

ORCHESTRA VICTORIA PRODUCTION AGREEMENT 2009 to 2011

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Date This Agreement shall come into effect on and from the day that it is approved by Fair Work Australia.

It shall remain in effect until the 31st December 2011.

Parties

1. State Orchestra of Victoria (ACN 096 788 804) of Albert Park Drive South, Albert Park, Victoria (Orchestra Victoria).
2. All persons employed directly by Orchestra Victoria in Production management department on a full time/ part-time seasonal/fixed term contract/casual basis.
3. The Media Entertainment & Arts Alliance
4. The terms of this Agreement, while it remains in force, shall prevail over the corresponding terms of the Entertainment and Broadcasting Industry - Performing Arts Centre Award 2001.
The terms of this agreement subject to ongoing entitlements supersede all other agreements made between the parties.

It is agreed as follows.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Confidential Information means information of a confidential nature relating to the operation of the business and affairs conducted by Orchestra Victoria.

CPI means the CPI Weighted Average Consumer Price Index for Capital Cities for the 12 months ending 30 September.

Duties means the duties ordinarily performed by a person acting in the capacity referred to in their position description.

Materials means anything created, provided, produced or reproduced by the Employee in performing the Duties or that relates to the business of Orchestra Victoria including all information, records and documents and also photocopies or other reproductions of existing materials.

Payment Terms means the terms for payment of the Salary that are set out in Clause 5.

Salary means the annual salary received by the Employee referred to in Clause 5.

Union means the Media Entertainment & Arts Alliance

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the Agreement requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a Clause or Schedule is a reference to a clause of, or schedule to, this Agreement.
- (f) A reference to an agreement or document (including, a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
- (g) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (h) A reference to conduct includes an omission, statement and undertaking, whether or not in writing.
- (i) A reference to dollars and \$. is to Australian currency.

The meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions.

1.3 Notices

- (a) Formal communication between the Parties in reference to terms and conditions

2. APPOINTMENT

2.1 Accrued entitlements

Orchestra Victoria acknowledges that any Employee that has been in continuous employment with Orchestra Victoria will have ongoing entitlement to all annual leave, sick leave and long service leave that has accrued since the commencement of their employment with Orchestra Victoria, and nothing in this Agreement will in any way affect the entitlements accrued.

2.2 Renewal of Agreement

Renewal discussions will commence at least 6 months prior to the expiry date.

3. EMPLOYEE'S OBLIGATIONS

During the Term the Employee must faithfully and diligently perform the Duties outlined in their Position Description and must:

- (a) faithfully serve Orchestra Victoria and give the whole of [his/her] time, attention and skill during hours worked, to the business and affairs of Orchestra Victoria
- (b) exercise the powers consistent with [his/her] office that may be assigned to [him/ her] by Orchestra Victoria from time to time;
- (c) obey all reasonable directions and instructions given to [him/her] by Orchestra Victoria;
- (d) observe and comply with the provisions set out in any written policy, practice or procedure published or circulated by Orchestra Victoria (and if any inconsistency arises between the written policies, practices or procedures and this Agreement, the provisions of this Agreement will prevail);
- (e) use [his/her] endeavours to promote the interests of Orchestra Victoria; and
- (f) protect the property of Orchestra Victoria from theft, loss, damage or neglect and notify Orchestra Victoria immediately of any theft, loss, damage or neglect of the property that may come to the Employee's knowledge.

4. TENURE OF EMPLOYMENT

Full Time Production staff that have been appointed as a company member following the successful completion of a probationary period. Employment is usually on a full time basis but may also be part time by mutual consent.

Part time Production staff are engaged on the same conditions as full time production staff and their entitlements to sick leave, annual leave and all forms of paid leave shall accrue on a pro-rata basis calculated on the proportion of full-time hours they actually work.

Fixed Term Production staff that are engaged for a defined period with the employment period specified in the contract of employment. This may be on a full or part-time basis. Fixed-term Production staff are engaged on the same conditions as full-time Production staff, however the hours worked per week or fortnight may vary as specified in the contract and their entitlements to sick leave and annual leave accrue on a pro-rata basis calculated on the proportion of full-time hours they actually work.

Casual Production staff are engaged by the hour. In the case of casual employment the hourly rate is calculated by dividing the appropriate full-time weekly rate by thirty-eight (38) and adding a loading of twenty per cent (20%) with a minimum payment as for four (4) hours. Effective 1st January 2010, this loading shall increase to 25% in keeping with the Live Performance Award 2010. The loading is to compensate the staff member for non-eligibility for sick leave, annual leave and public holidays not worked.

5. REMUNERATION

5.1 Salary

a) In consideration for performing the Duties outlined in the Position Description, Orchestra Victoria will pay the Employee an annual salary of the amount specified in table 4.1.ain accordance with the Payment Terms (Gross Salary table). For the purposes of this clause, usual business hours means 76 hours each fortnight between 8am and midnight, Monday to Sunday.

5.1 Gross Salary Table

Position Held	2009	2010	2011
Production Manager	\$58,323	+4% or CPI increase*	+4% or CPI increase*
Production Coordinator	\$49,862	+4% or CPI increase*	+4% or CPI increase*
Production Assistant	\$44,888	+4% or CPI increase*	+4% or CPI increase*

*whichever is greater

(b) Orchestra Victoria will pay the Salary in accordance with Orchestra Victoria's normal payroll procedures, by equal fortnightly instalments in arrears, less PAYE tax.

5.2 Expenses

On presentation of satisfactory proof of disbursement, the Employee will be reimbursed all out-of-pocket expenses reasonably and properly incurred in performing the Duties and in accordance with the guidelines and policies of Orchestra Victoria in force at the date of the expenditure.

6. HOURS OF WORK

6.1 Ordinary hours

Full-time and fixed-term employees:

For the purposes of this clause ordinary hours for a full time or fixed term employee means seventy-six (76) hours each fortnight between 8am and midnight, Monday to Sunday.

The daily hours will be seven point six (7.6) and may be worked in separate periods across the day. Split shifts with a break of more than two hours between must each be a minimum of four (4) hours in duration.

Casual employees:

The minimum call duration for a casual employee shall be four (4) hours. The ordinary hours for casual employees shall not exceed thirty-eight (38) hours per week, between 8am and midnight, Monday to Sunday.

6.2 Breaks

Cyclical breaks

Full time and fixed-term employees must be provided with two (2) days off, consecutive where possible, in each fortnight.

Breaks between successive days of work

Orchestra Victoria Production work shall be arranged to ensure a ten (10) hour break will occur between work on successive days. In the event that the employer requires an employee to resume work without having ten (10) consecutive hours off duty between work on successive days, penalty payments shall be incurred – see Clause 6.3 "Work in excess of ordinary hours".

Rest/Meal breaks during a shift

A shift must not exceed five (5) hours continuous without observing a break. This rest break shall be no less than thirty (30) minutes in duration.

Ideally breaks should align with basic meal times and fall during the following periods:

Breakfast – between 6 a.m. and 9.am.

Lunch – between 12noon and 3 p.m.

Dinner – between 5 p.m. and 8 p.m.

Missed breaks during a shift:

When operational requirements cause there to be a missed break (defined as a break of less than thirty (30) minutes an allowance shall be paid at the rate of double time for the thirty (30) minute period missed, calculated using the employee's normal hourly rate of pay. If the parties agree, a suitable meal or voucher to Wirth's café may be provided in the place of this allowance, and the hours worked paid at single time. Where staff are required to work continuously for more than 5 hours without a break being given, double time will be paid from the beginning of the sixth hour until a meal break is taken.

6.3 Work in Excess of Ordinary Hours

With the consent of the Employee's immediate supervisor and in accordance with any policy developed by Orchestra Victoria, the employee will be entitled to time in lieu and will receive payment for additional hours worked in accordance with the following;

Full Time and Fixed-Term Employees:

Time in lieu

Time worked in excess of seventy-six (76) hours per fortnight (excluding daily overtime) shall accrue Time in Lieu at the rate of Single Time capped to a total of fifteen (15) hours per fortnightly cycle.

Daily overtime

The parties agree that work in excess of ten (10) hours per day is not recommended and shall only be worked in extreme circumstances at which point daily time in lieu will be accrued at the rate of time and a half for the time worked in excess of ten (10) hours per day (calculated in fifteen (15) minute increments).

Hours worked in excess of ten (10) hours per day shall not contribute to the summation of ordinary hours per cycle but may contribute to the fifteen (15) hour cap.

Hours worked in excess of the TIL cap

Hours worked in excess of the fifteen (15) hour cap shall be paid out to the employee on a fortnightly cycle basis as follows until the employee has had the opportunity to take time in lieu and reduce their balance below the cap:

- single time for first seventy-six (76) hours per fortnight;
- time and half for the next four (4) hours;
- double time thereafter

After 8 weeks the supervisor can discuss with the employee when they will be able to take the TIL at which point the employee will have a further 4 weeks to take the time off.

* The parties agree to review this clause on the first anniversary of the date of this agreement's commencement.

Breaks between successive days of work

Orchestra Victoria Production work shall be arranged to ensure a ten (10) hour break will occur between work on successive days. In the event that the employer requires an employee to resume work without having had ten (10) consecutive hours off duty, that employee will be paid at double time rates until released from duty for such period.

Sundays

Time worked on Sundays shall incur Time in Lieu at double time unless Sunday is part of the normal 76 hour cycle, where the employee will be paid for single time hours as per normal and incur time in lieu of one hour for every hour worked. If the employee has exceeded the 15 hour time in lieu cap they will be paid at the rate of double time for all hours worked on a Sunday.

In addition, work performed between the hours of 24:00 on Sunday until the completion of the shift shall be paid at the rate of double time. This includes any shift that commences on Sunday but finishes past 00:00 on Monday.

Public Holidays

Work performed on any public holiday as listed at schedule 3 clause 8 between the hours of 24.01am until the completion of the shift shall be paid at the rate of double time. This includes any shift that commences on a public holiday but finishes past Midnight on the following day.

Casual Employees

Casual employees will be paid at the rate of:

- single time for the first thirty-eight (38) hours in any week;
- time and half for the next four (4) hours;
- double time thereafter,

A minimum call of four (4) hours applies.

Daily overtime (casual employees)

Work in excess of eight (8) hours per day is not recommended and shall only be worked in extreme circumstances at which point the casual employee shall be paid at the rate of time and a half for the first 2 hours and double time thereafter (calculated in 15min increments).

Breaks between successive days of work (casual employees)

Orchestra Victoria Production work shall be arranged to ensure a ten (10) hour break will occur between work on successive days.

In the event that the employer requires an employee to resume work without having had ten (10) consecutive hours off duty that employee will be paid at double time rates until released from duty for such period.

Sundays (casual employees)

Work performed between the hours of Midnight Saturday night until the completion of the shift shall be paid at the rate of double time. This includes any shift that commences on a Sunday but finishes past Midnight on Sunday night. A minimum call of four (4) hours applies to work on Sundays

Public Holidays (casual employees)

Work performed on any public holiday as listed at schedule 3 clause 8 between the hours of 12.01am until the completion of the shift shall be paid at the rate of double time. This includes any shift that commences on a public holiday but finishes past Midnight on the following day.

The four (4) hour minimum call applies to all work on Public Holidays

6.4 Higher Duties Loading

Where the permanent Production Assistant is required to act in a capacity where he/she is required to supervise peer Production personnel, they shall receive a higher duties loading of 20% (based on their standard hourly rate) for the hours worked with additional supervisory responsibility. The Production Assistant will be required to complete a higher duties form to be authorised by the Production Manager.

7. TRAVEL

Where a member of the Production team is required by the Employer to work away from his or her place of residence the following provisions apply:

7.1. General

Fares

A member of the Production staff required by the Employer to travel will be reimbursed up to the cost to the employer of an economy class air fare or equivalent to the destination. This provision will not apply where the Employer provides and the Production member elects to use Employer-provided transport.

Accommodation

a) Where the period of travel is one week or less an allowance of one hundred and forty four dollars & seventy-two cents (\$144.72) per night is payable provided that such allowance will not be payable where the employer provides suitable accommodation.

b) Where the period of travel is more than one week the employer must pay to each member of the Production staff a cash allowance of five hundred and seventeen dollars and eighty-three cents (\$517.83) per week or one hundred and one dollars and twenty-eight cents (\$101.28) per night up to a maximum of the weekly allowance. Where this allowance is payable it should be paid by no later than the pay date occurring prior to departure. The allowance above is not payable:

* Where the Employer provides suitable accommodation; or

* if the employer elects not to provide accommodation and the member of the Production staff elects to accept reimbursement of the expense of such accommodation up to the maximum limits as follows:

<i>Destination</i>	<i>2009 Amount</i>
Sydney and Melbourne	\$950.22
Canberra	\$817.17
Adelaide, Hobart, Perth, and Brisbane	\$671.05
Other places	\$628.75

c) Shared accommodation:

* Where an Employer and the Production team agree in writing, shared accommodation may be provided by the employer. The Employer must retain a copy of any such agreement.

* Where the Employer is not providing accommodation and the member of the Production staff agrees in writing to share accommodation the reimbursement limits set by this clause must be increased by twenty-five per cent (25%) in respect of such shared accommodation. A copy of such agreement must be retained by the employer.

* Where there are special circumstances which the Employer considers preclude it from being able to provide suitable accommodation the employer and the member of the Production staff may agree to shared accommodation without additional payment.

d) Reimbursement must be made weekly or at such longer intervals as the employer and Production staff agree and must be made upon presentation by the Production staff of a receipted account for the accommodation or such other arrangements as are agreed between the employer and the members of Production.

e) Cash allowance in lieu of reimbursement for expenses:

* In lieu of the provisions of paragraph b) of this sub-clause, Production staff may elect to take a cash allowance of five hundred and seventeen dollars and eighty-three cents (\$517.83) per week or one hundred and one dollars and twenty-eight cents (\$101.28) per night up to a maximum of the weekly cash allowance.

Where a member of the Production team elects to take this allowance it must be paid by no later than forty-eight (48) hours prior to departure.

Notice of travel to be given:

* When any travel in excess of one week in duration is required as much notice as is practicable and at least twenty-eight (28) days notice must be given to the Production team.

* Such notice must also include whether or not the Employer is providing accommodation and, if so, the details of the accommodation to be provided including location.

* In the case where the accommodation offered is optional, the Production team must indicate within fourteen days of the offer of accommodation whether he or she proposes to accept the offer unless it is impractical to do so in the circumstances.

g) Any dispute as to the operation of this clause or as to whether accommodation provided by an employer is suitable accommodation as is required by this clause must be dealt with in accordance with the dispute resolution procedure in clause 9.

Meals Allowance

A member of the Production staff required to travel must be paid an allowance of forty three dollars and fifty-eight cents (\$43.58) per day to a maximum of two hundred and seventeen dollars and ninety-one cents (\$217.91) per week. Where the period of travel is one week or less and the Employer provides suitable substantial meals the allowance shall not be payable.

Where the Employer provides meals, individuals with demonstrated special dietary needs shall be catered for accordingly and where this is not possible the production staff member concerned shall be provided with the allowance

Where these rates cause hardship individual musicians shall be reimbursed additional reasonable costs up to the relevant Australian Tax Office maxima on presentation of receipts.

Where the period of travel required is less than a day then the daily rate will be divided into three sections, and allowances paid pro rata:

Section 1: Up to 12 Noon

Section 2: After 12 Noon and until 6pm

Section 3: After 6pm and until to 11:30pm

This allowances will be increased annually in line with CPI.

Incidentals Allowance

A member of the Production staff required to travel must be paid an allowance for incidentals of thirteen dollars

and thirty-four cents (\$13.34) per day to a maximum of sixty-six dollars and seventy-six cents (\$66.76) per week.

Where the period of travel required is less than a day then the daily rate will be divided into three sections, and allowances paid appropriately depending on which sections are affected.

Section 1: Up to 12 Noon

Section 2: After 12 Noon and until 6pm

Section 3: After 6pm and until to 11:30pm

This allowance will be increased annually in line with CPI.

Travelling Allowances

a) Where a member of the Production staff requests (and the Employer agrees) to make his or her way from one working venue to another and journeys by car, he or she must be paid by the employer an allowance equal to the money that would have been paid by the employer on his or her travelling by the form of transport by which the remainder of the company travels provided that the cost to the employer is no greater than it would have been if all the Production team used transport provided by the Employer.

b) The Employer must allow travel time as set out as follows:

Sydney/Canberra	1 day
Sydney/Melbourne	2 days
Sydney/Brisbane	2 days
Sydney/Adelaide	2 days
Melbourne/Adelaide	1 day
Melbourne/Brisbane	3 days
Melbourne/Canberra.	1 day

In all other cases reasonable time as agreed between the Production staff and the Employer must be allowed.

c) Where member of the Production staff agrees at the request of the Employer to use his or her own motor vehicle or motor-cycle, the Production staff member must be paid an allowance per kilometre that is equal to the prevailing State Government Rate.

d) A member of the Production staff required to travel to or from an airport must have such travel provided by the Employer, or be reimbursed for the cost of such transport from their place of residence on production of receipts. No reimbursement is payable if the Employer provides proper transport to the Production member's accommodation.

e) When a member of the Production staff is on tour and a call finishes and metropolitan public transport has ceased to run, he/she must be paid (upon production of receipts) an allowance equal to the taxi fare from the place of employment to the place where the member of the Production staff is accommodated. No reimbursement is payable if the employer provides proper transport to the Production staff member's accommodation.

7.2 Late Night Travel

Where an employee is required to work past a time when it is too late to travel home by public transport or other regular public conveyance the employer shall provide the employee with a taxi voucher or reimburse the employee for the cost of reasonable alternative transport to their home.

8. UNIFORM PROVISION AND REQUIREMENTS

In order to ensure that the Production team appear suitably attired when working, members of the Production team will adhere to the agreed uniform and safety dress requirements.

Upon Engagement, the Employer will provide the following items to each Permanent member of the Production team:

- 2 pairs of pants
- 1 dress shirt
- 2 OV Production polo shirts
- 2 OV Production T-shirts
- 1 Suit Jacket

In addition, the Employer will reimburse or provide each Production staff member for the cost of one pair of Safety Boots per year and will reimburse staff for dry cleaning expenses relating to the upkeep of their uniform – upon presentation of the appropriate receipts.

9. BROADCAST ALLOWANCE

Where any recording, film or video (other than archival) is made of an Orchestra Victoria live performance for the purposes of simulcast, telecast or broadcast, fees for the use of the recorded material must be distributed amongst the participating Production staff in addition to the ordinary rates of pay.

Prior to any of the above taking place, the Employer must enter into a written and binding agreement with any third party or organisation that desires to make and/or exploit the recording.

That Agreement is to ensure that:

- * Those Production staff who actually participated in the live performance which is recorded on the master recording and/or synchronised with a video (hereinafter both master recording and video are referred to as "recordings") shall be entitled to receive an income share equal to that received by category one (1) Production staff.
- * This entitlement is fixed in relation to recordings of standard opera and ballet repertoire and in relation to other recordings this income share is a minimum, with the Employer reserving the right vis-a-vis the third party to enter into negotiations on behalf of and at the discretion of, the Production staff for an income share in excess of that minimum.
- that, for the purposes of this clause, Orchestra Victoria shall have the discretion as to whether an ongoing income share or a single payment arrangement shall apply when entering into an agreement for providing the services of the Orchestra to any third party for broadcast purposes.

The income share under this Clause does not apply in respect of the first simulcast, telecast or broadcast of the recordings.

The division of the income share between participating Production staff must be calculated on the basis of their respective hourly rates of pay expressed as a percentage of the total hourly rates payable in relation to the applicable live performance call.

The Employer must keep an accurate log of Production staff participating in recording sessions. The Production

staff affected and/or their union representative must have rights of access to, including the right to receive copies of, the log.

All income must be accounted and distributed to the participating Production staff or their nominee in the appropriate proportions as soon as possible or at least on a six monthly basis with the Production staff reserving rights of audit and must specify the party principally responsible for such accounting and distribution.

10. SUPERANNUATION

Orchestra Victoria will make contributions equal to 10% of the Employee's annual salary (as stipulated in 4.1a) to a complying superannuation fund in accordance with the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Guarantee Charge Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation (Resolution of Complaints) Act 1993 (Cth).

In addition to the SGA Act 1992 Orchestra Victoria agrees to pay a minimum of 10% superannuation on all ordinary time earnings for any employees regardless of the amount earned in any one month.

All superannuation payments will be made on a monthly basis to a complying fund, if the employee does not nominate a fund the default fund will be Media Super.

11. LEAVE ENTITLEMENTS

The Employee is entitled to leave annual leave, sick leave, long service leave, jury leave, study leave community service leave without pay, public holidays, family leave (maternity and paternity) carers leave and compassionate in accordance with Schedule 3

12. CONFIDENTIAL INFORMATION

12.1 Non-disclosure

Subject to Clause 6.2, the Employees may not, either during or after the Term:

(a) Disclose to any person any Confidential Information that the Employees may learn or may have learned while employed with Orchestra Victoria; and

(b) Use Confidential Information for [his/her] own purposes or for any other purposes other than those of Orchestra Victoria,

Except in the proper performance of [his/her] obligations under this Agreement and then only with the prior consent of Orchestra Victoria or as ordered by a court of competent jurisdiction.

12.2 Exclusion

The Employees may use or disclose any part of the Confidential Information that has been published or otherwise becomes known to the public at large (but not by reason of any breach by the Employees of [his/her] obligations under this Agreement).

13. MATERIALS

The Employees acknowledges that all Materials produced by the Employee during [his/her] employment are and will remain the property of Orchestra Victoria and the Employees may not during the Term produce or use, or authorise or permit any person to produce or use, any Materials other than for the proper performance of the

Duties or for the benefit of Orchestra Victoria.

14. CONTINUING CLAUSES

Clauses 1, 6, 7, 9 and 14 will continue to operate after termination of this Agreement for any reason.

15. DISPUTE AND GRIEVANCE PROCEDURES

15.1 Procedure to settle disputes

The parties to this Agreement are committed to the principles of fairness, equity, safety and common sense in dealing with disputes or grievances if they arise. The parties agree to attempt first to resolve differences arising in the workplace at the local or departmental level wherever possible and to avoid disrupting work to allow Orchestra Victoria to operate at its best in the interests of all concerned. In the event that a dispute arises relating to matters contained in this Agreement the National Employment standards (NES) or work related matter and cannot be resolved promptly at the local level, the parties agree that the matter will be addressed in accordance with the following guidelines:

- (a) If there is a dispute, the parties must use reasonable endeavours acting in good faith to settle the dispute as soon as practicable.
- (b) The procedure that is to be followed to settle a dispute is as follows:
 - (i) first, negotiation of the dispute under Clause 15.2;
 - (ii) second, conciliation or mediation of the dispute under Clause 15.3 (if agreed);
 - (iii) third, determination of the dispute under Clause 15.4;
- (c) Union members are entitled to be represented by their union. Non-members are entitled to be represented by the Union (if it agrees) or by any other person they choose. The employer shall recognise the representative for all purposes involved with the resolution of the dispute.

15.2 Negotiation

If there is a dispute between the parties relating to or arising out of this Agreement then the dispute must first be the subject of discussions between the Employee and [his/her] immediate supervisor. If the discussions do not resolve the matter, the dispute will then be the subject of discussions between the Employee and the Managing Director of Orchestra Victoria.

15.3 Conciliation or Mediation

If the dispute is not resolved within 5 Business Days of the discussions under Clause 15.2, then, the matter can be referred to Fair Work Australia for conciliation. Alternatively, the parties may agree to appoint an acceptable independent mediator to assist in resolving the dispute.

15.4 Arbitration

If the dispute, controversy or claim is not resolved within 28 days (or any other period agreed to in writing between the parties) after attending conciliation or the appointment of the mediator by the parties under Clause 9.3, the

dispute, controversy or claim may be submitted by either party to Fair Work Australia for arbitration. The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term.

6. TERMINATION CHANGE AND REDUNDANCY

16.1 Termination of Employment

Notice of termination by Employer

a) In order to terminate the employment of an employee the employer shall give to the employee the following notice:

Period of Continuous service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

b) In addition to the notice in paragraph (a) hereof, employees over 45 years of age at the time of the giving of the notice with not less than two years' continuous service, shall be entitled to an additional week's notice.

c) Payment in lieu of the notice prescribed in paragraphs (a) and/or (b) hereof shall be made if the appropriate notice period is not given, provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof

d) In calculating any payment in lieu of notice the wages an employee would have received in respect of the ordinary time he or she would have worked during the period of notice had his or her employment not been terminated shall be used.

e) The period of notice in this Clause shall not apply in the case of dismissal for serious misconduct that justifies instant dismissals outline in Regulations 12:10 of the Workplace Relations Act 1996, or in the case of casual employees, apprentices, or employees engaged for a specific period of time or for a specific task or tasks.

Notice of Termination by Employee

a) The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned.

b) If any employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice.

c) Provided that where payment of wages is made in advance, notwithstanding provisions of this award or its schedules relating to Annual leave, the employer shall have the right to withhold all moneys to recover such payment in advance.

Time Off During Notice Period

Where an employer has given notice of termination to the employee, the employee shall be allowed up to one days time off without loss of pay for the purpose of seeking other employment provided that the employer may at its discretion allow additional time off. Time off shall be taken at times that are convenient to the employee after consultation with the employer.

Statement Of Employment

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide the employee a written statement specifying the period of his or her employment and the classification of or the type of work performed by the employee.

Summary Dismissal

Notwithstanding the provisions of subclause (a) hereof the employer shall have the right to dismiss an employee without notice for conduct that justifies instant dismissal including malingering, inefficiency or neglect of duty and in such cases the wages shall be paid up to the time of dismissal only.

16.2 Introduction of Change

Employer's Duty to Notify

a) Where an employer is seriously considering the introduction of major changes in production, program, Organisation, structure or technologies that are likely to have significant effects on employees, the employer shall notify the employees who may be affected by the proposed changes and the Alliance or other employee representative.

b) "Significant effects" include termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Provided that where this award makes provisions for alteration of any of the matters referred to herein an alteration shall be deemed not to have significant effect.

Employer's Duty to Discuss Change

a) The employer shall discuss with the employees affected and, if requested by them, and their union, inter alia, the introduction of the changes referred to in subclause (a) hereof, the effects the changes are likely to have on employees, measures to avert or mitigate the adverse effects of such changes on employees and shall give prompt consideration to matters raised by the employees and/or their union in relation to the changes.

b) As soon as possible the employer must discuss with the affected employees and their union or other nominated representative the introduction of change and its effects, including discussing measures to alleviate or mitigate adverse effects on employees. .

c) For the purposes of such discussion, the employer shall provide in writing to the employees concerned and on the employee(s) request the Alliance or other employee representative, all relevant information about the changes including the nature of the changes proposed; the expected effects ,of the changes on employees and any other matters likely to affect employees provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely effect his or her interests.

16.3 Redundancy

Definitions:

Business includes trade, process, business or occupation and includes part of any such business.

Redundancy occurs where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and that decision leads to the termination of employment of the employee, except where this is due to the ordinary and customary turnover of labour.

Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and transmitted has a corresponding meaning.

Week's pay means the ordinary time rate of pay for the employee concerned. Provided that such rate shall exclude:

- overtime;
- penalty rates;
- disability allowances;
- shift allowances;
- special rates;
- fares and travelling time allowances;
- bonuses; and
- any other ancillary payments of a like nature.

Transfer to Lower Paid Duties

Where an employee is transferred to lower paid duties by reason of redundancy the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary rate of pay and the new ordinary time rate for the number of weeks of notice still owing.

Severance Pay

a) An employee whose employment is terminated by reason of redundancy is entitled to the following amount of severance pay in respect of a period of continuous service:

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 less than 10 years	16 weeks' pay
10 years and over	12 weeks' pay

b) Provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date.

c) Application may be made for variation of the severance pay provided for in this clause in a particular redundancy situation in accordance with the redundancy Case Decision [PR032004, 26 March 2004] and the Redundancy Case Supplementary Decision [PR062004, 8 June 2004].

Employee Leaving During Notice Period

An employee given notice of termination in circumstances of redundancy may terminate his/her employment during the period of notice set out in Appendix 1: Performance Management Policy. In this circumstance the employee will be entitled to receive the benefits and payments they would have received under this clause had they remained with the employer until the expiry of the notice, but will not be entitled to payment in lieu of notice.

Alternative Employment

An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

Job Search Entitlement

a) During the period of notice of termination given by the employer, an employee shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

b) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or he or she shall not receive payment for the time absent. For this purpose a statutory declaration will be sufficient.

Transmission of Business

Where a business is before or after the date of this Agreement, transmitted from an employer (in this subclause called "the transmitter") to another (in this subclause called "the transferee") and an employee who at the time of such transmission was an employee of the transmitter in that business becomes an employee of the transferee:

* the continuity of employment of the employee shall be deemed not have been broken by reason of such transmission; and

* the period of employment which the employee has had with the transmitter or any prior transmitter shall be deemed to be service of the employee with the transferee.

* In this subclause "business" includes trade, process, business or occupation and includes part of any such business and "transmission" includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and "transmitted" has a corresponding meaning.

Employees Exempted

This clause does not apply to:

- employees terminated as a consequence of serious misconduct that justifies dismissal without notice;
- probationary employees;
- employees with less than 1 years' continuous service
- apprentices;
- trainees;
- employees engaged for a specific period of time or for a specified task or tasks; or
- casual employees

Incapacity to Pay

Fair Work Australia may vary the severance pay prescription on the basis of an employer's incapacity to pay. An application for variation may be made by an employer.

Discussions Before Terminations

a) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour and that decision may lead to termination of employment, the employer shall hold discussions with the employees directly affected and with the Alliance.

b) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of sub-clause (16.1) hereof and shall cover, inter alia, 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 employees concerned.

c) For the purposes of the discussion the employer shall, as soon as practicable, provide in writing to the employees concerned and if requested by the employee(s) the Alliance or other employee representative, all relevant information about the proposed terminations including the reasons for the proposed termination, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would be inimical to the employer's interests.

Transfer to Lower Paid Duties

Where an employee is transferred to lower paid duties for reasons set out in this clause the employee shall be entitled to the same period of notice of transfer as he or she would have been entitled to if his or her employment had been terminated, and the employer may at the employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks of notice still owing.

Alternative Employment

An employer, in a particular redundancy case, may make application to the Commission to have the general severance pay prescription varied if the employer obtains acceptable alternative employment for an employee.

17. NOTICES

Any notice, demand, consent or other communication (a Notice) given or made under this Agreement:

- a) must be in writing and signed by a person duly authorised by the sender;
- b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number below or the address or fax number last notified by the intended recipient to the sender:

- (i) to Orchestra Victoria PO Box 836 South Melbourne 3205
Attention: Managing Director
Fax No: 03 9694 3611
- (i) to Employee Name:
Address:
Fax No:

c) will be taken to be duly given or made:

- in the case of delivery in person, when delivered;
- in the case of delivery by post, two business days after the date of posting (if posted to an address in the same country) or seven business days after the date of posting (if posted to an address in another country); and
- in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax machine number or name of recipient and indicating that the transmission has been made without error,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4.00pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

18. AMENDMENT

Amendments may be added during the life of this agreement provided all parties agree to the changes and any changes will be subject to ratification by Fair Work Australia.

18.1 No Extra Claims/Absorption

It is agreed that there will be no further claims in relation to rates of pay for the term of this Agreement and any increase by way of safety net adjustments or living wage decisions of Fair Work Australia will be absorbed.

19. FLEXIBILITY ARRANGEMENTS

An employer and employee covered by this agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement in special circumstances.

Such alternative rates and/or conditions shall apply only to the specific instance for which such agreement and a special arrangement has been reached.

Agreement can only be reached where the arrangement meets the genuine needs of the employer and employee and the arrangement is genuinely agreed to by the employer and employee.

The employer must ensure that the individual flexibility arrangement:

- a) is in writing; and
- b) includes the name of the employer and employee; and
- c) is signed by the employer 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:
 1. the terms of the enterprise agreement that will be varied by the arrangement; and
 2. how the arrangement will vary the effect of the terms; and

3. 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
4. states the day on which the arrangement commences.

The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

The employer or employee may terminate the individual flexibility arrangement:

- a) by giving no more than 28 days written notice to the other party to the arrangement; or
- b) if the employer and employee agree in writing — at any time.

The employer is responsible for ensuring that all of the requirements of the flexibility agreement are met.

The employer must provide copies of all flexibility arrangements made under this clause to the union, upon request.

20. WORKPLACE POLICIES

The terms, conditions and intentions of this Agreement, should be seen as supplemented and complemented by the Orchestra Victoria Workplace Policies and the Strategic Business Plan.

Orchestra Victoria is committed to reviewing company policies and ensuring their alignment with legislation and best practise.

The Workplace Policy Document comprises of all Orchestra Victoria company policies including the following policies:

- Respectful Workplace Behaviours Policy
- The Performance Management/Disciplinary Management Policy (Appendix 1)

SCHEDULE 1

1. Annual Leave

(a) A period of four (4) weeks annual leave must be allowed annually to all Employees after twelve (12) months continuous service (less the period of annual leave). Where any public holiday falls within such period of leave then an additional day must be added to the period of leave for each public holiday.

(b) Annual leave will be given at a time agreed with Employee and Orchestra Victoria.

(c) Orchestra Victoria may allow annual leave to an Employee before the right thereto has accrued due, but where leave is taken in such a case, a further period of annual leave does not commence to accrue until after the expiration of the twelve (12) months in respect of which annual leave had been taken before it accrued.

(d) An Employee may elect to be paid his/her salary leave in fortnightly instalments or the entire amount before going on leave.

(e) Annual leave must be allowed and must be taken, payment must not be made or accepted in lieu of annual leave except in such instances where maternity or other paid leave precludes the Employee from taking annual leave at the normal time. In such instances, the maternity or other paid leave shall prevail and the unused portion of Annual leave shall accrue or, if mutually agreed, be paid out. If an ongoing or fixed-term Employee after one week's continuous service, in any qualifying twelve (12) monthly period, leaves the employment, or the employment is terminated by Orchestra Victoria, the Employee must be paid in addition to all other amounts due

an amount equal to half (1/2) of the total ordinary pay received by the Employee for the period of service being service in respect of which annual leave has not been granted or payment made in lieu thereof under the terms of this clause.

(f) Where the employment of an Employee, having gone on annual leave prior to the eligibility for annual leave having accrued under clause (e) of this clause terminates, the Employee must reimburse Orchestra Victoria the monetary equivalent of the proportion of annual leave taken for which eligibility is not established under the provisions of this clause at the date of Termination.

(g) For the purpose of this Clause, service is deemed to be continuous notwithstanding any interruption or termination of the employment by Orchestra Victoria if such interruption or termination has been made merely with the intention of avoiding obligation hereunder in respect of leave of absence.

h) by mutual agreement, accrued annual leave in excess of 20 days may be paid out once only in any calendar year. However employees are strongly encouraged to take a minimum of 20 days leave per year in a combination of time in lieu and or annual leave.

2. Annual Leave Loading

a) Each Employee before going on any period of annual leave must for each week of such leave be paid an "annual leave loading" at the rate of seventeen and a half per cent (17.5%) of the ordinary weekly rate of pay prescribed herein for such Employee. Alternatively, an Employee may elect to be paid his/her salary and leave loading in fortnightly instalments.

b) The loading is to be paid in relation to any period of annual leave to which the Employee becomes or has become entitled.

c) No loading is payable to an Employee who takes annual leave wholly or partly in advance; provided that, if the employment of such an Employee continues until the day when he/she would have become entitled to annual leave, the loading then becomes payable in respect of the period of such leave and is to be calculated by applying the award rates of wages applicable on that day. This sub-clause applies where annual leave has been taken wholly or partly in advance.

d) When the employment of an Employee is terminated by Orchestra Victoria for a cause other than misconduct, and at the time of the termination the Employee has not taken the whole of the annual leave to which he or she became entitled, he or she must be paid the loading for the period of leave not taken.

e) Except as provided by this paragraph, no loading is payable on the termination of an Employee's employment.

3. Sick Leave

a) A full-time Employee is entitled to 15 days sick leave per annum, which shall accrue.

b) A part-time Employee is entitled to the pro-rata portion of the full-time entitlement of sick leave per annum, which shall accrue.

c) An Employee must, if required by Orchestra Victoria, provide evidence to satisfy Orchestra Victoria that he or she was unable to work because of illness or personal injury. Provided that this requirement does not apply for absences totalling less than twenty-four (24) hours in aggregate in each calendar year and when the period of absence is less than or equal to two (2) consecutive days. New employees shall receive a pro-rata annual entitlement according to their commencement date.

d) If an Employee is sick whilst on annual leave, and provides evidence to satisfy Orchestra Victoria of that sickness, he or she is entitled to substitute sick leave for annual leave for the period of sickness. Provided that:

- * each day on which the Employee is sick must be re-credited as one day of annual leave; and
- * the time of taking any re-credited annual leave must be mutually agreed between the Employee and Orchestra Victoria.

4. Long Service Leave

a) An Employee who has ten (10) years of recognised and continuous service is entitled to thirteen (13) weeks long service leave with pay. On an annual basis following this period, the Employee will accrue nine (9) days long service leave per calendar year. Long service leave may be taken on half pay with the approval of the Managing Director, for double the period of absence. Part-time and casual Employees will accrue long service leave on a pro-rata basis.

b) Employees' of Orchestra Victoria shall be granted long service leave in accordance with the following conditions:

c) Every staff member who has served ten years in the employ of the Victorian Arts Centre Trust, Melbourne Symphony, Australian Opera and Ballet Orchestra, Sydney Symphony Orchestra, Adelaide Symphony Orchestra, Queensland Symphony Orchestra, Queensland Philharmonic, The Queensland Orchestra, Tasmania Symphony Orchestra, West Australia Symphony Orchestra, Geelong Performing Arts Centre Trust or Film Victoria (provided that there has been not a gap greater than three (3) months between employment with one of the above and their commencement with Orchestra Victoria) shall be entitled, subject to the provisions of this Agreement, to be granted by Managing Director thirteen weeks long service leave with full pay in respect of that period of ten years' service and on an annual basis following this period, the Employee will accrue nine days long service leave per calendar year.

d) The Managing Director shall have discretion to grant long service leave:

- i) So that Orchestra Victoria will not be unduly affected by the granting of such leave to a number of Employees at or about the same time.
- ii) Upon application by an Employee, on a pro-rata basis at half pay.

e) When a Public Holiday as provided for in this Agreement occurs during a period of long service leave it shall not be counted for the purposes of calculating the number of leave days taken.

f) In determining the eligibility of an Employee for long service leave pursuant to this Agreement, the aggregate periods of service of such Employees shall be taken into consideration.

g) For the purpose of the preceding paragraph 4, "service" of a staff member shall include:

Any period or periods of service with the Victorian Arts Centre Trust; Melbourne Symphony, Australian Opera and Ballet Orchestra, Sydney Symphony Orchestra, Adelaide Symphony Orchestra, Queensland Symphony Orchestra, Queensland Philharmonic, The Queensland Orchestra, Tasmania Symphony Orchestra, West Australia Symphony Orchestra, Geelong Performing Arts Centre Trust; Film Victoria;
Any Department Instrumentality or Authority of any Australian State; any Department, Instrumentality or Authority of the Commonwealth of Australia (including the Armed Forces).

h) In calculating the duration of the service of a staff member:

There shall be included as a period of service any period or periods during which such staff member has been absent from duty with pay on recreation leave or on sick leave or on maternity leave or on paternity leave or on such other leave as the Managing Director may determine in any particular case;

However, there shall not be included as a period of service any period or periods served by a staff member:

(1) prior to the Employee's absence from any such employment for any continuous period of three months or more (otherwise than on such other leave or in such circumstances as the Managing Director may determine, or by reason of retirement on account of ill health):

(2) whilst on approved leave without pay other than sick leave with a Doctor's certificate.

i) The pay to which any Employee shall be entitled in respect of long service leave shall be computed on the basis of the ordinary rate of pay during such period of long service leave and shall be payable either fortnightly for the period of the leave or in a lump sum at the commencement of such long service leave at the election of the employee.

j) Notwithstanding anything in this Agreement, where an Employee with not less than ten completed years of service resigns or, for any reason other than age or ill health has his or her services terminated, the Managing Director on the written application of such staff member shall, in lieu of long service leave with pay, grant payment to the Employee of a sum equal to the amount of ordinary pay that would have been payable to the staff member in respect of the period of long service leave not taken by the staff member.

k) Where the services of an Employee with not less than four completed years of service are terminated on account of age, ill health, retrenchment or by death, the Managing Director shall, notwithstanding the other provisions of this Agreement, grant payment to the Employee, or to the legal personal representative of a deceased Employee, a sum equal to the amount of ordinary pay for one tenth of the leave entitlement set out in paragraph I in respect of each completed year of service.

Calculation of Entitlements of Part-time and Casual Employees:

a) Part-time and casual staff members who have an aggregate of ten years' service shall be entitled to ninety calendar days' long service leave with pay in respect of that ten years' service and nine calendar days' long service leave with pay in respect of each additional completed year of service.

b) In calculating the aggregate period of service, the following periods are to be excluded:

(i) All periods prior to a break in service of three months or more, in respect of which the approval of the Managing Director is not granted.

(ii) Any other periods specified in paragraph 5 ii) c).

c) The pay to which any part-time Employee or casual Employee shall be entitled in respect of any period of long service leave shall be computed on the basis of the average number of hours worked per week during the period of recognised service in respect of which leave is granted. Such pay would be payable fortnightly, provided that with the consent of the Managing Director the amount of pay due during a period of long service leave may be paid in a lump sum at the commencement of such long service leave.

(i) Calculation of average number of hours worked per week of recognised service shall be as follows:

(i) Aggregate the number of days spanning each period of engagement from commencement to termination, less any periods not recognized pursuant to paragraph 10; this being the period of recognised service;

(ii) calculate the total number of hours worked during the period of recognised service;

(iii) divide the number of days recognised service, [ie (i)], by seven to calculate the number of weeks recognised service;

(iv) divide the total number of hours worked, [ie: ii)], by the number of weeks recognised service, [ie: (divide by iii)], to calculate the average number of hours worked per week of recognised service.

Change of Employment Status:

Where a part-time staff member becomes a full-time staff member or vice-versa, the period of employment in the former employment status shall be taken into account when determining eligibility for long service leave. Where the former employment status was that of a part-time or casual staff member the relevant period of service shall be the aggregate period of service calculated in the manner provided by paragraph 10 hereof.

5. Community Emergency Service Leave

An Employee who is a member of the Civil Military Forces, Country Fire Authority or State Emergency Services, may be released from their normal duties, without loss of pay, should they choose to volunteer in emergency situations. Leave would be subject to the agreement of the Management but would not be unreasonably denied.

An Employee who is required to gain qualifications to perform functions in voluntary emergency relief organisations may be released from their normal duties to fulfil the requirements of such training. Leave would be subject to the agreement of the Management but would not be unreasonably denied. Leave may be on a paid or unpaid basis.

6. Jury Duty

Where an Employee is required to attend court for jury duty he or she shall be granted paid leave for the duration of the jury duty. On return to work after jury leave the Employee will provide an attendance certificate obtained from the Sheriff or Clerk of Courts.

7. Study Leave

Employees may be granted study leave in accordance with Orchestra Victoria policy. This policy is included in the Orchestra Victoria Workplace Policy Document.

8. Leave Without Pay

Subject to operational requirements of Orchestra Victoria and circumstances applying to the particular applicant an Employee may be granted leave without pay for other reasons not specifically provided for in this Agreement. Such approved leave without pay does not constitute an interruption to employment, however, such entitlements as annual leave, sick leave and long service leave cease to accrue at the commencement of the unpaid period and recommence when the Employee returns to work.

9. Public Holidays

An Employee is entitled to the following holidays without loss of pay (based on 7.6 hour working day):

- * New Year's Day
- * Good Friday

- * Easter Saturday
- * Easter Monday
- * Christmas Day
- * Boxing Day
- * Australia Day
- * Anzac Day
- * Queen's Birthday
- * Labour Day
- * Melbourne Cup Day

When Christmas Day, Boxing Day, New Year's Day or Australia Day fall on either a Saturday or Sunday a holiday in lieu thereof shall be observed on the next week day which is not already a public holiday.

All Employees who work on a Public holiday must be paid at the rate of double time as per clause 4.2 and 4.3 of schedule 1

An Employee may, by agreement with the Management, substitute defined public holidays for another day to observe religious or cultural occasions relevant to the Employee.

10. Leave for Family Related Purposes

The following forms of paid and unpaid leave are available to all full and part-time Employees, who have completed twelve months' continuous service.

10.1 Paid and Unpaid Maternity Leave

On production of appropriate supporting medical documentation a female Employee shall be granted up to a maximum of fifty-two (52) weeks' maternity leave of which twelve (12) weeks will be with pay taken at a time of mutual consent.

Where agreement is reached between the Employee and the Management the paid portion of leave can be taken at half pay.

10.2 Paid and Unpaid Paternity Leave

Employees shall be entitled to 1 week's paternity leave with pay. In cases where the male Employee is to be the primary care giver, an additional period of up to fifty-one (51) weeks' unpaid paternity leave can be granted. Paternity leave must be used within twelve (12) months of the birth of the child. Where agreement is reached between the Employee and the Management the paid portion of leave can be taken at half pay.

10.3 Paid and Unpaid Adoption Leave

On production of appropriate supporting documentation an Employee who is the primary care giver shall be granted up to fifty-two (52) weeks' adoption leave of which 6 weeks may be granted with pay. Employees are required where possible to give a minimum of ten (10) weeks' notice of intention to take such leave. Where agreement is reached between the Employee and the Management, the paid portion of leave can be taken at half pay.

10.4 Other Paid Leave The following forms of paid leave are available only to full and part-time Employees:

(a) Carers Leave

An Employee with family responsibilities may be granted leave of up to ten (10) days per year of their existing sick leave balance, to meet emergency family situations. Appropriate documentation is required to support the application for this leave.

(b) Compassionate Leave

An Employee may be granted up to three (3) days (or a greater period by mutual agreement) leave with pay in the event of death or serious illness of a partner or other immediate family member, or any other person or situation where special circumstances exist.

SIGNATURES

Executed in Melbourne

Signed on behalf of Orchestra Victoria:

Managing Director

Print Name

Date

Signed on behalf of the Media Entertainment and Arts Alliance:

Victorian Branch Secretary

Print Name

Date

Orchestra Victoria

Performance Management Policy

Management, Administration & Production Personnel Only

Introduction and Purpose

Orchestra Victoria is committed to monitoring the performance of all Company members and responding proactively to employee performance development needs and performance related issues.

Aims

The aims of the policy are:

1. To reinforce and sustain performance through constructive feedback, acknowledgement of accomplishments, acknowledgement of positive behaviour and the promotion of open communication surrounding performance related topics
2. To improve performance – by establishing future goals and performance targets
3. To determine career progression goals by identifying long term career goals and implementing steps required to reach the goals
4. To determine training needs – by identifying if training is necessary to ensure performance meets expectations and/or improve performance standard to become eligible for successional movement
5. To provide transitional support for employees who wish to explore career options as company members face challenges within their current abilities/role

Policy Principles and Values

1. Orchestra Victoria is committed to ongoing performance enhancement for all employees and will guide and support employees to perform their duties and fulfill the responsibilities of their position.
2. In circumstances where an employee fails to follow relevant policies and procedures and/or does not perform the duties of their position in line with their position description and contract of employment, it may become necessary to take disciplinary action (see Disciplinary Management Policy).

Trial Assessment Period

Initial employment with Orchestra Victoria is subject to a 3 month period of probationary employment. At the 3 month anniversary of employment, a formal 360 degree review of the employee's performance will be conducted as part of their confirmation of employment, or otherwise. The employee and his/her immediate supervisor, in consultation with the Human Resources Manager, will agree on a regular review period to ensure that Orchestra Victoria's commitment to ongoing performance management is maintained.

Method of Appraisal

360 Degree Appraisal:

The 360 Degree method seeks feedback from a variety of sources including those who work in a supervisory capacity, peers, report-tos and others. Feedback groups are selected by the employee and his/her supervisor and the criteria for assessment is also discussed and agreed upon. This criteria is then sent to the feedback group and each person is invited to meet with the supervisor to discuss the employee's performance and provide constructive feedback.

The employee also performs a self appraisal based on the same criteria.

The feedback is compiled by the supervisor and is shared with the employee in a non-disclosive manner. The Human Resources Manager shall attend each appraisal meeting and will contribute to the discussion where appropriate.

As this is a two way conversation, the employee is invited to discuss their self appraisal and provide feedback to the supervisor, convey any concerns, ideas for role development, professional aspirations and respond to any of the feedback collected.

Each feedback/appraisal is designed and tailored to address each position description as referenced in Orchestra Victoria's Employment Contracts and the Production team's Certified Agreement.

The process is strictly confidential.

Records

A general summary of the appraisal will be prepared by the supervisor and a copy will be given to the employee and placed on file for 12 months then removed from the employee's file and destroyed (in keeping with legislative requirements).

Confidentiality

All appraisal documentation and records are kept secure with access available only to Human Resources and the Managing Director.

Support

It is critical that each appraisal is carried out in a controlled environment.

The supervisor shall receive adequate guidelines on how to conduct the appraisal conversation and if necessary, training will be made available. Support & training will be provided to all leadership personnel within the orchestra.

Review of Program

Orchestra Victoria's performance appraisal program is evaluated on a regular basis to ensure that the aims of the policy are being met.

Orchestra Victoria Disciplinary Management Policy

Management, Administration & Production Personnel Only

Introduction and Purpose

Orchestra Victoria expects that its employees will perform at a high level, and in that regard will endeavour to ensure appropriate resources are available to allow this level of performance to be achieved. Orchestra Victoria also expects that its employees will abide by company policies and that they will not take any action against the company, any employee or against any other person, which might constitute serious or willful misconduct.

Orchestra Victoria is committed to fair and respectful communication throughout the organisation at all times.

In the event that an employee's performance, conduct or behaviour is not acceptable, Orchestra Victoria will address concerns in accordance with this policy.

Aims

The aims of the policy are to:

1. Ensure Company members understand how unsatisfactory performance, inappropriate behaviour, breaches of company policies, or serious or wilful misconduct is managed at Orchestra Victoria
2. Support a performance ethic where under-performance is addressed quickly, fairly and in accordance with legislation and best practice HR
3. Ensure the appropriate resolution of performance related issues, giving any affected employees a equitable chance to improve their performance
4. Provide for termination of employment where an employee is unable to demonstrate any substantial or agreed performance improvement; and
5. Set out the actions which may be taken, including possible termination of employment, either summarily or otherwise, in relation to a breach of company policy or following an act of serious or wilful misconduct

Disciplinary Process

The Human Resources Manager, in conjunction with the immediate supervisor will be responsible for each stage of the disciplinary process. As part of the process a series of meetings will be coordinated. The supervisor will provide the employee with the reason for the meeting and offer the employee a choice of times for the meeting within a 7 days period.

Attendees

The employee has the right to nominate a representative of their choice to accompany them from the second stage of the procedure. The Human Resources Manager (and where applicable, the immediate Supervisor) will be present at each stage of the disciplinary process.

Stages of Action

Where disciplinary action becomes necessary the following procedures will take place:

Stage 1 Official Warning and Performance Counselling

This is a verbal conversation where the employee, their supervisor and the Human Resources Manager will discuss the performance related issues, events/incidents. This will result in recommendations for improvements, together with an action or training plan with agreed time lines. The agreed action will be noted in writing and distributed to all parties present within 3 days of the meeting taking place.

Stage 2 Second Written Warning

If there is no significant improvement in performance as outlined in Stage 1, or another incident takes place, the supervisor will meet with the employee and discuss the reason for the meeting and issue a written warning to the employee. The Human Resources Manager must be present at all meetings from this stage onwards. The employee has the right to discuss this document and comment at the meeting or in writing. The employee must be informed that failure to remedy the situation may lead to further action being taken, including possible termination of employment;

The agreed action will be noted in writing and distributed to all parties present within 3 days of the meeting taking place.

Stage 3 Third Written Warning

This is a final warning and issued if there is insufficient improvement. The supervisor and the Human Resources Manager will meet with the employee and discuss the reason for the meeting and issue a second written warning to the employee. The employee has the right to discuss this document and comment at the meeting or in writing.

The agreed action will be noted in writing and distributed to all parties present within 3 days of the meeting taking place.

At this stage the Managing Director will be apprised of the progression of the disciplinary matter.

Stage 4 Final Notice and Termination

If the employee fails to rectify performance issues raised in stages 1 to 3, the employee will be terminated, subject to the approval of the Managing Director being satisfied that the employee has been given reasonable scope to improve their performance.

The supervisor and the Human Resources Manager will meet with the employee to inform them that employment will be terminated. Reasons for termination will be provided to the employee in writing. Documents of reason and action taken will be placed on the employee's personnel file

Instant Dismissal

Where an incident of a serious nature occurs or conduct is grossly negligent immediate dismissal may take place. If an employee is instantly dismissed, they will be required to finish work immediately and the stages of this disciplinary procedure will not be followed.

External/Transitional Support

Employment Assistance Programs (EAP's) will be available to all employees who require external counselling throughout this process.

The EAP provides contact information for confidential services to assist and support employees. For further information see the Human Resources Manager.

Records

Each stage of the discipline procedure will be documented in full by the Human Resources Manager and immediate supervisor. From stage two, both the employee and the employer are expected to sign the documentation detailing the outcome of each stage. By signing the document it verifies that the supervisor and the employee met and a record was made of the meeting. It does not necessarily imply that the supervisor and the employee reached agreement. All meeting notes and communications will be placed on the employee's personnel file. If there are no re-occurrences of the incident within 12 months then the record shall be removed from the employee's file and destroyed.

Confidentiality

All records are kept secure in the employee's personnel file with access available only to Human Resources staff and the Managing Director.

Period of Notice

Unless otherwise stated in the employment contract, the period of notice is 4 weeks (1 day during probationary period). No notice period will apply in the case of instant dismissal.

Company Property

On termination of employment, the employee must return all property belonging to Orchestra Victoria, including keys, security passes and confidential information in documentary or electronic form.

Orchestra Victoria may, at their discretion, pay an employee in lieu for all or part of the notice period.

Final termination payment will be withheld until such property is returned.

Entitlements

It is Orchestra Victoria's policy that:

- all accrued annual leave entitlements and annual leave loading are paid out as at the final date of employment
- if applicable, all long service leave entitlements be paid out at the final date of employment
- accrued sick leave entitlements are not payable on termination.