

[2014] FWCA 3747

The attached document replaces the document previously issued with the above code on 5 June 2014.

The reference to s.54(2) in [11] has been amended to s.54(1)(b).

Jimmy Li
Associate to Commissioner Bull

Dated 5 June 2014.



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Apple Pty Limited T/A Apple
(AG2014/5899)

APPLE RETAIL ENTERPRISE AGREEMENT 2014

Retail industry

COMMISSIONER BULL

SYDNEY, 5 JUNE 2014

Application for approval of the Apple Retail Enterprise Agreement 2014.

[1] An application has been made for approval of an enterprise agreement known as the *Apple Retail Enterprise Agreement 2014* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). The Agreement is a single-enterprise agreement.

[2] The Agreement covers 2,372 employees. Of those employees, 1,916 cast a valid vote and 1,704 voted in favour of the Agreement.

[3] There was no union involved in the bargaining process. There was one employee bargaining representative, *Ms Marcia Ruf*. On 8 May 2014, my chambers received a telephone call from Ms Ruf informing the Commission that she opposed the approval of the agreement.

[4] A timetable was set down for Ms Ruf and the applicant's representative to file submissions in relation to the objections. Ms Ruf filed her submissions on 16 May 2014. A conference was held on 3 June 2014. During that conference, Ms Ruf withdrew her opposition to the approval of the agreement.

[5] The applicant has provided an undertaking to the effect that the Agreement would be read in conjunction with the National Employment Standards as set out in the Act.

[6] Upon review of the undertaking provided by the Applicant, I am satisfied that employees covered by this Agreement are better off overall.

[7] This undertaking is taken to be a term of the Agreement. A copy of the undertaking is attached at **Annexure A**.

[8] The undertaking was provided to the bargaining representative. The bargaining representative did not raise any objection to the undertaking.

[9] I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[10] Clause 1.5 of the Agreement specifies that the Agreement commences on the date of expiry of the *Apple Australia Retail Collective Workplace Agreement 2009*. I am satisfied that the date of expiry of that agreement is 6 July 2014.¹

[11] The Agreement is approved. In accordance with s.54(1)(b) the Agreement will operate from 7 July 2014. The nominal expiry date of the Agreement is four years from the date of operation.



COMMISSIONER

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¹ The Employer's representative has provided the approval letter from the Workplace Authority.

ANNEXURE A

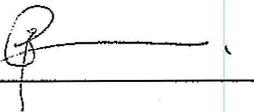
AG2014/5899 - IN THE FAIR WORK COMMISSION

UNDERTAKING OF APPLE PTY LIMITED PURSUANT TO APPLE RETAIL ENTERPRISE AGREEMENT 2014

Apple Pty Limited hereby undertakes the following in relation to the Apple Retail Enterprise Agreement 2014 (*the Agreement*):

- **insert at the end of clause 1.6 of the Agreement:** *"The Agreement will be read in conjunction with the National Employment Standards as set out in the Fair Work Act 2009 (Cth)."*

This undertaking is signed by, Bernard Ryan, Employee Relations Manager, on behalf of the employer, Apple Pty Limited, Level 16, 77 King Street, Sydney NSW, 2000.

Signed:  _____

Dated: 3 June 2014

Note - this agreement is to be read together with an undertaking given by the employer. The undertaking is taken to be a term of the agreement. A copy of it can be found at the end of this agreement.



Apple Retail Enterprise Agreement 2014

Table of contents

1.	Operation of Agreement	1
2.	Your Appointment and Classification	2
3.	Your Remuneration	2
4.	Superannuation	3
5.	Allowances	3
6.	Rosters	4
7.	Your Working Hours	4
8.	Overtime	5
9.	Weekend Work	5
10.	Late Night Work	5
11.	Meal and Rest Breaks	5
12.	Your Leave	6
13.	Public Holidays	8
14.	Training	9
15.	Leaving Apple	10
16.	Redundancy	11
17.	Grievance Procedure	11
18.	Flexibility	11
19.	Consultation	11
20.	Casual Team Members	11
21.	Suspension	12
22.	Bag/Locker inspections	12
23.	Definitions	12
	Schedule A	14
	Classifications and Minimum Rates of Pay	14
	Schedule B	17
	Grievance Procedure	17
	Schedule C	18
	Flexibility Arrangements	18
	Schedule D	19
	Consultation Procedure	19

1. Operation of Agreement

- 1.1 This agreement shall be known as the Apple Retail Enterprise Agreement 2014.
- 1.2 This Agreement is binding on Apple and all Full Time, Part Time and Casual Team Members of Apple employed in the classifications contained in this Agreement within retail establishments in the States and Territories of Australia. This Agreement does not cover Team Members engaged under the Apple Collective Workplace Agreement 2008 or any employee engaged by Apple to perform work outside of a retail establishment.
- 1.3 This Agreement applies to the exclusion of all other industrial instruments and legislation (including transitional instruments), which would otherwise have application to the employment, except to the extent only that:
- (a) an industrial instrument or legislation is referred to in this Agreement; or
 - (b) the exclusion is not permitted by law.
- 1.4 For the avoidance of doubt, whilst the Agreement remains in operation a modern award which covers any of the Team Members who fall within the classifications below, will have no application.
- 1.5 This Agreement will commence on the date of expiry of the Apple Australia Retail Collective Workplace Agreement 2009. The nominal expiry date of this Agreement will be four (4) years from the date of approval by the Fair Work Commission.
- 1.6 All Full Time, Part Time and Casual Team Members covered by this Agreement will be entitled to the benefits contained in the Standards as set out in the Act.
- 1.7 Penalty payments payable under this Agreement will not be cumulative. For example, this means that when a higher premium is payable for work performed during any single shift under clauses **9 (Weekend Work)**, **10 (Late Night Work)** or **13 (Public Holidays)**, you will only receive the highest penalty available to you under any of the aforementioned clauses.

EXAMPLE

Mary is an Apple Team Member Level 1. Mary works on Easter Monday. Mary is paid at the rate of 250% (the public holiday penalty rate) without any additional loading for working on Easter Monday.

Classifications

- 1.8 Team members engaged under this Agreement will be appointed to the following classifications (as defined in **Schedule A - Classifications and Minimum Rates of Pay** to this Agreement):
- (a) Apple Team Member Level 1;
 - (b) Apple Team Member Level 2; or
 - (c) Apple Team Member Level 3.
- 1.9 A copy of this Agreement will be made available to you either in hard copy or electronic means.

2. Your Appointment and Classification

- 2.1 You will be advised in writing at the time of engagement:
- (a) whether you are engaged on a Full Time, Part Time or Casual basis;
 - (b) of your Base Salary or Hourly Rate of Pay;
 - (c) whether your initial appointment is subject to a probationary period;
 - (d) your specific period of engagement if employed under in a Seasonal Contract; and
 - (e) any other specific terms of appointment.

Probationary Period

- 2.2 The first six (6) months of your employment will be a probationary period. Any time within this probationary period either you or Apple may terminate your employment for any reason and at any time by giving one (1) week's written notice. Apple may, at its discretion, make a payment to you in lieu of notice calculated in the manner required by section 117(2) of the Act.
- 2.3 **Clause 2.2** will only apply to Team Members that are employed **after** the approval of this Agreement.
- 2.4 After the completion of the probationary period, the notice of termination will be in accordance with **clause 15 - Leaving Apple** of this Agreement.

Exemptions

- 2.5 The following clause of this Agreement **does not** apply to you if you are an Apple Team Member Level 2:
- (a) Weekend Work (**clause 9.1**);
- 2.6 The following clauses of this Agreement **do not** apply to you if you are an Apple Team Member Level 3:
- (a) Overtime (**clause 8**);
 - (b) Weekend Work (**clause 9**); and
 - (c) Late Night Work (**clause 10**).

3. Your Remuneration

Remuneration Components

- 3.1 If you are a Full Time or Part Time Team Member, you will be paid a Base Salary or Hourly Rate of Pay on a fortnightly basis in arrears by electronic funds transfer. If you are a Casual Team Member, you will be paid a Casual Hourly Rate of Pay on a fortnightly basis in arrears by electronic funds transfer. Your remuneration, may be made up of the following:
- (a) your Base Salary or Hourly Rate of Pay;
 - (b) any applicable loadings or allowances;

- (c) superannuation contributions made in accordance with the minimum requirements of the *Superannuation Guarantee (Administration) Act 1992*; and
- (d) compensation for Overtime (if relevant to your classification).

Minimum Annual Base Salary or Hourly Rate of Pay

- 3.2 You will be paid a Base Salary or Hourly Rate of Pay above or equal to the minimum rate which pertains to your position. The minimum Base Salaries for Full Time Team Members utilised by Apple are set out in **Schedule A – Classifications and Minimum Rates of Pay** to the Agreement.
- 3.3 The Base Salary is pro rated for Part Time Team Members as set out in **Schedule A – Classifications and Minimum Rates of Pay**.

Payment of Wages

- 3.4 Where you work Overtime hours or are entitled to additional payments or allowances, these additional amounts will be paid in the following pay period subject to the submission and verification of timekeeping records.
- 3.5 The pay week will be Saturday to Friday.

Salary Increases and Review

- 3.6 Apple reviews your Base Salary or Hourly Rate of Pay annually. In undertaking this review, Apple may have regard to your performance, the business performance of Apple and any other matter which it deems relevant. This review does not however necessarily guarantee an increase in your Base Salary or Hourly Rate of Pay.
- 3.7 Apple will ensure that during the Term of this Agreement the minimum Base Salary or Hourly Rate of Pay for each classification in this Agreement will be no less than any minimum rates of pay for each relevant classification set out in any applicable modern award.

4. Superannuation

- 4.1 Apple will make superannuation contributions consistent with the Commonwealth *Superannuation Guarantee (Administration) Act 1992*. The value of these contributions will be the minimum amount required to avoid a superannuation calculation charge.
- 4.2 You will have a choice of an eligible superannuation fund. If you do not nominate a complying superannuation fund, Apple will make superannuation contributions on your behalf into Apple's default employer superannuation fund (or any other approved superannuation fund nominated by Apple) from time to time.
- 4.3 Apple's current default superannuation fund, REST Corporate, provides a MySuper product.

5. Allowances

Meal Allowance

- 5.1 You will be eligible to receive a meal allowance in circumstances where you:
 - (a) have performed over 76 hours of work in any fortnightly pay period; and

- (b) after you have satisfied **clause 5.1(a)**, you are required, in any single shift, to work more than one (1) hour past your Rostered Hours in the same fortnightly pay period, without 24 hours notification.

- 5.2 The amount of the meal allowance payable will be \$17.00. For the avoidance of doubt, you will not be eligible to receive a meal allowance in circumstances where you perform less than 76 hours of work in any fortnightly pay period.

EXAMPLE

Steve has worked 80 hours over the first 12 days of the fortnightly roster. When Steve arrives at work on day 13, his manager asks Steve to work back late until 10:00pm. Steve's rostered finishing time on that day is 7:00pm. Steve is entitled to a meal allowance for that shift.

First Aid Allowance

- 5.3 Where you hold a current first aid qualification and you are appointed by Apple to perform first aid duties, a fortnightly allowance of \$29 per fortnight will be paid.

6. Rosters

- 6.1 Apple will determine rosters of work for Team Members on the basis of a fortnightly roster. The roster will be prepared and may be varied by Apple at any time in its discretion. There may be frequent variations to rosters from one fortnightly cycle to another.
- 6.2 All Team Members, regardless of classification, may be rostered to work on weekends and on Public Holidays. Whilst you are expected to be available to be rostered to work at any time across seven days of the week, Monday to Sunday, Apple appreciates that there will be occasions where you may not be available to work. In these circumstances, Apple may agree to alternative rostering arrangements as reasonably requested in writing, having regard to the operational needs of the business and your individual circumstances, including any risk to your health and safety.

7. Your Working Hours

- 7.1 You will be rostered to work generally between 6:00am and 10:00pm Monday to Sunday. The roster will generally run from Saturday to Friday each week.
- 7.2 If you are a Full Time Team Member, you will be rostered to work a minimum 76 hours per fortnight. Full Time Team Members may not be rostered to work for less than three (3) consecutive hours per day. For the purposes of this clause, these minimum 76 hours per fortnight include any hours of authorised leave.
- 7.3 If you are a Part Time Team Member, you will be rostered to work less than 76 hours per fortnight. Part Time Team Members may not be rostered to work for less than three (3) hours per day.
- 7.4 If you are a Casual Team Member, you may work a maximum of 76 hours per fortnight. Casual Team Members may not be rostered to work for less than three (3) hours per day.

8. Overtime

- 8.1 Any hours of work performed by Full Time, Part Time and Casual Team Members in excess of 76 hours in any fortnight at the direction of your relevant manager, will be considered to be Overtime. For the purposes of this clause and subject to the Standards, hours of work within the relevant fortnightly pay period exclude any paid or unpaid leave taken during the relevant fortnightly pay period for the calculation of Overtime.
- 8.2 Overtime rates of pay are only payable if the Overtime hours are approved by your relevant Manager prior to the commencement of the Overtime.
- 8.3 Overtime hours will be paid and calculated with reference to your applicable Hourly Rate of Pay or Base Salary (converted to an hourly rate of pay in accordance with **Schedule A**), at the rates of:
- (a) 150%, for the first two (2) hours of Overtime in any fortnightly pay period; and
 - (b) 200% for every hour of Overtime worked in excess of the first two (2) hours in any fortnightly pay period.

9. Weekend Work

- 9.1 If you are an Apple Team Member Level 1 and you are required to work on a Saturday, you will be paid at the rate of 125%, calculated with reference to your applicable Hourly Rate of Pay or Base Salary (converted to an hourly rate of pay in accordance with **Schedule A**), for all hours worked.
- 9.2 If you are an Apple Team Member Level 1 or 2 and you are required to work on Sunday, you will be paid at the rate of 150%, calculated with reference to your applicable Hourly Rate of Pay or Base Salary (converted to an hourly rate of pay in accordance with **Schedule A**), for all hours worked.

10. Late Night Work

If you work between the hours of 10:00pm and 6:00am, you are entitled to be paid at the rate of 150%, calculated with reference to your applicable Hourly Rate of Pay or Base Salary (converted to an hourly rate of pay in accordance with **Schedule A**), for all hours worked.

11. Meal and Rest Breaks

- 11.1 During your Rostered Hours, paid rest breaks and unpaid meal breaks will be provided to all Team Members as follows:

	Paid rest break	Unpaid meal break
If a Team Member works more than 4 hours and up to 5 hours	15 minutes	None
If a Team Member works more than 5 hours and up to 7 hours	15 minutes	30 minutes

If a Team Member works more than 7 hours and up to 8 hours	2 x 15 minutes	30 minutes
If a Team Member works more than 8 hours and up to 10 hours	3 x 15 minutes	30 minutes

- 11.2 Meal breaks are not regarded as time worked.
- 11.3 All breaks are to be taken at the direction of Apple in accordance with the above.
- 11.4 A rest break and a meal break cannot be taken within one (1) hour of each other, unless approved by your manager.

12. Your Leave

- 12.1 All paid and unpaid leave will accrue and be taken in accordance with the Standards and as set out below.

Annual Leave

- 12.2 Full Time Team Members will be entitled to twenty (20) days paid annual leave per annum. If you are a Part Time Team Member your entitlement to annual leave benefits under this Agreement will be on a pro-rated basis, up to a maximum of twenty (20) days paid per annum. Apple encourages you to take your accrued leave every year.
- 12.3 If you wish to take annual leave you must, where reasonably practicable, give Apple four (4) weeks' prior notice of your intention to take leave, and the start and finish dates of your intended leave. The approval of this annual leave will be subject to the discretion of Apple. In exercising this discretion, Apple may take into account any matter, including but not limited to its business needs.
- 12.4 Apple may require you from time to time to take a period of annual leave by giving at least four (4) weeks' notice where:
- (a) it is reasonable for Apple to give this direction; or
 - (b) Apple's business, or part of the business, is being shutdown, for example over the Christmas and New Year period; or
 - (c) you have accrued in excess of eight (8) weeks' annual leave.
- 12.5 Annual leave loading is included in your applicable Base Salary or Hourly Rate of Pay and will not be separately payable.

Cash-out of annual leave

- 12.6 You may apply to Apple in writing to have your accrued but untaken annual leave "paid out" as cash in accordance with the Standards, provided that you must retain a balance of at least twenty (20) days accrued annual leave.
- 12.7 Apple may accept or reject your application at its discretion. Cash out generally occurs twice each year in accordance with Apple policies as published from time to time. In exercising this discretion, Apple may take into account any matter, including but not limited to the needs of the business and work, health and safety considerations.

- 12.8 Apple may also make a request to you to have your accrued but untaken annual leave "paid out" in accordance with the Standards.

Personal Leave

- 12.9 All Full Time Team Members are entitled to ten (10) days' personal leave per annum which may be used as sick or carer's leave in accordance with the Standards. Personal leave accumulates from year to year but is not paid out upon termination of employment.
- 12.10 All Casual Team Members are entitled to the unpaid carer's leave benefits in accordance with the Standards.
- 12.11 You must notify Apple of your absence from work as soon as possible and at least one (1) hour prior to shift start time by contacting your Manager. Where possible, this notification must be given personally or by telephone, and must not be made by text message or email.
- 12.12 You must notify Apple as soon as possible the specific grounds for the absence and estimated duration of absence. You must also keep Apple informed of any changes to this information. Apple may require you to provide a medical certificate, a statutory declaration, or any other evidence reasonably required by Apple to support the grounds for the length of your absence.
- 12.13 Apple may require you to submit to a medical assessment in order to ascertain your fitness for work. You are required to do all things necessary to participate in any medical assessment undertaken by Apple to ascertain your fitness for work.

Compassionate Leave

- 12.14 You are entitled to compassionate leave benefits as set out in the Standards.
- 12.15 You are required to provide Apple with any documentary evidence Apple reasonably requires regarding any period of compassionate leave.

Long Service Leave

- 12.16 Long service leave shall accrue and be taken in accordance with applicable legislation in the State or Territory in which you are engaged.

Parental Leave

- 12.17 Parental leave will be available to eligible Team Members in accordance with the Standards.

Jury Service

- 12.18 All Full Time and Part Time Team Members will be allowed leave when required to attend for Jury Service. During such leave, you will be paid your applicable Base Salary or Hourly Rate of Pay and must provide Apple with your Jury Service fees. To receive payment, you must provide to Apple proof of your requirement to attend, proof of actual attendance and monies received for such Jury Service.
- 12.19 The combination of work and Jury Service will not exceed the number of days you would normally be rostered to work in any fortnight.
- 12.20 If you are required to attend Jury Service during a period of annual leave, on producing satisfactory evidence of attendance, you will be credited with annual leave for the period for which Jury Service was attended.
- 12.21 If you are on Jury Service, you will not be required to attend work on that day.

Community Service Leave

12.22 Community Service Leave will be granted in accordance with the Standards.

Blood Donation Leave

12.23 A Full Time Team Member shall be allowed to take up to two (2) hours of blood donation leave on up to four (4) occasions per calendar year for the purposes of donating blood.

12.24 During such leave, you will be paid your applicable Base Salary or Hourly Rate of Pay and must provide Apple with proof of your attendance at the Blood Bank.

12.25 You must arrange for your absence to be on a day suitable to Apple and be as close as possible to the beginning or ending of your working day. You must notify Apple as soon as possible of the time and date upon which you are requesting to be absent for the purpose of donating blood.

Part Time Team Members

12.26 If you are a Part Time Team Member your entitlement to any leave benefits under this Agreement will be on a pro-rated basis.

13. Public Holidays

13.1 If you are a Full Time or Part Time Team Member, you will be entitled to be absent from work for all Public Holidays in the State or Territory in which you work. If you are absent as a result of a Public Holiday, you are entitled to be paid for your Rostered Hours.

13.2 Where you work on a Public Holiday, the following Public Holiday penalties will apply:

- (a) if you are an Apple Team Member Level 1, you will be paid at the rate of 250%, calculated with reference to your applicable Hourly Rate of Pay or Base Salary (converted to an hourly rate of pay in accordance with **Schedule A**), for all hours worked;
- (b) if you are an Apple Team Member Level 2, you will be paid at the rate of 250%, calculated with reference to your applicable Hourly Rate of Pay or Base Salary (converted to an hourly rate of pay in accordance with **Schedule A**), for all hours worked; and
- (c) if you are an Apple Team Member Level 3, you will receive time off in lieu (**TOIL**) for every hour that you worked on the Public Holiday.

13.3 If you are a Full Time Team Member and your RDO falls on a Public Holiday in the State or Territory in which you work, you will be entitled to 7.6 hours of TOIL. If you are a Part Time Team Member and your RDO falls on a Public Holiday in the State or Territory in which you work, you will be entitled to 3.8 hours of TOIL.

13.4 Accrued but untaken TOIL will be paid out on termination of employment.

EXAMPLE:

1. Kelly is rostered to work for 6 hours on Australia Day but cannot work as she is visiting her family. Kelly is paid 6 hours for the Public Holiday.
2. Trent is an Apple Team Member Level 1 and works on New Years Day for 10 hours. Trent is paid at the rate of 250% for 10 hours work.
3. Maria is a Store Leader (an Apple Team Member Level 3) that works Anzac Day. Maria receives TOIL for every hour that Maria worked on Anzac Day.
4. Amanda is a part time Team Member and regularly works Monday, Tuesday and Wednesday. Even though Amanda is not rostered to work on Good Friday, Amanda receives a Public Holiday TOIL credit of 3.8 hours in the following fortnightly pay period.

EXAMPLE FOR APPLE TEAM MEMBERS			
Public Holiday scenario	Apple Team Member Level 1 & Level 2 - Part-Time Team Members	Apple Team Member Level 1 & Level 2 - Full Time Team Members	Apple Team Member Level 3 -Part Time & Full Time Team Members
Team Member is rostered to work on a Public Holiday.	The highest applicable penalty rate (250%) is payable for all Rostered Hours worked	The highest applicable penalty rate (250%) is payable for all Rostered Hours worked	Team Member paid Hourly Rate of Pay or Base Salary for Rostered Hours and receives TOIL for all Rostered Hours worked
Team Member does not work on a Public Holiday due to a RDO or because store is closed.	Team Member receives 3.8 hours of TOIL	Team Member receives 7.6 hours of TOIL	Team Member receives 7.6 hours of TOIL
Team Member is rostered to work on a Public Holiday but chooses to be absent, providing reasonable notice	Team Member paid Hourly Rate of Pay or Base Salary for Rostered Hours	Team Member paid Hourly Rate of Pay or Base Salary for Rostered Hours	Team Member paid Hourly Rate of Pay or Base Salary for Rostered Hours

14. Training

- 14.1 To ensure personal and professional development, all Team Members are to undertake internal and external training programs as directed by Apple.
- 14.2 Apple Training programs may involve interstate and international travel.
- 14.3 When attending any training at the direction of Apple the following will apply:
 - (a) The maximum hours that will be regarded as hours worked in any one day will be 7.6 hours;

- (b) Any travel time will not be regarded as hours worked unless such hours fall within your Rostered Hours.

15. Leaving Apple

- 15.1 After the completion of your probationary period, either you or Apple may terminate your employment by giving to the other notice in accordance with the following scale as set out in the Act:

Team member's period of continuous service	Period of notice
Less than 1 year service	1 week
More than 1 year but less than 3 years	2 weeks
More than 3 years but less than 5 years	3 weeks
More than 5 years	4 weeks

- 15.2 If you are over the age of 45 years, you will be eligible for one (1) extra weeks notice if you have completed at least two (2) years of service (other than in instances of serious misconduct when no notice is payable).
- 15.3 Apple may, at its discretion terminate your employment by paying you the sum equal to the amount of your applicable Hourly Rate of Pay or Base Salary which you would have accrued during the balance of the required notice period. The period of notice referred to in this clause includes any notice required to be given pursuant to the Act or any other law.
- 15.4 Apple may also terminate your employment without notice (and without making any payment in lieu of notice) for conduct justifying instant dismissal including, but not limited to:
- (a) misconduct or neglect;
 - (b) theft or fraud;
 - (c) abandonment of employment (that is, not notifying Apple of your unapproved absence or whereabouts for a period of 5 days);
 - (d) unacceptable or offensive behaviour including swearing, violence and threatening others;
 - (e) harassment and/or unlawful discrimination against a Team Member, customer, contractor or any other person on site;
 - (f) bringing the business of Apple into disrepute;
 - (g) breaches of customer/client confidentiality;
 - (h) being under the influence, using or possessing illegal drugs while at work;
 - (i) being under the influence, consuming or possessing alcohol while at work;
 - (j) refusing to comply with a lawful and reasonable direction;
 - (k) not carrying out or acting outside of Work, Health and Safety responsibilities and obligations; or

- (l) seriously breaching the terms of your employment.

16. Redundancy

- 16.1 A redundancy is a decision made by Apple that a job being performed is no longer required to be performed and that the decision is not due to the ordinary and customary turnover of labour.
- 16.2 The redundancy provisions set out in this Agreement are subject to the exclusions set out in the Standards (including but not limited to sections 120 to 123 of the Act and any applicable regulations).
- 16.3 In addition to the period of notice prescribed for termination, the following amounts of severance pay in respect of continuous service will be provided:

Years of Continuous Service	Redundancy Pay Period - Under 45 years of Age	Redundancy Pay Period - 45 Years of Age and Over
Less than 1 year	0	0
1 year and less than 2 years	4 Weeks Pay*	5 Weeks Pay*
2 years and less than 3 years	7 Weeks Pay*	8.75 Weeks Pay*
3 years and less than 4 years	10 Weeks Pay*	12.5 Weeks Pay*
4 years and less than 5 years	12 Weeks Pay*	15 Weeks Pay*
5 years and less than 6 years	14 Weeks Pay*	17.5 Weeks Pay*
6 years and over	16 Weeks Pay*	20 Weeks Pay*

*Weeks Pay means the Team Member's Weekly Rate.

17. Grievance Procedure

Where there is a grievance between you and Apple with respect to this Agreement, the parties must engage in the Grievance Procedure set out in **Schedule B – Grievance Procedure** of this Agreement.

18. Flexibility

You and Apple may agree to enter into an individual flexibility arrangement in accordance with the Act and **Schedule C – Flexibility Arrangements** of this Agreement.

19. Consultation

Apple will communicate as early as reasonably practical in relation to a definite decision by Apple to introduce a major change to production, program, organisation, structure, or technology of its business. In circumstances where the change is likely to have a significant effect on Team Members, Apple and you agree to engage in the Consultation Procedure set out in **Schedule D – Consultation Procedure** of this Agreement.

20. Casual Team Members

- 20.1 Casual Team Members may be engaged on an hourly basis at any time on any day of the week. Casual Team Members are entitled to the Casual Hourly Rate of Pay, which includes a

25% casual loading. The minimum Casual Hourly Rates of Pay are set out in **Schedule A - Classifications and Minimum Rates of Pay**. All casual engagements will be subject to the terms of this Agreement during the Term.

20.2 Casual Team Members are exempt from the **Redundancy (clause 16)** and **Leaving Apple (clause 15)** provisions of this Agreement.

20.3 Each casual engagement may be terminated with one (1) hour's notice.

21. Suspension

21.1 You may be suspended from work without loss of pay at any time if Apple deems it necessary to investigate any incident or occurrence in the workplace.

22. Bag/Locker inspections

22.1 Apple may conduct random bag and or locker inspections at any time. You will be required to participate and fully co-operate and present your bag/locker or personal effects for inspection.

23. Definitions

Act means the *Fair Work Act 2009* (Cth) as amended from time to time.

Agreement means the Apple Retail Enterprise Agreement 2014.

Apple means Apple Pty Limited (ABN 46 002 510 054).

Apple Team Member Level 1 has the meaning set out in **Schedule A - Classifications and Minimum Rates of Pay**.

Apple Team Member Level 2 has the meaning set out in **Schedule A - Classifications and Minimum Rates of Pay**.

Apple Team Member Level 3 has the meaning set out in **Schedule A - Classifications and Minimum Rates of Pay**.

Base Salary means the minimum annual base rate of pay for a classification set out in **Schedule A - Classifications and Minimum Rates of Pay** (pro-rated for a Part Time Team Member).

Casual means a Team Member engaged in a casual or "as required" capacity in accordance with the needs of the business.

Continuous service has the meaning as defined in the Act.

Full Time means a Team Member engaged to work a minimum of 76 hours per fortnight.

Hourly Rate of Pay means:

- (i) in relation to Full Time and Part Time Team Members - the hourly rate which is calculated on the full time Base Salary and per **Schedule A - Classifications and Minimum Rates of Pay**; and

- (ii) in relation to Casual Team Members - the hourly rate as set out in **Schedule A - Classifications and Minimum Rates of Pay**.

Overtime has the meaning set out in **clause 8.1**.

Part Time means a Team Member engaged to work regular hours less than 76 hours per fortnight and is not a Casual Team Member.

Public Holiday includes any gazetted, statutory or proclaimed Public Holiday within the Team Member's State or Territory.

RDO means a Rostered Day Off, which is any day that a Team Member is not rostered to perform work.

Related Company means in relation to a body corporate, a related body corporate and defined in section 50 of the *Corporations Act 2001* (Cth).

Rostered Hours means the hours that you are rostered to work in any fortnightly pay period.

Seasonal Contract means an engagement of fixed duration of less than 12 months.

Standards means the National Employment Standards contained in the *Fair Work Act 2009* (Cth) as amended from time to time.

Team Member(s) means an employee of Apple Pty Ltd who is employed to work in a retail establishment and falls within the classifications set out in **clause 1.8 - Classifications** to this Agreement. This term is used interchangeably with "employee" for the purposes of this Agreement.

Term has the meaning set out in **clause 1.5**.

Schedule A

Classifications and Minimum Rates of Pay

The Base Salaries and Hourly Rates of Pay for Full Time, Part Time and Casual Team Members are set out in the table below. The Base Salaries set out below are pro-rated for Part Time Team Members on the basis that the full time Base Salary represents 164.67 hours per month and 1976.04 hours per annum.

Where this Agreement requires the calculation of:

- (a) a Weekly Rate for Full Time or Part Time Team Members, the Weekly Rate shall be the full time Base Salary divided by 52;
- (b) a Daily Rate for Full Time or Part Time Team Members, the Daily Rate shall be the full time Base Salary divided by 260;
- (c) an hourly rate for Full Time or Part Time Team Members, the hourly rate shall be the full time Base Salary divided by 1976.04.

Rates of Pay on Approval of the Agreement¹			
Classification	Minimum Annual Base Salary	Minimum Hourly Rate of Pay	Minimum Casual Hourly Rate of Pay
Apple Team Member Level 1	\$39,818.00	\$20.15	\$25.18
Apple Team Member Level 2	\$48,000.00	\$24.29	\$30.36
Apple Team Member Level 3	\$70,000.00	N/A	N/A

Rates of Pay effective 1 November 2014²			
Classification	Minimum Annual Base Salary	Minimum Hourly Rate of Pay	Minimum Casual Hourly Rate of Pay
Apple Team Member Level 1	\$40,614.00	\$20.55	\$25.69
Apple Team Member Level 2	\$48,960.00	\$24.78	\$30.96
Apple Team Member Level 3	\$71,400.00	N/A	N/A

¹ The minimum rates of pay applicable to Team Members covered by this Agreement as at the date of approval by the Fair Work Commission (the Approval Date).

² The minimum rates of pay applicable to Team Members covered by this Agreement, effective no later than 1 November 2014.

Rates of Pay effective 1 November 2015 ³			
Classification	Minimum Annual Base Salary	Minimum Hourly Rate of Pay	Minimum Casual Hourly Rate of Pay
Apple Team Member Level 1	\$41,426.00	\$20.96	\$26.20
Apple Team Member Level 2	\$49,940.00	\$25.27	\$31.59
Apple Team Member Level 3	\$72,828.00	N/A	N/A

Rates of Pay effective 1 November 2016 ⁴			
Classification	Minimum Annual Base Salary	Minimum Hourly Rate of Pay	Minimum Casual Hourly Rate of Pay
Apple Team Member Level 1	\$42,255.00	\$21.38	\$26.73
Apple Team Member Level 2	\$50,938.00	\$25.78	\$32.23
Apple Team Member Level 3	\$74,285.00	N/A	N/A

Rates of Pay effective 1 November 2017 ⁵			
Classification	Minimum Annual Base Salary	Minimum Hourly Rate of Pay	Minimum Casual Hourly Rate of Pay
Apple Team Member Level 1	\$43,100.00	\$21.81	\$27.26
Apple Team Member Level 2	\$51,957.00	\$26.29	\$32.87
Apple Team Member Level 3	\$75,771.00	N/A	N/A

Classifications

To be covered by this Agreement, you must be employed by Apple in a retail establishment appointed to one of the following classifications:

1. **Apple Team Member Level 1** - means a Team Member that may be required to perform any of the following retail functions:
 - (a) Receiving of goods;
 - (b) Display, shelf filling, replenishment of goods;
 - (c) Provision of information, advice and assistance to customers;

³ The minimum rates of pay applicable to Team Members covered by this Agreement, effective 1 November 2015.

⁴ The minimum rates of pay applicable to Team Members covered by this Agreement, effective 1 November 2016.

⁵ The minimum rates of pay applicable to Team Members covered by this Agreement, effective 1 November 2017.

- (d) Demonstration of goods and services for sale;
- (e) Processing of sales and/or any financing/leasing documentation;
- (f) Provision of store greeting;
- (g) Repairs and technical assistance; and
- (h) Provision of administrative support.

2. **Apple Team Member Level 2** means a Team Member who may be required to work at a level higher than an Apple Team Member Level 1 and/or supervise a designated area of the store.

3. **Apple Team Member Level 3** means a Team Member that:

- (a) is engaged to perform supervisory or managerial duties within a retail establishment; or
- (b) receives a full time equivalent Base Salary of the following amounts during the Term of this Agreement:

Amount	Effective Date
\$70,000.00 per annum or above	Date of Approval of Agreement
\$71,400.00 per annum or above	1 November 2014
\$72,828.00 per annum or above	1 November 2015
\$74,285.00 per annum or above	1 November 2016
\$75,771.00 per annum or above	1 November 2017

- (c) is directly to perform any other management or leadership role in a retail store, including but not limited to the roles of Business Leader, Store Leader and Market Leader; or
- (d) is appointed to the position of Apple Team Member Level 3.

Schedule B

Grievance Procedure

If a dispute relates to:

- (a) a matter arising under the Agreement; or
- (b) the National Employment Standards,

this term sets out procedures to settle the dispute.

A party to the dispute may appoint another person, organisation or association (including but not limited to a legal representative) to accompany or represent them in relation to the dispute.

In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the Team Member or Team Members and relevant supervisors and/or management.

If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

The Fair Work Commission may deal with the dispute in two stages:

- (a) 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
- (b) 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 the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Fair Work Act 2009 (Cth).

A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Fair Work Act 2009 (Cth). Therefore, an appeal may be made against the decision.

While the parties are trying to resolve the dispute using the procedures in this term:

- (a) a Team Member 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) a Team Member must comply with a direction given by Apple to perform other available work at the same workplace, or at another workplace, unless:
 - (c) the work is not safe; or
 - (d) applicable occupational health and safety legislation would not permit the work to be performed; or
 - (e) the work is not appropriate for the Team Member to perform; or
 - (f) there are other reasonable grounds for the Team Member to refuse to comply with the direction.

The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

Schedule C

Flexibility Arrangements

1. Apple and a Team Member covered by this Enterprise 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 Apple and a Team Member in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by Apple and the Team Member .
2. Apple must ensure that the terms of 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 Team Member being better off overall than the Team Member would be if no arrangement was made.
3. Apple must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of Apple and the Team Member; and
 - (c) is signed by Apple and the Team Member and if the Team Member is under 18 years of age, signed by a parent or guardian of the Team Member; 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 Team Member 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.
4. Apple must give the Team Member a copy of the individual flexibility arrangement within 14 days after it is agreed to.
5. Apple or the Team Member 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 Apple and the Team Member agree in writing — at any time.

Schedule D

Consultation Procedure

- (1) This term applies if Apple:
 - (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 Team Members; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of Team Members.

Major change

- (2) For a major change referred to in paragraph (1)(a):
 - (a) Apple must notify the relevant Team Members of the decision to introduce the major change; and
 - (b) subclauses (3) to (9) apply.
- (3) The relevant Team Members may appoint a representative for the purposes of the procedures in this term.
- (4) If:
 - (a) a relevant Team Member appoints, or relevant Team Members appoint, a representative for the purposes of consultation; and
 - (b) the Team Member or Team Members advise Apple of the identity of the representative;Apple must recognise the representative.
- (5) As soon as practicable after making its decision, Apple must:
 - (a) discuss with the relevant Team Members:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the Team Members; and
 - (iii) measures Apple is taking to avert or mitigate the adverse effect of the change on the Team Members; and
 - (b) for the purposes of the discussion—provide, in writing, to the relevant Team Members:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the Team Members; and
 - (iii) any other matters likely to affect the Team Members.
- (6) However, Apple is not required to disclose confidential or commercially sensitive information to the relevant Team Members.
- (7) Apple must give prompt and genuine consideration to matters raised about the major change by the relevant Team Members.

- (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 Apple, 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 Team Members if it results in:
- (a) the termination of the employment of Team Members; or
 - (b) major change to the composition, operation or size of the Apple's workforce or to the skills required of Team Members; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) the alteration of hours of work; or
 - (e) the need to retrain Team Members; or
 - (f) the need to relocate Team Members to another workplace; or
 - (g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

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

(14) However, Apple is not required to disclose confidential or commercially sensitive information to the relevant Team Members.

(15) Apple must give prompt and genuine consideration to matters raised about the change by the relevant Team Members.

(16) In this term:

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

Execution

Signed for and on behalf of
Apple Pty Limited
by its duly authorised representative
in the presence of:



Signature of authorised representative

STACEY KICKPATRICK BROWN

Name of authorised representative
(please print)

MARKET DIRECTOR

Capacity

2/5/2014

Date

LEVEL 16, 77 KING STREET

Address SYDNEY, NSW 2000

Signed by
Employee Representative



Signature of Employee Representative

MIKE WALKER

Name of authorised representative
(please print)

GENERAL MANAGER (FLAG LEADER)

Capacity

2/5/14

Date

LV 16 77 KING STREET SYDNEY

Address

AG2014/5899 - IN THE FAIR WORK COMMISSION

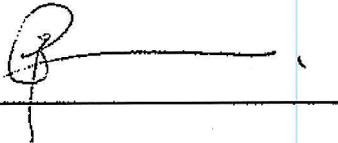
UNDERTAKING OF APPLE PTY LIMITED PURSUANT TO APPLE RETAIL ENTERPRISE AGREEMENT 2014

Apple Pty Limited hereby undertakes the following in relation to the Apple Retail Enterprise Agreement 2014 (*the Agreement*):

- **Insert at the end of clause 1.6 of the Agreement:** *"The Agreement will be read in conjunction with the National Employment Standards as set out in the Fair Work Act 2009 (Cth)."*

This undertaking is signed by, Bernard Ryan, Employee Relations Manager, on behalf of the employer, Apple Pty Limited, Level 16, 77 King Street, Sydney NSW, 2000.

Signed: _____

A handwritten signature in black ink, appearing to be 'B Ryan', is written over a horizontal line. A vertical line extends downwards from the center of the signature.

Dated: 3 June 2014