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Dear Associate

#### UPDATED EXPOSURE DRAFTS - GROUP 4 AWARDS

We act on behalf of Australian Business Industrial (**ABI**) and the New South Wales Business Chamber Ltd (**NSWBC**) in relation to the following:

1. AM2014/265: Electrical, Electronic and Communications Contracting Award 2010 (**Electrical Award**);
2. AM2014/280: Plumbing and Fire Sprinklers Award 2010 (**Plumbing Award**);
3. AM2014/260: Building and Construction General On-Site Award 2010 (**Building Award**);
4. AM2014/274: Joinery and Building Trades Award 2010 (**Joinery Award**).
5. AM2014/278: Mobile Crane Hiring Award 2010 (**Mobile Crane Award**).

On 28 February 2019, the Fair Work Commission (**Commission**) issued a Statement concerning the four yearly review of modern awards. The Statement contained a timeline setting out the timing for the publication of updated exposure drafts and when parties may comment on same. In accordance with this Statement, set out below are our clients' submission in respect of the updated exposure drafts for the Electrical Award, Plumbing Award, Building Award, Joinery Award and Mobile Crane Award.

#### 1. UPDATED EXPOSURE DRAFT - ELECTRICAL AWARD

- 1.1 Our clients submit that there are a number of issues in the updated exposure draft in relation to Schedule C and clause 17 of the Electrical Award. Specifically, there are a number of rounding issues in relation to the wage related allowances. This stems from the fact that:
  - (a) the definition of 'standard rate' in the updated exposure draft has changed to the following, "*the minimum hourly rate for an Electrical Worker Grade 5 in clause 16.2*". This is in contrast to the definition of 'standard rate' in the current Electrical Award,

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which is, “the minimum wage for an Electrical Worker Grade 5 in clause 16”. As a result, all wage related allowances must now be calculated on the standard hourly rate, as opposed to either the weekly standard rate or the hourly standard rate (depending on the nature of allowance and how it is paid); and

- (b) despite the changed definition of ‘standard rate’ the monetary amounts for certain wage related allowances appear to have been calculated against the weekly standard rate.

1.2 In clause C.1 of Schedule C, the following rounding errors have been identified:

- (a) Industry Allowance - the exposure draft provides that the amount of \$30.98 per week is payable. This calculation appears to be based on the current method under the Electrical Award for calculating this allowance, which is 3.7% of the weekly standard rate (\$837.40). However, according to the updated exposure draft, the method of calculation is 140.59% of the hourly standard rate (\$22.04), which equates to \$30.99 per week;
- (b) Leading Hand Allowance (more than 20 employees) - the exposure draft provides that the amount of \$67.83 per week is payable. This calculation appears to be based on the current method under the Electrical Award for calculating this allowance, which is 8.1% of the weekly standard rate (\$837.40). However, according to the updated exposure draft, the method of calculation is 307.80% of the hourly standard rate (\$22.04), which equates to \$67.84 per week;
- (c) Nominee Allowance - the exposure draft provides that the amount of \$77.04 per week is payable. This calculation appears to be based on the current method under the Electrical Award for calculating this allowance, which is 9.2% of the weekly standard rate (\$837.40). However, according to the updated exposure draft, the method of calculation is 349.58% of the hourly standard rate (\$22.04), which equates to \$77.05 per week;
- (d) Electrical Distribution Line Maintenance and Tree Clearing Allowance - the exposure draft provides that the amount of \$64.48 per week is payable. This calculation appears to be based on the current method under the Electrical Award for calculating this allowance, which is 7.7% of the weekly standard rate (\$837.40). However, according to the updated exposure draft, the method of calculation is 292.60% of the hourly standard rate (\$22.04), which equates to \$64.49 per week;
- (e) First Aid Allowance - the exposure draft provides that the amount of \$17.59 per week is payable. This calculation appears to be based on the current method under the Electrical Award for calculating this allowance, which is 2.1% of the weekly standard rate (\$837.40). However, according to the updated exposure draft, the method of calculation is 79.78% of the hourly standard rate (\$22.04), which equates to \$17.58 per week; and
- (f) Availability for Duty Allowance - the exposure draft provides that the amount of \$73.69 per week is payable. This calculation appears to be based on the current

method under the Electrical Award for calculating this allowance, which is 8.8% of the weekly standard rate (\$837.40). However, according to the updated exposure draft, the method of calculation is 334.38% of the hourly standard rate (\$22.04), which equates to \$73.70 per week.

1.3 In view of the above, there are corresponding errors in the following clauses of the updated exposure draft:

- (a) clause 17.2(a) (industry allowance);
- (b) clause 17.2(c) (leading hand allowance);
- (c) clause 17.2(d) (nominee allowance);
- (d) clause 17.2(e) (electrical distribution line maintenance and tree clearing allowance);
- (e) clause 17.3(c) (first aid allowance); and
- (f) clause 19.6 (availability for duty).

1.4 To resolve this issue, our clients submit that:

- (a) the definition of 'standard rate' is amended to the following, "*the minimum wage for an Electrical Worker Grade 5 in clause 16.2*"; and
- (b) the percentages in the table in clause C.1 of Schedule C for weekly allowances are updated in accordance with the percentages in the current Electrical Award. For example, the industry allowance is changed from 140.59% to 3.7%; and
- (c) any references in Schedule C to '\$22.04' (being the hourly standard rate) are either:
  - (i) deleted; or
  - (ii) the weekly standard rate of '\$837.40' is also inserted alongside each reference; and
- (d) the weekly wage related allowances calculated on the weekly standard rate and the hourly wage related allowances calculated on the hourly standard rate are placed in separate tables so that users of the Electrical Award can clearly identify the basis for calculating particular allowances.

## 2. UPDATED EXPOSURE DRAFT - PLUMBING AWARD

2.1 Our clients submit that there is a cross-referencing error in clause 27A.7(a) of the updated exposure draft for the Plumbing Award. Specifically, the clause refers to "clause 1A.6" when in fact it should refer to "clause 27A.6".

2.2 Our clients have also identified an issue in relation to the Computing Quantities Allowance. The percentage specified in the table in Schedule F of the updated exposure draft is 0.06%. This is incorrect. The percentage should be changed to 0.6% which equates to \$5.02 per day or part thereof. The suggested change is consistent with the percentage stated in the current version of the Plumbing Award.

**3. UPDATED EXPOSURE DRAFT - BUILDING AWARD**

3.1 In Schedule C of the updated exposure draft for the Building Award, our clients have identified the following:

- (a) in the table in clause C.1.1 of Schedule C, the First Aid Allowance (as it relates to minimum qualification) does not contain the correct clause reference. Specifically, it currently refers to “clause 21.10(b)”, when it should refer to “clause 21.10(b)(i)”;
- (b) the table in clause C.1.2 of Schedule C sets out the hourly allowance payable when engaged in swing scaffold work. The first aspect of the allowance is the amount payable for the first four (4) hours of work. The second aspect of the allowance is that amount payable for each hour in excess of the first four (4) hours. Whilst the table makes it clear the amount payable for the first four (4) hours, our clients consider the wording in the fourth column of the table for “additional hours”, to be less clear. In this regard, our clients submit that the following wording should be inserted into the fourth column in relation to Swing Scaffold Allowance - Each Additional Hour, “\$X for each additional hour after the first 4 hours”; and
- (c) the table in clause C.1.2 of Schedule C sets out the allowances payable for Toxic Substances. The allowance is payable in two circumstances, namely when a person is using toxic substances and when a person is working in close proximity to employees using toxic substances. Our clients consider that the current drafting of the allowance in the table is uncertain because it does not clearly distinguish between the two circumstances. In this regard, our clients submit that the rows in the table relating to toxic substances should be replaced with the following:

Allowance	Clause	% of hourly standard rate	\$ per hour unless stated otherwise
Toxic substances allowance:			
Working with toxic substances	22.2(i)(i)	4.0	0.88
Working in close proximity of employees using toxic substances	22.2(i)(i)	3.2	0.71

3.2 As such, our clients submit that the proposed amendments outlined above are made to the exposure draft.

**4. UPDATED EXPOSURE DRAFT - JOINERY AWARD**

4.1 Our clients have identified that in clause C.1 of Schedule C there are a number of clause references missing for certain allowances. Specifically:

- (a) Tower Allowance - Exceeds 15m in Height - the table in the exposure draft does not currently record the clause reference for this allowance. The correct clause reference is "clause 20.5(n)(i)" and therefore should be inserted into the table; and
  - (b) Tower Allowance - Each Additional 15m in Height - the table in the exposure draft does not currently record the clause reference for this allowance. The correct clause reference is "clause 20.5(n)(ii)" and therefore should be inserted into the table
- 4.2 As such, our clients submit that the changes outlined above should be made to the exposure draft.

## 5. UPDATED EXPOSURE DRAFT - MOBILE CRANE AWARD

- 5.1 Our clients identified that there is a clause reference missing in the wage related allowances table in clause C.1 of Schedule C. Specifically, the All Purpose Industry Allowance does not currently have a clause reference in the second column of the table. As such, our clients submit that the following clause reference should be inserted into the second column of the table, "clause 16.2".
- 5.2 Additionally, our clients have identified that there is a cross-referencing error in clause 27A.7(a) of the updated exposure draft for the Mobile Crane Award. Specifically, the clause refers to "clause 1A.6" when in fact it should refer to "clause 27A.6".

If you have any questions, please contact Lilian Zhou on (07) 3218 0901.

Yours faithfully



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