



# KIMBERLEY LAND COUNCIL ENTERPRISE AGREEMENT 2019



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## PURPOSE

This Agreement sets out the relationship between the Kimberley Land Council (KLC) and its employees, reflecting the vision and values of the organisation. It describes the employment conditions for employees, and the responsibilities of the KLC to employees and of employees to the KLC.

## SCOPE

This Agreement is made between the KLC and its employees and shall be known as the Kimberley Land Council Enterprise Agreement 2019. This Enterprise Agreement will cover;

- a) the Kimberley Land Council Aboriginal Corporation ICN 21; and
- b) employees that work for the Kimberley Land Council up to and including Executive Level 2

## TERMS OF AGREEMENT

This Agreement shall come into operation seven days after the date of approval by Fair Work Australia. The nominal expiry date will be four (4) years from the date of approval. The parties covered by this Agreement agree to commence negotiations for the next Enterprise Agreement 6 months prior to the nominal expiry date of this Agreement.

## VISION

The KLC is a community organisation working for and with Traditional Owners of the Kimberley, to get back country, to look after country, and to get control of our future.

## VALUES

ORGANISATIONAL	OPERATIONAL
<ul style="list-style-type: none"><li>• Respect for our law and culture;</li><li>• Respect for our Elders and stakeholders;</li><li>• Fair and transparent decision-making;</li><li>• Effective and open communication;</li><li>• Working in partnership;</li><li>• Trust and loyalty;</li><li>• Justice and equality for Indigenous peoples; and</li><li>• Cultural diversity.</li></ul>	<ul style="list-style-type: none"><li>• Effective and open communication;</li><li>• Working in partnership;</li><li>• Trust and loyalty;</li><li>• Justice and equality for Indigenous peoples; and</li><li>• Cultural diversity.</li><li>• Achieve real benefits, long term outcomes and realistic aspirations through a commitment to social justice, reconciliation and equality;</li><li>• Protect country and culture (land, law, language);</li><li>• Promote sustainable connection to country;</li><li>• Act in the best interests of Traditional Owners through effective engagement and fully informed decision-making; and</li><li>• Provide a positive, consistent, clear, and supportive working environment.</li></ul>



## 1. RELATIONSHIP TO AWARD & NATIONAL EMPLOYMENT STANDARDS

This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

Subject to the NES, this Agreement replaces all other related awards, agreements, understandings and arrangements made by the parties prior to this Agreement being entered into.

On signing this Agreement, it is agreed that there shall be no claims or industrial action taken on matters within this agreement during the term of the Agreement.

## 2. ACCESS TO AGREEMENT & NATIONAL EMPLOYMENT STANDARDS

A copy of this Agreement and the National Employment Standards (NES) shall be kept in a convenient place for all employees to use, and all employees shall be provided with a copy of this Agreement by the KLC upon execution, or for prospective employees, upon offer of employment.

Note: Access to any KLC policy referenced in this document will be available on KLiC.

## 3. OCCUPATIONAL HEALTH AND SAFETY (OHS)

The KLC shall take all reasonable action to ensure the health and safety of employees and shall adopt and implement appropriate health and safety policies and practices. It is recognised that employees also have a responsibility to ensure a safe and healthy workplace and to be aware of OHS regulations that apply to their particular working environment.

## 4. JOINT CONSULTATIVE COMMITTEE

Either the KLC or employees may initiate The Joint Consultative Committee (JCC) to achieve the following:

- provide a forum for consultation and negotiation between the KLC, employees and their representatives on matters of mutual concern;
- facilitate the mutual exchange of information which affects the working environment of the KLC and its employees;
- promote industrial harmony by encouraging the dissemination of information about industrial matters and the resolution of such matters through discussion and negotiation.

The Committee will be made up of three employees (which may include the elected employee union representative) and three management representatives. Employees will be encouraged to attend meetings of the Committee during work time.

## 5. FLEXIBILITY ARRANGEMENTS

### 5.1. Individual flexibility arrangement

An employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- a) the agreement deals with 1 or more of the following matters:
  - i. arrangements about when work is performed;
  - ii. overtime rates;
  - iii. penalty rates;

- iv. allowances;
    - v. leave loading; and
  - b) the arrangement meets the genuine needs of the KLC and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  - c) the arrangement is genuinely agreed to by the KLC and employee.
- B. The KLC must ensure that the individual flexibility arrangement:
- a) are about permitted matters under section 172 of the Fair Work Act 2009; and
  - b) are not unlawful terms under section 194 of the Fair Work Act 2009; and
  - c) result in the employee being better off overall than the employee would be if no arrangement was made.
- C. The KLC must ensure that the individual flexibility arrangement:
- a) is in writing; and
  - b) includes the name of the KLC and the employee; and
  - c) is signed by the KLC and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  - d) includes details of:
    - i. the terms of the enterprise agreement that will be varied by the arrangement; and
    - ii. how the arrangement will vary the effect of the terms; and
    - iii. how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  - e) states the day on which the arrangement commences.
- D. The KLC must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to by the KLC and the employee.
- E. An agreement may be terminated:
- a) at any time, by written agreement between the employer and the employee; or
  - b) by the employer or employee giving 13 weeks' written notice to the other party (reduced to 4 weeks if the agreement was entered into before the first full pay period starting on or after 4 December 2013).

Note: If an employer and employee agree to an arrangement that purports to be an individual flexibility arrangement under this award term and the arrangement does not meet a requirement set out in s.144 then the employee or the employer may terminate the arrangement by giving written notice of not more than 28 days (see s.145 of the Act).

## 5.2. Flexible working arrangements

Eligible employee's may request a Flexible Working Arrangement (FWA) under the following circumstances:

- a) the employee is the parent, or has responsibility for the care, of a child who is of school age or younger;

- b) the employee is a carer (within the meaning of the Carer Recognition Act 2010);
- c) the employee has a disability;
- d) the employee is 55 or older;
- e) the employee is experiencing violence from a member of the employee's family;
- f) the employee provides care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because the member is experiencing violence from the member's family.

To avoid doubt, and without limiting subsection (1), an employee who:

- a) is a parent, or has responsibility for the care, of a child; and
- b) 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 employee to care for the child.

An eligible employee is:

- a) an employee, other than a casual employee, who has completed at least 12 months of continuous service immediately before making the request; or
- b) a long term casual employee who has a reasonable expectation of continuing employment on a regular and systematic basis.

Employees must request an FWA in writing detailing the change sought and of the reasons for the change. The KLC will discuss the request with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances.

The KLC will give the employee a written response to the request within 21 days. A request can only be refused on reasonable business grounds and those grounds must be provided in writing to the employee.

## 6. EMPLOYMENT AT KLC

### 6.1. Preference in Employment

The KLC is an Equal Opportunity Employer and encourages the filling of vacancies by Kimberley Aboriginal people who meet the selection criteria or who demonstrate that with a reasonable amount of training they will be able to do so.

### 6.2. Forms of employment

Employees may be engaged in full time or part time employment, either on a fixed term or permanent basis. Employees may also be engaged casually.

Full-time employees will work an average 75 hours over a fortnightly period during normal office hours.

A part-time employee is an employee who:

- works less than 75 hours over a fortnight;
- has reasonably predictable hours of work; and
- receives, on a pro rata basis, any pay, entitlements and conditions to those of full-time employees.

A casual employee is employed on a temporary, intermittent or irregular basis. A casual employee is not entitled to paid leave, subsidies, benefits, district allowances or salary sacrifice arrangements.

### 6.3. Right to request casual conversion

A regular casual employee may request that their employment be converted to full-time or part-time employment.

A regular casual employee is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee.

The request must be made to the KLC in writing. The KLC may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee. The KLC will provide a written response to the request within 21 days.

The dispute resolution procedure, clause 13, can be used where an employee does not accept the KLC's refusal.

### 6.4. Probation period

New employees, other than casual employees, will be subject to a three-month probationary period. During that period:

- either party may terminate the employment on one week's notice in writing to the other; or
- the probationary period may be extended, in writing, by a maximum of three months.

### 6.5. Individual Planning and Performance (IPP)

The Individual Planning and Performance (IPP) Process is designed to enable KLC Managers and employees to regularly get together and discuss performance and progress in relation to job performance and behaviours. An individual's performance goals and expectations will align with their Organisational Unit Plan and the overarching KLC Strategic Plan. This alignment adds significant value to the KLC by driving performance towards accomplishing relevant goals.

A formal review for each employee will take place annually between 1 February and 31 March. The purpose of the review will be to:

- objectively assess the employee's performance over the previous 12 months;
- discuss and agree the employee's performance objectives for the next review period; and
- review development opportunities and career objectives for the employee.

The KLC will endeavor to assist employees to perform to a high standard through the setting of performance objectives against the KLC Unit Plans and the overarching KLC Strategic Plan, regular feedback and the provision of development opportunities.

If a manager forms an opinion that an employee's work performance is at risk of falling, or has fallen, below the standard expected for that particular job, the manager will discuss this concern with the employee. The discussion will consider any issues that may be affecting performance and determine any action that needs to be taken to address the situation, including giving the employee help to improve their work performance by role clarification, training or other support or development activity.

If the employee has not achieved a satisfactory performance level within a reasonable period of time, then the manager may recommend that performance management processes commence.



Note: Schedule 1 contains transitional provisions applying to the Individual Planning and Performance Process.

## 7. WORKING HOURS

Ordinary hours of work for a full time employee are 37.5 hours per week, Monday to Friday, with normal office hours between 8:00am and 4:30pm.

Any work conducted before 7:00am or after 6:00pm, or on weekends, must be approved by the employee's manager in advance.

### 7.1. Flexitime

KLC employees (other than casuals) may have access to Flexitime in accordance the KLC policy.

### 7.2. Time off in lieu of working additional hours (TOIL)

If an employee is required to work more than their contracted hours within a payroll fortnight, prior approval must be obtained. Overtime worked on a weekday must be approved by their line manager. Prior approval must be gained from the Unit Manager for any overtime worked on Saturday, Sunday or public holidays. The employee is responsible for obtaining approval and recording additional hours as time off in lieu (TOIL).

The TOIL accrual period is from 1 February to 31 January.

TOIL accrued in the accrual period must be taken by 31 January. Managers and employees have a positive obligation to design workloads that minimise excess hours, do not result in employees exceeding maximum TOIL accrual and allow employees to take TOIL that has been accrued.

Employees cannot accrue more than 20 days of TOIL annually; except in circumstances approved by the CEO with support of the employee's manager. An employee will not be expected to work overtime if they have reached the maximum 20-day accrual.

Upon termination all accrued, unused, TOIL will be paid out.

TOIL rates of accrual:

Day worked	Accrual rate	
Monday – Friday	1 : 1	(1 hour worked = 1 hour accrued)
Saturday	1 : 1.5	(1 hour worked = 1.5 hours accrued)
Sunday & Public Holidays	1 : 2	(1 hour worked = 2 hours accrued)

## 8. SALARIES, SUPERANNUATION & ALLOWANCES

### 8.1. Salary and classification structure

KLC employees will be classified in one of the following classification levels and appointed to at least the minimum salary point in the relevant level. Employees will not receive increments beyond the highest increment within that level.

**8.1.1. KLC Salaries on commencement of Agreement if prior to 1 December 2019:**

Level 1		Level 2		Level 3		Level 4	
1.0	\$42,161.57	2.0	\$53,500.00	3.0	\$ 60,103.43	4.0	\$ 67,729.11
1.1	\$43,585.27	2.1	\$54,887.50	3.1	\$ 61,200.19	4.1	\$ 69,500.89
1.2	\$45,145.07	2.2	\$56,559.31	3.2	\$ 62,424.20	4.2	\$ 71,285.24
		2.3	\$58,070.95	3.3	\$ 63,672.68	4.3	\$ 72,873.82
Level 5		Level 6		Executive Level 1		Executive Level 2	
5.0	\$76,976.39	6.0	\$84,943.03	EL1.0	\$ 95,049.85	EL2.0	\$112,586.72
5.1	\$78,628.31	6.1	\$86,217.17	EL1.1	\$ 97,562.74	EL2.1	\$114,838.45
5.2	\$80,461.33	6.2	\$87,491.92	EL1.2	\$101,085.93	EL2.2	\$119,447.88
5.3	\$82,070.56	6.3	\$89,241.76	EL1.3	\$105,689.98		
		6.4	\$91,835.61	EL1.4	\$108,518.98		

**8.1.2. KLC Salaries effective on 1 December 2019:**

Level 1		Level 2		Level 3		Level 4	
1.0	\$42,161.57	2.0	\$54,375.07	3.0	\$ 61,406.32	4.0	\$ 69,657.40
1.1	\$43,585.27	2.1	\$56,077.24	3.1	\$ 62,389.70	4.1	\$ 71,479.43
1.2	\$45,145.07	2.2	\$57,785.68	3.2	\$ 63,717.09	4.2	\$ 73,315.06
		2.3	\$59,329.78	3.3	\$ 65,018.84	4.3	\$ 74,948.66
Level 5		Level 6		Executive Level 1		Executive Level 2	
5.0	\$79,433.86	6.0	\$87,655.07	EL1.0	\$ 97,406.04	EL2.0	\$112,586.72
5.1	\$81,138.11	6.1	\$88,969.89	EL1.1	\$ 98,867.13	EL2.1	\$114,838.45
5.2	\$83,030.28	6.2	\$90,457.63	EL1.2	\$101,085.93	EL2.2	\$119,447.88
5.3	\$84,690.89	6.3	\$92,266.78	EL1.3	\$105,689.98		
		6.4	\$94,112.11	EL1.4	\$108,518.98		

### 8.1.3. KLC Salaries effective on 1 July 2023:

Level 1		Level 2		Level 3		Level 4	
1.0	\$ 48,715.32	2.0	\$ 64,058.89	3.0	\$ 72,338.11	4.0	\$ 82,585.37
1.1	\$ 50,285.06	2.1	\$ 66,067.78	3.1	\$ 73,654.24	4.1	\$ 84,740.82
1.2	\$ 52,080.39	2.2	\$ 68,076.14	3.2	\$ 75,230.26	4.2	\$ 86,917.21
		2.3	\$ 69,891.89	3.3	\$ 76,773.83	4.3	\$ 88,858.58
Level 5		Level 6		Executive Level 1		Executive Level 2	
5.0	\$ 94,476.45	6.0	\$ 103,746.69	EL1.0	\$ 114,922.56	EL2.0	\$ 127,027.98
5.1	\$ 96,505.76	6.1	\$ 105,492.37	EL1.1	\$ 116,646.39	EL2.1	\$ 129,568.54
5.2	\$ 98,756.99	6.2	\$ 107,778.68	EL1.2	\$ 118,396.09	EL2.2	\$ 134,769.21
5.3	\$ 100,238.35	6.3	\$ 109,395.36	EL1.3	\$ 120,172.03		
		6.4	\$ 111,036.29	EL1.4	\$ 122,438.48		

## 8.2. Consumer Price Index (CPI) increases

In recognition of the National CPI a 2% increase will be applied to the Salary and Classification structure effective 1 July 2021, 1 July 2022 and 1 July 2023.

## 8.3. Wage Review

The KLC will review employees' base salaries annually in July against the Social Community Homecare and Disability Services (SCHADS) award. Such a review will follow the application of any applicable increase as per Clause 8.2, Consumer Price Index (CPI) increase. A review will also be conducted in December 2020, in accordance with the Equal Remuneration Order (ERO). Following each wage review the salary table will be adjusted to ensure all employees' base salaries are a minimum of:

- 2% above the comparative pay point in the SCHADS award;
- 1.5% above the previous pay point within a classification level;
- 3.5% between the top of a classification level and the entry point of a new classification level.

The salary table will be updated following each wage review.

*Note: Schedule 1 contains transitional provisions applying to the Wage Review.*

## 8.4. Casual Employment

A casual employee shall be paid the appropriate hourly rate for the work they are carrying out in line with the KLC Salary & Classification Structure based on the following:

Day worked	Accrual rate
Monday – Friday	Hourly rate plus 25% loading (i.e. hourly rate for classification x 1.25)
Saturday	Hourly rate at time and a half in substitution of 25% loading (i.e. hourly rate for classification x 1.5)
Sunday & Public Holidays	Hourly rate at double time in substitution of 25% loading (i.e. hourly rate for classification x 2)

On each occasion a casual employee is required to attend work, they will be entitled to a minimum payment of three hours.

### 8.5. Payment of salaries

Employee salaries (other than casuals) will be paid fortnightly in arrears by electronic funds transfer directly into the bank account nominated by each employee.

### 8.6. Entitlement to increments

The KLC links employee performance and behaviour to salary progression through the IPP Process as defined in 6.5. The IPP Process aims to ensure that employees know and understand what is expected of them and recognises and rewards employees based on performance. The following will be awarded annually, based on performance, on 1 April:

**A single increment** will be awarded to employees who:

- Meet performance expectations

**A double increment** will be awarded to employees who:

- Exceed performance expectations

**No increment** will be awarded to an employee who:

- in the past 12 months has had at least 2 discussions with their manager about the employee's performance not meeting the standard expected for the employee's particular position, and the employee does not meet performance expectations at the formal review; or
- commences employment after 1 February, the commencement of the final formal IPP review period

**An increment may not be awarded to an employee who:**

- in the past 12 months has been subject to formal disciplinary action based on misconduct.

Where an employee does not meet performance expectations, specific reasons are to be provided to the employee.

Note: Schedule 1 contains transitional provisions applying to the entitlements to increments.

### 8.7. Salary sacrifice

The KLC is recognised as a Public Benevolent Institution (PBI) by the Australian Taxation Office (ATO). Subject to the continuation of this recognition and any changes to the Fringe Benefits Tax (FBT) legislation, employees of the KLC can benefit from tax-free salary sacrifice.

The KLC currently outsources the management of salary sacrifice. An employee is responsible for establishing, seeking advice and managing their own salary sacrifice arrangements with the KLC's nominated salary sacrificing organisation. All costs associated with this are at the employee's expense.

## 8.8. Fringe Benefits

A fringe benefit is a benefit in respect of employment and can be described as an extra benefit supplementing an employee's money wage or salary. Here at the KLC, fringe benefits include, but are not limited to the following benefits:

- Salary packaging through an external provider as nominated by the KLC

### 8.8.1. Fringe Benefits Tax

As a PBI the KLC receives concessional FBT treatment at an exemption amount published annually by the ATO. Any Fringe Benefits that exceed this capped amount will result in a tax implication for the KLC.

### 8.8.2. Employee obligations

To ensure no FBT is incurred, employees will only be eligible to receive up to the concessional amount of Fringe Benefits as defined by the ATO per FBT year. It will be the employee's responsibility to reduce salary packaging limits to remain within the concessional limits. If an employee exceeds the limit the KLC will recover the amount incurred from the employee.

## 8.9. Superannuation

The KLC will make employer superannuation contributions as required by legislation. Contributions will be made into an employee nominated fund of choice, provided that the fund complies with superannuation legislation for this purpose.

In the absence of such nomination, or the fund nominated not complying with legislation, funds will be placed on behalf of employees, with a compliant superannuation fund, as notified by the KLC. Employees will be advised of such treatment.

## 8.10. District allowance

Employees, excluding a casual employee, based in the Kimberley will be entitled to a District Allowance, paid fortnightly, at rates as listed below. The onus of proof is on the employee to establish entitlement to the higher rate of District Allowance payable to employees in regard to residential location and dependent(s). Part-time employees will be entitled on a pro-rata basis.

The annual rates applicable at the date of this Agreement are as follows:

District Allowance	
Broome - no dependents	\$ 500.00
Broome - with dependents	\$ 3,815.00
Other Kimberley - no dependents	\$ 2,828.00
Other Kimberley - with dependents	\$ 7,193.00

Should the employee be temporarily or permanently relocated to an area outside the Kimberley, which does not attract District Allowance, then the payment of District Allowance will cease upon such relocation.

An employee is not eligible to receive the dependants District Allowance if their spouse or de- facto is receiving the dependants component, either from the KLC or another employer.

The district allowance does not form part of an employee's base Salary.



This allowance may be reviewed over the period of this Agreement through consultation with the JCC.

#### **8.10.1. Definition of Dependent**

For the purposes of determining eligibility to a “district allowance with dependents”, a dependent is defined as the following:

A person you maintain who resides in the Kimberley Region, for a period greater or equal to one month, who receives less than the minimum wage and is;

- a) a child under 21 years of age; or
- b) your spouse; or
- c) another person whom you care for.

### **8.11. Residential Housing Entitlement**

The KLC recognises the high cost and limited supply of residential accommodation in the Kimberley region. To assist staff in meeting these high costs a Housing Entitlement will be provided, subject to documentary evidence to support their application.

The Housing Entitlement will only be paid from the date the employee makes an application and will not be backdated. Employees will be required to sign a Statutory Declaration annually, or as determined by the KLC, confirming the basis of their application.

Employees must advise the organisation immediately of any changes to circumstances affecting the subsidy. Any incorrect payments made to staff must be repaid to the KLC.

#### **8.11.1. Rental**

If you are renting housing in the Kimberley the KLC will pay up to 36% of your rent, with the subsidy capped at a fortnightly amount of \$540. To qualify for this subsidy, you must:

- prove that the property is your principal place of residence; and
- provide documentation confirming the rental arrangement.

Part time employees will be entitled to the subsidy on a prorated basis.

#### **8.11.2. Mortgage**

The KLC will pay the interest component of an employee’s mortgage, capped at a fortnightly amount of \$340. To qualify for this subsidy, you must:

- Provide a copy of the Mortgage arrangement with a recognised financial institution for the purchase of a residential property within the Kimberley; and
- Provide evidence of the interest component of the loan; and
- Prove that the property is your principal place of residence.

Part time employees will be entitled to the subsidy on a prorated basis.

### **8.12. Travel and accommodation expenses**

The KLC will cover all pre-approved travel and accommodation costs associated with work carried out on behalf of the KLC paid according to KLC policy.

## 9. LEAVE

Employees are entitled to leave as outlined below. All forms of leave must be applied for in advance of leave being taken, with the exception of unforeseeable or exceptional circumstances. Leave may only be taken where formal authorisation and approval has been provided by the KLC.

Leave, other than personal, compassionate and parental leave, is to be taken at a time (or times) as agreed between the employee and the KLC. Operational requirements in determining whether leave applications are approved may be considered in the leave approval process.

Casual employees are not entitled to any form of paid leave.

### 9.1. Annual Leave

An employee (other than a casual employee) accumulates five weeks of paid annual leave for each year of service with the KLC. An employee's entitlement to annual leave accumulates continuously based on the number of ordinary hours they work. A part time employee will receive the pro rata equivalent.

Annual leave accumulates when an employee is on:

- paid leave such as paid annual leave and paid sick and carer's leave
- community service leave including jury duty
- long service leave.

Annual leave does not accumulate when the employee is on:

- unpaid annual leave
- unpaid sick/carer's leave
- unpaid parental leave
- unpaid family and domestic violence leave.

The Australian Government's Paid Parental Leave Scheme is not considered to be paid leave. An employee does not accumulate annual leave while being paid by the Paid Parental Leave Scheme, if the person is taking unpaid leave from their employer at this time.

Leave does not accumulate for a period of annual leave that has been cashed out.

If an employee suffers personal illness or injury while on annual leave, they are entitled to convert part of the annual leave to personal leave upon production of a medical certificate covering the period of personal illness or injury, providing that the employee has accumulated sufficient personal leave credits.

Leave is negotiated between employees and their manager, with regard for workload and operational requirements.

#### 9.1.1. Annual leave loading

A loading of 17.5% calculated on the ordinary rate of pay applicable shall be paid on annual leave entitlements with the exception of the Travel Days referred to in section 9.1.4.

#### 9.1.2. Direction to take annual leave

The KLC may direct an employee to take annual leave if:

- the employee has an excessive annual leave balance (more than 10 weeks); or
- The KLC's operations are being shut down for a period (other than Christmas shutdown).

KLC will advise employees of a direction to take leave at least one month in advance of the requirement to take leave. If an employee does not have sufficient annual leave credit to take paid annual leave during a shutdown of KLC's operations, the employee may be allowed the necessary annual leave to be deducted from future credits or the employee may take leave without pay.

### 9.1.3. *Cashing out Annual Leave*

The KLC may approve for an employee to cash out Annual Leave at any time. However, in all cases the following applies:

- the employee must retain at least five weeks annual leave;
- approval must be gained from the Unit Manager, HR Manager and Deputy CEO;
- there must be a signed, written agreement with the KLC on each occasion;
  - the amount of leave being cashed out;
  - the amount they will be paid; and
  - the date it will be paid.

An annual leave entitlement cannot be cashed out prior to the leave being accrued.

The payment for the cashed out leave has to be the same as what the employee would have been paid if they took the leave.

### 9.1.4. *Travel days*

Employees working in areas 2-3 are entitled to extra leave annually as listed in the table below. These days shall be referred to as Travel Days and can only be taken in conjunction with a period of leave. They will not accrue from year to year and do not attract leave loading. For the purpose of this benefit, the term annually refers to the period 1 January to 31 December.

AREA 1	AREA 2 *	AREA 3 *
Broome Kununurra	Fitzroy Crossing Halls Creek Dampier Peninsula Looma Jarlmadangah Bidyadanga Warmun Derby Wyndham	Gibb River Balgo Mulan Kalumburu Djugerari
<b>0 days annually</b>	<b>1 additional day annually</b>	<b>additional days annually</b>

*\*Should a commercial flight to Perth commence operating from any Area 2 or 3 location this clause will be reviewed to determine if any locations need to be reclassified to a new Area.*

### 9.1.5. *Annual leave distance reimbursement*

This reimbursement is to assist employees who are 100kms, or more, from an airport with operating commercial flights to Perth, to travel from their place of residence to the nearest regional airport with operating commercial flights to Perth e.g. Kununurra, Broome. All occasions of use must be prior approved by management. This benefit will be capped annually to cover two return trips from the employee's place

of work to the nearest airport. Employees will be reimbursed for the personal cost of fuel on presentation of tax receipts. This benefit will not accrue from year to year. For the purpose of this benefit, the term annually refers to the period 1 January to 31 December.

## 9.2. Personal Leave

An employee (other than a casual employee) is entitled to 15 days Personal leave per year. A part-time employee will receive the pro rata equivalent.

Personal leave is cumulative from year to year but is not paid out on termination of employment. Personal leave does not accrue on unpaid leave.

### 9.2.1. *When can personal leave be taken?*

An employee may take paid personal leave:

- if they are unfit for work because of their own personal illness or injury (including pregnancy-related illness); or
- to provide care or support to a member of their immediate family or household, because of a personal illness, injury or unexpected emergency affecting the member. A member of the employee's immediate family means a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of an employee; or a child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner;
- at the discretion of the CEO, for the purposes of bereavement.

### 9.2.2. *Unpaid personal leave*

An employee (including a casual employee) is entitled to two days of unpaid personal leave for each occasion when a member of the employee's immediate family or household requires care or support because of a personal illness, injury, or an unexpected emergency.

An employee may take unpaid personal leave for each occasion as a single continuous period of up to two days, or any separate periods to which the employee and their manager agree. An employee cannot take unpaid personal leave during a particular period if the employee could instead take paid personal leave.

### 9.2.3. *Evidence*

An employee must notify the KLC of an inability to attend work within one hour of normal commencement time, or as is reasonable under the circumstances.

An employee will provide a medical certificate or, where it is not practical to provide a medical certificate, a statutory declaration or other supporting evidence acceptable to the employee's manager in the following circumstances:

- where the employee is or will be absent on personal leave for three (3) or more consecutive working days, unless the employee's manager informs the employee that such evidence will not be required; or
- where the employee has been absent on paid or unpaid personal leave for a total of 7 non-consecutive days in a 12-month period, and the employee's manager informs the employee that such evidence will be required; or
- if the employee has been advised by the employee's manager that they are required to provide evidence for any future personal leave absences due to the employee's pattern of leave.

### 9.3. Compassionate leave

An employee, other than a casual employee, is entitled to up to two days of paid compassionate leave, on each occasion, because a member of the employee's family or household, or a person with whom the employee has a close personal relationship contracts or develops an illness or injury that poses a serious threat to his or her life, or dies. Casual employees are entitled to two days' unpaid compassionate leave on each occasion.

The employee must provide notice to the KLC as soon as practicable (which may be a time after the leave has started), and must advise the period, or expected period, of the leave. The KLC may request evidence that would substantiate the reason for the leave.

### 9.4. Family and Domestic Violence Leave

All employees, including casuals, are entitled to 5 days' unpaid leave per year to deal with family and domestic violence. An employee may take unpaid leave to deal with family and domestic violence if the employee:

- a) is experiencing family and domestic violence; and
- b) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the employee to do that thing outside their ordinary hours of work.

An employee must give notice of the taking of leave as soon as practicable (which may be a time after the leave has started); and must advise of the period, or expected period, of the leave.

An employee is able to use accrued leave entitlements, such as annual leave or TOIL, if it is available to them.

The KLC may request evidence to confirm the legitimacy of the leave. Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

The KLC will take steps to ensure confidentiality is maintained, unless disclosure is required by an Australian law or is necessary to protect the life, health or safety of the employee or another person.

### 9.5. Parental Leave

Parental Leave covers the following elements:

- paid parental and adoption leave provided by the KLC at eight weeks per instance;
- paid supporting partner leave provided by the KLC at two weeks per instance;
- unpaid parental leave.

#### 9.5.1. Paid Parental Leave

The KLC will provide eight weeks paid parental leave subject to the employee being eligible under the following conditions:

- the employee must be the primary caregiver of the child, including a newly adopted child under school age;
- the employee has completed at least 12 months continuous service with the KLC;



- the employee has worked a minimum of 10 months, inclusive of paid leave, over the immediately preceding 13 months.

Paid Parental leave is available to employees, with the exception of casual employees. A part-time employee will receive the pro rata equivalent.

An employee may apply to their manager to take paid parental leave at half pay for a period of 16 weeks.

A pregnant employee who is entitled to parental leave may start her leave up to six weeks prior to the expected date of birth of her child. If a pregnant employee who is entitled to parental leave continues to work during the six-week period before the expected date of birth of the child, the KLC may ask the employee to provide a medical certificate stating that she is fit to work on her normal duties.

#### *9.5.2. Adoption*

An employee adopting a child is entitled to parental related leave where the child:

- is, or will be, under school age as at the day of placement, or the expected day of placement, of the child; and
- has not, or will not have, lived continuously with the employee for a period of six months or more as at the day of placement, or the expected day of placement, of the child; and
- is not a natural child of the employee or the employee's spouse or de facto partner

Employees are entitled to two days unpaid leave to support the integration of an adopted child to the family.

#### *9.5.3. Supporting partner leave*

An employee will be entitled to 10 days paid supporting partner leave in the event of that employee's partner giving birth to a child. To be eligible for paid supporting partner leave an employee must have:

- completed at least 12 months continuous service with the KLC; and
- have worked a minimum of 10 months, inclusive of paid leave, over the immediately preceding 13 months; and,
- have requested and taken this leave within eight weeks of the birth of the child.

A part-time employee will receive the pro rata equivalent.

#### *9.5.4. Unpaid parental leave*

After 12 months' continuous service, employees who are the primary carer of a new born child or an adopted child under school age are entitled to unpaid parental leave. Each eligible member of an employee couple may take a separate period of up to 12 months of unpaid parental leave. However, if only one person is taking leave, or if one member of an employee couple wishes to take more than 12 months leave, the employee may request a further period of up to 12 months. An 'employee couple' is where two employees (not necessarily of the same employer) are in a spousal or de facto relationship.

Casual employees, other than eligible casuals, are not entitled to unpaid parental leave. Eligible casuals are long term employees who, but for the birth or adoption of their child, would have a reasonable expectation of continuing employment by the KLC on a regular and systematic basis.

An employee may apply to the CEO for a further period of up to twelve months. Such a request must be in writing and given to the employee's manager at least four weeks before the end of the available parental leave period.

The CEO must give the employee a written response to the request stating whether the KLC grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made. The KLC may refuse the request only on reasonable business grounds and must provide written details of the reasons for the refusal.

On ending parental leave, an employee is entitled to return to:

- the employee's pre-parental leave position; or
- if that position no longer exists, an available position for which the employee is qualified and suited nearest in status and pay to the pre-parental leave position.

#### **9.5.5. Unpaid special leave**

A female employee is entitled to a period of Unpaid Special Maternity leave if she is not fit for work during that period because:

- She has a pregnancy related illness; or
- She has been pregnant and the pregnancy ends within 28 weeks of the expected date of the birth of the child otherwise than by the birth of a living child.

### **9.6. Long service Leave**

An employee, other than a casual employee, will be entitled to be paid long service leave of 13 weeks after seven years of continuous service. Long Service Leave will be calculated at all times exclusive of any periods of leave without pay. An employee may take accrued Long Service Leave after five years' continuous service pro rata, based on a seven year increment. After the initial seven year period, the long service leave cycle will begin again and staff will be entitled to pro rata long service leave after a further five years of service.

Upon resignation or termination an employee is entitled to be paid any accrued pro rata Long Service Leave entitlements.

### **9.7. Cultural leave**

An employee, other than a casual employee, who is adherent to Aboriginal culture shall be afforded reasonable opportunity to follow and practice the requirements of that culture. This is offered by the KLC in the form of up to five days of paid leave, and five days' unpaid leave per year. This leave must be approved by the CEO. Cultural leave is afforded in addition to other types of leave defined in this Agreement. Part-time employees are entitled to Cultural leave on a pro-rata basis.

### **9.8. Community service leave**

An employee, other than a casual employee, required to undertake jury service will continue to be paid normal salary for the period of the jury service. An employee, who engages in a necessary voluntary emergency management activity, for example, attending to emergencies or natural disasters, or, who is a member of the Army Reserve is entitled to unpaid leave as determined by the National Employment Standards.

The employee should discuss any foreseen periods of absence as soon as practicable and must gain prior approval from their manager prior to taking leave.

### 9.9. Study leave

At the CEO's discretion, study leave may be granted to an employee undertaking a course of study. This approval must be sought for support of this leave in advance of any leave being taken. Study approved must be relevant to the work of the KLC. The period of paid leave will be limited to the following where applicable:

- time required to attend lectures and practical work, together with travel each way, up to a maximum of eight hours per week;
- time required for attendance at compulsory residential schools to a maximum of two weeks per semester; and/or,
- time required to attend examination, to a maximum of five days in any period of 12 months.

The above is based on a full-time employee; part time employees will be considered for Study leave on a pro-rata basis only. This clause does not apply to casual employees.

### 9.10. Unpaid Leave

An employee may apply for unpaid leave in extraordinary circumstances. An employee must use all accrued annual leave and other relevant leave entitlements including TOIL, before an application for leave without pay will be considered. Approval of unpaid leave will be at the discretion of the employees' unit manager if the period is under two weeks. For periods over two weeks the employee must gain approval by applying in writing to the CEO.

### 9.11. Employee purchased leave

An employee, other than a casual employee, can apply to reduce their working year for personal or family responsibility reasons. This form of leave involves the employee working for less than 52 weeks per year, whilst having their salary averaged over 52 weeks per year.

Employees must apply for Employee Purchased leave in advance. Each application will apply for a period of 12 months. An employee is entitled to make further applications in subsequent years. Granting of Employee-Purchased leave is subject to approval by the Unit Manager and DCEO. Operational requirements will be taken into consideration in deciding whether to approve an application.

An employee may apply to reduce their working year by a minimum of two weeks and a maximum of six weeks. The salary of employees working a reduced year, will be proportionately reduced, averaged, and paid over a 52 week period.

Employees with more than 30 days' annual leave accrued will not be eligible for Purchased leave until their annual leave balance is at a maximum of 10 days.

Purchased Leave cannot be taken until it has been paid for and has accrued.

Any entitlements, related to salary rates will be applied on a pro-rata basis for the weeks worked, and averaged and paid across a 52-week period. Benefits, subsidies, loadings, or entitlements unrelated to salary rates will remain as applicable to the position. Leave loading is not applied to this form of leave.

### 9.12. Christmas/New Year shutdown

The Kimberley Land Council shuts down for the period between Christmas Day and New Year's Day. All staff other than casual employees are provided three days' paid leave, to be taken during this period. Part-

time employees are only entitled to those days of paid leave that fall on the days of the week that they usually work.

Christmas/New Year Shutdown leave does not accrue, does not include leave loading and cannot be taken at any other time of the year.

Where an employee is on-call during the Christmas Shutdown Period, and has been required to work during that period, the employee will be entitled to time off in lieu.

### 9.13. Public Holidays

Employees, other than casual employees, are entitled to time off without loss of pay for all gazetted public holidays as proclaimed in the relevant state or territory on which day the employee would normally have worked.

Employees can apply to their manager to work on Australia Day and take an alternative holiday without loss of pay on Mabo Day or another nominated day of significance to Indigenous people.

## 10. Consultation about Change

In line with the Fair Work Act (2009) the KLC supports consultation about major workplace changes

- 1) This term applies if the KLC:
  - a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or
  - b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

### Major change

- 2) For a major change referred to in paragraph (1)(a):
  - a) the KLC must notify the relevant employees of the decision to introduce the major change; and
  - b) Subclauses (3) to (9) apply
- 3) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 4) If:
  - a) relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - b) the employee or employees advise the KLC of the identity of the representative; The employer must recognise the representative.
- 5) As soon as practicable after making its decision, the KLC must
  - a) discuss with the relevant employees
    - i) the introduction of the change, and
    - ii) the effect the change is likely to have on the employees; and
    - iii) measures the KLC is taking to avert or mitigate the adverse effect of the change on the employees; and
  - b) for the purposes of the discussion - provide in writing, to the relevant employees
    - i) all relevant information about the change including the nature of the change proposed; and
    - ii) information about the expected effects of the change on the employees; and

- iii) any other matters likely to affect the employees.
- 6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- 7) The KLC must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- 8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.
- 9) In this term, a major change is likely to have a significant effect on employees if it results in:
  - a) the termination of the employment of employees; or
  - b) major change to the composition, operation or the size of the KLC's workforce or to the skills required of employees; or
  - c) the elimination or dilution of job opportunities (including opportunities for promotion or tenure); or
  - d) the alteration of hours of work; or
  - e) the need to retrain employees; or
  - f) the need to relocate employees to another workplace; or
  - g) the restructuring of jobs.

**Change to regular roster or ordinary hours of work**

- 10) For a major change referred to in paragraph (1)(b):
  - a) the employer must notify the relevant employees of the proposed change; and
  - b) Subclauses (11) to (15) apply.
- 11) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- 12) If:
  - a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
  - b) the employee or employees advise the KLC of the identity of the representative;
  - c) the KLC must recognise the representative.
- 13) As soon as practicable after proposing to introduce the change, the employer must:
  - a) discuss with the relevant employees the introduction of the change; and
  - b) for the purposes of the discussion—provide to the relevant employees:
    - i) all relevant information about the change, including the nature of the change; and
    - ii) information about what the employer reasonably believes will be the effects of the change on the employees; and
    - iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and



- c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

14) However, the KLC is not required to disclose confidential or commercially sensitive information to the relevant employees.

15) The KLC must give prompt and genuine consideration to matters raised about the change by the relevant employees.

16) In this term: relevant employees means the employees who may be affected by a change referred to in subclause (1).

### 10.1. Consultation with employees on leave

If the organisation makes a decision that will have a significant effect on the status, pay or location of the employee's parental leave position, all reasonable steps will be taken to give the employee information about, and an opportunity to discuss, the effect of the decision on that position.

## 11. Termination of employment

### 11.1. Period of notice

During the probationary period, an employee or the KLC is required to give one week's notice of resignation or termination of employment (as applicable). At all other times an employee and the KLC are required to give the following periods of notice unless where parties agree to a lesser period:

- Level 5 and below positions: 4 weeks; and
- Level 6 and above positions: 6 weeks.

In addition to this notice, where the KLC is terminating an employee's employment, employees over 45 years of age, at the time of the giving of the notice, with not less than two years of continuous service, shall be entitled to an additional week of notice.

An employee is not required to give this additional weeks' notice when resigning if over 45 years of age.

The KLC may provide payment in lieu of notice.

### 11.2. Payment on termination of employment

The KLC will pay an employee no later than 7 days after the day on which the employee's employment terminates:

- a) the employee's 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 that are due to the employee under this agreement and the NES.

### 11.3. Redundancy and redeployment

Redundancy and redeployment provisions offered by the KLC do not apply to the following employment types:

- employees whose period of continuous service with the employer is less than 12 months

- employees employed for:
  - a stated period of time
  - an identified task or project
  - a particular season
- employees terminated because of serious misconduct
- casual employees
- trainees engaged only for the length of the training agreement
- apprentices.

#### 11.3.1. Redundancy

For the purposes of this Agreement, the CEO may declare a position excess for reasons including, but not limited to:

- there being excess positions at that position level than is necessary for the efficient and economical working of the Organisation;
- that the position is no longer required due to technological or other changes in the work methods and structure of the enterprise;
- changes in the nature, extent or organisation of the functions of the enterprise;
- changes in priorities and/or in servicing different regions;
- position funding allocation is reduced in real terms;
- where the duties of the position are to be performed at a different locality due to the above points, and the occupant of the position is unwilling to transfer to the different locality

Where a final decision has been made to make a position redundant, the employee will be provided with written advice of the amount of termination pay, pay in lieu of notice and all other entitlements.

An employee who is made redundant will receive the following redundancy payments:

Period of continuous service	Severance pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	11 weeks' pay
7 years and less than 8 years	13 weeks' pay
8 years and less than 9 years	14 weeks' pay
9 years and over	16 weeks' pay

In addition to redundancy pay an employee will receive the appropriate period of notice or payment in lieu of notice or as identified in the employment contract.

The KLC retains the discretion to offer voluntary redundancy where appropriate.

### 11.3.2. Redeployment

An employee whose position has been declared redundant will be considered for redeployment within the KLC where skills fit and it is practicable.

## 12. Disciplinary Process

Where ongoing under performance or misconduct has been identified, the KLC will seek to support and enable staff to perform at their best, in order to continue to contribute to the ongoing success of the KLC.

In the event of misconduct or ongoing under performance by employees of the KLC disciplinary matters will be handled fairly, consistently and in compliance with legal obligations with the following overriding principles:

- informal action should be considered in the first instance, unless in the case of serious misconduct;
- where underperformance has been identified performance management processes will take place before disciplinary process is applied;
- natural justice and procedural fairness will ensue, allowing for a fair and consistent process;
- employees will be supported by KLC during and after the process;
- the process will be evidence based
- employees will be provided with an opportunity to correct unacceptable conduct other than in situations where summary dismissal is appropriate;
- each situation is reviewed on a case by case basis in relation to the particular circumstances;
- all information relating to the disciplinary issue will be kept confidential, where possible.

The KLC Disciplinary Policy sets out standards applied in the event of ongoing underperformance or misconduct by employees of the KLC. It ensures that disciplinary matters are handled fairly, consistently and in compliance with legal obligations. The purpose of the KLC Disciplinary Policy is to:

- outline informal and formal processes;
- outline the potential disciplinary outcomes arising from the above processes, and;
- inform employees of their rights, roles and responsibilities.

Changes will not be made to the KLC Disciplinary Policy without consultation with the JCC, except to the extent required to comply with any applicable law.

Note: Schedule 1 contains transitional provisions applying to the disciplinary process.

## 13. Dispute resolution procedure (Employment Standard)

1) If a dispute relates to:

- a) a matter arising under the agreement; or
- b) the National Employment Standards;

this clause sets out procedures to settle the dispute.

2) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

3) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

- 4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to Fair Work Commission.
- 5) The Fair Work Commission may deal with the dispute in 2 stages:
  1. the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  2. if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair

Work Commission may then:

- i. arbitrate the dispute; and
- ii. make a determination that is binding on the parties.

Note: If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

- 6) While the parties are trying to resolve the dispute using the procedures in this term:
  - a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  - b) an employee must comply with a direction given by the KLC to perform other available work at the same workplace, or at another workplace, unless:
    - i) the work is not safe; or
    - ii) applicable occupational health and safety legislation would not permit the work to be performed; or
    - iii) the work is not appropriate for the employee to perform; or
    - iv) there are other reasonable grounds for the employee to refuse to comply with the direction.
- 7) The parties to the dispute agree to be bound by a decision made by Fair Work Commission in accordance with this term.

## Schedule 1: Transitional Arrangements

### 1. Individual Planning and Performance (clause 6.5)

#### 1.1. Performance reviews

Prior to the commencement of this Agreement, KLC Managers will ensure that outstanding performance reviews for an employee is completed. If a performance review that is due to be conducted for an employee is not conducted before the commencement of this Agreement, the employee will be taken to have been awarded an increment in accordance with clause 9.1 of the Kimberley Land Council Enterprise Agreement 2014 – 2017. Increments awarded to an employee will be backdated to the date the performance review was due to be conducted in accordance with Clause 9.3 of that Agreement.

#### 1.2. Individual Planning and Performance Agreement

Within 6 weeks of the commencement of this Agreement, KLC Managers will ensure that each employee has an Individual Planning and Performance agreement that has been agreed to by the employee and his or her manager.

### 2. Salaries and allowances (clause 8)

#### 2.1. CPI increase backdated

Within 10 working days after the commencement of this Agreement, the KLC will pay a lump sum payment equal to a 2% increase, applied to an employee's salary immediately prior to the commencement of this Agreement, backdated as follows:

- a) for an employee (other than a casual employee) who commenced employment with the KLC within the 6 months preceding the commencement of this Agreement – the date the employee commenced employment;
- b) for any other employee (other than a casual employee) – the date 6 months before the commencement of this Agreement.

The lump sum payment paid to an employee will be adjusted to take into account any changes to the employee's salary level during the backdated period, including any increases due to the employee being assigned to perform higher duties.

### 3. Wage review (clause 8.3)

KLC agrees to review employees' base salaries within 4 weeks of the commencement of this Agreement and make adjustments as required in accordance with clause 8.3 of this Agreement.

### 4. Entitlement to increments (clause 8.6)

If this Agreement commences on or after 1 January 2020 and a performance review is due to be conducted for an employee in the period from 1 January 2020 to the commencement of this Agreement in accordance with the KLC Enterprise Agreement 2014-2017 and Item 1.1 of this Schedule, then the employee is not entitled to be awarded an increment on 1 April 2020.

### 5. Reimbursement of expenses

#### 5.1.1. Annual Leave Travel Reimbursement

An employee who, immediately prior to the commencement of this Agreement, has an accrued annual leave travel reimbursement entitlement in accordance with clause 10 of the Kimberley Land Council Enterprise Agreement 2014 – 2017, may, within 6 months of the commencement of this Agreement,



claim that accrued annual leave travel reimbursement entitlement. Unclaimed entitlements after that period will be forfeited.

#### *5.1.2. Air-conditioning subsidy*

An employee who, immediately prior to the commencement of this Agreement, is entitled to claim an air-conditioning subsidy under the Kimberley Land Council Enterprise Agreement 2014 – 2017, will be entitled to receive the subsidy in accordance with clause 9.9 of that Agreement for units used in the period from the commencement of that Agreement to the day immediately prior to the commencement of this Agreement, provided that the employee submits his or her claim within 6 months of the commencement of this Agreement.

#### *5.1.3. Fringe Benefits Tax*

Any annual leave travel reimbursement or air-conditioning subsidy claimed by an employee is included in the employee's concessional amount of Fringe Benefits as defined by the ATO for the FBT year in which it is claimed. It will be the employee's responsibility to reduce salary packaging limits to remain within the concessional limits.

If an employee exceeds the limit the KLC will recover the FBT liability incurred by KLC from the employee.

### **6. Disciplinary Process (clause 12)**

An employee who, immediately prior to the commencement of this Agreement, was subject to disciplinary action under the Disciplinary Process set out in the Kimberley Land Council Enterprise Agreement 2014 – 2017, shall continue to be subject to that action under the terms of the Kimberley Land Council Enterprise Agreement 2014 – 2017.



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