



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Japara Administration Pty Ltd
(AG2019/4304)

JAPARA ADMINISTRATION PTY LTD NEW SOUTH WALES EMPLOYEE ENTERPRISE AGREEMENT 2019

Aged care industry

COMMISSIONER JOHNS

SYDNEY, 10 DECEMBER 2019

Application for approval of the Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019.

[1] An application has been made for approval of an enterprise agreement known as the *Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019 (the Agreement)*. The application was made pursuant to s.185 of the *Fair Work Act 2009* (Cth) (**the Act**). It has been made by Japara Administration Pty Ltd. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings. A copy of the undertakings is attached in **Annexure A**. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the Agreement.

[3] Subject to the undertakings referred to above, 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.

[4] The Australian Nursing and Midwifery Federation (**ANMF**) and the Health Services Union of Australia (**HSU**) being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers these organisations.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 17 December 2019. The nominal expiry date of the Agreement is 30 June 2022.



COMMISSIONER

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Annexure A

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Attachment A

FAIR WORK COMMISSION

MATTER NO: AG2019/4304

APPLICANT: Japara Administration Pty Ltd

UNDERTAKINGS

I, Jennifer Anderson, Industrial Relations Manager, give the following undertakings on behalf of the Applicant employer in accordance with section 190 of the *Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019 (Agreement)*:

1. Clause 34.4 of the Agreement will be replaced with the following:

34.4. Public holiday substitution

The Employer and an Employee may, by agreement, substitute a day (or part-day) for a day (or part-day) that would otherwise be a public holiday under the NES.

2. Clause 42 will be amended to include the following subclause 42.3:

For Aged Care Employees - notwithstanding clauses 42.1 and 42.2, where meetings and/or fire drills are held/ undertaken outside of an Employee's ordinary hours:

- (i) the first 8 hours will be paid at the ordinary rate;*
- (ii) any remaining meetings/ fire drills beyond 8 hours per year will be paid at the applicable overtime penalty rate.*

3. Clause 12.3(f)(iii) is to be amended (as underlined):

(f) Aged Care Employees only

(iii) No part-time Employee shall be directed to work in excess of their rostered ordinary hours (Additional Hours) at the ordinary rate of pay. Where a part-time Employee:

- (1) does not agree to work Additional Hours at the ordinary rate of pay; or*
- (2) is directed to work Additional Hours by the Employer;*

the Employee will be paid the applicable overtime penalty rate for such Additional Hours worked.

Jennifer Anderson
Industrial Relations Manager
Date: 6 November 2019

Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019

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 the agreement.

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Part 1—Application and Operation

1. Title

This Agreement is the Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019.

2. Commencement and expiry

This Agreement shall commence operation from the 7th day after the agreement is approved by the Fair Work Commission and will remain in place until the nominal expiry date of 30 June 2022 or thereafter in accordance with the *Fair Work Act 2009*.

The parties agree that discussions shall commence for a new Agreement no later than three months prior to the nominal expiry date of the Agreement.

3. Definitions and interpretation

3.1. In this Agreement, unless the contrary intention appears:

- (a) **Unions** means the Australian Nursing and Midwifery Federation NSW Branch (“ANMF”) and HSU New South Wales Branch (“HSU”)
- (b) **Act** means the Fair Work Act 2009 (Cth)
- (c) **Agreement** means the Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019.
- (d) **Aged care industry** means the provision of accommodation and care services for aged persons in a hostel, nursing home, aged care independent living units, aged care serviced apartments, garden settlement, retirement village or any other residential accommodation facility
- (e) **FWC** means the Fair Work Commission the statutory body established under the *Fair Work Act* or any successor organisation established under Commonwealth legislation.
- (f) **Employee** means an Employee of the Employer in the State of New South Wales employed in a classification set in this Agreement.
- (g) **Employer** means Japara Administration Pty Ltd
- (h) **NES** means National Employment Standards being the legislated minimum standards for workplace conditions under the Fair Work Act.
- (i) Immediate family member of an Employee means
 - (i) a spouse, de facto partner, child, step child, parent including parent in law and step parent, grandparent, grandchild or sibling of the Employee; or
 - (ii) a child, step child, parent including parent in law and step parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee.
 - (iii) spouse includes a former spouse.
 - (iv) de facto partner of an Employee.
 - (1) means a person who, although not legally married to the Employee, lives with the Employee in a relationship as a couple on a genuine domestic basis (whether the Employee and the person are of the same sex or different sexes); and

(2) includes a former de facto partner of the Employee.

(j) **Ordinary time rate of pay** is the rate of pay payable to the Employee for his or her ordinary hours of work, but not including any of the following:

- (i) loadings;
- (ii) monetary allowances;
- (iii) overtime or penalty rates;
- (iv) any other separately identifiable amounts.

(k) **Superannuation Law** means any requirement under the Superannuation Industry (Supervision) Act 1993 (Cth), Superannuation Industry (Supervision) Regulations 1994 (Cth), Superannuation Guarantee (Administration) Act 1992 (Cth), Superannuation Guarantee (Administration) Regulations 1993 (Cth), Superannuation Guarantee Charge Act 1992 (Cth), and any other present or future legislation which the Employer must comply with to satisfy its superannuation obligations to the Employees.

3.2. Where this Agreement refers to an entitlement provided for in the NES, the NES definition applies.

4. Coverage

4.1. This Agreement shall cover the following:

- (a) Japara Administration Pty Ltd ("the Employer");
- (b) all Employees of the Employer performing work within the classifications contained in this Agreement and employed by the Employer in the State of New South Wales;
- (c) subject to the requirements of the Fair Work Act 2009,
 - (i) the New South Wales Nurses and Midwives' Association and the Australian Nursing and Midwifery Federation NSW Branch (ANMF); and
 - (ii) HSU New South Wales Branch (HSU).

5. Scope of the Agreement

The Agreement sets out the minimum terms and conditions of employment for Employees.

6. Access to the Agreement and the National Employment Standards

The Employer must ensure that copies of this Agreement and the NES are available to all Employees to whom they apply either on a noticeboard which is conveniently located at or near the workplace or through electronic means.

7. Relationship to the NES

This Agreement contains terms that are also matters under the NES. It is not the intention of the parties to exclude the NES or any provision of the NES and it is acknowledged that such terms can only operate in the manner and to the extent prescribed by s.55 of the Fair Work Act.

8. Flexibility Arrangement

8.1. The Employer and an Employee 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 the Employer and Employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) The Employer and the individual Employee must have genuinely made the agreement without coercion or duress.
- 8.2. The Employer 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 Employee being better off overall than the Employee would be if no arrangement was made.
- 8.3. 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:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the Employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- 8.4. The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 8.5. 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.
- 8.6. The relevant Employee may appoint a representative for the purposes of the procedures in this term.

Part 2—Consultation and Dispute Resolution

9. Consultation regarding major workplace change

- 9.1. This term applies if the Employer:
 - (a) has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on Employees of the Employer; or
 - (b) proposes to introduce a change to the regular roster or ordinary hours of work of Employees.
- 9.2. The Employer must consult the Employees to whom the agreement applies about:
 - (a) a major workplace change that is likely to have a significant effect on the Employees; or
 - (b) a change to their regular roster or ordinary hours of work.
- 9.3. The relevant Employees may appoint a representative, which may be a representative from the ANMF or HSU for the purposes of the procedures in this term.
- 9.4. If:
 - (a) a relevant Employee appoints, or relevant Employees appoint, a representative for the purposes of consultation; and
 - (b) the Employee or Employees advise the Employer of the identity of the representative;
 the Employer must recognise the representative.
- 9.5. As soon as practicable after making its decision, the Employer must
 - (a) discuss with the relevant Employees:
 - (i) the introduction of the change; and
 - (ii) the effect the change is likely to have on the Employees; and
 - (iii) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Employees; and
 - (b) for the purposes of the discussion — provide, in writing, to the relevant Employees:
 - (i) all relevant information about the change including the nature of the change proposed; and
 - (ii) information about the expected effects of the change on the Employees; and
 - (iii) any other matters likely to affect the Employees.
 - (c) Subject to 9.5(a) and (b), for a change to the Employees' regular roster or ordinary hours of work, the Employer is required to:
 - (i) to provide information to the Employees about the change; and
 - (ii) to invite the Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
 - (iii) to consider any views given by the Employees about the impact of the

change.

- 9.6. However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Employees.
- 9.7. The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Employees.
- 9.8. If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in subclauses 9.2, 9.3 and 9.5 are taken not to apply.
- 9.9. In this term, a major change is **likely to have a significant effect on Employees** if it results in the termination of the employment of Employees; or major change to the composition, operation or size of the Employer's workforce or to the skills required of Employees; or the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or the alteration of hours of work; or the need to retrain Employees; or the need to relocate Employees to another workplace; or the restructuring of jobs.
- 9.10. In this term, **relevant Employees** means the Employees who may be affected by the major change.

10. Dispute resolution

- 10.1. In the event of a dispute about any matter under this Agreement, or the NES, in the first instance the parties must attempt to resolve the matter at the workplace by discussions between the Employee or Employees concerned and the relevant supervisor. If such discussions do not resolve the dispute, the parties will endeavour to resolve the dispute in a timely manner by discussions between the Employee or Employees concerned and more senior levels of management as appropriate.
- 10.2. If a dispute about a matter arising under this Agreement or a dispute in relation to the NES is unable to be resolved at the workplace, and all appropriate steps under clause 10.1 have been taken, a party to the dispute may refer the dispute to the FWC.
- 10.3. Unless otherwise stated in this Agreement, the parties agree that the FWC shall have the power to do all such things as are necessary for the just resolution of the dispute including mediation, conciliation and finally arbitration.
- 10.4. Where the matter in dispute remains unresolved, the FWC may exercise any method of dispute resolution permitted by the Act that it considers appropriate to ensure the settlement of the dispute.
- 10.5. The Employer or the Employee may appoint another person, organisation or association to accompany and/or represent them for the purposes of this clause.
- 10.6. While the dispute resolution procedure is being conducted, work must continue in accordance with this agreement and the Act. Subject to applicable occupational health and safety legislation, an Employee must not unreasonably fail to comply with a direction by the Employer to perform work, whether at the same or another workplace, that is safe and appropriate for the Employee to perform.

11. Workload Management

- 11.1. The parties to this agreement acknowledge that Employees and management have a

responsibility to maintain a balanced workload and recognise the adverse affects that excessive workloads may have on Employee/s and the quality of resident/client care.

11.2. To ensure that Employee concerns involving excessive workloads are effectively dealt with by Management the following procedures should be applied:

- (a) In the first instance, Employee/s should discuss the issue with their immediate supervisor and, where appropriate, explore solutions.
- (b) If a solution cannot be identified and implemented, the matter should be referred to an appropriate senior manager for further discussion.
- (c) If a solution still cannot be identified and implemented, the matter should be referred to the Facility Manager for further discussion.
- (d) The outcome of the discussions at each level and any proposed solutions should be recorded in writing and fed back to the effected Employees.

11.3. Management will respond to all workload matters that have been raised by employees and will outline actions that can be taken in respect to those specific issues. Workload management must be an agenda item at staff meetings on at least a quarterly basis. Resolution of workload issues should be based on the following criteria including but not limited to:

- (a) Clinical assessment of residents' needs;
- (b) The demand of the environment such as facility layout;
- (c) Statutory obligation, (including, but not limited to, workplace health and safety legislation;
- (d) The requirements of nurse regulatory legislation;
- (e) Reasonable workloads;
- (f) Accreditation standards; and
- (g) Budgetary considerations.

11.4. If the issue is still unresolved, the Employee/s may advance the matter through Clause 10- Dispute Resolution. Arbitration of workload management issues may only occur by agreement of the Employer, Employee and, if applicable, the relevant union.

Part 3—Types of Employment and Termination of Employment

12. Types of employment

12.1. Employment categories

Employees under this Agreement will be employed in one of the following categories:

- (a) full-time;
- (b) part-time; or
- (c) casual.

At the time of engagement an Employer will inform each Employee whether they are employed on a full-time, part-time or casual basis. An Employer may direct an Employee to carry out such

duties that are within the limits of the Employee's skill, competence and training, consistent with the respective classification.

12.2. Full-time employment

- (a) A full-time Employee is one who is engaged to work 38 hours per week or an average of 38 hours per week pursuant to clause 22.1 of this Agreement.
- (b) A full-time Employee will be paid a minimum of four (4) hours pay for each engagement in respect of an ordinary shift.

12.3. Part-time employment

- (a) A part-time Employee is an Employee who is engaged to work less than full-time hours of an average of 38 hours per week and has reasonably predictable hours of work.
- (b) Before commencing part-time employment, the Employer and Employee will agree in writing the guarantee minimum number of hours to be worked and the rostering arrangements which will apply to those hours.
- (c) A part-time Employee will be paid a minimum of three hours pay for each engagement.
- (d) The terms of the agreement in (b) may be varied by agreement and recorded in writing.
- (e) Unless otherwise stated, the terms of this agreement will apply on a pro rata basis to part-time Employees on the basis that the ordinary weekly hours for full-time Employees are 38.
- (f) Aged Care Employees only

Notwithstanding the provisions set out at 12.3(a) to (e) above, the following provisions shall apply to aged care Employees:

- (i) Before commencing employment, the Employer and Employee will agree in writing on:
 - (1) the span of hours that the Employee may be rostered within a fortnight. This span of hours shall include which shifts the Employee may be rostered to work; and
 - (2) the days of the week the Employee may be rostered to work within a fortnight; and
 - (3) the agreed minimum number of contracted hours to be worked per fortnight.
- (ii) Notwithstanding the overtime provisions prescribed at clause 30 -Overtime of the Agreement, a part time aged care Employee may agree to work in excess of their rostered ordinary hours at the ordinary time rate of pay, provided that all time worked by a part-time Employee which exceeds 10 hours per day, or 76 hours per fortnight, will be paid at the rate of time and a half for the first two hours and double time thereafter, except on Saturdays and Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.

- (iii) No part-time Employee shall be directed to work in excess of their rostered ordinary hours at the ordinary rate of pay.

12.4. Review of part-time hours

- (a) At the request of an Employee, the hours worked by the Employee will be reviewed 6 monthly. Where the Employee is regularly working more than their specified contract hours then such contract hours shall be adjusted by the Employer, to reflect the hours regularly worked in the preceding 6 months. The hours worked in the following circumstances will not be incorporated in the adjustment:
 - (i) if the increase in hours is as a direct result of an Employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and
 - (ii) if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a resident or client, special workplace project or initiative.
- (b) Any adjusted contracted hours resulting from a review, should, however, be such as to readily reflect roster cycles and shift configurations utilised at the workplace.

12.5. Japara is committed to maximising its permanent workforce (full time and/or part time staff) whilst ensuring that staffing is in line with occupancy levels. Japara will ensure that current part time staff who have advised their supervisor/manager that they are available to work will be offered additional shifts in the first instance where practicable. Where a part time employee is not available additional shifts would then be offered to casual staff where applicable.

12.6. Casual employment

- (a) A casual Employee is an Employee engaged as such on an hourly basis.
- (b) A casual Employee will be paid an hourly rate equal to 1/38th of the weekly rate appropriate to the Employee's classification plus a casual loading of 25%.
- (c) Casual Employees will be paid a minimum of three hours for each engagement.
- (d) A casual Employee will be paid shift allowances and overtime calculated on the ordinary rate of pay excluding the casual loading with the casual loading component then added to the penalty rate of pay.

Provided that a casual AIN will be paid overtime as follows (in lieu of the casual loading):

- (i) Monday to Saturday (inclusive)—181% of the ordinary rate of pay for the first two hours and 241% of the ordinary rate of pay thereafter;
- (ii) Sunday—241% of the ordinary rate of pay;

Overtime rates shall only be payable to a casual when he/she works in excess of 10 hours in a day, or, 38 hours per week or 76 hours per fortnight depending on the pay period.

- (e) A casual Employee's entitlement to long service leave is in accordance with the *Long Service Leave Act 1955*. The provisions of clause 38 do not apply to casual Employees.

12.7. Casual Conversion

- (a) A casual Employee who has been rostered on a regular and systematic basis over a period of 26 weeks has the right to request conversion to permanent employment:
 - (i) on a full-time basis where the Employee has worked 38 hours per week or an average of 38 hours per week (excluding overtime) throughout the period of casual employment; or
 - (ii) on a permanent part-time basis where the Employee has worked a regular number of hours each week or fortnight (depending upon the roster) throughout the period of casual employment. Such part-time engagement would be on the basis of the same number of hours as previously worked, unless other arrangements are agreed between the Employer and the Employee.
- (b) The Employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request. Arbitration of an Employee's request for conversion may only occur by agreement of the Employer and the relevant Employee.
- (c) Casual conversion will not apply where a casual has covered absences of permanent staff that are expected to return to work.

13. Termination of employment

13.1. Notice of termination is provided for in the NES.

13.2. Notice of termination by an Employee

- (a) The notice of termination required to be given by an Employee is the same as that required of an Employer except that there is no requirement on the Employee to give additional notice based on the age of the Employee concerned.
- (b) If an Employee fails to give the required notice the Employer may withhold from any monies due to the Employee on termination under this Agreement or the NES, an amount not exceeding the amount the Employee would have been paid under this Agreement in respect of the period of notice required by this clause less any period of notice actually given by the Employee, subject to the requirements of s.324(1)(b) of the Fair Work Act 2009.

13.3. Job search entitlement

Where an Employer has given notice of termination to an Employee, an Employee must be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off is to be taken at times that are convenient to the Employee after consultation with the Employer.

14. Redundancy

14.1. Definitions

- (a) **Redundancy** occurs where the Employer has made a definite decision that the Employer no longer wishes the job the Employee has been doing to be done by anyone and that decision leads to the termination of the employment of the Employee, except where this is due to the ordinary and customary turnover of labour (**Redundant** has a corresponding meaning)
- (b) Redundancy Pay means the severance payment set out in clause 14.3, as applicable to an Employee.

(c) "Weeks pay" means the Employee's average actual weekly earnings over the preceding three months from the date of termination, and shall include in addition to the ordinary pay any over-agreement payments and the following, if applicable:

- (i) Incentive-based payments and bonuses;
- (ii) Shift Allowances;
- (iii) Overtime or Penalty rates;
- (iv) Monetary allowances;
- (v) Any other separately identifiable amount.

14.2. Where the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on Employees of the Employer, the Employer shall consult with affected Employees in accordance with clause 9 consultation regarding change of this Agreement.

14.3. In addition to the period of notice prescribed for termination, an Employee whose employment is terminated by reason of Redundancy shall be paid the following amount of Redundancy Pay in respect of a period of continuous service.

(a) Where the Employee is under 45 years of age, the Employer shall pay the Employee

Minimum Years of Service	Redundancy Pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	7 weeks' pay
3 years and less than 4 years	10 weeks' pay
4 years and less than 5 years	12 weeks' pay
5 years and less than 6 years	14 weeks' pay
6 years and over	16 weeks' pay.

(b) Where the Employee is 45 years of age or over, the Employer shall pay the Employee in accordance with the following scale:

Minimum Years of Service	Redundancy Pay
Less than 1 year	Nil
1 year and less than 2 years	5 weeks' pay
2 years and less than 3 years	8.75 weeks' pay
3 years and less than 4 years	12.5 weeks' pay
4 years and less than 5 years	15 weeks' pay
5 years and less than 6 years	17.5 weeks' pay
6 years and over	20 weeks' pay

14.4. 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 instead of an amount equal to the difference between the former ordinary rate of pay and the ordinary rate of pay for the number of weeks of notice still owing.

14.5. Employee leaving during notice period

An Employee given notice of termination in circumstances of Redundancy may terminate their employment during the period of notice. The Employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to any payment in lieu of any remaining notice.

14.6. Alternative Employment

- (a) Where an offer of acceptable alternative employment is rejected by an Employee, no Redundancy Pay is payable by the Employer, subject to an order by the FWC.
- (b) On application by the Employer, FWC may determine that the amount of Redundancy Pay is reduced to a specified amount (which may be nil) that FWC considers appropriate.
- (c) The amount of Redundancy Pay to which the Employee is entitled under s.119 of the Fair Work Act is the reduced amount specified in the determination.

14.7. Job search entitlement

- (a) An Employee given notice of termination in circumstances of Redundancy must be allowed up to one day's time off without loss of ordinary 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 must, at the request of the Employer, produce proof of attendance at an interview or they will not be entitled to payment for any time absent. For this purpose a statutory declaration is sufficient.
- (c) This entitlement applies instead of clause 13.3.

14.8. Employees Exempted

- (a) Clause 14.3 of this Agreement does not apply to:
 - (i) an Employee employed for a specified period of time, for a specified task or tasks;
 - (ii) an Employee whose employment is terminated because of serious misconduct;
 - (iii) a casual Employee;

14.9. Transfer of Employment

- (a) An Employee is not entitled to Redundancy Pay in relation to the termination of his or her employment with the Employer where:

- (i) the Employee is offered and accepts employment with a new Employer (**new Employer**) which recognises the period of service which the Employee had with the Employer to be service of the Employee with the new Employer, and there is a transfer of employment in relation to the Employee for the purposes of the Fair Work Act; or
- (ii) the Employee rejects an offer of employment with the new Employer that:
 - (1) is on terms and conditions substantially similar and no less favourable, considered on an overall basis, than the terms and conditions applicable to the Employee at the time of ceasing employment with the Employer; and
 - (2) recognises the period of service which the Employee had with the Employer to be service of the Employee with the new Employer;

had the Employee accepted the offer of employment, there would have been a transfer of employment in relation to the Employee for the purposes of the Fair Work Act.

- (b) The FWC may vary paragraphs 14.9(a)(i) or 14.9(a)(ii) if it is satisfied that this provision would operate unfairly in a particular case.

14.10. Incapacity to Pay

The FWC may vary an Employee's entitlement to Redundancy Pay on the basis of the Employer's incapacity to pay. An application for variation may be made by the Employer.

Part 4—Minimum Wages and Related Matters

15. Classifications

- 15.1. Nursing classification definitions are set out in Schedule A—Classification Definitions.
- 15.2. Aged Care classification definitions are set out in Schedule B —Classification Definitions.
- 15.3. Employers must advise their Employees in writing of their classification upon commencement and of any subsequent changes to their classification.

16. Salaries

- 16.1. The salaries of Employees covered by this Agreement are set out at Schedule C.

17. Progression

For progression for all classifications under this agreement, refer to Schedule A (Nursing) and Schedule B (Aged Care)

18. Allowances

The allowance rates are set out in Schedule D.

The expense related allowances below will be increased annually in accordance to the first full pay period commencing on or after dates as per Schedule D.

18.1. Clothing and equipment

- (a) Employees required by the Employer to wear uniforms will be supplied with an adequate number of uniforms appropriate to the occupation free of cost to Employees. Such items are to remain the property of the Employer and be laundered and maintained by such Employer free of cost to the Employee.

- (b) Instead of the provision of such uniforms in accordance with (a), the Employer may pay such Employee a uniform allowance at the rate set out in item 1 of Schedule D. This rate is expressed as per shift or part thereof, or as a weekly rate – an Employee is to be paid whichever is the lesser amount.
- (c) Where an Employee's uniforms are not laundered by or at the expense of the Employer, the Employee will be paid a laundry allowance at the rate set out in item 2 of Schedule D. This allowance is also expressed as a payment per shift of part thereof or as a weekly payment – an Employee is to be paid whichever is the lesser amount.
- (d) The uniform allowance, but not the laundry allowance, will be paid during all absences on paid leave, except absences on long service leave and absence on paid personal/carer's leave beyond 21 days.
- (e) Where an Employer requires an Employee to wear rubber gloves, special clothing or where safety equipment is required for the work performed by an Employee, the Employer must reimburse the Employee for the cost of purchasing such special clothing or safety equipment, except where such clothing or equipment is provided by the Employer.

18.2. Meal allowances

- (a) An Employee will be supplied with an adequate meal where an Employer has adequate cooking and dining facilities or be paid a meal allowance, in addition to any overtime payment at the following rates:
 - (i) when required to work after the usual finishing hour of work beyond one hour or, in the case of shift workers, when the overtime work on any shift exceeds one hour (Item 3 of Schedule D).
 - (ii) provided that where such overtime work completed by an Employee exceeds four hours a further meal allowance at the rate set out in item 4 of Schedule D will be paid.
- (b) Clause 18.2(a) will not apply when an Employee could reasonably return home for a meal within the meal break.
- (c) On request the meal allowance will be paid on the same day as overtime is worked.

18.3. On call allowance (Nursing classifications only)

- (a) An on call allowance is paid to an Employee who is required by the Employer to be on call at their private residence, or at any other mutually agreed place. The Employee is entitled to receive the following additional amounts for each 24 hour period or part thereof:
 - (i) between rostered shifts or ordinary hours Monday to Friday inclusive – the amount set out in item 5 of Schedule D.
 - (ii) between rostered shifts or ordinary hours on a Saturday– the amount set out in item 6 of Schedule D.
 - (iii) between rostered shifts or ordinary hours on a Sunday, public holiday or any day when the Employee is not rostered to work– the amount set out in item 7 of Schedule D.

- (b) For the purpose of this clause the whole of the on call period is calculated according to the day on which the major portion of the on call period falls.

18.4. Travelling, transport and fares

- (a) An Employee required and authorised to use their own motor vehicle in the course of their duties will be paid not less than the allowance set out in item 8 in Schedule D.
- (b) When an Employee is involved in travelling on duty, if the Employer cannot provide the appropriate transport, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the Employer on production of receipted account(s) or other evidence acceptable to the Employer.
- (c) An Employee who leaves the facility and is recalled to duty will be reimbursed all reasonable fares and expenses actually incurred, including the per kilometre rate in item 8 of Schedule D when he or she uses a motor car in those circumstances.
- (d) Provided further that the Employee will not be entitled to reimbursement for expenses referred to in clause 18.4(b) which exceed the mode of transport, meals or the standard of accommodation agreed with the Employer for these purposes.

18.5. Qualification Allowance (Registered Nursing classifications only)

- (a) A registered nurse who holds a continuing education qualification in a clinical field relevant to residential aged care, specifically one of the following areas: Gerontology nursing, or Management, or other qualification with a component that has application to nursing in Aged Care, in addition to the qualification leading to registration or enrolment, shall be paid an allowance subject to the conditions set out in this clause.
- (b) The qualification must be accepted by the Employer to be directly relevant to the Aged Care industry and competency and skills used by the Employee in the duties of the position.
- (c) The allowance is not payable to Deputy Directors of Nursing or Directors of Nursing unless it can be demonstrated to the satisfaction of the Employer that more than fifty per cent of the Employee's time is spent doing clinical work.
- (d) The allowance is not payable to Clinical Nurse Specialists, Clinical Nurse Consultants or Clinical Nurse Educators.
- (e) A registered nurse holding more than one relevant qualification is only entitled to the payment of one allowance, being the allowance of the highest monetary value.
- (f) The Employee claiming entitlement to a continuing education allowance must provide evidence to the Employer that they hold that qualification.
- (g) A registered nurse who holds a relevant postgraduate certificate in a clinical field as defined in 18.5(a) (not including a hospital certificate) that is accepted by the Employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 9 in Schedule D.
- (h) A registered nurse who holds a relevant postgraduate diploma or degree in a clinical field as defined in 18.5(a) (other than a nursing undergraduate degree) that is accepted by the Employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly

allowance set out in Item 10 of Schedule D.

- (i) A registered nurse who holds a relevant master's degree or doctorate in a clinical field as defined in 18.5(a) that is accepted by the Employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 11 of Schedule D.
- (j) The allowances set out in sub-clauses 18.5(g), (h) and (i), are not included in the Employee's ordinary rate of pay and will not constitute part of the all-purpose rate.
- (k) A registered nurse who is employed on a part-time or casual basis shall be paid these allowances on a pro rata basis.
- (l) Payment shall be from the first pay period on or after evidence of the relevant qualification is submitted to the Employer (including where the Employee submits evidence of the qualification as part of the recruitment process) or the date the qualification is obtained, whichever is the later.
- (m) The rates for these allowances shall be adjusted in accordance with increases in other wage-related allowances contained in this Agreement.

18.6. Qualification Allowance - (Enrolled Nursing classifications only)

- (a) An Enrolled Nurse will be entitled to a qualification allowance as set out below.
 - (i) An Enrolled Nurse who holds a certificate or qualification (which is in addition to the minimum qualification held by the nurse for registration by the Nurses' and Midwives Board of Australia) in which it is demonstrated that a component of the qualification is applicable to her/his area of practice and/or work in aged care shall be paid the following allowance:
 - (1) a certificate or qualification, (or at least two certificates of attainment for units of competency toward from the Diploma or Advanced Diploma of Nursing) totalling a minimum of 140 nominal classroom hours (or a course of a minimum six months duration), including a pre or post-registration course leading to endorsement to administer medication – at the rate of 4% of their applicable pay point provided for as set out in Schedule A.
 - (2) a certificate or qualification (or at least three certificates of attainment for units of competency from the Diploma or Advanced Diploma totalling a minimum of 280 nominal classroom hours (or a course of a minimum twelve months duration) – at the rate of 7.5% of their applicable pay point as prescribed in Schedule A.
 - (ii) Provided that only one allowance is payable to each eligible Enrolled Nurse, being the allowance for the highest qualification or greater number of certificates held, and provided that the certificate or certificates of attainment or qualification is relevant to the work performed.
 - (iii) An Enrolled Nurse claiming entitlements to a qualification allowance must provide the Employer with evidence of that Enrolled Nurse holding the certificate/s or qualification for which the entitlement is claimed. Payment shall be from the first pay period on or after evidence or the qualification is submitted to the Employer or the date the qualification is obtained, whichever is the later.

- (iv) For the avoidance of doubt, a qualification allowance cannot be claimed by an Enrolled Nurse in respect of that person's base qualification leading to registration as an Enrolled Nurse.
- (v) The above allowances are to be paid during all periods of leave except sick leave beyond 21 days in any twelve month period and long service leave. In the case of annual leave, these allowances are added to those components detailed at clause 33.6. For the avoidance of doubt, the Employee would not receive the allowance in addition to leave loading
- (vi) The allowance is to be paid on a pro-rata basis for non-full-time Employees.

(b) Medication Endorsement Allowance

Notwithstanding clause 18.6(a) above an Enrolled Nurse who holds an endorsement to administer medication and who uses such endorsement in connection with his/her duties shall be paid an allowance of 4% of the wage rate for that Enrolled Nurse payable under this Agreement on a per shift basis. For the avoidance of doubt the medication endorsement qualification shall not entitle the Enrolled Nurse to receive the 4% Qualifications Allowance under 18.6(a).

18.7. Leading hand allowance (Aged Care Classifications only)

- (a) A leading hand is an Employee who is placed in charge of not less than two other Employees of a substantially similar classification, but does not include any Employee whose classification denotes supervisory responsibility.
- (b) A leading hand will be paid a weekly allowance of the amount specified by the item number in accordance with the following scale:

Leading hand in charge of:	Weekly allowance
2-5 other Employees	Item 12 of Schedule D
6-10 other Employees	Item 13 of Schedule D
11-15 other Employees	Item 14 of Schedule D
16-19 other Employees	Item 15 of Schedule D

- (c) This allowance will be part of salary for all purposes of this Agreement.
- (d) An Employee who works less than 38 hours per week will be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to 38 ordinary hours.

18.8. Nauseous work allowance (Aged Care Classifications only)

- (a) The allowance set out in item 17 of Schedule D per hour or part thereof will be paid to an aged care Employee in any such classification if they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers and/or for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such Employee in such classification. Any Employee who is entitled to be paid an allowance will be paid a minimum sum set out in item 18 of Schedule D for work performed in any week.

18.9. Tool Allowance [Aged Care Classifications]

A tool allowance as set out in item 19 in Schedule D for the supply and maintenance of tools will be paid per week to chefs and cooks who are not provided with all necessary tools by the Employer.

18.10. In charge Allowance [Registered Nurse Level 1 and 2 Classifications only]

(a) A registered nurse in charge during the day, evening or night of a nursing home facility having occupied beds of:

- (i) less than 100 beds (Item 21 refers); or
- (ii) 100 beds or more (Item 22 refers)

shall be paid in addition to his or her appropriate salary, whilst so in charge, the relevant sum set out in Item 21 or 22 of Schedule D

(b) This subclause shall not apply to registered nurses holding classified positions of a higher grade than that of a registered nurse Level 1 or 2.

19. Payment of wages

- (a) Wages must be paid fortnightly unless otherwise mutually agreed up to a monthly maximum period.
- (b) Employees will be paid by cash, cheque or electronic funds transfer, as determined by the Employer, into the bank or financial institution account nominated by the Employee.
- (c) When notice of termination of employment has been given by an Employee or an Employee's services have been terminated by the Employer, payment of all wages and other monies owing to an Employee will be made to the Employee.
- (d) Notwithstanding the above, an Employer will not be held liable for any unforeseen event outside the control of the Employer which prevents the Employer's ability to meet the requirements of this clause, for example bank error or delay.

20. Superannuation

20.1. Employer Contributions

The Employer shall make occupational superannuation contributions to the Fund for the benefit of the Employee as will avoid the Employer being required to pay the superannuation guarantee charge under Superannuation Law with respect to that Employee.

20.2. 'The Fund' for the purpose of this Agreement shall mean:

- (a) Health Employees Superannuation Trust of Australia ('HESTA') established and governed by a trust deed 23 July 1987, as may be amended from time to time, and includes any superannuation scheme which may be made in succession thereto;
- (b) Health Super, or
- (c) Any other complying fund upon a request from the Employee and with the consent of the Employer.

20.3. The Employer shall participate in accordance with the trust fund deeds. The Employer shall make application to the Fund to become a participating Employer in the Fund and shall become a participating Employer upon acceptance by the Trustee of the Fund.

- 20.4. Upon commencement of employment, the Employer shall provide each Employee with membership forms for the funds at 20.2(a) and 20.2(b) above and shall forward the completed membership forms for the Employee's choice of fund within 28 days. In the event that the Employee has not completed an application form within 28 days, the Employer shall forward contributions and Employee details to HESTA ("Default Fund"). The Default Fund offers a MySuper product.
- 20.5. Each Employee shall be eligible to receive contributions from the date of eligibility, notwithstanding the date the membership application prescribed in 20.4 was forwarded to the Fund.
- 20.6. The Employer will contribute to the Fund, on behalf of each Employee, in accordance with Superannuation Law.
- 20.7. 'Ordinary time earnings' are currently defined by the legislation and includes allowances for ordinary hours of work. Such allowances include those such as shift, qualification and leader allowances. However, they do not include those that arise during overtime (such as meal allowance) other than in circumstances required by legislation and will not include allowances paid with the expectation that they will be spent in the course of employment (such as travel allowances, laundry and uniform). In respect to what constitutes 'ordinary hours', Superannuation Guarantee Contributions will be paid in respect to each hour worked which is paid at ordinary time (including all hours which are additional to contracted hours). The parties acknowledge that the legislative definition of 'ordinary time earnings' may vary and, in that event, the legislative definition shall apply.
- 20.8. Where an Employer makes an application for an exemption from monthly payments to the Fund, the Employees shall be notified in writing prior to the application being made. Upon request from an Employee, the Employer must provide a copy of the remittance receipt from the Fund showing the contributions made on the Employee's behalf or make it available for inspection, save that the Employee shall be entitled to take a copy. The Employer shall contribute all superannuation contributions in accordance with the Trust Deed, save that late payment for reasons beyond the control of the Employer and non-allocation by the Fund shall not constitute a breach of this Agreement.
- 20.9. Any dispute regarding superannuation contributions, including but not limited to the frequency of contribution shall be addressed under clause 10 - Dispute Resolution, of this Agreement.

Voluntary Contributions

- 20.10. Where an Employee wishes to make voluntary contributions to the Fund, the Employee may authorise the Employer to deduct from the Employee's wages an amount or percentage specified by the Employee. Voluntary contributions deducted under this provision will be forwarded to the Fund by the Employer at the same time as the Employer's contributions. Where the Employer receives written authorisation from an Employee, it must commence making payments into the Fund on behalf of the Employee within fourteen days of receiving the authorisation.
- 20.11. An Employee may vary his or her additional contributions by a written authorisation and the Employer must alter the additional contributions within fourteen days of receiving the authorisation. An Employee may only vary his or her additional contributions once each month.

21. Salary Sacrifice

21.1. An Employee may make an agreement with the Employer for salary sacrifice.

- (a) The Employee must specify an amount or a percentage of ordinary time earnings by which his or her salary is to be reduced ("the Salary Sacrifice").
- (b) The Salary Sacrifice will be deducted from the Employee's salary and contributed by the Employer to the Fund each month.
- (c) The Employer will continue to calculate the contributions required by clause 20.1 above and the Superannuation Law on the basis of the Employee's ordinary time earnings before the salary sacrifice is deducted.
- (d) Salary Sacrifice deductions will be made during a period of paid leave and the Employee will receive the rate of pay specified under this Agreement less the salary sacrifice deduction.
- (e) Calculation of salary for the purpose of leave accruals and other payments due on termination of employment shall be calculated on a rate of pay which includes the salary sacrifice contributions.
- (f) The Employee may revoke the Salary Sacrifice agreement or alter the amount to be deducted on no more than two occasions in each calendar year.
- (g) The name of the Fund and the amount of any contributions remitted to the fund, whether superannuation guarantee contributions, Salary Sacrifice contributions or voluntary contributions must be included in pay slips provided by the Employer to each Employee.

Part 5—Hours of Work and Related Matters

22. Ordinary hours of work

22.1. The ordinary hours of work will be 38 hours per week, or an average of 38 hours per week worked over 76 hours per fortnight or 114 hours per 21 days or 152 hours per 4 week period, and will be worked either:

- (a) in a period of 28 calendar days of not more than 20 work days in roster cycle;
- (b) The shift length or ordinary hours of work per day will be a maximum of 10 hours exclusive of meal breaks.

22.2. The hours of work on any day will be continuous except for meal breaks.

23. Span of hours

23.1. The ordinary hours of work for a day worker will be between 6.00 am and 6.00 pm Monday to Friday.

23.2. A shiftworker is an Employee who is regularly rostered to work their ordinary hours of work outside the ordinary hours of work of a day worker as defined in clause 23.1.

24. Rostered Days Off

Employees, other than a casual Employee, will be free from duty for not less than two full days in each week or four full days in each fortnight or eight full days in each 28 day cycle. Where practicable, days off will be consecutive. For the purposes of this sub-clause, duty includes time an employee is on call.

25. Rest breaks between rostered work

An Employee will be allowed a rest break of ten hours between the completion of one ordinary work period or shift and the commencement of another ordinary work period or shift, except by agreement where it may be 8 hours.

26. Rosters

- 26.1. Employees will work in accordance with a weekly or fortnightly roster fixed by the Employer.
- 26.2. The roster will set out Employees' daily ordinary working hours and starting and finishing times and will be displayed in a place conveniently accessible to Employees at least seven days before the commencement of the roster period.
- 26.3. It is not obligatory for the Employer to display any roster of the ordinary hours of work of casual or relieving staff.
- 26.4. Unless the Employer otherwise agrees, an Employee desiring a roster change will give seven days' notice except where the Employee is ill or in an emergency.
- 26.5. Seven days' notice of a change of roster will be given by the Employer to an Employee. Except that, a roster may be altered at any time to enable the functions of the facility to be carried out where another Employee is absent from work due to an emergency, when on ceremonial leave, personal/carers leave, compassionate leave or leave for family and domestic violence. Where any such alteration requires an Employee working on a day which would otherwise have been the Employee's day off, the day off instead will be as mutually arranged.
- 26.6. This clause will not apply where the only change to the roster of a part-time Employee is the mutually agreed addition of extra hours to be worked such that the part-time Employee still has two rostered days off in that week or four rostered days off in that fortnight, as the case may be.

27. Broken Shifts – [Aged Care Classifications Only]

- 27.1. With respect to broken shifts:
 - (a) Broken shifts for the purpose of this clause means a shift worked by an Employee that includes breaks (other than a meal break) totalling not more than four hours and where the span of hours is not more than 12 hours.
 - (b) A broken shift may be worked where there is mutual agreement between the Employer and Employee to work the broken shift.
 - (c) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with clause 31.1 – Shiftwork, with shift allowances being determined by the commencing time of the broken shift.
 - (d) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.
 - (e) An Employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

28. Saturday and Sunday work

- 28.1. Where an Employee is rostered to work ordinary hours between midnight Friday and midnight Saturday, the Employee will be paid a loading of 50% of their ordinary rate of pay for the

hours worked during this period.

28.2. Where an Employee is rostered to work ordinary hours between midnight Saturday and midnight Sunday, all Employees will be paid a loading of 75% of their ordinary rate of pay for the hours worked during this period.

28.3. Casual Employees, excluding casual AINs, will be paid in accordance with clauses 28.1 and 28.2. The rates prescribed in clauses 28.1 and 28.2 will be in addition to the casual loading prescribed in clause 12.6(b).

A casual AIN will be paid the following loading of their ordinary rate of pay (in lieu of the casual loading) for hours worked:

- (a) between midnight Friday and midnight Saturday – 81%;
- (b) between midnight Saturday and midnight Sunday – 111%

28.4. These extra rates will be in substitution for and not cumulative upon the shift penalties prescribed at Clause 31 – Shiftwork.

29. Breaks

29.1. Meal breaks

- (a) An Employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes.
- (b) Where an Employee is required to remain available for duty during an unpaid meal break, the Employee will be paid an 'on call during meal break allowance' as provided for in Item 20 in Schedule D, provided such that only one allowance shall be payable in any period of 24 hours. If an Employee is recalled to work during the meal break, then overtime will be paid for all time worked during such meal break.

29.2. Tea breaks

- (a) Every Employee will be entitled to a paid 10 minute tea break in each four hours worked at a time to be agreed between the Employee and Employer.
- (b) Subject to agreement between the Employer and Employee, such breaks may alternatively be taken as one 20 minute tea break.
- (c) Tea breaks will count as time worked.

30. Overtime

30.1. Overtime penalty rates

- (a) Hours worked in excess of the ordinary hours on any day or shift prescribed in clause 22—Ordinary hours of work, are to be paid as follows:
 - (i) Aged Care Employees
 - (1) Monday to Friday (inclusive)—time and a half for the first two hours and double time thereafter;
 - (2) Saturday and Sunday—double time;
 - (3) Public holidays—double time and a half.
 - (ii) Nursing Employees

- (1) Monday to Saturday (inclusive)—time and a half for the first two hours and double time thereafter;
 - (2) Sunday—double time;
 - (3) Public holidays—double time and a half.
- (b) Overtime penalties as prescribed in subclause (a) do not apply to Registered nurse levels 4 and 5.
- (c) Overtime rates under this clause will be in substitution for and not cumulative upon the shift premiums prescribed in clause 28- Saturday and Sunday work and clause 31 - Shiftwork.

30.2. Part time Employees

- (a) All time worked by part-time Employees in excess of 38 hours per week or 76 hours per fortnight will be paid for at the rate of time and a half for the first two hours and double time thereafter, except that on Sundays such overtime will be paid for at the rate of double time and on public holidays at the rate of double time and a half.
- (b) All time worked by part-time Employees which exceeds 10 hours per day, will be paid at the rate of time and a half for the first two hours and double time thereafter, except on Saturdays (for aged care only) and Sundays when overtime will be paid for at the rate of double time, and on public holidays at the rate of double time and a half.

30.3. Time off instead of payment for overtime

- (a) By mutual agreement, an Employee may be compensated by way of time off instead of payment of overtime (time for time) on the following basis:
 - (i) The period of time off instead of payment for overtime must be taken at the equivalent to the overtime payment that would have been made within three months of it being accrued.
 - (ii) Where it is not possible for an Employee to take the time off, instead of payment for overtime, within the three month period or on termination of employment, it is to be paid out at the appropriate overtime rate base on the rates of pay applying at the time payment is made.
 - (iii) An Employee cannot be compelled to take time off instead of overtime.

30.4. Rest period after overtime

- (a) When overtime work is necessary, it will, wherever reasonably practicable, be so arranged that Employees have at least 10 consecutive hours off duty between the work of successive days or shifts, including overtime.
- (b) An Employee, other than a casual Employee, who works so much overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day, that they have not had at least 10 consecutive hours off duty between those times, will be released after completion of such overtime, until they have had 10 consecutive hours off duty without loss of pay for ordinary working time occurring during such a absence.
- (c) If, on the instruction of the Employer, an Employee resumes or continues to work without having had 10 consecutive hours off duty, they will be paid at the rate of

double time until released from duty for such period. The Employee will then be entitled to be absent until they have had 10 consecutive hours off duty without loss of pay for rostered ordinary hours occurring during the absence.

30.5. Rest break during overtime

An Employee working overtime will take a paid rest break of 20 minutes after each four hours of overtime worked if required to continue to work after the break.

30.6. Recall to work when on call

An Employee, who is required to be on call and who is recalled to work, will be paid for a minimum of four hours work at the appropriate overtime rate.

30.7. Recall to work when not on call

- (a) An Employee who is not required to be on call and who is recalled to work after leaving the Employer's premises will be paid for a minimum of four hours work at the appropriate overtime rate.
- (b) The time spent travelling to and from the place of duty will be deemed to be time worked. Except that, where an Employee is recalled within three hours of their rostered commencement time, and the Employee remains at work, only the time spent in travelling to work will be included with the actual time worked for the purposes of the overtime payment.
- (c) An Employee who is recalled to work will not be obliged to work for four hours if the work for which the Employee was recalled is completed within a shorter period.

31. Shiftwork

31.1. Shift penalties – Aged Care

Employees working afternoon or night shift shall be paid the following percentages in addition to their ordinary rate, for such shift. Provided that Employees who work less than 38 hours per week will only be entitled to the additional rates where their shifts commence prior to 6.00am or finish subsequent to 6.00pm.

- (a) 10% for afternoon shift commencing after 10:00 a.m. and before 1:00 p.m.
- (b) 12.5% for afternoon shift commencing at or after 1:00 p.m. and before 4:00 p.m.
- (c) 15% for night shift commencing at or after 4:00 p.m. and before 4:00 a.m.
- (d) 10% for night shift commencing at or after 4:00 a.m. and before 6:00 a.m.

31.2. Shift penalties – Nurses

- (a) Where an employee works a rostered afternoon shift between Monday and Friday, the employee will be paid a loading of 12.5% of their ordinary rate of pay.
- (b) Where an employee works a rostered night shift between Monday and Friday, the employee will be paid a loading of 15% of their ordinary rate of pay.
- (c) The provisions of this clause do not apply where an employee commences their ordinary hours of work after 12.00 noon and completes those hours at or before 6.00 pm on that day.
- (d) For the purposes of this clause:

- (i) **Afternoon shift** means any shift commencing not earlier than 12.00 noon and finishing after 6.00 pm on the same day; and
- (ii) **Night shift** means any shift commencing on or after 6.00 pm and finishing before 7.30 am on the following day.

31.3. The shift penalties prescribed in this clause will not apply to shiftwork performed by an Employee on Saturday, Sunday or public holiday where the extra payment prescribed by clause 28—Saturday and Sunday work and clause 34—Public holidays applies.

31.4. The provisions of this clause will not apply to Registered Nurse levels 4 and 5.

32. Higher duties

An Employee engaged in any duties carrying a higher wage rate than the classification in which they are ordinarily employed in any one day or shift will be paid at the higher wage rate for:

- (a) the time so worked for two hours or less; or
- (b) full day or shift where the time so worked exceeds two hours.

Higher duties allowance does not apply to Registered Nurse levels 4 and 5.

Part 6—Leave and Public Holidays

33. Annual leave

Annual leave is provided for in the NES. This clause contains additional provisions.

33.1. Quantum of annual leave Nurses

- (a) In addition to the entitlements in the NES, an Employee is entitled to an additional week of annual leave on the same terms and conditions.
- (b) For the purpose of the additional weeks annual leave provided by the NES, a shiftworker is defined as an Employee who:
 - (i) is regularly rostered over seven days of the week; and
 - (ii) regularly works on weekends.
- (c) To avoid any doubt, this means that an Employee who is not a shiftworker for the purposes of subclause (b) above is entitled to five weeks of paid annual leave for each year of service with their Employer, and an Employee who is a shiftworker for the purposes of subclause (b) above is entitled to six weeks of paid annual leave for each year of service with their Employer.

33.2. Quantum of annual leave (Aged Care Employees).

- (a) Annual leave on full pay is to be granted in accordance with the NES as follows:
 - (i) Full time Employees— four weeks annual leave
 - (ii) Full time shift workers – five weeks annual leave
 - (iii) Part time Employees – four weeks annual leave on a pro rata basis
 - (iv) Part time shift workers – five weeks annual leave on a pro rata basis

- (b) For the purposes of this clause, a shiftworker is an Employee who is not a day worker as defined in clause 23.1 Span of Hours and/ or an Employee who works for more than four ordinary hours on 10 or more weekends. Weekend means work in ordinary time on a Saturday and/or a Sunday in any one calendar week.

33.3. Taking of leave

- (a) Subject to clause 33.3(b), paid annual leave may be taken for a period agreed between the Employee and the Employer. The Employer will not unreasonably refuse to agree to a request by the Employee to take paid annual leave.
- (b) Direction to take Annual Leave
 - (i) The Employer may direct an Employee to take a period of annual leave if the Employee has accrued more than two years' entitlement to annual leave, provided:
 - (1) the Employee will first be given a reasonable opportunity to submit a plan to reduce their total annual leave accrued balance to not more than six weeks within a period of six months (**leave reduction plan**);
 - (2) The Employer will not unreasonably refuse to agree to an Employee's leave reduction plan which includes saving leave for an extended holiday within 12 months of the date of agreement to the leave reduction plan. The agreement is to be in writing and signed by both the Employer and the Employee.
 - (ii) If an Employee has genuinely tried to reach agreement with the Employer in accordance with this clause but agreement is not reached, the Employee may give a written notice to the Employer requesting to take one or more periods of annual leave (**Notice**), where the Employee has had an excessive leave accrual for more than six months at the time of giving notice. Provided that:
 - (1) with the granting of leave an Employee will still have six weeks annual leave;
 - (2) the Notice given by the Employee must not provide for the Employee to take a period of paid annual leave beginning less than eight weeks, or not more than 12 months, after the Notice is given;
 - (3) the Notice is not inconsistent with any leave arrangement agreed by the Employer and Employee;

33.4. Payment for annual leave

- (a) Before going on annual leave, an Employee will be paid the amount of wages they would have received for ordinary time worked had they not been on leave during that period.
- (b) At the election of the Employee such payments may be paid in accordance with the usual pay day relevant to the period of leave being taken.

33.5. Cashing out of Annual Leave

- (a) Annual leave credited to an Employee may be cashed out, subject to the following conditions:
 - (i) paid annual leave must not be cashed out if the cashing out would result in

the Employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and

- (ii) each cashing out of a particular amount of paid annual leave must be by a separate agreement in writing between the Employer and the Employee; and
- (iii) the Employee must be paid at least the full amount that would have been payable to the Employee had the Employee taken the leave that the Employee has forgone.
- (iv) Cashing out of annual leave shall not include annual leave loading

33.6. Annual leave loading

- (a) In addition to their ordinary pay, an Employee, other than a shiftworker, will be paid an annual leave loading of 17.5% of their ordinary pay .
- (b) Shiftworkers, in addition to their ordinary pay, will be paid the higher of:
 - (i) an annual leave loading of 17.5% of ordinary pay; or
 - (ii) the weekend and shift penalties the Employee would have received had they not been on leave during the relevant period.
- (c) When the employment of an Employee is terminated by the Employer for a cause other than misconduct, and at the time of the termination the Employee has not been given and has not taken the whole of an annual leave period to which the Employee became entitled, the Employee shall be paid their leave loading entitlement for the period not taken.

33.7. Payment of annual leave on termination

On the termination of their employment, an Employee will be paid their untaken or pro-rata annual leave.

34. Public holidays

Public holidays are provided for in the NES. This clause contains additional provisions.

34.1. Payment for work done on public holidays

- (a) All work done by an Employee during their ordinary shifts on a public holiday, including a substituted day, will be paid at 250% of their ordinary rate of pay. Alternatively, if the Employee elects, the Employee will be paid half-time extra (50%) for all time worked in addition to the weekly rate and have one ordinary working day added to the period of annual leave. This additional annual leave shall not attract the annual leave loading prescribed at Clause 33.6.
- (b) The election in subclause (a) will be made on the commencement of employment and then on the anniversary date each year. The Employee may not alter such election during the year except with the agreement of the Employer.
- (c) Payments and entitlement under this clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the shift not been a public holiday.
- (d) For the purposes of this agreement, the following shall be deemed to be public holidays:

New Year's Day; Australia Day; Good Friday; Easter Saturday; Easter Sunday; Easter Monday; Anzac Day; Queen's Birthday; Labour Day; Christmas Day; Boxing Day.

34.2. Public Holiday Substitution – State Law

- (a) If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of subclause 34.1(d), then the substituted day or part-day is the public holiday.
- (b) Subject to subclause 34.2(a), any other day duly proclaimed and observed as a public holiday within the area in which the facility is situated.

34.3. In addition to the named public holidays specified in sub-clause 34.1(d), Employees shall be entitled to an extra public holiday each year. Such public holiday shall occur on the first Monday in August of each year provided that that day is not already a public holiday. In that case the next working day will be observed as the additional public holiday.

34.4. Public holiday substitution

An Employer and the Employees may, by agreement, substitute another day for a public holiday.

34.5. Public holidays occurring on rostered days off

All full-time Employees will receive a day's ordinary pay for public holidays that occur on their rostered day off except where the public holidays fall on Saturday or Sunday with respect to Monday–Friday Employees.

34.6. Part-time Employees

- (a) A part-time Employee will only be entitled to payment for those public holidays that fall on days they are normally rostered to work.
- (b) A part-time Employee who is rostered off on a public holiday they would ordinarily work will be paid their ordinary pay for that day.

34.7. Casual Employees

- (a) A casual Employee will be paid only for those public holidays they work at the total rate of 250% for hours worked.
- (b) Payments under clause 34.7(a) are instead of and replace and are in lieu of any casual loading otherwise payable under this agreement.

35. Ceremonial leave

An Employee who is required by Aboriginal or Torres Strait Islander tradition to be absent from work for ceremonial purposes will be entitled to up to ten working days unpaid leave in any one year, with the approval of the Employer.

36. Personal/carer's leave
General

36.1. Personal/carer's leave and compassionate/bereavement leave are provided for in the NES.

36.2. Employee Must Give Notice.

An Employee shall within 12 hours before commencement of a day shift or 6 hours within

commencement of an afternoon or night shift, inform the Employer of his/her inability to attend for duty, and, as far as practicable the nature of the matter and their relationship to the individual) and the estimated duration of the absence.

- 36.3. An Employee is entitled to take paid carer's leave in respect of a member of the Employee's immediate family or household member.

Personal/Carers Leave

- 36.4. Employees (excluding casual Employees) are entitled to accrue paid personal/carers leave in accordance with the NES.
- 36.5. Casual Employees have no entitlement to paid personal/carers leave but do have an entitlement to unpaid leave.
- 36.6. Employees shall be allowed three single days/shifts of personal leave for personal injury or sickness per fiscal year without certification or statutory declaration. An Employee may elect to take the three single days/shifts as two consecutive days /shifts and one single day/shift of personal leave per fiscal year without certification or statutory declaration.
- 36.7. When taking leave to provide care or support for members of their immediate family or household due to an unexpected emergency, the Employee must, if required by the Employer, establish by production of documentation acceptable to the Employer or a statutory declaration, the nature of the emergency and that such emergency resulted in the person concerned requiring care or support by the Employee.
- 36.8. In addition, an Employee may use accumulated personal/carers leave when on workers compensation only where his or her workers compensation payments are less than his or her normal full pay. In this case a personal/carers leave entitlement may be used to make up the difference between the full normal pay and the workers compensation payment.

37. Compassionate leave

- 37.1. An Employee is entitled to 2 days of compassionate leave for each occasion (a *permissible occasion*) when a member of the Employee's immediate family, or a member of the Employee's household:
- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (b) sustains a personal injury that poses a serious threat to his or her life; or
 - (c) dies.
- 37.2. An Employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- (a) to spend time with the member of the Employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause 37.1; or
 - (b) after the death of the member of the Employee's immediate family or household referred to in subclause 37.1.
- 37.3. An Employee may take compassionate leave for a particular permissible occasion as a single continuous 2 day period; or 2 separate periods of 1 day each; or any separate periods to which the Employee and the Employer agree.

- 37.4. Where the Employee is involved in funeral arrangements, travelling etc., leave may be allowed for up to three days for each permissible occasion.
- 37.5. If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Employee may take the compassionate leave for that occasion at any time while the illness or injury persists.
- 37.6. If, in accordance with this Clause, an Employee, other than a casual Employee, takes a period of compassionate leave, the Employer must pay the Employee at the Employee's base rate of pay for the Employee's ordinary hours of work in the period. For casual Employees, compassionate leave is unpaid leave.

38. Long Service Leave

- 38.1. An Employee's entitlement to long service leave shall be in accordance with the provisions of this Agreement and the Long Service Leave Act 1955 (NSW).

38.2. Quantum of Long Service Leave (Nursing Classifications)

- (a) Every Employee after ten years' continuous service with the same Employer shall be entitled to two months' long service leave on full pay; after 15 years' continuous service to an additional one month's long service leave on full pay; and for each five years' continuous service thereafter to an additional one and one-half months' long service leave on full pay.
- (b) Where the service of an Employee with at least five years' service is terminated, the Employee shall be entitled to long service leave as follows:
 - (i) For the first five years' service – one month.
 - (ii) For the next ten years' service – a proportionate amount calculated on the basis of one month for each additional five years. For the purpose of calculation, each completed whole month of continuous service gives an entitlement equal to 0.0722 weeks' pay.
 - (iii) For all subsequent service - a proportionate amount calculated on the basis of 1.5 months for each additional five years. For the purpose of calculation, each completed whole year of continuous service gives an entitlement equal to 1.2996 weeks' pay.

38.3. Quantum of Long Service Leave (Aged Care Classifications)

- (a) Every Employee after ten years' continuous service with the same Employer shall be entitled to two months' long service leave on full pay; after fifteen years' continuous service to an additional one month's long service leave based on a week's pay; and for each five years' continuous service thereafter to an additional one and one-half months' long service leave based on a week's pay.
- (b) Where the services of an Employee with at least five years' service are terminated, the Employee shall be entitled for five years service to one month's long service leave based on a week's pay and for service after five years to a proportionate amount of such leave based on a week's pay calculated on the basis of three months long service leave for 15 years' service.

38.4. Taking of Long Service Leave (Aged Care Employees)

- (a) The Employer shall give to each Employee at least one month's notice of the date from which it is proposed that the Employee's long service leave shall be given and taken. Such leave shall be taken as soon as practicable having regard to the needs of the facility, or, where the Employer and the Employee agree, such leave may be postponed to an agreed date.
- (b) In such a case, where the Employer and Employee agree to postpone the taking of leave, the Employee shall be paid for that leave at the rate of pay applicable at the time of the agreement and not at the rate of pay applicable at the time that the leave is taken. For any such agreement to be valid, it must be in writing and be signed by both the Employer and the Employee.

38.5. Taking of Long Service Leave (Nurses)

- (a) Such leave shall be taken at a time to be mutually arranged between the Employer and the Employee as soon as practicable after each period of leave falls due, having regard to the reasonable preferences of each party. Where required by the Employer, the term "as soon as practicable" shall mean that leave is taken by the Employee within 12 months of the date that the leave falls due. The leave is to be taken in one continuous period unless the Employer and Employee agree otherwise.
- (b) Notwithstanding anything contained elsewhere in this clause, the Employer and an Employee may mutually agree that the taking of the leave be deferred beyond the initial twelve months referred to above.

38.6. For the purposes of this clause:

- (a) Continuous service in the same facility prior to the coming into force of this agreement shall be taken into account, and:
- (b) Continuous service shall be deemed not to have been broken by:
 - (i) Absence of an Employee from the facility while a member of the Defence Forces of the Commonwealth in time of war;
 - (ii) Any period of absence on leave without pay not exceeding six months
- (c) One month equals four and one-third weeks.

38.7. Subject to subclause 38.2 and 38.3, where an Employee has acquired a right to long service leave, then:

- (a) If before such leave has been entered upon, the employment of such Employee is terminated, the Employee shall be entitled to receive the monetary value of the leave to which such Employee has been entitled computed at the rate of salary which such Employee was receiving immediately prior to the termination of employment.
- (b) Where an Employee dies and any long service leave:
 - (i) to which the Employee was entitled has not been taken, or
 - (ii) accrued upon termination of the services of the Employee by reason of the Employee's death and has not been taken,

The Employer shall pay to the Employee's estate in full the ordinary pay that would have been payable to the Employee in respect of long service leave less any amount already paid to the Employee in respect of that leave.

39. Community service leave

Community service leave is provided for in the NES.

40. Parental Leave

40.1. Parental leave is provided for in the NES. An Employee's entitlement to parental leave shall be in accordance with the NES.

40.2. Permanent Employees that are eligible for parental leave in accordance with 40.1 shall be entitled to the following paid parental leave:

- (a) 2 weeks paid leave for the primary care giver (maternity or adoption leave);
- (b) 3 weeks paid leave for the primary care giver (maternity or adoption leave) from the first full pay period on or after 1 July 2020
- (c) 4 weeks paid leave for the primary care giver (maternity or adoption leave) from the first full pay period on or after 1 July 2021
- (d) 2 weeks of paid leave for the non-primary care giver (including same sex partner);

40.3. Where an Employee has taken paid leave in accordance with 40.2(a) to 40.2(c) of this Clause and the Employee has returned to work at the conclusion of the parental leave for a period of at least 8 weeks, such Employee shall be entitled to payment of an additional two weeks of paid parental leave.

41. Education and Professional Development

41.1. Full time Employees shall be entitled to three (3) days paid study / examination / conference leave per annum for the purposes of attending courses, conferences and/or undertaking or preparing for examinations in a relevant course of study relevant to their work at the facility and is conducted by a recognised institution or training organisation. Part time Employees who work not less than four (4) shifts per fortnight shall be entitled to leave under this clause, on a pro rata basis.

41.2. Leave entitlements pursuant to this clause shall not accumulate from year to year.

41.3. Study Leave shall be taken at a time that is mutually agreed between the Employer and the Employee. The Employer shall not unreasonably withhold approval for such leave subject to:

- (a) The Employee having been employed by the facility or network for eighteen months immediately prior to the taking of the leave.
- (b) The leave be granted for studies which are related to the classification duties in the Agreement, relevant to advancement through the career structure and to employment at the establishment and would normally be undertaken in a tertiary institution.

41.4. Professional Development Leave

The Employer shall ensure that operating budgets make reasonable provision for the ongoing professional development of full time nursing staff. The Employer will encourage staff to attend relevant seminars and conferences on a regular basis. Costs may be either shared or paid for in total by the Employer or release from work provided at the discretion of the Employer.

41.5. Education and Training

All Employees have a responsibility to maintain and upgrade their skills commensurate with

the requirements of their position. In particular every Employee must attend training required to meet statutory responsibilities including but not limited to: fire and emergency training, manual handling training, infection control, food handling provided by the Employer in each twelve month period or as required.

- 41.6. Where the Employee attends compulsory training other than during the course of a rostered shift, the minimum payment shall be the length of the training or one (1) hour whichever is the greater, where the training has been scheduled at the start or finish of a shift for which the Employee is rostered.
- (a) Each Employee shall provide to the Employer details of their attendance at in-service training and the Employer shall keep a record of this attendance.
 - (b) Where practicable, such training shall be provided to Employees during the normal rostered hours of work. Where it is not practicable to provide such training during the normal rostered hours of work then:
 - (i) Employees shall attend in-service training outside their normal rostered working hours when required to do so by the Employer.
 - (c) An Employer shall provide Employees with two weeks' notice of the requirement to attend training outside of their normal rostered working hours.
 - (d) Notwithstanding clause 30, Overtime, attendance at such training shall be paid at ordinary rates.
 - (e) Notwithstanding subclause 22.1(b), Hours of Work, attendance at such in-service training outside the normal rostered working time of an Employee shall not affect the ordinary rate paid to the Employee during normal rostered working time.
 - (f) For Aged Care Employees and Nursing Employees (excluding RN Level 3 and above) - notwithstanding the above, where practicable, the Employer will enable, mandatory eLearning and/or mandatory training to be undertaken within the ordinary working hours in the workplace. Where this is not practicable, up to 8 hours of such mandatory training per year may be held/ undertaken outside of an employee's ordinary hours in the workplace, which may by mutual agreement be undertaken at the employee's home, and be paid at the ordinary rate. Mandatory training that;
 - (i) falls outside an employee's ordinary hours and;
 - (ii) is in excess of 8 hours per year
 will be paid at the applicable overtime penalty rate.
 - (g) Where the Employee attends compulsory training other than during the course of a rostered shift or as set out at clause 41.6, the minimum payment shall be the length of the training or one (1) hour, whichever is greater
- 41.7. Attendance at any training course other than those referred to at 41.6 above, may be supported by the Employer in accordance with specific policy initiatives. In particular, the parties acknowledge that it is highly desirable for Employees to attend training provided by the Employer.
- 41.8. Where the Employer has implemented or is participating in a no lift training program every Employee must attend the training required.

42. Attendance at Meetings and Fire Drills

- 42.1. Any Employee required to work outside the ordinary hours of work in satisfaction of the requirements for compulsory fire safety practices (e.g., fire drill and evacuation procedures), shall be entitled to be paid the "ordinary rate" for the actual time spent in attendance at such practices. Such time spent in attendance shall not be viewed as overtime for the purposes of this agreement.
- 42.2. Any Employee required to attend Occupational Health and Safety Committee and/or Board of Management meetings in the capacity of Employee representative shall, if such meetings are held outside the ordinary hours of work, be entitled to receive payment at the ordinary rate for the actual time spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this agreement.

43. Disciplinary Procedure

- 43.1. Where disciplinary action may be necessary, the management representative shall notify the Employee of the issues in writing and the Employee will be given an opportunity to respond to these issues. A minimum of 24 hours' notice will be given of the first meeting. In the event that the Employee's response is unsatisfactory, a first warning in writing may be issued. This warning will be recorded on the Employee's personnel file.
- 43.2. If the problem continues, the Employee will again be notified in writing of the matter and a response requested from the Employee. If appropriate, a second warning in writing will be given to the Employee and recorded on the Employee's personnel file.
- 43.3. In the event that the problem continues, the Employee will again be notified in writing of the matter and a response requested. If appropriate, a final written warning will be issued to the Employee and recorded on the Employee's personnel file.
- 43.4. In the event of the matter recurring, then the Employee may be terminated after the matters have been investigated and reasons sought from the Employee.
- 43.5. Summary dismissal of an Employee may still occur for acts of 'serious misconduct' (as defined in the Fair Work Act 2009 (Cth)). Where an allegation of 'serious misconduct' is proven and the Employer, having considered all the circumstances does not wish to terminate the Employee's employment, a warning may be issued under paragraph 43.2 or 43.2 of this provision.
- 43.6. During all steps in the Disciplinary Procedure, the Employee has the right to representation of his or her choice, including the NSW NMA or HSU. The Employer may be represented by the representative of their choice.
- 43.7. Records relating to disciplinary procedures will be disregarded where a continuous period of 12 months elapses without further warning/s. Records relating to disciplinary procedures will be removed from the personnel file after a period of two (2) years where no further warning/s arise.
- 43.8. This clause shall not apply until the Employee has completed a period of employment with the Employer of the minimum employment period prescribed in the Fair Work Act 2009.

44. Leave to Deal With Family And Domestic Violence

- 44.1. This clause applies to all Employees, including casuals.

44.2. Definitions

- (a) In this clause:

- (i) **family and domestic violence** means violent, threatening or other abusive behaviour by a family member of an Employee that seeks to coerce or control the Employee and that causes them harm or to be fearful.
- (ii) family member means:
 - (1) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Employee; or
 - (2) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee; or
 - (3) a person related to the Employee according to Aboriginal or Torres Strait Islander kinship rules.
- (iii) A reference to a spouse or de facto partner in the definition of family member in clause (2)(a) includes a former spouse or de facto partner.

44.3. Entitlement to leave

- (a) A full-time or part-time Employee is entitled to 5 days' paid leave and a casual Employee is entitled to 5 days' unpaid leave to deal with family and domestic violence, as follows:
 - (i) the leave is available in full at the start of each 12 month period of the Employee's employment; and
 - (ii) the leave does not accumulate from year to year; and
 - (iii) is available in full to part-time Employees.
- (b) A period of leave to deal with family and domestic violence may be less than a day by agreement between the Employee and the Employer.
- (c) The Employer and Employee may agree that the Employee may take more than 5 days' leave to deal with family and domestic violence.

44.4. Taking leave to deal with family and domestic violence

- (a) An Employee may take the leave set out at clause 44.3 to deal with family and domestic violence if the Employee:
 - (i) is experiencing family and domestic violence; and
 - (ii) needs to do something to deal with the impact of the family and domestic violence and it is impractical for the Employee to do that thing outside their ordinary hours of work.
- (b) The reasons for which an Employee may take leave include making arrangements for their safety or the safety of a family member (including relocation), attending urgent court hearings, or accessing police services.

44.5. Service and continuity

The time an Employee is on unpaid leave (if applicable) to deal with family and domestic violence does not count as service but does not break the Employee's continuity of service.

44.6. Notice and evidence requirements

- (a) Notice

An Employee must give the Employer notice of the taking of leave by the Employee under this clause. The notice:

 - (i) must be given to the Employer as soon as practicable (which may be a time after the leave has started); and
 - (ii) must advise the Employer of the period, or expected period, of the leave.

- (b) Evidence
 - (i) An Employee who has given the Employer notice of the taking of leave under this clause must, if required by the Employer, give the Employer evidence that would satisfy a reasonable person that the leave is taken for the purpose specified in clause 44.4.
 - (ii) Depending on the circumstances such evidence may include a document issued by the police service, a court or a family violence support service, or a statutory declaration.

44.7. Confidentiality

- (a) Employers must take steps to ensure information concerning any notice an Employee has given, or evidence an Employee has provided under clause 44.6, is treated confidentially, as far as it is reasonably practicable to do so.
- (b) Nothing in clause 44.7 prevents the Employer from disclosing information provided by an Employee if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Employee or another person.

Note: Information concerning an Employee's experience of family and domestic violence is sensitive and if mishandled can have adverse consequences for the Employee. The Employer may consult with such Employees regarding the handling of this information.

44.8. Compliance

An Employee is not entitled to take leave under clause 44 unless the Employee complies with clause 44.

45. Noticeboard

The Employer shall make available a notice board in the work location accessible to Employees for the purpose of local Employee union delegates posting information relating to the observance, application and operation of the Agreement and in relation to union events or meetings.

46. Flexible Working Arrangements

The NES provides particular Employees with an entitlement to request a flexible working arrangement. In addition to the NES, if the Employer does not agree to the Employee's request, the Employer must discuss the request with the Employee to better understand the Employee's circumstances and then the Employer must provide any available counter-proposals to the Employee in writing. Any agreed arrangement must be recorded in writing.

47. Union Representative Leave

- (a) The Employer recognises the right of all employees to join a union, to access union representation and to participate collectively in workplace issues.
- (b) The Employer will recognise union representative(s) upon written notification from each of the union/s.
- (c) Union representative(s) will be released from work to attend union business in accordance with the following:
 - (i) up to a maximum of three (3) days per calendar year (1 January to 31 December) per Residence for the totality of all applications of trade union, union representative training leave, attendance at union conferences, meetings and courses provided that:

- (1) the courses are directed to the enhancement of a more productive, aware and harmonious workplace environment;
 - (2) at least four (4) weeks' notice is provided to the Employer;
 - (3) the approval of leave must have regard to the operational requirements of the Employer;
 - (4) the union representative provides evidence of attendance to the Employer when requested; and
 - (5) subject to operational requirements the Employer shall not unreasonably refuse such a request.
- (d) A union representative may access accrued paid education and professional development leave (clause 41) or unpaid leave for the purpose of attending union training, meetings, conference and courses as detailed in this clause.

DECLARATION AND SIGNATURES

I am authorised to sign this Agreement on behalf of JAPARA ADMINISTRATION PTY LTD



SIGNATURE

Valeria Camara CHRO.

PRINT NAME AND TITLE

Address: LEVEL 4, 1 SOUTHBANK BOULEVARD
SOUTHBANK VIC 3006

Date 11/11/2019

Brett Holmes

Brett Howard Holmes
Branch Secretary
Australian Nursing and Midwifery Federation
New South Wales Branch
50 O'Dea Ave
WATERLOO NSW 2017

Margaret Potts

WITNESS

Margaret Mary Potts
50 O'Dea Ave, Waterloo

O'Bray Smith

O'Bray Smith
President
Australian Nursing and Midwifery Federation
New South Wales Branch
50 O'Dea Ave
WATERLOO NSW 2017

Margaret Potts

WITNESS

Margaret Mary Potts
50 O'Dea Ave, Waterloo

Authority to sign Agreement on behalf of employees is in accordance with Rule 40 of the Rules of the Australian Nursing and Midwifery Federation and as bargaining representative in accordance with the Fair Work Act 2009.

I am authorised to sign this Agreement as the nominated employee bargaining representative on behalf of HSU New South Wales Branch

SIGNATURE

PRINT NAME AND TITLE

Address:

Date

Schedule A – Nursing Classification Definitions

Progression through pay points

Progression for all classifications for which there is more than one pay point will be by annual movement to the next pay point, or in the case of a part-time or casual Employee 1786 hours of experience, having regard to the acquisition and use of skill described in the definitions contained in clause Schedule A—Classification Definitions and knowledge gained through experience in the practice settings over such a period.

A.1 Nursing Assistants

Nursing Assistants also otherwise known as Assistants in Nursing, provide nursing, care and other duties under the direction of a Registered Nurse or Enrolled Nurse. The primary role of Nursing Assistants in nursing and care contexts is to observe and report to their supervising nurse about the processes involved in delivering services and the outcomes of that intervention or service. Where specific nursing tasks or responsibilities have been appropriately delegated to the Nursing Assistant by the supervising nurse the Nursing Assistant undertakes accountability for meeting the standards set by professional nursing codes and organisational policies and protocols. This includes the Nursing Assistant making the supervising nurse aware of any impediment to carrying out the delegation.

For Nursing Assistants to be eligible to receive the applicable Certificate III classification, the Employee must hold a Certificate III in Aged Care.

A.1.1 Nursing Care

Nursing care means:

Nursing care carried out by Nursing Assistants in aged care and community care contexts is essentially a team effort where the goals of care are determined by the supervising nurse via the care plan for each individual and the policies and protocols of the employing organisation. Care includes attending to the bio-psycho-social needs of residents as well as ensuring that the environment of care and lifestyle activities is safe and conducive to the wellbeing of residents, visitors and other staff.

A.2 Student enrolled nurse

Student enrolled nurse means a student undertaking study to become an enrolled nurse.

A.3 Enrolled nurses

A.3.1 Enrolled nurse—pay point 1

- (a) Pay point 1 refers to the pay point to which an enrolled nurse (EN) has been appointed.
- (b) An Employee will be appointed based on training and experience including:
 - having satisfactorily completed a hospital based course of training in nursing of not more than 12 months duration leading to enrolment as an EN; or
 - having satisfactorily completed a course of training of 12 months duration in a specified branch of nursing leading to enrolment on a register or roll maintained by a state/territory nurses registration board; and

- having practical experience of up to but not more than 12 months in the provision of nursing care and/or services, and, the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators
- The Employee has limited or no practical experience of current situations; and
 - The Employee exercises limited discretionary judgment, not yet developed by practical experience.

A.3.2 Enrolled nurse—pay point 2

- (a) Pay point 2 refers to the pay point to which an EN has been appointed.
- (b) An Employee will be appointed to this pay point based on training and experience including:
- having satisfactorily completed a hospital based course of general training in nursing of more than 12 months duration and/or 500 or more hours theory content or a course accredited at advanced certificate level leading to enrolment as an EN; or
 - not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 1; and
 - the undertaking of in-service training, subject to its provision by the employing agency, from time to time.
- (c) Skill indicators

The Employee is required to demonstrate some of the following in the performance of their work:

- a developing ability to recognise changes required in nursing activity and in consultation with the RN, implement and record such changes, as necessary;
- an ability to relate theoretical concepts to practice; and/or
- requiring assistance in complex situations and in determining priorities.

A.3.3 Enrolled nurse—pay point 3

- (a) Pay point 3 refers to the pay point to which an EN has been appointed.
- (b) An Employee will be appointed to this pay point based on training and experience including:
- not more than one further year of practical experience in the provision of nursing care and/or services, in addition to the experience, skill and knowledge requirements specified for pay point 2; and
 - the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(c) Skill indicators

The Employee is required to demonstrate some of the following in the performance of their work:

- an ability to organise, practise and complete nursing functions in stable situations with limited direct supervision;
- observation and assessment skills to recognise and report deviations from stable conditions;
- flexibility in the capacity to undertake work across the broad range of nursing activity and/or competency in a specialised area of practice; and/or
- communication and interpersonal skills to assist in meeting psycho-social needs of individuals/groups.

A.3.4 Enrolled nurse—pay point 4

(a) Pay point 4 refers to the pay point to which an EN has been appointed.

(b) An Employee will be appointed to this pay point based on training and experience including:

- not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 3; and
- the undertaking of in-service training, subject to its provision by the employing agency, from time to time.

(c) Skill indicators

The Employee is required to demonstrate some of the following in the performance of their work:

- speed and flexibility in accurate decision making;
- organisation of own workload and ability to set own priorities with minimal direct supervision;
- observation and assessment skills to recognise and report deviations from stable conditions across a broad range of patient and/or service needs; and/or
- communication and interpersonal skills to meet psychosocial needs of individual/groups.

A.3.5 Enrolled nurse—pay point 5

(a) Pay point 5 refers to the pay point to which an EN has been appointed.

(b) An Employee will be appointed to this pay point based on training and experience including:

- not more than one further year of practical experience in the provision of nursing care and/or services in addition to the experience, skill and knowledge requirements specified for pay point 4; and

- the undertaking of relevant in-service training, subject to its provision by the employing agency, from time to time.

(c) Skill indicators

The Employee is required to demonstrate some of the following in the performance of their work:

- contributes information in assisting the RN with development of nursing strategies/improvements within the Employee's own practice setting and/or nursing team, as necessary;
- responds to situations in less stable and/or changed circumstances resulting in positive outcomes, with minimal direct supervision; and
- efficiency and sound judgment in identifying situations requiring assistance from an RN.

A.4 Registered nurses

A.4.1 Registered nurse—level 1 (RN1)

- (a) An Employee at this level performs their duties:
- (i) according to their level of competence; and
 - (ii) under the general guidance of, or with general access to a more competent registered nurse (RN) who provides work related support and direction.
- (b) An Employee at this level is required to perform general nursing duties which include substantially, but are not confined to:
- delivering direct and comprehensive nursing care and individual case management to patients or clients within the practice setting;
 - coordinating services, including those of other disciplines or agencies, to individual patients or clients within the practice setting;
 - providing education, counselling and group work services orientated towards the promotion of health status improvement of patients and clients within the practice setting;
 - providing support, direction and education to newer or less experienced staff, including EN's, and student EN's and student nurses;
 - accepting accountability for the Employee's own standards of nursing care and service delivery; and
 - participating in action research and policy development within the practice setting.

A.4.2 Registered nurse—level 2 (RN2)

(a) An Employee at this level may be an Registered Nurse, Clinical Nurse Specialist or Clinical Nurse Educator:

- (i) holds any other qualification required for working in the Employee's particular practice setting; and

- (ii) is appointed as such by a selection process or by reclassification from a lower level when the Employee is required to perform the duties detailed in this subclause on a continuing basis.
- (b) In addition to the duties of an RN1, an Employee at this level is required, to perform duties delegated by a nurse in a higher classification.

Duties of a Level 2 nurse will substantially include, but are not confined to:

- delivering direct and comprehensive nursing care and individual case management to a specific group of patients or clients in a particular area of nursing practice within the practice setting;
- providing support, direction, orientation and education to RN1's, EN's, student nurses and student EN's;
- (c) being responsible for planning and coordinating services relating to a particular group of clients or patients in the practice setting, as delegated by a nurse in a higher classification.
 - acting as a role model in the provision of holistic care to patients or clients in the practice setting; and
 - assisting in the management of action research projects, and participating in quality assurance programs and policy development within the practice setting.

A.4.3 Registered nurse—level 3 (RN3)

- (a) An Employee at this level:
 - (i) holds any other qualification required for working in the Employee's particular practice setting; and
 - (ii) is appointed as such by a selection process or by reclassification from a lower level when that the Employee is required to perform the duties detailed in this subclause on a continuing basis.

An Employee at this level may also be known as a Clinical nurse consultant, Nurse manager or Nurse educator.

- (b) In addition to the duties of an RN2, an Employee at this level will perform the following duties in accordance with practice settings and patient or client groups:
 - (i) Duties of a Clinical Nurse consultant will substantially include, but are not confined to:
 - providing leadership and role modelling, in collaboration with others including the Nurse manager and the Nurse educator, particularly in the areas of action research and quality assurance programs;
 - staff and patient/client education;
 - staff selection, management, development and appraisal;
 - participating in policy development and implementation;

- acting as a consultant on request in the Employee's own area of proficiency; for the purpose of facilitating the provision of quality nursing care;
- delivering direct and comprehensive nursing care to a specific group of patients or clients with complex nursing care needs, in a particular area of nursing practice within a practice setting;
- coordinating, and ensuring the maintenance of standards of the nursing care of a specific group or population of patients or clients within a practice setting; and
- coordinating or managing nursing or multidisciplinary service teams providing acute nursing and community services.

(ii) Duties of a Nurse manager will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others Including the Clinical nurse consultant and the Nurse educator, particularly in the areas of action research and quality assurance programs;
- staff selection and education;
- allocation and rostering of staff;
- occupational health;
- initiation and evaluation of research related to staff and resource management;
- participating in policy development and implementation;
- acting as a consultant on request in the Employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care);
- being accountable for the management of human and material resources within a specified span of control, including the development and evaluation of staffing methodologies; and
- managing financial matters, budget preparation and cost control in respect of nursing within that span of control.

(iii) Duties of a Nurse educator will substantially include, but are not confined to:

- providing leadership and role modelling, in collaboration with others including the Clinical nurse consultant and the Nurse manager, particularly in the areas of action research;
- implementation and evaluation of staff education and development programs;
- staff selection;
- implementation and evaluation of patient or client education programs;
- participating in policy development and implementation;
- acting as a consultant on request in the Employee's own area of proficiency (for the purpose of facilitating the provision of quality nursing care); and

- being accountable for the assessment, planning, implementation and evaluation of nursing education and staff development programs for a specified population.

A.4.5 Registered nurse—level 4 (RN4)

(a) An Employee at this level:

- (i) holds any other qualification required for working in the Employee's particular practice setting; and
- (ii) is appointed as such by a selection process or by reclassification from a lower level when the Employee is required to perform the duties detailed in this subclause on a continuing basis.

An Employee at this level may also be known as an Assistant director of nursing (clinical), Assistant director of nursing (management), or Assistant director of nursing (education).

(b) Appointment at a particular grade at this level will depend upon the level of complexity associated with the duties described in this clause. In this connection the number of beds in a facility will be a relevant consideration.

(c) In addition to the duties of an RN3, an Employee at this level will perform the following duties:

- (i) Duties of an Assistant director of nursing (clinical) will substantially include, but are not confined to:
 - providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (management) and Assistant director of nursing (education), particularly in the areas of selection of staff within the Employee's area of responsibility;
 - provision of appropriate education programs, coordination and promotion of clinical research projects;
 - participating as a member of the nursing executive team;
 - contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
 - managing the activities of, and providing leadership, coordination and support to, a specified group of Clinical nurse consultants;
 - being accountable for the establishment, implementation and evaluation of systems to ensure the standard of nursing care for a specified span of control;
 - being accountable for the development, implementation and evaluation of patterns of patient care for a specified span of control;
 - being accountable for clinical operational planning and decision making for a specified span of control; and
 - being accountable for appropriate clinical standards, through quality assurance programs, for a specified span of control.

- (ii) Duties of an Assistant director of nursing (management) will substantially include, but are not confined to:
 - providing leadership and role modelling, in collaboration with others including the Assistant director of nursing (clinical) and Assistant director of nursing (education), particularly in the areas of selection of staff within the Employee's area of responsibility;
 - coordination and promotion of nursing management research projects;
 - participating as a member of the nursing executive team;
 - contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
 - managing the activities of, and providing leadership, coordination and support to, a specified group of Nurse managers;
 - being accountable for the effective and efficient management of human and material resources within a specified span of control;
 - being accountable for the development and coordination of nursing management systems within a specified span of control; and
 - being accountable for the structural elements of quality assurance for a specified span of control.
- (iii) Duties of an Assistant director of nursing (education) will substantially include, but are not confined to:
 - providing leadership and role modelling, in conjunction with others including the Assistant director of nursing (clinical) and the Assistant director of nursing (management), particularly in the areas of selection of staff within the Employee's area of responsibility;
 - coordination and promotion of nurse education research projects;
 - participating as a member of the nursing executive team, and contributing to the development of nursing and health unit policy for the purpose of facilitating the provision of quality nursing care;
 - managing the activities of, and providing leadership, coordination and support to a specific group of Nurse educators;
 - being accountable for the standards and effective coordination of education programs for a specified population;
 - being accountable for the development, implementation and evaluation of education and staff development programs for a specified population;
 - being accountable for the management of educational resources including their financial management and budgeting control; and
 - undertaking career counselling for nursing staff.

A.4.6 Registered nurse level 5—(RN5)

- (a) An Employee at this level:

- (i) holds any other qualification required for working in the Employee's particular practice setting; and
- (ii) is appointed as such by a selection process or by reclassification from a lower level when the Employee is required to perform the duties detailed in this subclause on a continuing basis.

An Employee at this level may also be known as a Director of nursing.

- (b) Appointment at a particular grade at this level will depend upon the level of complexity associated with the duties described in this clause. In this connection the number of beds in a facility will be a relevant consideration.
- (c) In addition to the duties of an RN4, an Employee at this level will perform the following duties:
 - being accountable for the standards of nursing care for the health unit and for coordination of the nursing service of the health unit;
 - participating as a member of the executive of the health unit, being accountable to the executive for the development and evaluation of nursing policy, and generally contributing to the development of health unit policy;
 - providing leadership, direction and management of the nursing division of the health unit in accordance with policies, philosophies, objectives and goals established through consultation with staff and in accordance with the directions of the Board of Directors of the health unit;
 - providing leadership and role modelling, in collaboration with others, particularly in the areas of staff selection, promotion of participative decision making and decentralisation of nursing management and generally advocating for the interests of nursing to the executive team of the health unit;
 - managing the budget of the nursing division of the health unit;
 - ensuring that nursing services meeting changing needs of clients or patients through proper strategic planning; and
 - complying, and ensuring the compliance of others, with the code of ethics and legal requirements of the nursing profession.

A.5 Nurse Practitioner

A Nurse practitioner:

- is a registered nurse/midwife appointed to the role;
- has obtained an additional qualification relevant to the state regulating authority to enable them to become licensed Nurse practitioners.

A Nurse practitioner is authorised to function autonomously and collaboratively in an advanced and extended clinical role.

A.5.1 Role of a licensed Nurse practitioner

- (a) The nurse practitioner is able to assess and manage the care of clients/residents using nursing knowledge and skills. It is dynamic practice that incorporates application of high level knowledge and skills, beyond that required of a registered

nurse /midwife in extended practice across stable, unpredictable and complex situations.

- (b) The nurse practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible health care delivery that complements other health care providers.

A.5.2 Scope of practice

The scope of practice of the Nurse practitioner is determined by the context in which:

- (a) the nurse practitioner is authorised to practice. The nurse practitioner therefore remains accountable for the practice for which they directed; and
- (b) the professional efficacy whereby practice is structured in a nursing model and enhanced by autonomy and accountability.

The Nurse practitioner is authorised to directly refer clients/residents to other health professionals, prescribe medications and order diagnostic investigations including pathology and plain screen x-rays.

Nurse practitioners exhibit clinical leadership that influences and progresses clinical care, policy and collaboration through all levels of health service.

Schedule B – Aged Care Classifications

Progression from Aged Care Level One

Employees who are new to the industry and/or have less than three months work experience in the industry may be classified at this level. This level is designed solely as an entry level.

An Employee at Aged Care Level One will only be eligible for progression to Aged Care Level Two if, the Employee:

- (a) has completed three months continuous employment; and
- (b) has performed basic duties.

The following are the Aged Care Classifications:

B.1 Aged care Employee—level 1

Entry level:

An Employee who has less than three months work experience in the industry and performs basic duties:

- works within established routines, methods and procedures;
- has minimal responsibility, accountability or discretion;
- works under direct or routine supervision, either individually or in a team; and
- requires no previous experience or training.

Indicative tasks performed at this level are:

General and administrative services	Food services
General clerk	Food services assistant
Laundry hand	
Cleaner	
Assistant gardener	

B.2 Aged care Employee—level 2

An Employee at this level:

- is capable of prioritising work within established routines, methods and procedures;
- is responsible for work performed with a limited level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses sound communication skills; and
- requires specific on-the-job training and/or relevant skills training or experience.

Indicative tasks performed at this level are:

General and administrative services	Food services	Personal care
General clerk/Typist (between 3 months and less than 1 years service) Laundry hand Cleaner Gardener (non-trade) Maintenance/Handyperson (unqualified) Driver (less than 3 ton)	Food services assistant	Personal care worker grade 1

B.3 Aged care Employee—level 3

An Employee at this level:

- is capable of prioritising work within established routines, methods and procedures (non admin/clerical);
- is responsible for work performed with a medium level of accountability or discretion (non admin/clerical);
- works under limited supervision, either individually or in a team (non admin/clerical);
- possesses sound communication and/or arithmetic skills (non admin/clerical);
- requires specific on-the-job training and/or relevant skills training or experience (non admin/clerical); and
- In the case of an admin/clerical Employee, undertakes a range of basic clerical functions within established routines, methods and procedures.

Indicative tasks performed at this level are:

General and administrative services	Food services	Personal care
General clerk/Typist (second and subsequent years of service) Receptionist Pay clerk	Cook	Personal care worker grade 2 Recreational/Lifestyle activities officer (unqualified)

Driver (less than 3 ton) who is required to hold a St John Ambulance first aid certificate		
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B.4 Aged care Employee—level 4

An Employee at this level:

- is capable of prioritising work within established policies, guidelines and procedures;
- is responsible for work performed with a medium level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses good communication, interpersonal and/or arithmetic skills; and
- requires specific on-the-job training, may require formal qualifications and/or relevant skills training or experience.
- In the case of a Personal care worker, is required to hold a relevant Certificate III qualification.

Indicative tasks performed at this level are:

General and administrative services	Food services	Personal care
Senior clerk Senior receptionist Maintenance/Handyperson (qualified) Driver (3 ton and over) Gardener (trade or TAFE Certificate III or above)	Senior cook (trade)	Personal care worker grade 3 Recreational/Lifestyle activities officer (Cert III)

B.5 Aged care Employee—level 5

- An Employee at this level:
- is capable of functioning semi-autonomously, and prioritising their own work within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability;
- works either individually or in a team;
- may assist with supervision of others;
- requires a comprehensive knowledge of medical terminology and/or a working knowledge of health insurance schemes (admin/clerical);
- may require basic computer knowledge or be required to use a computer on a regular basis;

- possesses administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- requires substantial on-the-job training, may require formal qualifications at trade or certificate level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

General and administrative services	Food services	Personal care
Secretary interpreter (unqualified)	Chef	Personal care worker grade 4

B.6 Aged care Employee—level 6

An Employee at this level:

- is capable of functioning with a high level of autonomy, and prioritising their work within established policies, guidelines and procedures;
- is responsible for work performed with a substantial level of accountability and responsibility;
- works either individually or in a team;
- may require comprehensive computer knowledge or be required to use a computer on a regular basis;
- possesses administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- may require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

General and administrative services	Food services
Maintenance tradesperson (advanced)	Senior chef
Gardener (advanced)	

B.7 Aged care Employee—level 7

An Employee at this level:

- is capable of functioning autonomously, and prioritising their work and the work of others within established policies, guidelines and procedures;

- is responsible for work performed with a substantial level of accountability and responsibility;
- may supervise the work of others, including work allocation, rostering and guidance;
- works either individually or in a team;
- may require comprehensive computer knowledge or be required to use a computer on a regular basis;
- possesses developed administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- may require formal qualifications at trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

General and administrative services	Food services	Personal care
Clerical supervisor Interpreter (qualified) Gardener superintendent General services supervisor	Chef /Food services supervisor	Personal care worker grade 5

SCHEDULE C – Wages Table

All increases are effective from the first full pay period commencing on or after the prescribed date

		1/07/2019	1/12/2019	1/07/2020	1/12/2020	1/07/2021	1/12/2021
Classification	FFPPOA 31/01/2019		1.30%	1.30%	1.30%	2.30%	1.30%
AIN							
Year 1	21.5911	\$22.0905	\$22.3776	\$22.6685	\$22.9632	\$23.4914	\$23.7968
Year 2	21.9479	\$22.4555	\$22.7475	\$23.0432	\$23.3428	\$23.8796	\$24.1901
Year 3 and thereafter	22.3158	\$22.8320	\$23.1288	\$23.4294	\$23.7340	\$24.2799	\$24.5955
Qualified Cert III	23.0297	\$23.5624	\$23.8687	\$24.1790	\$24.4933	\$25.0567	\$25.3824
Enrolled Nurse 1							
1.1	26.8139	\$27.5700	\$27.9284	\$28.2914	\$28.6592	\$29.3184	\$29.6995
1.2	27.1603	\$27.9260	\$28.2891	\$28.6568	\$29.0294	\$29.6971	\$30.0831
1.3	27.5187	\$28.2946	\$28.6624	\$29.0350	\$29.4125	\$30.0890	\$30.4801
1.4	27.9266	\$28.7140	\$29.0873	\$29.4654	\$29.8484	\$30.5349	\$30.9319
1.5	28.1987	\$28.9937	\$29.3707	\$29.7525	\$30.1393	\$30.8325	\$31.2333
Registered Nurse 1							
1	32.2658	\$ 33.1755	\$ 33.6068	\$ 34.0437	\$ 34.4863	\$ 35.2794	\$ 35.7381
2	32.9195	\$ 33.8476	\$ 34.2877	\$ 34.7334	\$ 35.1849	\$ 35.9942	\$ 36.4621
3	33.7400	\$ 34.6913	\$ 35.1423	\$ 35.5991	\$ 36.0619	\$ 36.8913	\$ 37.3709
4	34.6303	\$ 35.6067	\$ 36.0696	\$ 36.5385	\$ 37.0135	\$ 37.8648	\$ 38.3570
5	35.7011	\$ 36.7076	\$ 37.1848	\$ 37.6682	\$ 38.1579	\$ 39.0356	\$ 39.5430
6	36.7303	\$ 37.7659	\$ 38.2568	\$ 38.7542	\$ 39.2580	\$ 40.1609	\$ 40.6830
7	37.7871	\$ 38.8525	\$ 39.3576	\$ 39.8692	\$ 40.3875	\$ 41.3165	\$ 41.8536
8 and thereafter	38.7747	\$ 39.8680	\$ 40.3863	\$ 40.9113	\$ 41.4431	\$ 42.3963	\$ 42.9475

Registered Nurse 2							
1	34.8553	\$ 35.8380	\$ 36.3039	\$ 36.7759	\$ 37.2539	\$ 38.1108	\$ 38.6062
2	37.5882	\$ 38.6480	\$ 39.1504	\$ 39.6593	\$ 40.1749	\$ 41.0989	\$ 41.6332
3	37.6755	\$ 38.7378	\$ 39.2414	\$ 39.7515	\$ 40.2683	\$ 41.1945	\$ 41.7300
4 and thereafter	37.7876	\$ 38.8531	\$ 39.3581	\$ 39.8698	\$ 40.3881	\$ 41.3170	\$ 41.8542
Registered Nurse 3							
1	38.3605	\$ 39.4421	\$ 39.9548	\$ 40.4743	\$ 41.0004	\$ 41.9434	\$ 42.4887
2	39.0653	\$ 40.1667	\$ 40.6889	\$ 41.2178	\$ 41.7537	\$ 42.7140	\$ 43.2693
3	39.7326	\$ 40.8529	\$ 41.3840	\$ 41.9220	\$ 42.4670	\$ 43.4437	\$ 44.0085
4 and thereafter	40.4497	\$ 41.5902	\$ 42.1309	\$ 42.6786	\$ 43.2334	\$ 44.2278	\$ 44.8027
Nurse Practitioner							
1	43.7961	\$ 44.8091	\$ 45.3916	\$ 45.9817	\$ 46.5794	\$ 47.6508	\$ 48.2702
2 and thereafter	45.0979	\$ 46.1410	\$ 46.7408	\$ 47.3484	\$ 47.9640	\$ 49.0671	\$ 49.7050
Assistant Facility Manager (Deputy DON)							
20 – 75 beds	44.7466	\$ 45.7816	\$ 46.3767	\$ 46.9796	\$ 47.5904	\$ 48.6849	\$ 49.3178
75 – 100 beds	45.5479	\$ 46.6014	\$ 47.2072	\$ 47.8209	\$ 48.4426	\$ 49.5568	\$ 50.2010
100 -150 beds	45.7771	\$ 46.8359	\$ 47.4448	\$ 48.0616	\$ 48.6864	\$ 49.8062	\$ 50.4536
150 – 200 beds	46.8842	\$ 47.9686	\$ 48.5922	\$ 49.2239	\$ 49.8638	\$ 51.0107	\$ 51.6739
200 – 250 beds	48.1313	\$ 49.2446	\$ 49.8848	\$ 50.5333	\$ 51.1902	\$ 52.3676	\$ 53.0484
250 – 350 beds	49.5821	\$ 50.7289	\$ 51.3884	\$ 52.0565	\$ 52.7332	\$ 53.9461	\$ 54.6474
Facility Manager							
20 – 50 beds	51.8603	\$ 53.0598	\$ 53.7496	\$ 54.4483	\$ 55.1561	\$ 56.4247	\$ 57.1583
50 – 75 beds	52.9421	\$ 54.1667	\$ 54.8708	\$ 55.5841	\$ 56.3067	\$ 57.6018	\$ 58.3506
75 – 100 beds	54.0111	\$ 55.2603	\$ 55.9787	\$ 56.7064	\$ 57.4436	\$ 58.7648	\$ 59.5288

100 -150 beds	55.5253	\$ 56.8096	\$ 57.5481	\$ 58.2962	\$ 59.0541	\$ 60.4123	\$ 61.1977
150 – 200 beds	57.3197	\$ 58.6455	\$ 59.4079	\$ 60.1802	\$ 60.9626	\$ 62.3647	\$ 63.1755
200 – 250 beds	59.1142	\$ 60.4815	\$ 61.2678	\$ 62.0643	\$ 62.8711	\$ 64.3171	\$ 65.1533
250 – 350 beds	61.2776	\$ 62.6950	\$ 63.5100	\$ 64.3356	\$ 65.1720	\$ 66.6710	\$ 67.5377

		1/07/2019	1/12/2019	1/07/2020	1/12/2020	1/07/2021	1/12/2021
Classification	FFPPOA 31/01/2019		1.30%	1.30%	1.30%	2.30%	1.30%
Aged Care Employees							
Level 1	20.8282	\$ 21.3099	\$ 21.5869	\$ 21.8676	\$ 22.1519	\$ 22.6613	\$ 22.9559
Level 2	21.6961	\$ 22.1979	\$ 22.4865	\$ 22.7788	\$ 23.0749	\$ 23.6056	\$ 23.9125
Level 3	22.5424	\$ 23.0638	\$ 23.3636	\$ 23.6673	\$ 23.9750	\$ 24.5264	\$ 24.8453
Level 4	22.8103	\$ 23.3379	\$ 23.6413	\$ 23.9486	\$ 24.2599	\$ 24.8179	\$ 25.1405
Level 5	23.5816	\$ 24.1270	\$ 24.4407	\$ 24.7584	\$ 25.0803	\$ 25.6571	\$ 25.9906
Level 6	24.8566	\$ 25.4315	\$ 25.7621	\$ 26.0970	\$ 26.4363	\$ 27.0443	\$ 27.3959
Level 7	25.3066	\$ 25.8919	\$ 26.2285	\$ 26.5695	\$ 26.9149	\$ 27.5339	\$ 27.8919

SCHEDULE D - Allowances

		1/07/2019	1/12/2019	1/07/2020	1/12/2020	1/07/2021	1/12/2021
Allowance	Clause						
1. Uniform Allowance - Clause							
Per shift	18.1(b)	1.32	1.34	1.35	1.37	1.40	1.42
Per week	18.1(b)	6.71	6.80	6.89	6.98	7.14	7.23
2. Laundry Allowance - Clause							
Per shift	18.1(c)	0.38	0.38	0.39	0.40	0.40	0.41
Per week	18.1(c)	5.45	5.52	5.59	5.67	5.80	5.87
Meal Allowance when no meal is provided							
3. First Meal Allowance - Clause	18.2(a)(i)	13.41	13.58	13.76	13.94	14.26	14.45
4. Subsequent Meal Allowance	18.2(a)(ii)	12.09	12.25	12.41	12.57	12.86	13.02
On Call Allowance (Nursing classification only)							
5. Between rostered shifts Mon - Fri	18.3(a)(i)	22.09	22.38	22.67	22.96	23.49	23.80
6. Between rostered shifts in a Saturday	18.3(a)(ii)	33.27	33.70	34.14	34.58	35.38	35.84
7. Between rostered shifts on a Sunday, PH or RDO	18.3(a)(iii)	38.81	39.31	39.83	40.34	41.27	41.81
8. Mileage per KM	18.4(c)	0.84	0.85	0.86	0.87	0.89	0.90
Qualification Allowance - weekly							
9. RN - post grad cert in clinical field	18.5(g)	21.26	21.54	21.82	22.10	22.61	22.90
10. RN - post grad diploma or degree in clinical field	18.5(h)	35.40	35.86	36.33	36.80	37.64	38.13
11. RN relevant matters degree or doctorate	18.5(i)	42.47	43.02	43.58	44.15	45.16	45.75
Leading Hand Allowance (AC Classifications only)							
12. in charge of 2 - 5 employees	18.7	24.48	24.80	25.12	25.45	26.03	26.37
13. in charge of 6 - 10 employees	18.7	34.94	35.39	35.85	36.32	37.16	37.64
14. in charge of 11 - 15 employees	18.7	44.11	44.68	45.26	45.85	46.91	47.52
15. in charge of 16 - 19 employees	18.7	53.92	54.62	55.33	56.05	57.34	58.08
Nauseous work Allowance							

17. per hour	18.8	0.46	0.47	0.47	0.48	0.49	0.50
18. minimum per week	18.8	2.47	2.50	2.53	2.57	2.63	2.66
19. Tool Allowance - Aged Care Classifications	18.9	12.04	12.20	12.36	12.52	12.80	12.97
20. On call during meal breaks	29.1(b)	12.22	12.38	12.54	12.70	12.99	13.16
In Charge of Facility - RN 1 and 2 only							
21. In charge of facility <100 beds	18.10(a)(i)	21.49	21.77	22.05	22.34	22.85	23.15
22. In charge of facility 100 beds or more	18.10(a)(ii)	37.61	38.10	38.59	39.10	40.00	40.52

FAIR WORK COMMISSION**MATTER NO:** AG2019/4304**APPLICANT:** Japara Administration Pty Ltd**UNDERTAKINGS**

I, Jennifer Anderson, Industrial Relations Manager, give the following undertakings on behalf of the Applicant employer in accordance with section 190 of the *Japara Administration Pty Ltd New South Wales Employee Enterprise Agreement 2019 (Agreement)*:

1. Clause 34.4 of the Agreement will be replaced with the following:

34.4. Public holiday substitution

The Employer and an Employee may, by agreement, substitute a day (or part-day) for a day (or part-day) that would otherwise be a public holiday under the NES.

2. Clause 42 will be amended to include the following subclause 42.3:

For Aged Care Employees - notwithstanding clauses 42.1 and 42.2, where meetings and/ or fire drills are held/ undertaken outside of an Employee's ordinary hours:

- (i) the first 8 hours will be paid at the ordinary rate;*
- (ii) any remaining meetings/ fire drills beyond 8 hours per year will be paid at the applicable overtime penalty rate.*

3. Clause 12.3(f)(iii) is to be amended (as underlined):

(f) Aged Care Employees only

(iii) No part-time Employee shall be directed to work in excess of their rostered ordinary hours (Additional Hours) at the ordinary rate of pay. Where a part-time Employee:

- (1) does not agree to work Additional Hours at the ordinary rate of pay; or*
- (2) is directed to work Additional Hours by the Employer;*

the Employee will be paid the applicable overtime penalty rate for such Additional Hours worked.



Jennifer Anderson

Industrial Relations Manager

Date: 6 November 2019