek volunteer replacements;
- (c) Where there are insufficient volunteers, Kmart will have the right to direct team members to work their normal roster, so that a reasonable staffing level is reached;
- (d) Full-time or part-time team members rostered to work and who do not want to work will have their ordinary hours re-rostered in the fixed four (4) week roster cycle, as part of their ordinary hours.

21.9.2 Where Easter Sunday is not a public holiday, work will be subject to the following provisions:

- (a) If the store is permitted to open, work will be voluntary for full-time and part-time team members, provided that they give Kmart at least two (2) weeks' notice of their intention not to work;
- (b) Where a full-time or part-time team member does not work on the day, they will be rostered to work their hours at some other time during fixed

four (4) week roster cycle and be paid the relevant **Base Rate of Pay**, unless any higher penalty rate amount applies;

- (c) Full-time and part-time team members rostered to work in a store that is not permitted to open on Easter Sunday will be given the day off with pay at the relevant **Base Rate of Pay**.

21.10 Christmas Eve/New Year's Eve Part-Day Public Holidays

21.10.1 Where a part-day public holiday is declared or prescribed, on either 24 December, or 31 December in addition to the public holiday entitlements under this clause, a full-time or part-time team member:

- (a) on annual leave is taken not to be on annual leave and will instead be paid at the relevant **Base Rate of Pay** for such hours; and
- (b) who does not work their ordinary rostered hours due to being on a rostered day off, is taken to be on a public holiday for those hours and is instead paid the relevant **Base Rate of Pay** for those hours.

21.11 Night Shift Team Members

21.11.1 If a **Night Shift Team Member** of any employment type works on a public holiday, they are entitled to the provisions for public holidays set out in this clause. If they do not work, they are entitled to be absent without loss of pay (excluding the public holiday penalty).

21.11.2 Where shifts are worked over two (2) calendar days, they will be treated in the following ways for public holiday entitlement purposes:

| Rostered shift | Portion of shift treated as a public holiday: |
|---|--|
| Majority of hours on a public holiday | The entire shift |
| An equal number of hours on the public holiday and the day before or after the public holiday | The entire shift (provided that where both shifts have equal hours on the public holiday and non-public holiday, only one of the two shifts will be a public holiday shift) |
| Minority of hours on a public holiday | The part of the shift that falls on the public holiday (the hours they would be entitled to have off without loss). The remainder of the shift will be treated as a normal shift. This is subject to clause 21.11.3 . |

21.11.3 If a team member works two (2) consecutive shifts, so that the first shift ends the morning of a public holiday and the next shifts commences on the same night, only one shift will be treated as the public holiday for the purposes of determining the application of public holiday penalty rates, not both (i.e. the shift with the majority of hours falling on the public holiday will be the public holiday shift).

22. ANNUAL LEAVE (FULL-TIME AND PART-TIME TEAM MEMBERS)

22.1 Annual leave is provided for in the **NES** except as otherwise provided for in this **Agreement**.

22.2 Full-time team members are entitled to four (4) weeks of annual leave (152 hours) for each year of **Continuous Service**.

22.3 Part-time team members are entitled to annual leave on a proportionate basis.

22.4 Annual leave accrues progressively during each year according to the full-time and part-time team members ordinary hours of work.

22.5 Where a team member's hours worked varies throughout the course of the year, the entitlements to annual leave shall be calculated upon the average number of rostered hours worked during the year of accrual.

22.6 **Shiftworkers for the purposes of the NES**

22.6.1 Shiftworkers for the purpose of the **NES** are team members who are:

- (a) regularly rostered to work shifts across 24 hours a day, seven days a week; and
- (b) regularly rostered to work on Sundays and public holidays.

22.6.2 Shiftworkers for the purposes of the **NES** are entitled to five (5) weeks of annual leave for each year of **Continuous Service** (or a proportionate amount for part-time team members).

22.7 **Time of Taking Leave**

Annual leave will be taken by mutual agreement, and Kmart will not unreasonably refuse a team member's request to take annual leave.

22.8 **Excessive Annual Leave**

22.8.1 A team member has excessive leave if they have more than:

- (a) eight (8) weeks' annual leave accrued; or
- (b) 10 weeks' annual leave accrued, if the team member is a shift worker as defined in **clause 22.6**.

22.8.2 If a team member has excessive annual leave, Kmart and the team member may discuss and genuinely try to reach agreement on how to reduce or eliminate the excessive annual leave.

22.8.3 **Directions to take excessive leave**

- (a) If attempts to reduce the excessive annual leave in **clause 22.8.2** are unsuccessful, Kmart may direct the team member to take one (1) or more periods of annual leave. This is provided the team member will have at least six (6) weeks of annual leave remaining, after the excessive leave has been taken, as directed.
- (b) Where a direction to take excessive annual leave is given, it must:
 - (i) not require a team member to take less than one (1) week of annual leave;

- (ii) not require the team member to commence the annual leave earlier than eight (8) weeks from the date of the direction (and not more than 12 months from the date of the direction);
 - (iii) not be inconsistent with any leave arrangement agreed by Kmart and the team member to take paid annual leave under **clause 22.8.2**.
- (c) A team member may also make a request to take a period of paid annual leave, as if the direction had not been given. Where this request results in the remaining annual leave accrual being less than six (6) weeks, then the direction will cease to have effect.

22.8.4 Team member requests to take excessive leave

- (a) If attempts to reduce the excessive annual leave in **clause 22.8.2** are unsuccessful, the team member may give notice to Kmart of their intention to take their excessive annual leave.
- (b) A team member may only give notice under **clause 22.8.4(a)**:
 - (i) if they have had excessive annual leave for more than six (6) months at the time of giving the notice; and
 - (ii) Kmart has not given any direction to the team member to take the excessive leave that would eliminate the excessive leave accrual.
- (c) If Kmart is given notice, and the notice meets the requirements of **clause 22.8.4(a)** and **22.8.4(b)**, Kmart must grant the annual leave.
- (d) Notice by a team member that they intend to take their excessive annual leave, must not:
 - (i) result in the team member having less than six (6) weeks of annual leave after the taking of the annual leave (when considering any other leave arrangements that may apply); and
 - (ii) result in the leave commencing:
 - a. less than eight (8) weeks from the date of the notice; or
 - b. more than 12 months after the notice is given; and
 - (iii) seek to take in excess of four (4) weeks of annual leave (five (5) weeks if the team member is a shift worker as defined in **clause 22.6.1**) in any 12 month period.

22.9 Annual Leave in Advance

22.9.1 If the team member and Kmart agree in **writing**, annual leave may be taken before the team member has an accrued entitlement to annual leave.

22.9.2 An agreement to take annual leave in advance must:

- (a) set out the date on which the leave is to commence;
- (b) state the amount of leave to be taken;
- (c) be signed by the team member if the team member is 18 years of age or older; or

- (d) be signed by the team member and a parent or guardian if the team member is under 18 years of ages; and
- (e) must be kept as an employee record.

22.9.3 Payment for annual leave in advance is at the relevant amount prescribed by **clause 22.10**.

22.9.4 If a team member's employment is terminated and they had taken annual leave in advance, Kmart may deduct from any money due to the team member an amount equal to the amount paid to the team member under **clause 22.10** for any part of the period of annual leave taken in advance of the entitlement being accrued to the extent permitted by law.

22.10 **Payment for a Period of Leave**

22.10.1 During a period of annual leave a team member will be paid as follows:

- (a) **Day Work Team Members** — the relevant **Base Rate of Pay** in this **Agreement** for their ordinary hours of work during the period plus 17.5% annual leave loading. Where a team member would have received a higher penalty rate for any ordinary hours normally worked then the higher penalty rate will be paid instead of the 17.5% annual leave loading for those hours.
- (b) **Night Shift Team Members** — at the rate of pay specified for **Night Shift Work** for their ordinary hours of work during the period, and not the 17.5% annual leave loading.

22.10.2 Payment will not be made in lieu of annual leave, except in accordance with **clause 22.11**.

22.10.3 Annual leave loading does not apply to time added to any annual leave under **clause 21.6.2**.

22.11 **Cashing out of Annual Leave**

22.11.1 A team member and Kmart may agree in **writing** to cash out of a particular amount of accrued annual leave.

22.11.2 An agreement under **clause 22.11.1** must:

- (a) include the amount of leave to be cashed out, the payment to be made to the team member, and the date the payment will be made;
- (b) not result in the remaining entitlement to annual leave being less than four (4) weeks;
- (c) be signed by Kmart and the team member, and if the team member is under 18 years of age, by the team member's parent or guardian; and
- (d) be kept as an employee record.

22.11.3 The payment must not be less than the amount that would have been payable had the team member taken the leave at the time the payment is made.

22.11.4 The maximum amount of accrued annual leave that may be cashed out in any period of 12 months is two (2) weeks.

23. LONG SERVICE LEAVE

- 23.1 Team members are entitled to long service leave in accordance with the relevant State or Territory legislation. This may include the taking of long service leave in periods of single day(s), where allowed under the relevant legislation.
- 23.2 Where allowed under the relevant legislation and with Kmart's agreement, a team member can access long service leave on the basis of double the leave at half pay. The team member will not accrue any more leave than they would have, had the team member taken their long service leave at the normal rate of pay applicable. Requests will not be unreasonably refused.
- 23.3 During a period of long service leave, a full-time team member working 19 starts in a four (4) week roster cycle does not accrue an RDO. If the team member partly works and is partly on long service leave during a fixed four (4) week roster cycle, the team member will be entitled to any hours already worked toward the RDO. Such hours will be taken off at a time mutually agreed.

24. PERSONAL/CARER'S LEAVE

24.1 Entitlement to Personal Leave – Full-time and part-time team members

- 24.1.1 A full-time and part-time team member is entitled to personal leave in circumstances where the team member cannot attend work as rostered due to:
- (a) a personal illness, or injury affecting the team member; or
 - (b) the need to provide care or support to a member of the team member's **Immediate Family** or household who requires care or support because of:
 - (i) a personal illness or injury; or
 - (ii) an unexpected emergency affecting that **Immediate Family** or household member.
- 24.1.2 A full-time team member is entitled to 10 days (76 hours) of personal/carer's leave for each year of continuous employment.
- 24.1.3 A part-time team member is entitled to accrue personal/carer's leave on a proportionate basis.
- 24.1.4 Personal/carer's leave accrues progressively during a year of service according to a team member's ordinary hours of work and accumulates from year to year.
- 24.1.5 Payment whilst on paid personal leave will be at the **Base Rate of Pay** for all full-time and part-time team members for their ordinary hours of work during the relevant period.

24.2 Notification and Documentation Requirements

- 24.2.1 When taking personal/carer's leave a team member must:
- (a) give notice to the Store Manager, or Manager on duty, as soon as practicable (which may be a time after the leave has started); and

(b) advise Kmart of the expected period of leave.

Where possible, notice should be given by calling the store phone. Where not possible, notice may be provided by SMS to the store mobile phone.

24.2.2 A team member can take up to four (4) days' personal/carer's leave in any one (1) calendar year without a medical certificate or statutory declaration, other than in relation to absences either side of a Public Holiday.

24.2.3 For any additional personal leave taken, Kmart may require a team member provide a medical certificate or statutory declaration that would satisfy a reasonable person the leave is taken for a permitted reason.

24.2.4 Reasonable proof of absence may be required by Kmart to grant payment for personal/carer's leave taken.

24.2.5 A team member accessing personal leave for the purpose of providing care or support to an **Immediate Family** or household member because of a terminal or long-term illness may provide supporting documentation for an enduring period of up to three (3) months. This may be in the form of either a medical certificate or a statutory declaration.

24.2.6 Kmart will require the production of documentary evidence in the form of a medical certificate or a statutory declaration where a team member is absent the day before and/or the day after a public holiday.

24.2.7 Upon request, a team member will be entitled to information regarding their accrued personal leave entitlements.

24.3 **Unpaid Carer's Leave (Including Casual Team Members)**

24.3.1 All team members are entitled to up to two (2) days of unpaid carer's leave for each occasion that a member of the team member's **Immediate Family** or household requires care or support due to that person being ill, injured or affected by an unexpected emergency.

24.3.2 With Kmart's agreement, a casual team member may be absent from work for longer than 48 hours.

24.3.3 A full-time or part-time team member is not entitled to unpaid carer's leave if during a particular period they could instead take paid personal leave.

25. **PERSONAL EMERGENCIES (FULL-TIME AND PART-TIME TEAM MEMBERS)**

25.1 Where a full-time or part-time team member has a pressing domestic emergency that requires the team member's immediate attention, a full-time team member may access up to 7.6 hours (pro rata for part-time team members) of their accrued annual leave to attend to the emergency.

25.2 An emergency does not include situations where a team member could otherwise deal with a situation before or after their rostered hours of work, or where it is simply a matter of convenience or preference for the team member to attend a situation. Where the emergency situation has been addressed the team member is required to attend work for the remainder of their shift, if practical.

25.3 A team member may be required to provide evidence of the emergency that would satisfy a reasonable person in order for payment to be made under this clause.

25.4 A team member able to access leave under **clause 28** cannot also access leave under this clause for the same situation.

26. PRE-NATAL LEAVE (FULL-TIME AND PART-TIME TEAM MEMBERS)

26.1 Pregnant Team Member

A pregnant full-time or part-time team member may access personal leave for the purpose of attending medical appointments associated with their pregnancy.

26.2 Team Member Whose Partner is Pregnant

A full-time or part-time team member may access paid personal leave up to 22.8 hours (proportionate for part-time team members) for the purpose of attending medical appointments with their pregnant spouse or **De facto Partner**.

26.3 Notification and Attendance

26.3.1 Proof of attendance at the appointment may be required on request by Kmart.

26.3.2 Where possible, team members should try to organise appointments outside of their rostered shift, or if during working hours, as close as possible to the start or end of their shift.

26.3.3 The team member is to provide reasonable notice to Kmart of the requirement to take leave under this clause.

26.3.4 Personal/carer's leave used for the purpose of attending medical appointments associated with pregnancy will be deducted from the team member's accrued entitlement based on the actual time taken to attend the appointment.

27. COMPASSIONATE LEAVE

27.1 Entitlement to Compassionate Leave – Full-time and part-time team members

27.1.1 A full-time or part-time team member is entitled to compassionate leave for each occasion (a **Permissible Full-time or Part-Time Occasion**) outlined in the table below:

| Permissible Full-Time or Part-Time Occasion | Entitlement |
|--|---|
| Death of a: <ul style="list-style-type: none"> • spouse or De facto Partner • parent (including step-parent) • child (including adopted, step or foster child) • sibling • Found Family | Up to 10 days If the death occurs interstate or outside of Australia and the team member attends the funeral, they will be entitled to additional unpaid compassionate leave up to 2 shifts. |
| When the team member, or their spouse or De facto Partner , has a miscarriage. | Up to 10 days |
| When a child is stillborn, where the child would have been a member of the team member's Immediate Family , or a member of the team member's household, if the child had been born alive. | Up to 10 days |
| Death of a: <ul style="list-style-type: none"> • parent-in-law (including De facto Partner's parent) • grandparent • grandparent-in-law, (including De facto Partner's grandparent) • grandchild • child's spouse or De facto Partner • sibling of spouse or De facto Partner • sibling of parent (e.g. aunt, uncle etc.) • child of sibling (e.g. niece, nephew etc.) | Up to 3 days If the death occurs interstate or outside of Australia and the team member attends the funeral, they will be entitled to additional unpaid compassionate leave up to 2 shifts. |
| Death of a: <ul style="list-style-type: none"> • former partner (including former De facto Partner) • partner from whom the team member is separated. | Up to 3 days If the death occurs interstate or outside of Australia and the team member attends the funeral, they will be entitled to additional unpaid compassionate leave up to 2 shifts. |

| Permissible Full-Time or Part-Time Occasion | Entitlement |
|--|---|
| Death of: <ul style="list-style-type: none"> other Immediate Family member not specified above; or member of a team member's household. | <i>The entitlement may be taken as a single continuous period of paid leave or as separate days, unless the entitlement is for one shift</i> Up to 2 days |
| Death of other close relatives not otherwise covered by this clause or the NES . | 1 shift to attend the funeral |
| Where a team member's Immediate Family Member or household member: <ul style="list-style-type: none"> 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. | 2 days for the purposes of spending time with that person (either as a continuous period or single shifts). This is for each occasion and can be taken at any time while the illness or injury persists. |

27.1.2 Full-time and part-time team members may elect to extend the applicable paid compassionate leave entitlement as set out in **clause 27.1.1** to a maximum of five (5) additional shifts by accessing accrued annual leave entitlements.

27.2 Entitlement to Compassionate Leave for casual team members

27.2.1 A casual team member is entitled to two (2) days of unpaid compassionate leave for each occasion when:

- (a) a member of their **Immediate Family**, or member of their household dies or contracts or develops an illness or injury that poses a serious threat to their life; or
- (b) a child is stillborn, where the child would have been a member of the team member's **Immediate Family** or household, if the child was born alive; or
- (c) the team member, or team member's spouse or **De facto Partner**, has a miscarriage.

27.3 Payment for Compassionate Leave – Full-time and part-time team members

Full-time and part-time team members will be paid at the **Base Rate of Pay** for ordinary hours that would be worked during the period of compassionate leave. Compassionate leave for casual team members is unpaid.

27.4 Notice and Evidence Requirements

27.4.1 To be entitled to compassionate leave a team member must:

- (a) give notice to Kmart as soon as practicable (which may be a time after the leave has started) and advise Kmart of the period, or expected period, of the leave; and
- (b) where required by Kmart, provide evidence that would satisfy a reasonable person that the leave is taken for the reasons set out in **clause 27.1** and **clause 27.2**.

28. COMMUNITY SERVICES AND OTHER LEAVE (INCLUDING JURY SERVICE)

28.1 Community Services Leave, including Jury Service

28.1.1 A team member who is engaged in an eligible community service activity is entitled to be absent from work for a period which consists of:

- (a) the time when the team member is engaged in the activity;
- (b) reasonable travelling time associated with the activity; and
- (c) reasonable rest time immediately following the activity,

provided the team member's absence is reasonable in all the circumstances (the reasonableness requirement does not extend to jury service).

28.1.2 An eligible community service activity is:

- (a) Jury Service (including attending for jury selection); and
- (b) A **Voluntary Emergency Management Activity** (as defined in **clause A.25**).

28.1.3 All team members, including casual team members are eligible for unpaid community services leave.

28.1.4 For full-time and part-time team members community services leave is unpaid, except for:

- (a) Jury Service, as set out in **clauses 28.1.5** to **28.1.9** and **28.1.7**; or
- (b) Emergency Services Leave, as set out in **clause 29**.

28.1.5 A full-time or part-time team member required to attend for jury service during their rostered hours of work will not suffer any loss of income in respect of the ordinary hours they would have worked had they not been on jury service.

28.1.6 A full-time or part-time team member on a roster including weekend work will be given time off without loss of pay, so that consecutive jury service days and workdays does not exceed five (5) days per week.

28.1.7 While on jury service a team member will not be required to attend work until the completion of the jury service.

28.1.8 A full-time or part-time team member required to attend for jury service during a period of annual leave will, upon producing satisfactory evidence of attendance, be credited with annual leave for attendance at jury service.

28.1.9 Casual team members may be entitled to payment for Jury Service in accordance with the relevant state or territory laws.

28.2 Notice and Evidence

28.2.1 A team member who wants to take Community Services Leave must provide notice to their Manager as soon as practicable, and must also advise of the expected period of the absence.

28.2.2 If required by Kmart, a team member who has given notice of the taking of Community Services Leave must give evidence, that would satisfy a reasonable person, that the absence is because the team member is engaging in an eligible community services activity.

28.2.3 In respect to jury service, prior to payment being made, Kmart may require reasonable evidence that the team member has taken all reasonable steps to obtain any amount of jury service pay to which the team member is entitled and the total amount of jury service pay (if any) that has been paid or is payable to the team member.

29. EMERGENCY SERVICES LEAVE (FULL-TIME AND PART-TIME TEAM MEMBERS)

29.1 A full-time or part-time team member involved in recognised voluntary services including SES and fire-fighting will be entitled to paid time off to attend to emergency situations which may affect the community as a whole.

29.2 It is the responsibility of the team member to keep Kmart informed about the time off needed to attend to emergency duties.

29.3 To receive payment, a team member will provide Kmart with proof of attendance at the emergency situation.

29.4 Paid time off for attendance at emergencies in the local area will not be unreasonably restricted or, not unreasonably accessed, and will be limited to a maximum of three (3) days per situation.

29.5 Paid time off for attendance to emergencies that are not local will be limited to a maximum of five (5) days per annum. This may be increased depending on the nature of the emergency (e.g. major bush fire) and is subject to Kmart's approval.

29.6 Payment for Emergency Service Leave is at the **Base Rate of Pay** for full-time and part-time team members.

30. LEAVE OF ABSENCE (FULL-TIME AND PART-TIME TEAM MEMBERS)

30.1 Subject to Kmart's approval, a full-time or part-time team member with more than one (1) year of **Continuous Service** may apply to take a period of authorised unpaid leave of absence of one (1) week's duration or more, which will not break the continuity of employment for the team member provided that:

30.1.1 the maximum period of absence on any one occasion is three (3) months; and

30.1.2 a team member does not have more than four (4) weeks of annual leave accrued.

30.2 Any or all of the provisions in **clause 30.1** may be waived by agreement.

- 30.3 A team member may apply for a leave of absence to attend to their study commitments, by providing at least four (4) weeks' notice. No maximum period of absence applies.

31. DEFENCE FORCE LEAVE (FULL-TIME AND PART-TIME TEAM MEMBERS)

- 31.1 A full-time and part-time team member will be allowed leave of up to a maximum of two (2) weeks per calendar year to attend Defence Forces Reserve approved training camps.
- 31.2 Full-time and part-time team members required to attend full-time training will be paid the difference between the payment received (in respect of their attendance at camp) and the total amount for the ordinary hours of work the team member would have received during that period.
- 31.3 To receive payment, a team member will provide Kmart:
- 31.3.1 proof of attendance;
 - 31.3.2 the Defence Forces Reserve rate of pay; and
 - 31.3.3 the total payment received for the time spent in training.
- 31.4 Team members seeking to take defence force services leave must provide Kmart at least one (1) month's notice, prior to the period of training, which will include the start and finish dates for training.

32. NATURAL DISASTER LEAVE

- 32.1 Team members will be allowed to leave work where a cyclone warning is announced or there is a natural disaster (e.g. flooding or bushfires) which:
- 32.1.1 pose a genuine threat to a team member's property; or
 - 32.1.2 creates a need for a team member to care for their children.
- 32.2 A store will close not later than one (1) hour before the red alert comes into force unless otherwise directed by an emergency services body
- 32.3 For the circumstances set out in **clause 32.1**, team members will be able to access up to three (3) days of paid leave per year, non-cumulative.
- 32.4 **Payment for natural disaster leave**
- 32.4.1 Payment for natural disaster leave is at the **Base Rate of Pay**.
 - 32.4.2 Casual team members will be entitled to payment where they are rostered to work on a day when the circumstances in **clause 32.1** occur.

33. PARENTAL LEAVE

- 33.1 Except as provided for in this clause, Parental Leave is provided for in the **NES** and any Kmart Parental Leave Policy that may apply from time to time. Any such policy is not incorporated into this **Agreement**.

33.2 **Parental leave for team members with 6 months' service**

Despite the requirement for 12 months of **Continuous Service** set out in the **NES**, a team member with six (6) months of **Continuous Service** is entitled to 26 weeks of unpaid parental leave in accordance with this clause. In such circumstances, additional unpaid leave may be granted by Kmart under **clause 30** of this **Agreement**.

33.3 **Variation of period of parental leave**

33.3.1 Where a team member has originally applied for less than 104 weeks parental leave, the team member may extend their parental leave on one or more occasions up to an aggregate of 104 weeks by providing Kmart with four (4) weeks' **written** notice (provided they are entitled to 104 weeks).

33.3.2 A team member may shorten their period of leave by agreement with Kmart, by giving at least eight (8) weeks' notice.

33.4 **Work on a part-time basis**

33.4.1 The provisions set out in **clause 33.4** apply to full-time and part-time team members only.

33.4.2 With agreement of Kmart, which will not be unreasonably withheld, a team member may elect to work:

- (a) part-time; or
- (b) in the case of an existing part-time team member, fewer contracted hours;

in one or more periods at any time from the date of the birth/placement of their child, until the child reaches school age.

33.4.3 The hours rostered to be worked will be agreed between Kmart and the team member.

33.4.4 Where a team member has elected to work part-time or fewer contracted hours in accordance with **clause 33.4.2**, this may include arrangements to gradually return to hours of work that applied immediately prior to the birth or adoption of the child during the period up until the child reaches school age.

33.4.5 Where a team member works reduced hours in accordance with **clause 33.4**, the team member has the right to return to the ordinary hours of work that applied immediately prior to the agreement breached in **clause 33.4.2**.

34. **FAMILY AND DOMESTIC VIOLENCE LEAVE**

34.1 Except as provided in this clause, family and domestic violence leave is provided for in the **NES**.

34.2 **Casual team members – not rostered to work**

Casual team members may take up to five (5) days of family and domestic violence leave when they are not rostered to work. When a casual takes family and domestic violence leave on a day they are not rostered to work, they will be paid for four (4) hours for the day at the **Casual Rate of Pay**.

35. BLOOD DONOR LEAVE (FULL-TIME AND PART-TIME TEAM MEMBERS)

- 35.1 A full-time or part-time team member shall be entitled to blood donor leave on up to four (4) separate occasions per calendar year.
- 35.2 Paid leave of up to two (2) hours is available on each occasion.
- 35.3 Absences will be arranged by mutual agreement between the team member and Kmart.
- 35.4 Upon request, proof of such absence will be required to be produced by the team member.
- 35.5 Team members should attempt to organise the donation of blood during non-working hours in the first instance.
- 35.6 Payment will be at the relevant **Base Rate of Pay** for the team member.

PART 6 – FLEXIBILITY

36. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

- 36.1 An eligible team member under this clause is:
- 36.1.1 a full-time or part-time team member who has completed at least 12 months of **Continuous Service** immediately before making the request (or six (6) months in the case of a team member who is a parent under **clause 36.3.1(b)**) or a carer under **clause 36.3.1(c)**); or
 - 36.1.2 a casual team member who is a **Long Term Casual** immediately before making the request.
- 36.2 A **Long Term Casual** team member for the purpose **clause 36.1.2** is a casual team member who has:
- 36.2.1 been employed on a regular basis for a sequence of periods of employment during a period of at least 12 months (six (6) months in the case of a team member who is a parent under **clause 36.3.1(b)**) or a carer under **clause 36.3.1(c)**); and
 - 36.2.2 has a reasonable expectation of continuing employment with Kmart on a regular and systematic basis.
- 36.3 **Requests for Flexible Working Arrangements**
- 36.3.1 An eligible team member may request a change in working arrangements if any of the following circumstances apply to the team member and the team member wants to change their working arrangements because of those circumstances:
- (a) is pregnant
 - (b) is a parent, or has responsibility for the care, of a child who is of school age or younger;
 - (c) is a carer (within the meaning of the *Carer Recognition Act 2010*);
 - (d) has a disability;
 - (e) is 55 years of age or older;
 - (f) is experiencing family and domestic violence;
 - (g) is providing care or support to a member of their **Immediate Family** or their household who requires care and support because the member is experiencing family and domestic violence.
- 36.3.2 A request must be in **writing** and set out the details of the change sought, the reason for the change.
- 36.3.3 Kmart must provide the team member with a response in **writing** within 21 days to the request stating if Kmart grants or refuses the request.
- 36.3.4 The response must:
- (a) state that Kmart grants the request; or

- (b) if, following discussion between Kmart and the team member, Kmart and the team member agree to a change to the team member's working arrangements that differs from that set out in the request - set out the agreed change; or
- (c) state that Kmart refuses the request.

36.3.5 Kmart may only refuse the request if they have:

- (a) discussed the request with the team member; and
- (b) genuinely tried to reach an agreement with the team member about changing their working arrangements to accommodate them; and
- (c) no agreement can be reached; and
- (d) Kmart has had regard to the consequences of the refusal for the team member; and
- (e) the refusal is made on reasonable business grounds.

36.3.6 Without limiting what reasonable business grounds are, such grounds include the following:

- (a) the new working arrangements requested by the team member would be too costly for Kmart;
- (b) there is no capacity to change the working arrangements of other team members to accommodate the new working arrangements requested by the team member;
- (c) that it would be impractical to change the working arrangements of other team members or recruit new team members, to accommodate the new working arrangements requested by the team member;
- (d) that the new working arrangements requested by the team member would be likely to result in a significant loss of efficiency or productivity;
- (e) that the new working arrangements requested by the team member would be likely to have a significant negative impact on customer service.

36.3.7 If Kmart refuses the request, its **written** response must:

- (a) include details of the reasons for the refusal;
- (b) set out the business grounds for refusing the request and explain how the grounds apply to the request; and
- (c) either set out the changes that Kmart would be willing to make to accommodate the team member's request, or state that there are no such changes.

36.3.8 The team member or Kmart may make an application to the **FWC** to deal with a dispute in relation to a request for a flexible working arrangement.

36.3.9 Without limiting the rights of a team member under this clause, a team member who is a parent, or has responsibility for the care of a child and who is returning to work after taking leave in relation to the birth or adoption of the child may request to work part-time to assist the team member to care for the child.

37. INDIVIDUAL FLEXIBILITY ARRANGEMENTS

- 37.1 Kmart and a team member covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of one (1) or more of the arrangements about when work is performed, overtime rates, penalty rates, allowances and annual leave loading to meet the genuine needs of Kmart and the team member.
- 37.2 The arrangement must be genuinely agreed to by Kmart and the team member.
- 37.3 If Kmart wishes to initiate the making of an arrangement, it must:
- 37.3.1 give the team member a **written** proposal; and
 - 37.3.2 if the Kmart is aware that the team member has, or should reasonably be aware that the team member may have, limited understanding of English, take reasonable steps (including providing a translation in an appropriate language) to ensure that the team member understands the proposal.
- 37.4 Kmart must ensure that the terms of the individual flexibility arrangement:
- 37.4.1 are about permitted matters under section 172 of the **FW Act**; and
 - 37.4.2 are not unlawful terms under section 194 of the **FW Act**; and
 - 37.4.3 result in the team member being better off overall than the team member would be if no arrangement was made.
- 37.5 Kmart must ensure that the individual flexibility arrangement:
- 37.5.1 is in **writing**;
 - 37.5.2 includes Kmart's company name and the name of the team member; and
 - 37.5.3 is signed by an authorised representative of Kmart and the team member; and
 - 37.5.4 if the team member is under 18 years of age, a parent or guardian of the team member must also sign the agreement.
- 37.6 The individual flexibility arrangement must include details of:
- 37.6.1 the terms of this **Agreement** that will be varied by the arrangement;
 - 37.6.2 how the arrangement will vary the effect of the terms;
 - 37.6.3 how the team member will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - 37.6.4 the day on which the arrangement commences.
- 37.7 Kmart must:
- 37.7.1 keep the agreement as a time and wages record; and
 - 37.7.2 give a copy to the team member within 14 days after it is agreed to.
- 37.8 Kmart or the team member may terminate the individual flexibility arrangement by giving no more than 28 days' **written** notice to the other party to the arrangement or if Kmart and team member agree in **writing**, at any time.

PART 7 – CONSULTATION AND DISPUTE RESOLUTION

38. CONSULTATION

38.1 Major Change Consultation

38.1.1 A major change is when:

- (a) Kmart has made a definite decision to introduce major changes in production, program, organisation, structure or technology; and
- (b) that change is likely to have **Significant Effects** on team members.

38.1.2 **Significant Effects** include:

- (a) the termination of the employment; or
- (b) major changes to the composition, operation or size of Kmart's workforce or to the skills required of team members; or
- (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
- (d) the alteration of hours of work, the need to retrain team members, the need to relocate team members; or
- (e) relocation to another workplace or the restructuring of jobs.

38.1.3 Where the **Agreement** makes provision for any of the changes in **clause 38.1.2**, the change will be deemed not to have **Significant Effects**.

38.1.4 Major change consultation process

- (a) Where Kmart has made a definite decision to introduce major change, it must notify the team members affected by the change and the **Union** of the decision to introduce the major change.
- (b) The affected team members may appoint a representative for the purposes of the below procedures.
- (c) As soon as practicable after making its decision, Kmart must discuss with the relevant team members and the **Union**:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the team members; and
 - (iii) measures Kmart is taking to avert or mitigate the adverse effect of the change on the team members.
- (d) Kmart must give prompt and genuine consideration to matters raised about the major change by the relevant team members or the **Union**.
- (e) For the purposes of the discussion Kmart must provide, in **writing**, to the relevant team members and the **Union**:
 - (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 team members; and
- (iii) any other matters likely to affect the team members.

38.1.5 Kmart is not required to disclose confidential or commercially sensitive information to the relevant team members or the **Union**.

38.2 Roster Change Consultation

38.2.1 Where Kmart proposes to change a team members regular roster or ordinary hours of work, Kmart must consult with the team member and their representative.

38.2.2 Kmart must:

- (a) discuss with the relevant team member and their representative the introduction of the change;
- (b) provide the relevant team members with:
 - (i) all relevant information about the change, including the nature of the change; and
 - (ii) information about what Kmart reasonably believes will be the effects of the change on the team members; and
 - (iii) information about any other matters that Kmart reasonably believes are likely to affect the team members; and
- (c) invite the relevant team members to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

38.2.3 However, Kmart is not required to disclose confidential or commercially sensitive information to the relevant team members.

38.2.4 Kmart must give prompt and genuine consideration to matters raised about the change by the relevant team members.

38.2.5 The requirement to consult under **clause 38.2** does not apply where a team member has irregular, sporadic or unpredictable hours of work.

39. DISPUTES RESOLUTION PROCEDURE

39.1 This clause sets out the procedure to settle a dispute if a dispute arises that relates to a matter arising under this **Agreement** or the **NES**.

39.2 A team member who is a party to the dispute may appoint a representative for the purposes of the procedures in this clause.

39.3 In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the team member or team members and relevant Kmart Manager.

39.4 If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to **FWC**.

39.5 The **FWC** may deal with the dispute in two (2) stages:

- 39.5.1 The **FWC** will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
- 39.5.2 If the **FWC** is unable to resolve the dispute at the first stage, the **FWC** may then:
- (a) arbitrate the dispute; and
 - (b) make a determination that is binding on the parties.
- 39.6 If **FWC** arbitrates the dispute, it may also use the powers that are available to it under the **FW Act**.
- 39.7 A decision that the **FWC** makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5.1 of the **FW Act**. Therefore, an appeal may be made against the decision.
- 39.8 While the parties are trying to resolve the dispute using the procedures in this clause:
- 39.8.1 A team member must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and
- 39.8.2 A team member must comply with a direction given by Kmart to perform other available work at the same workplace, or at another workplace, unless:
- (a) the work is not safe; or
 - (b) applicable occupational health and safety legislation would not permit the work to be performed; or
 - (c) the work is not appropriate for the team member to perform; or
 - (d) there are other reasonable grounds for the team member to refuse to comply with the direction.
- 39.9 The parties to the dispute agree to be bound by a decision made by **FWC** in accordance with this clause.
- 39.10 Despite **clause 39.8**, where a dispute is about a roster change under **clause 17.1** of this **Agreement**, work will continue in accordance with the practices existing prior to the matter in dispute arising or other agreed arrangements for the six (6) weeks following the matter in dispute first arising, provided the status quo will remain beyond this time if the matter in dispute has been referred to the **FWC** by a party and in that event, the status quo will remain in place until such time as the matter is resolved by conciliation or arbitration, or otherwise resolved by the parties.

PART 8 – ENDING EMPLOYMENT

40. TERMINATION OF EMPLOYMENT

40.1 Kmart may terminate the employment of a full-time or team member, by providing the following notice period:

| Period of Continuous Service | Team under 45 years | Team 45 years and over |
|---------------------------------|---------------------|------------------------|
| Less than 1 year | 1 week | 1 week |
| 1 year up to 2 years | 2 weeks | 2 weeks |
| More than 2 years up to 3 years | 2 weeks | 3 weeks |
| More than 3 years up to 5 years | 3 weeks | 4 weeks |
| More than 5 years | 4 weeks | 5 weeks |

40.2 **Clause 40.1** does not apply if the employment is terminated for serious misconduct, in accordance with the **NES**.

40.3 Where Kmart gives notice of termination, the team member will be allowed time off without loss of pay for a cumulative period of up to one (1) working day (i.e. the number of hours of a team member's typical shift) for the purpose of seeking other employment. The time off will be taken at times that are convenient to the team member, after consultation with their manager.

40.4 Where notice of termination is given by Kmart to a team member, it will be given to the team member in **writing**, and it must specify:

40.4.1 how much notice is being given;

40.4.2 the date of termination (which cannot pre-date the notice date); and

40.4.3 if the notice is to be worked, compensation paid in lieu or partly worked and compensation partly paid in lieu.

40.5 Kmart may make payment in lieu of working all or part of the notice period prescribed by **clause 40.1**. This payment will include all amounts for the hours the team member would have worked, including any applicable **Base Rate of Pay**, penalties, overtime and allowances.

40.6 In the case of termination by a team member, other than a casual, the following minimum notice will be given by the team member:

| Period of Continuous Service | Period of Notice |
|------------------------------|------------------|
| 3 months or less | None |
| Not more than 1 year | 1 week |
| More than 1 year | 2 weeks |

40.7 In the case of termination by a team member Kmart may agree to waive part or all of the period of notice and pay the team member up to the date of termination.

40.8 On request from a team member, Kmart will provide them a **written** statement of service specifying the period of their employment and the classification of or the type of work performed by the team member.

40.9 Where a team member is absent from work for a continuous period exceeding three (3) working days without the authorisation of Kmart and without reasonable cause, Kmart will provide in **writing** to the team member notification that failure to contact Kmart within seven (7) working days with a satisfactory explanation for the absence will result in Kmart regarding the team member as having abandoned their employment and Kmart will consider the team member's employment at an end.

41. REDUNDANCY (FULL-TIME AND PART-TIME TEAM MEMBERS)

41.1 Discussions before terminations

41.1.1 Where Kmart has made a definite decision that it no longer wishes the job the team member has been doing to be done by anyone (other than due to the ordinary and customary turnover of labour) and that decision may lead to termination of employment, Kmart will hold discussions with the team members directly affected and with the **Union**.

41.1.2 The discussions will:

- (a) take place as soon as is practicable after Kmart has made a definite decision for the purposes of **clause 41.1.1**; and
- (b) include any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the team members concerned.

41.1.3 For the purposes of the discussions Kmart will, as soon as practicable, provide in **writing** to the team members concerned and the **Union**:

- (a) all relevant information about the proposed terminations including the reasons for the proposed terminations the number and categories of team members likely to be affected, and the number of team members normally employed; and
- (b) the period over which the terminations are likely to occur.

Provided that Kmart will not be required to disclose confidential information the disclosure of which would be detrimental to Kmart.

41.2 **Transfer to Lower Paid Duties**

Where a team member is transferred to lower paid duties for reasons set out in **clause 41.1.1** the team member will be entitled to the same period of notice of transfer as they would have been entitled to if their employment had been terminated. Kmart may make payment in lieu thereof, equal to the difference between the former **Base Rate of Pay** and the new lower **Base Rate of Pay** for notice still owing.

41.3 **Time Off Work During Notice Period**

41.3.1 During the notice period, a team member can access up to one (1) days' time off without loss of pay during each week of notice, for the purpose of seeking other employment.

41.3.2 If the team member has been allowed paid leave for more than one (1) day during the notice period for the purpose of seeking other employment, the team member will, at the request of Kmart, be required to produce proof of attendance at an interview or they will not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

41.4 **Severance Pay**

41.4.1 A team member whose employment is terminated for reasons set out in **clause 41.1.1** will be entitled to the following amount of severance pay, in addition to notice of termination.

| Period of Continuous Service | Severance Pay | |
|-------------------------------|-----------------------|--------------------------|
| | Under 45 years of age | 45 years of age and over |
| Less than 1 year | nil | nil |
| 1 year and less than 2 years | 4 weeks | 5 weeks |
| 2 years and less than 3 years | 7 weeks | 8.75 weeks |
| 3 years and less than 4 years | 10 weeks | 12.5 weeks |
| 4 years and less than 5 years | 12 weeks | 15 weeks |
| 5 years and less than 6 years | 14 weeks | 17.5 weeks |
| 6 years and over | 16 weeks | 20 weeks |

41.4.2 Severance pay is calculated at the team member's relevant **Base Rate of Pay** and is based on a team member's ordinary hours of work.

41.5 **Team Member Leaving During Notice Period**

A team member whose employment is terminated for reason of redundancy may terminate their employment during the period of notice. If so, the team member will be entitled to the same benefits and payments under this clause had they remained with

Kmart until the expiry of such notice. However, in such circumstances the team member will not be entitled to payment in lieu of notice.

41.6 **Incapacity to Pay and Alternative Employment**

If a team member is entitled to be paid an amount of redundancy pay by Kmart and Kmart obtains either other acceptable employment for the team member or cannot pay the amount, Kmart may apply to the **FWC** to reduce the severance pay. The **FWC** may reduce the amount to a specified amount, which may be nil, that the **FWC** considers appropriate.

41.7 **Team Members Exempted**

Clause 41 does not apply:

41.7.1 where employment is terminated due to serious misconduct;

41.7.2 in the case of casual team members;

41.7.3 team members engaged for a specific period of time or for a specified task or tasks; or

41.7.4 in the case of a trainee to whom a training arrangement applies and whose employment is for a specified period of time or is, for any reason limited to the duration of the training arrangement.

PART 9 – OTHER MATTERS

42. SECURITY GUIDELINES

42.1 Preamble

42.1.1 This clause has guidelines to deal with the difficulty that arises where security measures are taken by Kmart concerning a team member suspected of dishonest practices.

42.1.2 These guidelines should be followed where possible and honoured in essence, rather than in absolute terms. If unusual situations arise making it impossible to be followed, the **Union** will accept such measures as are within the spirit of the guidelines.

42.2 Basis of the Guidelines

42.2.1 The **Union** recognises that:

- (a) Kmart has the right to protect its property, interests and effects and has the right to establish and maintain proper security precautions.
- (b) Security precautions may include the employment of trained profit protection personnel, with the responsibility of carrying out security investigations.

42.3 Team Member Interviews

42.3.1 When Kmart is determining whether, or by whom, an offence or breach of company security or misuse of resources has been committed Kmart can question any team member, (whether suspected or not), from whom useful information may be obtained.

42.3.2 As soon as Kmart has reasonable grounds for suspicion that a team member has committed an offence Kmart will ask the team member whether they agree to be questioned. If agreed, Kmart will caution the team member before putting any questions, or further questions, to them relating to that offence.

42.3.3 The caution will be: 'You are not obligated to say anything unless you wish to do so but what you say may be put into **writing** and given in evidence.'

42.3.4 After providing the caution in **clause 42.3.3**, Kmart will then bring to the team member's attention the right under these guidelines to ask for the attendance of a nominated team member who is immediately available to be present as a witness in the interview.

42.3.5 Kmart may object to the presence of any particular person as a witness at such interview where there is a conflict of interest or if there is a reason to believe that the witness may be in some way involved in the subject matter of the interview. The attendance of a team member as a witness at a security interview will be subject to the witness maintaining confidentiality and not revealing to any person not involved in the interview what has taken place or been said in the course of such interview and that the witness will not interrupt or frustrate the course of the interview.

- 42.3.6 During the course of any such interview management or profit protection personnel will conduct themselves in a courteous manner toward the team member being interviewed.
- 42.3.7 Where a profit protection investigation involves a team member remaining at Kmart's premises, or elsewhere at Kmart's direction, outside of the team member's ordinary working time, such team member will be paid overtime in accordance with **clause 15**.
- 42.3.8 As a general principle, team members who have been interviewed with regard to a security matter should not be transferred to another work place, have a change of duties or sustain any disciplinary action until the security investigation has been completed. However, in the spirit of these guidelines it is acknowledged that there may be circumstances in which it may be desirable to transfer a team member, or change their duties.

42.4 **Cash Shortages**

- 42.4.1 Team members whose duties involve the handling of money will not be held responsible for the repayment of any cash shortages, unless the team member had sole access to the money and Kmart determines that, on the balance of probabilities, the shortage was caused due to theft by the team member.
- 42.4.2 **Clause 42.4** does not affect Kmart's right to take other action Kmart considers necessary, such as disciplinary or legal action.

42.5 **Security Checks of Bags, Parcels and/or Lockers**

- 42.5.1 Kmart is entitled to conduct routine security checks of team member bags and/or parcels at entry and exit points used by team members.
- 42.5.2 Individual security checks of bags, parcels and/or lockers will not take place unless the team member:
- (a) is present; or
 - (b) has given permission, on each occasion, for the search to take place in their absence.
- 42.5.3 Where a search or check takes place in the team member's absence, the team member may nominate another team member to be present.
- 42.5.4 This clause will not apply in emergency situations or where there is a risk to health and safety. Where a search of a team member's bag, parcel and/or locker has taken place without the team members permission or presence, they will be notified within three (3) business days.

42.6 **Staff Entrances and Exits**

Kmart may require team members to use staff entrances and exits when entering or leaving the store during their shifts.

43. WORKPLACE DELEGATES' RIGHTS

43.1 Workplace Delegate Training

43.1.1 A **Workplace Delegate** may represent the industrial interests of team members who are members or eligible to be members of the delegate's **Employee Organisation**. This includes in relation to:

- (a) consultation about major workplace change;
- (b) consultation about changes to rosters or hours of work;
- (c) resolution of disputes;
- (d) disciplinary processes;
- (e) enterprise bargaining where the **Workplace Delegate** has been appointed as a bargaining representative or is assisting the **Employee Organisation** with enterprise agreement; and
- (f) any process or procedure within the **Agreement** and Kmart policy which concerns the team member's industrial interests.

43.1.2 A **Workplace Delegate** may communicate with team members (including during working hours, work breaks or before or after work) who are members or are eligible to be members of the delegate's **Employee Organisation** for the purpose of representing their industrial interests. This includes discussing membership of the **Workplace Delegate's Employee Organisation** and representation with eligible employees.

43.1.3 Workplace Facilities

- (a) Kmart will provide a **Workplace Delegate** with access to, or use of, the following facilities where the **Retail Store** has the facility:
 - (i) room or area to hold discussions that is fit for purpose, private and accessible by the workplace delegate and eligible team members;
 - (ii) a physical or electronic noticeboard;
 - (iii) electronic means of communication ordinarily used in the workplace by the employer to communicate with eligible team members and by eligible team members to communicate with each other, including access to Wi-Fi;
 - (iv) a lockable filing cabinet or other secure document storage area; and
 - (v) office facilities and equipment including printers, scanners and photocopiers.
- (b) Kmart is not required to provide access to the facilities listed in **clause 43.1.3(a)** where it would be impractical to provide access to the facilities at the time or in the matter sought due to operational requirements, or if Kmart does not have access to the facility in the Store and is unable to obtain access after taking reasonable steps.

43.1.4 Paid Workplace Delegate Training

- (a) Kmart will pay a **Workplace Delegate** in accordance with the roster they would have worked while the **Workplace Delegate** attends training related to the representation of the industrial interests of eligible team members in accordance with **clause 43.1.1**.
- (b) A new **Workplace Delegate** will be provided with five (5) days of paid leave to attend initial training related to the representation of the industrial interests of eligible team members. Kmart is not required to provide this leave to more than one **Workplace Delegate** per 50 team members, per store.
- (c) Each store will provide up to a further maximum of five (5) days paid leave per store per annum, non-cumulative.
- (d) At each store, the maximum number of team members attending training under this clause will be two (2).
- (e) Each application to attend a training and receive full pay must be in writing to the Store Manager and with not less than four (4) weeks' notice.
- (f) Kmart will advise the **Workplace Delegate** at least two (2) weeks prior to the training whether the leave has been approved. Kmart will not unreasonably withhold their approval to attend the training.
- (g) Kmart will not be required to pay the cost of travel to and from the place where training is conducted and/or any accommodation costs during such leave.
- (h) On completion of the training the team member will provide, upon request by Kmart, proof satisfactory to a reasonable person of attendance at the course.

43.1.5 Exercising entitlements under this clause

- (a) When exercising entitlements under this clause a **Workplace Delegate** must not:
 - (i) hinder, obstruct or prevent the normal performance of work; and
 - (ii) hinder, obstruct or prevent eligible team members exercising their rights to freedom of association.

44. UNION MATTERS

44.1 Paid Union Leave

- 44.1.1 A **Union Delegate** will be provided with one (1) day of paid leave for training on new enterprise agreements for team members covered by this **Agreement**.
- 44.1.2 In consultation between Kmart and the Branch Secretaries or their representatives, additional paid leave will be provided for training on key legislative changes.

44.2 **Unpaid Union Leave**

44.3 With prior arrangement at store level, a **Union Delegate** may be released from their employment duties for up to five (5) days per calendar year, to participate in **Union** activities associated with membership recruitment.

44.3.1 **Union Delegates** so released from their duties will be on leave without pay.

44.3.2 Kmart may refuse to grant unpaid leave if it would impact negatively on the operation of the business, provided that requests for unpaid leave will not be unreasonably refused by the company.

44.4 To access Paid or Unpaid **Union** Leave, at least four (4) weeks' notice will be given to the Store Manager.

44.5 Leave granted pursuant to this clause will count as service for all purposes of the **Agreement**.

44.6 Leave will not be granted during key operational periods.

44.7 **Union Matters**

44.7.1 For the duration of the **Agreement**, Kmart recognises the **Union** as being the **Union** that has coverage of and represents team members covered by this **Agreement** and this representation will extend to all terms and conditions of employment, whether those terms and conditions are subject to this **Agreement** or not.

44.7.2 Kmart supports freedom of association and acknowledges the right of every team member to participate in the **Union** or not to do so. Kmart recommends to team members covered by this **Agreement** wishing to join the appropriate union, that they be members of the **SDA** nationally, except for where AWU (QLD Branch) has coverage. Team members who do not wish to be members of the **Union** will not have their employment prejudiced in any way by their decision.

44.7.3 All new team members covered by the **Agreement**, will upon induction, be given an application form to join the **Union** and any appropriate literature provided by the **Union**.

44.7.4 Upon **written** authorisation from a team member, Kmart will deduct from their pay **Union** membership fees, as levied by the **Union** (in accordance with its rules) from their wages. The deducted fees will be forwarded to the **Union** each month, along with all necessary information to enable reconciliation of crediting of subscriptions to members' accounts.

44.7.5 Kmart will introduce to a **Union Delegate**, all new team members as soon as is reasonably practicable.

44.7.6 A **Union Delegate** shall be allowed a reasonable period of time during working hours to interview an authorised official of the **Union**, provided it does not unnecessarily interrupt the operations of the store. The period of time is expected to be no greater than 30 minutes. The time spent in discussions between the **Union Delegate** and the authorised **Union** official shall be devoted to legitimate **Union** business.

44.7.7 Kmart recognises that **Union** officials and **Union Delegates** are entitled to perform a representative role in meetings held between Kmart and members

of the **Union** where those members request representation. For the avoidance of doubt:

- (a) The role of representatives is not confined to the role of “silent witness”, “observer” or “support person” and may participate in the meeting.
- (b) A **Union** official's or **Union Delegate's** involvement in a meeting will not prevent Kmart from seeking direct responses from a team member and the **Union** official or **Union Delegate** will not prevent Kmart from interacting directly with a team member during processes such as investigations and disciplinary meetings.

44.7.8 Where practicable, Kmart will endeavour to notify and invite **Union Delegates** and **Union** officials to group team member inductions for the purposes of recruitment and information.

44.7.9 Kmart will provide in each store a notice board (of reasonable dimensions) or section of a notice board, for the display of **Union** notices authorised by the Branch Secretary of the **Union**.

44.7.10 Kmart will provide the **Union** with one (1) paid meeting of 30 minutes duration per team member, per store, in each half year, on the following basis;

- (a) dates, times and format of meetings to be mutually agreed between the Store Manager and the **Union**;
- (b) normal store operations are to be maintained at all times;
- (c) meetings are non-cumulative and non-transferable between stores; and
- (d) meetings may be linked to lunch or tea breaks.

44.8 **Store Visit Procedures**

44.8.1 A **Union** official visiting a store, will upon arrival and before having any discussions with team members, notify the Store Manager (or, if not available, the next appropriate Manager) of their arrival, general intent and estimated length of the visit. Kmart will provide a **Union** official with reasonable access to team members. The **Union** official will:

- (a) sign in and out of the store as a visitor and follow all safety instructions whilst in the store;
- (b) discuss issues with team members in a way that does not hinder or obstruct a team member in the performance of their duties;
- (c) minimise their interaction with team members during working time;
- (d) ensure there is no disruption to the general operation of the store; and
- (e) discuss with the Store Manager (or, if not available, the next appropriate Manager) any concerns/issues to the extent permitted by any member, with the intent of seeking a satisfactory solution. This may include use of the Dispute Resolution Procedure in **clause 39**.

44.9 For the avoidance of doubt, **clause 44** operates subject to any applicable requirements in Chapter 3 of Part 3-4 (Right of Entry) of the **FW Act**.

45. WORK HEALTH AND SAFETY

45.1 Kmart has a duty to provide and maintain, so far as is reasonably practicable, a working environment that is safe and without risks to health, in accordance with its obligations in the applicable work health and safety legislation.

45.2 While at work, team members must:

45.2.1 take reasonable care for their own health and safety;

45.2.2 take reasonable care for the health and safety of people who may be affected by the team member's acts or omission at the workplace;

45.2.3 cooperate with any reasonable action or instruction given by Kmart; and

45.2.4 cooperate with any health and safety policies, directions and rules, including abiding by safe work practices and the requirements for the reporting of accidents and incidents, including to the relevant Manager.

45.3 Retail Store Renovations

45.3.1 As soon as practicable after a decision is made to renovate a **Retail Store**, Kmart will notify the relevant workplace health and safety representatives, all affected team members and the relevant **Union** for the store.

45.3.2 Kmart will take appropriate action to minimise or where possible eliminate any risks to team member health and safety during renovations. Team members will cooperate with Kmart's directions during renovations to minimise risks within the workplace.

45.4 Kmart will provide hand sanitiser for team member use in stores. Hand sanitiser is located in the check-out area of the store.

45.5 Nothing in this clause is intended to detract from any obligation Kmart has under any applicable workplace health and safety legislation.

45.6 Team members completing their shift at a late time (after dark) or commencing their shift early (while dark) may:

45.6.1 when completing their shift at a late time, be encouraged to leave the store in the company of other team members to give an element of security through numbers;

45.6.2 request an escort to their car after finishing work, regardless of **clause 45.6.1**;

45.6.3 a request by the team member under **clause 45.6.2**, will not unreasonably be refused by Kmart.

46. MEDICAL APPOINTMENTS

46.1 Kmart will not attend any medical or medical-like appointment of a team member, without their consent. This requirement to obtain consent does not prevent Kmart transporting a team member, where necessary, from a health and safety perspective.

46.2 This clause does not impact Kmart's right to take steps to assess a team member's capacity to perform the inherent requirements of their role or comply with its obligations under workers' compensation schemes. Subject to legal requirements, Kmart may continue to take steps such as:

46.2.1 arranging medical appointments; and/or

46.2.2 engaging or liaising with a medical practitioner, regarding a team member's fitness for work.

SIGNATORIES

Signed for and behalf of **Kmart Australia Limited:**

Signature: _____
Full Name: _____
Address: _____
Authority: _____
Date: _____

Signed for and behalf of the **Shop, Distributive and Allied Employee's Association:**

Signature: _____
Full Name: _____
Address: _____
Authority: _____
Date: _____

Signed for and behalf of the **Australian Workers' Union of Employees, Queensland:**

Signature: _____
Full Name: _____
Address: _____
Authority: _____
Date: _____

APPENDIX A – DEFINITIONS

- A.1. **2018 Agreement** means the *Kmart Australia Ltd Agreement 2018*.
- A.2. **Agreement** means the *Kmart National Agreement 2024*.
- A.3. **Base Rate of Pay** means the hourly rate of pay that applies to full-time or part-time team members for ordinary hours of work Monday to Friday 7am-6pm.
- A.4. **Casual Rate of Pay** is the hourly rate of pay that applies to casual team members for ordinary hours of work Monday to Friday 7am-6pm (including the casual loading).
- A.5. **Continuous Service** has the same meaning as set out in section 22 of the **FW Act**.
- A.6. **Day Work Team Member** or **Day Worker** means a team member who is employed to work their ordinary hours within the span of ordinary hours in **clause 13.2.1**.
- A.7. **De facto Partner** has the same meaning as set out in section 12 of the **FW Act**.
- A.8. **Employee Organisation** means an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009 (Cth)* as amended from time to time.
- A.9. **2018 Agreement Team Member** Means a team member employed by Kmart immediately prior to the commencement of the **2018 Agreement** (being immediately prior to 27 November 2019).
- A.10. **Found Family** means where the team member is out of contact with a member or members of their **Immediate Family**, and there is a person with whom the team member has a genuine relationship of identifiable equivalent significant.
- A.11. **FW Act** means the *Fair Work Act 2009 (Cth)* as amended from time to time.
- A.12. **FWC** means the Fair Work Commission.
- A.13. **GRIA** means the *General Retail Industry Award 2020* as amended from time to time.
- A.14. **Immediate Family** means a team member's:
- (a) spouse (including a former spouse);
 - (b) **De facto Partner** (including a former **De facto Partner**);
 - (c) child (including adopted, step, foster child or a child placed on a permanent care order);
 - (d) parent (including a step-parent or parent of a spouse or **De facto Partner**);
 - (e) grandparent (including grandparent of a spouse or **De facto Partner**);
 - (f) grandchild (including grandchild of a spouse or **De facto Partner**);
 - (g) sibling of a team member (including sibling of a spouse or **De facto Partner**);
 - (h) **Found Family**;
 - (i) a person related to the team member according to Aboriginal or Torres Strait Islander kinship rules; or
 - (j) **Significant Person**.
- A.15. **NES** means the National Employment Standards contained in the **FW Act**.

- A.16. **Night Shift Team Member** is a team member who is employed to work **Night Shift Work** in accordance with the relevant terms of this **Agreement**.
- A.17. **Nominal Term** means the period of time between the commencement date of the **Agreement** and the nominal expiry date of the **Agreement**, as set out in **clause 3.2**.
- A.18. **Retail Store** includes any Kmart retail establishment, permanent or temporary store offsite but does not include any distribution centre.
- A.19. **Service** has the meaning as set out in section 22 of the **FW Act**.
- A.20. **Significant Person** means a person who:
- (a) the team member has an ensuring relationship with, of at least 12 months; and
 - (b) for the purposes of carer's leave, is generally unable to source care other than from the team member.
- Kmart will have the right to request reasonable evidence that the team member is the only person reasonably practicable to provide care to the **Significant Person**.
- A.21. **Systematic Cleaning** does not mean cleaning duties incidental to a team member's duties. Incidental cleaning will include dusting of shelves and stock, the sweeping up of packaging materials within the general work area, the cleaning of implements and fixtures used and the cleaning (including vacuum cleaning) of the immediate work area. Incidental cleaning will not include the wet washing of floors, the cleaning of toilets, sweeping of pavement areas except incidental to sales promotion activities, the cleaning of exterior windows other than for the removal of occasional defacements, the cleaning of electrical and plumbing vents, electrical conduits and pipe work.
- A.22. **Uniform** is clothing approved by Kmart with a Kmart company logo displayed.
- A.23. **Union** will mean the following **Employee Organisations** registered under the Fair Work (Registered Organisations) Act 2009:
- (a) the **SDA**; and
 - (b) The **AWU** in respect to the **AWU's Area of Coverage**.
- A.24. **Union Delegate** will mean a team member who is credentialed by the **Union** as a **Union Delegate**.
- A.25. **Voluntary Emergency Management Activity** has the meaning described in section 109 of the **FW Act**.
- A.26. **Workplace Delegate** means a person appointed or elected, in accordance with the rules of an **Employee Organisation**, to be a delegate or representative (however described) for members of the organisation who work for Kmart.
- A.27. **Writing or Written** means any form of written record, including the electronic format. Communications, records or agreements required to be kept in writing or written will be adapted so that they are appropriate for the context and may include (but are not limited to) email, SMS or communications or records created and kept through digital platforms (e.g. time and attendance systems or digital apps).

APPENDIX B – CLASSIFICATIONS

B.1 Retail Assistant

B.1.1 A Retail Assistant is a team member appointed to perform duties related to sales, replenishment, returns and repairs. Indicative duties may include the following:

- (a) assembly of products;
- (b) carrying out change in accordance with planograms;
- (c) basic visual merchandising;
- (d) assisting customers to use self-serve equipment, including at checkouts and at the print and create machine;
- (e) the preparation of customer orders; and
- (f) the collection of trolleys (excluding collection involving the operation of 'ride on' equipment)

B.1.2 Retail Assistant duties/responsibilities are in line with the Retail Employee Level 1 classification in the **GRIA**.

B.2 'Ride-on' Trolley Collector

B.2.1 A 'Ride-on' Trolley Collector is a team member appointed to perform trolley collection duties by operating 'ride-on' equipment.

B.2.2 'Ride-on' Trolley Collector duties/responsibilities are in line with the Retail Employee Level 2 classification in the **GRIA**.

B.3 Clerical Administrator

B.3.1 A Clerical Administrator is a team member appointed at this level to perform non-payroll clerical duties (excluding returns and repairs related work). Clerical duties performed at this level include general clerical routines not related to payroll duties.

B.3.2 Clerical Administrators perform work at a higher level than a Retail Assistant and their duties/responsibilities are in line with the Retail Employee Level 4 classification in the **GRIA**.

B.4 Assistant Supervisor

B.4.1 A team member under this classification is appointed as an Assistant Supervisor.

B.4.2 Indicative duties may include the following:

- (a) Assisting with the supervision of a department or part thereof.
- (b) Assisting with the supervision of a task or process being carried out across more than one department (for example replenishment being carried out across departments).
- (c) Assisting with the supervision of a small group of team members whose numbers may vary, but not exceeding 10 team members.

- (d) Supervising a defined task or process (e.g. check-outs, decant, sequence and online) performed by up to 15 team members.
- (e) When a Manager is not present, opening and closing the premises or providing associated security and securing cash.

B.4.3 Assistant Supervisors perform work at a higher level than a Retail Assistant and their duties/responsibilities are in line with the Retail Employee Level 4 classification in the **GRIA**.

B.5 **Supervisor**

B.5.1 A team member under this classification is appointed as a Supervisor.

B.5.2 Indicative duties may include the following:

- (a) Supervision of a department (or part thereof);
- (b) Supervision of team members whose numbers may vary;
- (c) Supervising tasks or processes being carried out across more than one department;
- (d) Opening and closing the premises or providing associated security and securing cash;
- (e) Maintain computer-based records and systems, including work related to time and attendance records;
- (f) Accountability for managing the stores response to customer threatening situations arising on shift; and/or
- (g) Lead by example and manage team members to embrace and act in line with Kmart's values, expected behaviours and ways of working.

B.5.3 Supervisors perform work at a higher level than an Assistant Supervisor and their duties/responsibilities are in line with the Retail Employee Level 6 classification in the **GRIA**.

APPENDIX C – PAY SCHEDULES

C.1 Retail Assistant: Full-time and Part-time team members

| Day | Day Work (Ordinary Hours) | | | | | | | | | Night Shift Work (Ordinary hours) | | | | Overtime | | | | |
|----------------------|---------------------------|---------|----------|---------------|-----------------------------|----------|-----------------------------|----------|--|--|------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| | Monday to Friday | | | | Saturday | | Sunday | | Public Holiday | Public Holiday | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm – midnight | 7am-11pm | 5am-9am; 11pm - midnight | 9am-11pm | Mon-Sat: 5am – 7am; 11pm - midnight Sun: 5am – 9am; 11pm to midnight | Mon – Sat: 7am – 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 150% | N/A | 125% | 150% | 150% | 125% | 200% | 150% | 250% | 225% | 130% | 150% | 175% | 225% | 150% | 200% | 200% | 250% |
| Adult Rate | \$38.49 | \$25.72 | \$32.07 | \$38.49 | \$38.49 | \$32.07 | \$51.31 | \$38.49 | \$64.14 | \$57.72 | \$33.36 | \$38.49 | \$44.90 | \$57.72 | \$38.49 | \$51.31 | \$51.31 | \$64.14 |
| 19 Yrs. | \$30.79 | \$20.59 | \$25.66 | \$30.79 | \$30.79 | \$25.66 | \$41.05 | \$30.79 | \$51.31 | \$46.18 | \$26.69 | \$30.79 | \$35.92 | \$46.18 | \$30.79 | \$41.05 | \$41.05 | \$51.31 |
| 18 Yrs. | \$26.95 | \$18.03 | \$22.46 | \$26.95 | \$26.95 | \$22.46 | \$35.930 | \$26.95 | \$44.91 | \$40.42 | \$23.36 | \$26.95 | \$31.44 | \$40.42 | \$26.95 | \$35.93 | \$35.93 | \$44.91 |
| 17 Yrs. | \$23.10 | \$15.46 | \$19.25 | \$23.10 | \$23.10 | \$19.25 | \$30.79 | \$23.10 | \$38.49 | \$34.64 | \$20.02 | \$23.10 | \$26.95 | \$34.64 | \$23.10 | \$30.79 | \$30.79 | \$38.49 |
| 16 Yrs. | \$19.26 | \$12.90 | \$16.05 | \$19.26 | \$19.26 | \$16.05 | \$25.67 | \$19.26 | \$32.09 | \$28.88 | \$16.69 | \$19.26 | \$22.47 | \$28.88 | \$19.26 | \$25.67 | \$25.67 | \$32.09 |
| Under 16 Yrs. | \$17.32 | \$11.76 | \$14.44 | \$17.32 | \$17.32 | \$14.44 | \$23.09 | \$17.32 | \$28.86 | \$25.98 | \$15.02 | \$17.32 | \$20.21 | \$25.98 | \$17.32 | \$23.09 | \$23.09 | \$28.86 |

C.2 Retail Assistant: Casual team members

| Day | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|----------------------|---------------------------|---------|----------|---------------|-----------------------------|----------|-----------------------------|----------|---|---|-----------------------------------|----------|---------|----------------|------------------------------|---------------|------------------|--------------------------|
| | Monday to Friday | | | | Saturday | Saturday | Sunday | Sunday | Public Holiday | | Monday to Friday | Saturday | Sunday | Public Holiday | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am; 11pm - midnight | 9am-11pm | Mon-Sat: 5am - 7am; 11pm - midnight Sun: 5am - 9am; 11pm to midnight | Mon - Sat: 7am 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 175% | N/A | 150% | 175% | 175% | 150% | 225% | 175% | 275% | 250% | 155% | 175% | 200% | 250% | 175% | 225% | 225% | 275% |
| Adult Rate | \$44.90 | \$32.15 | \$38.49 | \$44.90 | \$44.90 | \$38.49 | \$57.73 | \$44.90 | \$70.55 | \$64.14 | \$39.77 | \$44.90 | \$51.31 | \$64.14 | \$44.90 | \$57.73 | \$57.73 | \$70.55 |
| 19 Yrs. | \$35.92 | \$25.74 | \$30.79 | \$35.92 | \$35.92 | \$30.79 | \$46.18 | \$35.92 | \$56.44 | \$51.31 | \$31.82 | \$35.92 | \$41.05 | \$51.31 | \$35.92 | \$46.18 | \$46.18 | \$56.44 |
| 18 Yrs. | \$31.44 | \$22.54 | \$26.95 | \$31.44 | \$31.44 | \$26.95 | \$40.42 | \$31.44 | \$49.40 | \$44.91 | \$27.85 | \$31.44 | \$35.93 | \$44.91 | \$31.44 | \$40.42 | \$40.42 | \$49.40 |
| 17 Yrs. | \$26.95 | \$19.33 | \$23.10 | \$26.95 | \$26.95 | \$23.10 | \$34.64 | \$26.95 | \$42.34 | \$38.49 | \$23.87 | \$26.95 | \$30.79 | \$38.49 | \$26.95 | \$34.64 | \$34.64 | \$42.34 |
| 16 Yrs. | \$22.47 | \$16.13 | \$19.26 | \$22.47 | \$22.47 | \$19.26 | \$28.88 | \$22.47 | \$35.30 | \$32.09 | \$19.90 | \$22.47 | \$25.67 | \$32.09 | \$22.47 | \$28.88 | \$28.88 | \$35.30 |
| Under 16 Yrs. | \$20.21 | \$14.70 | \$17.32 | \$20.21 | \$20.21 | \$17.32 | \$25.98 | \$20.21 | \$31.75 | \$28.86 | \$17.90 | \$20.21 | \$23.09 | \$28.86 | \$20.21 | \$25.98 | \$25.98 | \$31.75 |

C.3 Ride-on Trolley Collector: Full-time and Part-time team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|----------------------|---------------------------|---------|----------|---------------|--------------------------|----------|---------|----------|---|---|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am | 9am-11pm | Mon-Sat: 5am - 7am; 11pm - midnight Sun: 5am - 9am; 11pm to midnight | Mon - Sat: 7am 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 150% | N/A | 125% | 150% | 150% | 125% | 200% | 150% | 250% | 225% | 130% | 150% | 175% | 225% | 150% | 200% | 200% | 250% |
| Adult Rate | \$39.37 | \$26.31 | \$32.81 | \$39.37 | \$39.37 | \$32.81 | \$52.49 | \$39.37 | \$65.61 | \$59.05 | \$34.13 | \$39.37 | \$45.93 | \$59.05 | \$39.37 | \$52.49 | \$52.49 | \$65.61 |
| 19 Yrs. | \$31.50 | \$21.06 | \$26.25 | \$31.50 | \$31.50 | \$26.25 | \$41.99 | \$31.50 | \$52.49 | \$47.24 | \$27.30 | \$31.50 | \$36.75 | \$47.24 | \$31.50 | \$41.99 | \$41.99 | \$52.49 |
| 18 Yrs. | \$27.57 | \$18.44 | \$22.98 | \$27.57 | \$27.57 | \$22.98 | \$36.75 | \$27.57 | \$45.94 | \$41.35 | \$23.90 | \$27.57 | \$32.16 | \$41.35 | \$27.57 | \$36.75 | \$36.75 | \$45.94 |
| 17 Yrs. | \$23.64 | \$15.82 | \$19.70 | \$23.64 | \$23.64 | \$19.70 | \$31.51 | \$23.64 | \$39.39 | \$35.45 | \$20.49 | \$23.64 | \$27.58 | \$35.45 | \$23.64 | \$31.51 | \$31.51 | \$39.39 |
| 16 Yrs. | \$19.69 | \$13.19 | \$16.41 | \$19.69 | \$19.69 | \$16.41 | \$26.25 | \$19.69 | \$32.81 | \$29.53 | \$17.07 | \$19.69 | \$22.97 | \$29.53 | \$19.69 | \$26.25 | \$26.25 | \$32.81 |
| Under 16 Yrs. | \$17.73 | \$11.88 | \$14.78 | \$17.73 | \$17.73 | \$14.78 | \$23.63 | \$17.73 | \$29.54 | \$26.59 | \$15.37 | \$17.73 | \$20.68 | \$26.59 | \$17.73 | \$23.63 | \$23.63 | \$29.54 |

C.4 Ride-on trolley Collector: Casual team members

| Day | Day Work (Ordinary hours) | | | | | | | | | | Night Shift Work (Ordinary hours) | | | | Overtime | | | |
|----------------------|---------------------------|---------|----------|---------------|-----------------------------|----------|-----------------------------|----------|---|---|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am; 11pm - midnight | 9am-11pm | Mon-Sat: 5am - 7am; 11pm - midnight Sun: 5am - 9am; 11pm to midnight | Mon - Sat: 7am - 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 175% | N/A | 150% | 175% | 175% | 150% | 225% | 175% | 275% | 250% | 155% | 175% | 200% | 250% | 175% | 225% | 225% | 275% |
| Adult Rate | \$45.93 | \$32.89 | \$39.37 | \$45.93 | \$45.93 | \$39.37 | \$59.05 | \$45.93 | \$72.17 | \$65.61 | \$40.69 | \$45.93 | \$52.49 | \$65.61 | \$45.93 | \$59.05 | \$59.05 | \$72.17 |
| 19 Yrs. | \$36.75 | \$26.33 | \$31.50 | \$36.75 | \$36.75 | \$31.50 | \$47.24 | \$36.75 | \$57.74 | \$52.49 | \$32.55 | \$36.75 | \$41.99 | \$52.49 | \$36.75 | \$47.24 | \$47.24 | \$57.74 |
| 18 Yrs. | \$32.16 | \$23.05 | \$27.57 | \$32.16 | \$32.16 | \$27.57 | \$41.35 | \$32.16 | \$50.53 | \$45.94 | \$28.49 | \$32.16 | \$36.75 | \$45.94 | \$32.16 | \$41.35 | \$41.35 | \$50.53 |
| 17 Yrs. | \$27.58 | \$19.78 | \$23.64 | \$27.58 | \$27.58 | \$23.64 | \$35.45 | \$27.58 | \$43.33 | \$39.39 | \$24.43 | \$27.58 | \$31.51 | \$39.39 | \$27.58 | \$35.45 | \$35.45 | \$43.33 |
| 16 Yrs. | \$22.97 | \$16.49 | \$19.69 | \$22.97 | \$22.97 | \$19.69 | \$29.53 | \$22.97 | \$36.09 | \$32.81 | \$20.35 | \$22.97 | \$26.25 | \$32.81 | \$22.97 | \$29.53 | \$29.53 | \$36.09 |
| Under 16 Yrs. | \$20.68 | \$14.85 | \$17.73 | \$20.68 | \$20.68 | \$17.73 | \$26.59 | \$20.68 | \$32.49 | \$29.54 | \$18.32 | \$20.68 | \$23.63 | \$29.54 | \$20.68 | \$26.59 | \$26.59 | \$32.49 |

C.5 Clerical Administrator: Full-time and Part-time team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|--------------|---------------------------|---------|----------|---------------|----------------------------|----------|----------------------------|----------|--|--|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am 11pm - midnight | 7am-11pm | 5am-9am 11pm - midnight | 9am-11pm | Mon-Sat: 5am – 7am; 11pm - midnight Sun: 5am – 9am; 11pm to midnight | Mon – Sat: 7am – 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 150% | N/A | 125% | 150% | 150% | 125% | 200% | 150% | 250% | 225% | 130% | 150% | 175% | 225% | 150% | 200% | 200% | 250% |
| Adult Rate | \$40.77 | \$27.24 | \$33.98 | \$40.77 | \$40.77 | \$33.98 | \$54.35 | \$40.77 | \$67.94 | \$61.15 | \$35.34 | \$40.77 | \$47.56 | \$61.15 | \$40.77 | \$54.35 | \$54.35 | \$67.94 |

C.6 Clerical Administrator: Casual team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|--------------|---------------------------|---------|----------|---------------|----------------------------|----------|----------------------------|----------|---|--|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am 11pm - midnight | 7am-11pm | 5am-9am 11pm - midnight | 9am-11pm | Mon-Sat: 5am – 7am; 11pm - midnight Sun: 5am – 9am; 11pm to midnight | Mon – Sat: 7am – 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 175% | N/A | 150% | 175% | 175% | 150% | 225% | 175% | 275% | 250% | 155% | 175% | 200% | 250% | 175% | 225% | 225% | 275% |
| Adult Rate | \$47.56 | \$34.05 | \$40.77 | \$47.56 | \$47.56 | \$40.77 | \$61.15 | \$47.56 | \$74.73 | \$67.94 | \$42.13 | \$47.56 | \$54.35 | \$67.94 | \$47.56 | \$61.15 | \$61.15 | \$74.73 |

C.7 Assistant Supervisor: Full-time and Part-time team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|--------------|---------------------------|---------|----------|---------------|-----------------------------|----------|-----------------------------|----------|---|---|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am; 11pm - midnight | 9am-11pm | Mon-Sat: 5am - 7am; 11pm - midnight Sun: 5am - 9am; 11pm to midnight | Mon - Sat: 7am - 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 150% | N/A | 125% | 150% | 150% | 125% | 200% | 150% | 250% | 225% | 130% | 150% | 175% | 225% | 150% | 200% | 200% | 250% |
| Adult Rate | \$40.77 | \$27.24 | \$33.98 | \$40.77 | \$40.77 | \$33.98 | \$54.35 | \$40.77 | \$67.94 | \$61.15 | \$35.34 | \$40.77 | \$47.56 | \$61.15 | \$40.77 | \$54.35 | \$54.35 | \$67.94 |

C.8 Assistant Supervisor: Casual team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|--------------|---------------------------|---------|----------|---------------|-----------------------------|----------|-----------------------------|----------|---|---|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am; 11pm - midnight | 9am-11pm | Mon-Sat: 5am - 7am; 11pm - midnight Sun: 5am - 9am; 11pm to midnight | Mon - Sat: 7am - 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 175% | N/A | 150% | 175% | 175% | 150% | 225% | 175% | 275% | 250% | 155% | 175% | 200% | 250% | 175% | 225% | 225% | 275% |
| Adult Rate | \$47.56 | \$34.05 | \$40.77 | \$47.56 | \$47.56 | \$40.77 | \$61.15 | \$47.56 | \$74.73 | \$67.94 | \$42.13 | \$47.56 | \$54.35 | \$67.94 | \$47.56 | \$61.15 | \$61.15 | \$74.73 |

C.9 Supervisor: Full-time and Part-time team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|---------------------|---------------------------|---------|----------|---------------|-----------------------------|----------|---------------------------|----------|---|---|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|--------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holiday |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am; 11pm-midnight | 9am-11pm | Mon-Sat: 5am – 7am; 11pm - midnight Sun: 5am – 9am; 11pm to midnight | Mon – Sat: 7am – 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 150% | N/A | 125% | 150% | 150% | 125% | 200% | 150% | 250% | 225% | 130% | 150% | 175% | 225% | 150% | 200% | 200% | 250% |
| Adult Rate | \$43.05 | \$28.76 | \$35.88 | \$43.05 | \$43.05 | \$35.88 | \$57.39 | \$43.05 | \$71.74 | \$64.57 | \$37.31 | \$43.05 | \$50.22 | \$64.57 | \$43.05 | \$57.39 | \$57.39 | \$71.74 |

C.10 Supervisor: Casual team members

| | Day Work (Ordinary Hours) | | | | | | | | | | Night Shift Work (Ordinary Hours) | | | | Overtime | | | |
|---------------------|---------------------------|---------|----------|---------------|-----------------------------|----------|---------------------------|----------|---|---|-----------------------------------|----------|---------|-----------------|------------------------------|---------------|------------------|---------------------------|
| Day | Monday to Friday | | | | Saturday | | Sunday | | Public Holidays | | Monday to Friday | Saturday | Sunday | Public Holidays | Overtime: Monday to Saturday | | Overtime: Sunday | Overtime: Public Holidays |
| Time | 5am-7am | 7am-6pm | 6pm-11pm | 11pm-Midnight | 5am-7am; 11pm - midnight | 7am-11pm | 5am-9am; 11pm midnight | 9am-11pm | Mon-Sat: 5am – 7am; 11pm - midnight Sun: 5am – 9am; 11pm to midnight | Mon – Sat: 7am – 11pm Sun: 9am to 11pm | N/A | N/A | N/A | N/A | First 3 Hours | After 3 hours | N/A | N/A |
| GRIA Penalty | 175% | N/A | 150% | 175% | 175% | 150% | 225% | 175% | 275% | 250% | 155% | 175% | 200% | 250% | 175% | 225% | 225% | 275% |
| Adult Rate | \$50.22 | \$35.95 | \$43.05 | \$50.22 | \$50.22 | \$43.05 | \$64.57 | \$50.22 | \$78.91 | \$71.74 | \$44.48 | \$50.22 | \$57.39 | \$71.74 | \$50.22 | \$64.57 | \$64.57 | \$78.91 |

APPENDIX D – SUPPORTED WAGE

D.1 Workers Eligible for a Supported Wages

D1.1. This Appendix outlines the conditions which will apply to team members, who because of the effects of a disability, are eligible for a supported wage under this **Agreement**. In the context of this Appendix, the following definitions will apply:

- (a) **'Supported Wage System' (SWS)** means the Commonwealth Government system to promote employment for people who cannot work at full Agreement wages because of a disability, as documented in Supported Wage System: Guidelines and Assessment Process.
- (b) **'Approved Assessor'** means a person accredited by the management unit established by the Commonwealth under the Supported Wage System to perform assessments of an individual's productive capacity within the Supported Wage System.
- (c) **'Disability Support Pension'** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the *Social Security Act 1991*, as amended from time to time, or any successor to that scheme.
- (d) **'Assessment instrument'** means the form provided for under the Supported Wage System that records the assessment of the productive capacity of the person to be employed under the Supported Wage System.
- (e) **'Supported Wage Assessment Agreement'** means the document in the form required by the Department of Social Services that records the team member's productive capacity and agreed wage rate.

D.2 Eligibility Criteria

D2.1. Team members covered by this Appendix are those unable to perform the range of duties to the competence level required within the class of work for which the team member is engaged under this **Agreement**, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a Disability Support Pension.

D2.2. The Appendix does not apply to any team member employed by Kmart who has a claim against Kmart which is subject to the provisions of workers' compensation legislation or any provision of this **Agreement** relating to the rehabilitation of team members who are injured in the course of employment.

D.3 Supported Wage Rates

D3.1. Team members to whom this Appendix applies will be paid the applicable percentage of the rate of pay prescribed by this **Agreement** for the class of work which the person is performing, according to the following schedule:

| Assessed Capacity % | Relevant Minimum Wage % |
|---------------------|-------------------------|
| 10%* | 10% |

| | |
|-----|-----|
| 20% | 20% |
| 30% | 30% |
| 40% | 40% |
| 50% | 50% |
| 60% | 60% |
| 70% | 70% |
| 80% | 80% |
| 90% | 90% |

- D3.2. The minimum amount payable will be not less than **\$106.00 per week**. Adjustments to the minimum amount payable will automatically be increased to reflect any increases flowing from any Supported Wage decision that may apply during the life of the **Agreement**.
- D3.3. Where assessed capacity is 10%, the team member will receive a high degree of assistance and support.

D.4 Assessment of Capacity

- D4.1. For the purpose of establishing the percentage of the **Agreement** rate to be paid to a team member under this **Agreement**, the productive capacity of the team member will be assessed in accordance with the **SWS** by an approved assessor, having consulted with Kmart and the team member, and if the team member chooses, a **Union** which the team member is eligible to join.
- D4.2. All assessments made under this Appendix must be documented in an **SWS** wage assessment agreement, and be retained by Kmart as a time and wages record in accordance with the **FW Act**.

D.5 Lodgement of SWS Wage Assessment Agreement

- D5.1. All **SWS Wage Assessment Agreements** under the conditions of this Appendix, including the appropriate percentage of the **Agreement** wage to be paid to the team member, will be lodged by Kmart with the **FWC**.
- D5.2. All **SWS Wage Assessment Agreements** will be agreed and signed by the team member and Kmart party to the assessment. Where a **Union**, which has an interest in the **Agreement** is not a party to the assessment, the assessment will be referred by **FWC** to the **Union** by registered mail and the agreement will take effect unless provided that where the **Union** is not a party to the assessment, it will be referred by the Registrar to the **Union** by mail and will take effect unless an objection is notified to the Registrar within 10 working days.

D.6 Review of Assessment

The assessment of the applicable percentage should be subject to annual review or more frequent review on the basis of a reasonable request. The process of review will be in accordance with the procedures for assessing capacity under the **SWS**.

D.7 Other Terms and Conditions of Employment

Where an assessment has been made, the applicable percentage will apply to the wage rate only. Team members covered by the provisions of this Appendix will be entitled to equal terms and conditions of employment as all other workers covered by this **Agreement**, paid on a proportionate basis. To avoid doubt the applicable supported wages percentage applies to the rates of pay under this **Agreement** as follows:

| Rate under this Agreement | Supported Wage % applied to |
|--|---|
| Base Rate of Pay | To the Base Rate of Pay |
| Casual Rate of Pay | To the Casual Rate of Pay |
| All other Day Work and Night Shift Work rates (other than the base rate and casual rate) | To the fixed amounts for all hours set out in the relevant Pay Schedules of this Agreement plus one (1) cent following the application of the relevant percentage. |

D.8 Workplace Adjustment

When Kmart wishes to employ a person under the provisions of this Appendix, reasonable steps will be taken to make changes in the workplace to enhance the team member's capacity to do the job. Changes may involve re-design of the job duties, working time arrangements and work organisation in consultation with other workers in the area.

D.9 Trial Period

- D9.1. In order for an adequate assessment of the team member's capacity to be made, Kmart may employ a person under the provision of this Appendix for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding 4 weeks) may be needed.
- D9.2. During the trial period the assessment of capacity will be undertaken and the proposed wage rate for a continuing employment relationship will be determined.
- D9.3. The minimum amount payable to the team member during the trial period will be no less than **\$106.00 per week**.
- D9.4. Work trials should include induction or training appropriate to the job being trialled.
- D9.5. Where Kmart and the team member wish to continue an employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of an assessment under **clause D.4**.

APPENDIX E – SAVED PROVISIONS

E.1 Sunday Work

E1.1. Team members:

- (a) engaged prior to 1 November 1994; and
- (b) who at that time were not working Sunday as a part of their regular roster,

will not be required to work on Sunday unless they agree to do so.

E1.2. Team members:

- (a) engaged prior to 1 November 1994; and
- (b) who were working Sunday as a part of their regular roster,

may continue to be required to work on Sunday.

E1.3. Where trading on Sunday in a **Retail Store** was not legal and became legal during the life of the **2018 Agreement**, a **2018 Agreement Team Member** based in that **Retail Store** will not be required to work on Sunday as a part of their regular roster unless they agree to do so.

E1.4. Where a team member protected by this clause transfers at their own request to a store where Sunday trading is already lawful and they are advised that they may be required to work on a Sunday, the team member will not have the right to refuse to work on Sundays at the new store.

E1.5. Where a team member protected by this clause transfers at Kmart's request from a non-Sunday trading store to another store where Sunday trading is already lawful, the team member will retain the right to refuse to work on Sunday at the new store.

E.2 New South Wales – premium roster

2018 Agreement Team Members in New South Wales on a premium roster, will retain existing rosters and classification as a full-time team member and receive all pay rises under this **Agreement**.

E.3 Change to Span of Hours

E3.1. Team members employed as at 1 May 1998 who did not work beyond the span of hours as prescribed in the Kmart Australia Ltd Award 2001 may volunteer to work between 10pm and 6am Monday to Saturday inclusive. All other team members may be required to work such hours.

E3.2. Work rostered between 6pm and 10pm Saturday will be voluntary for all team members employed by Kmart prior to 1 November 1994. All other team members may be required to work such hours.

E.4 Saved Weekly Rates of Pay and Saved Shift Rates of Pay

E4.1. Any team member employed immediately before 2 December 2018 that was entitled to:

- (a) a Saved Weekly Rate of Pay in accordance with clause 2 of Appendix B of the **2018 Agreement**; or
- (b) a Saved Shift Rate of Pay in accordance with clause 3 of Appendix B of the **2018 Agreement**,

will continue to receive the Saved Weekly Rate of Pay or Saved Shift Rate of Pay under the terms of Appendix B of the **2018 Agreement** during the **Nominal Term**.

E4.2. However, clause 2.10 of Appendix B and clause 3.12 of Appendix B of the **2018 Agreement** will not apply.

E4.3. **Clause E.4** will not apply after the **Nominal Term** of the **Agreement**.

E.5 Accident Make-up Pay

E5.1. A team member in Victoria who was employed by Kmart immediately before the commencement of the **2018 Agreement** will continue to be eligible to receive accident pay whilst in receipt of any compensation payable under the applicable Victorian legislation.

E5.2. Accident pay payable under this clause is determined by comparing:

- (a) the accident compensation payment payable under the provisions of the applicable Victorian legislation; and
- (b) the team member's weekly pay at the time of the accident calculated by multiplying the team member's **Base Rate of Pay** (for full-time or part-time team members) or the **Casual Rate of Pay** (for casual team members) paid under this **Agreement** for the average rostered hours worked by the team member at the time of the accident.

E5.3. Accident pay is paid if the amount under **clause E.5.2(b)** is higher than **clause E.5.2(a)**. The accident pay payable will be the difference between **clauses E.5.2(a)** and **E.5.2(b)**.

E5.4. Payment of accident pay will be limited to a maximum total of 39 weeks.

E5.5. Accident pay under this clause does not apply in respect of an injury suffered during the first seven (7) consecutive days (including non-working days) on which the team member is incapacitated.

