



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

St John Of God Health Care Inc T/A St John of God Health Care
(AG2019/3852)

ST JOHN OF GOD HEALTH CARE NSW HOSPITALS AND NEW SOUTH WALES NURSES AND MIDWIVES' ASSOCIATION / ANMF – NSW BRANCH, NURSES ENTERPRISE AGREEMENT 2019

Health and welfare services

DEPUTY PRESIDENT SAUNDERS

NEWCASTLE, 26 NOVEMBER 2019

Application for approval of the St John of God Health Care NSW Hospitals and New South Wales Nurses and Midwives' Association / ANMF - NSW Branch, Nurses Enterprise Agreement 2019.

[1] An application has been made for approval of an enterprise agreement known as the *St John of God Health Care NSW Hospitals and New South Wales Nurses and Midwives' Association / ANMF - NSW Branch, Nurses Enterprise Agreement 2019 (Agreement)*. The application was made pursuant to section 185 of the *Fair Work Act 2009 (Act)*. The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings (*Undertakings*). A copy of the Undertakings is attached in Annexure A to this decision. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[3] The views of each person who the Fair Work Commission knows is a bargaining representative for the Agreement have been sought in relation to the Undertakings.

[4] Pursuant to subsection 190(3) of the Act, I accept the Undertakings. The Undertakings are taken to be a term of the Agreement.

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

[6] The Australian Nursing and Midwifery Federation NSW Branch a bargaining representative for the Agreement, has given notice under section 183 of the Act that it wants

the Agreement to cover it. In accordance with subsection 201(2) of the Act, I note that the Agreement covers the organisation.

[7] The Agreement is approved and, in accordance with section 54 of the Act, will operate from 3 December 2019. The nominal expiry date of the Agreement is 30 June 2020.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:

AG2019/3852

Applicant:

St John of God Health Care Inc.

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Eve Dawson, Group Manager HR and Employee Relations for St John of God Health Care Inc. and St John of God Outreach Services give the following undertakings with respect to the St John of God Health Care NSW Hospitals and New South Wales Nurses and Midwives' Association / ANMF – NSW Branch, Nurses Enterprise Agreement 2019 ("the Agreement"):

1. I have the authority given to me by St John of God Health Care Inc. and St John of God Outreach Services to provide this undertaking in relation to the application before the Fair Work Commission.
2. The Employer undertakes that where an Employee employed as a casual in the classification of Assistant in Nursing, Enrolled Nurse without Medication Qualification or Enrolled Nurse performs work that would constitute overtime under Clause 23 if it were not for Clause 27(iii) will receive the penalty outlined in Clause 23 calculated on the base rate of pay, and casual loading calculated on the loaded rate of pay.
3. The Employer undertakes that where an Employee employed as a casual in the classification of Assistant in Nursing, Enrolled Nurse without Medication Qualification or Enrolled Nurse performs work between midnight Friday and midnight Sunday they receive the penalty rate as outlined in Clause 18(iv). They will also receive the casual loading, calculated on the loaded rate of pay.
4. The Employer undertakes that each Employee will be given a contract of employment prior to commencement; to give reasonable predictability to the hours of work, that outlines the minimum guaranteed hours of work and the rostering provisions that apply to those hours. This contract can only be varied by mutual agreement.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

21 November 2019
Date

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.



**St John of God Health Care NSW Hospitals and New South
Wales Nurses and Midwives' Association / ANMF – NSW
Branch, Nurses Enterprise Agreement 2019**

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1. NAME OF THE AGREEMENT

This Agreement shall be called the *St John of God Health Care NSW Hospitals and New South Wales Nurses and Midwives' Association / ANMF – NSW Branch, Nurses Enterprise Agreement 2019* ('the Agreement').

2. PARTIES TO THE AGREEMENT

The parties to be covered this Agreement shall be:

- (i) St John of God Health Care Inc. ("the Employer");
- (ii) The New South Wales Nurses and Midwives' Association ("NSWNMA");
- (iii) The Australian Nursing and Midwifery Federation NSW Branch ("ANMF NSW Branch") (ABN 85 726 054 782) the NSW Branch of the ANMF (ABN 41 816 898 298) located at 50 O'Dea Avenue, Waterloo, NSW, 2017;
- (iv) Nurse Caregivers employed by the Employer at the Burwood (13 Grantham Street, Burwood NSW 2134) and Richmond (177 Grose Vale Road, Richmond NSW 2753) Hospitals, as classified in Appendix 1 and Clause 7 of this Agreement; and
- (v) Nurse Caregivers employed by St John of God Social Outreach in NSW, however so titled.

This Agreement shall not apply to Nurse Caregivers employed in accordance with the *Hawkesbury District Health Service Limited and NSWNMA / ANMF Nursing and Midwifery Enterprise Agreement 2019*.

3. APPLICATION FOR COVERAGE

- (i) This Agreement is made under section 172 of the *Fair Work Act 2009*. The Employer will take the necessary steps to seek approval of this Agreement under section 186 of the Act.
- (ii) The Employer will formally advise the NSWNMA / ANMF NSW Branch when the Agreement is made in order for the NSWNMA / ANMF NSW Branch to apply under section 183 of the *Fair Work Act 2009* to be covered by the Agreement.

4. TERM

- (i) This Agreement shall commence operation from the 7th day after the Agreement is approved by the Fair Work Commission ("FWC") and shall remain in force until 30th June 2020.
- (ii) This Agreement shall continue to operate until it is cancelled, varied or replaced in accordance with the provisions of the Fair Work Act 2009.
- (iii) Negotiations for the replacement of this Agreement shall begin at least four months prior to the expiration date.

5. REPLACEMENT

This Agreement cancels and replaces the *St John of God Healthcare NSW Hospitals and New South Wales Nurses and Midwives' Association / ANMF – NSW Branch, Nurses Enterprise Agreement 2016*.

6. POSTING OF THE AGREEMENT

A copy of this Agreement shall be displayed in a conspicuous and convenient place at the workplace so as to be easily read by all Nurse Caregivers covered by this Agreement.

7. DEFINITIONS

Unless the context otherwise indicates or requires the several expressions hereunder defined shall have the respective meanings assigned to them:

- (i) **“Industry of Nursing”** means the industry of persons engaged and employed in New South Wales in the profession or occupation of nursing employed in or in connection with private hospitals.
- (ii) **“Hospital”** means a private hospital as defined by the *Private Health Facilities Act 2007*.
- (iii) **“AHPRA”** means the Australian Health Practitioner Regulation Agency.
- (iv) **“Board”** means the Nursing and Midwifery Board of Australia and shall also be taken to mean a reference to AHPRA as appropriate/applicable.
- (v) **“Nurse Caregiver”** means a nurse employee as classified in Appendix 1 of the Agreement employed by the Employer.
- (vi) **“Assistant in Nursing”** means a person, other than a registered nurse, or enrolled nurse, who is employed in nursing duties in a hospital.
- (vii) **“Enrolled Nurse without medication qualification”** means a person registered by the Board as an enrolled nurse with the notation “does not hold a Board approved qualification in medicines administration”.
- (viii) **“Enrolled Nurse”** means a person registered by the Board as an Enrolled Nurse.
- (ix) **“Enrolled Nurse – Advanced Qualifications” (AQ)** means an Enrolled Nurse who practices using specialised or advanced knowledge and skills in an acute mental health clinical environment within the enrolled nursing scope of practice. The Enrolled nurse must have minimum of 12 months (1976 hours) experience post registration and hold a post registration qualification relevant to the acute mental health environment – Advanced Diploma of Mental Health.
- (x) **“Registered Nurse”** means a person registered by the Board as a Registered Nurse.
- (xi) **“Clinical Nurse Specialist Grade 1”** means a registered nurse with relevant post-basic qualifications and 12 months’ experience working in the clinical area of their specified post-basic qualification, or a minimum of three years’ post-basic registration experience, including three years’ experience in the relevant specialist field and who satisfies the local criteria
- (xii) **“Clinical Nurse Specialist Grade 2”** means: a Registered Nurse appointed to a position classified as such with relevant post-registration qualifications and at least three years’ experience working in the clinical area of their specified post-graduate qualification.

The Clinical Nurse Specialist Grade 2 classification encompasses the Clinical Nurse Specialist Grade 1 role criteria and is distinguished from a Clinical Nurse Specialist Grade 1 by the following additional role characteristics:

- Exercises extended autonomy of decision making;
- Exercises professional knowledge and judgement in providing complex care requiring advanced clinical skills and undertakes one of the following roles:
 - o Leadership in the development of nursing specialty clinical practice and service delivery in the ward/unit/service; or
 - o Specialist clinical practise across the Hospitals; or
 - o Primary case management of a complete episode of care; or
 - o Primary case management of a continuum of specialty care involving both inpatient and community based services; or
 - o An authorised extended role within the scope of Registered Nurse practice.

(xiii) **“Associate Nurse Unit Manager”** means a Registered Nurse who assists the Nursing Unit Manager in the provision of patient services, ward or unit management and staff management. And to deputise for the Nursing Unit Manager

(xiv) **“Nursing Unit Manager”** means a registered nurse in charge of a ward or unit or group of wards or units in a hospital shall include:

(1) *“Nursing Unit Manager Level 1”* whose responsibilities include:

(1) Co-Ordination of Patient Services

- o Liaison with all health care disciplines for the provision of services to meet patient needs.
- o The orchestration of services to meet patient needs after discharge.
- o Monitoring catering and transport services.

(2) Unit Management

- o Implementation of hospital policy.
- o Dissemination of information to all personnel.
- o Ensuring environmental safety.
- o Monitoring the use and maintenance of equipment.
- o Monitoring the supply and use of stock and supplies.
- o Monitoring cleaning services.

(3) Nursing Staff Management

- o Direction, co-ordination and supervision of nursing activities.
- o Training, appraisal and counselling of nursing staff.

- Rostering and/or allocation of nursing staff.
 - Development and/or implementation of new practise according to patient need.
- (2) *“Nursing Unit Manager Level 2”* whose responsibilities in relation to patient services, ward or unit management and staff management are in excess of those of a Nursing Unit Manager Level 1. Such staff may also be appointed as the After Hours Nurse Manager for the Hospital.
- (3) *“Nursing Unit Manager Level 3”* whose responsibilities in relation to patient services ward or unit management and staff are in excess of those of a Nursing Unit Manager Level 2.
- (xv) **“Clinical Nurse Educator”** means a Registered Nurse with relevant post registration certificate qualifications or experience deemed appropriate by the Employer, who is required to implement and evaluate education programmes at the ward/unit level. The Clinical Nurse Educator shall cater for the delivery of clinical nurse education in the ward/unit level only.

A Nurse Caregiver will achieve Clinical Nurse Educator status on a personal basis by being required by the Hospital to provide the educational programmes detailed above.

Nothing in this clause shall affect the role carried out by the Clinical Nurse Specialist as a specialist resource and the Clinical Nurse Consultant in the primary role of clinical consulting, researching etc.

- (xvi) **“Nurse Educator”** means a Registered Nurse with a post registration certificate, who has relevant experience or other qualifications, deemed appropriate by the Employer who is appointed to a position of Nurse Educator. Nurse Educator may also be titled as **Professional Development Coordinator**.

A Nurse Educator shall be responsible for the development, implementation and delivery of nursing education programmes within a hospital or group of hospitals. Nurse education programmes shall mean courses conducted such as post registration certificates, continuing nurse education, new graduate orientation, post registration enrolled nurses courses and where applicable general staff development courses.

A person appointed to a position of Nurse Educator who holds relevant tertiary qualification in education or tertiary postgraduate specialist clinical nursing qualifications shall commence on the 3rd year rate of the salary scale.

Incremental progression for Nurse Educators' shall be on completion of 12 months' satisfactory service subject that progression shall not be beyond the 3rd year rate unless the person possesses the qualification detailed in the two previous paragraphs.

Persons appointed to the 3rd year rate by virtue of paragraphs 3 and 4 above shall progress to the 4th year rate after completion of 12 months' satisfactory full time service.

- (xvii) **“Senior Nurse Educator”** means a Registered Nurse with a post registration certificate or appropriate qualifications, who has, or is working towards recognised tertiary qualifications, in education or equivalent and has demonstrated experience and skills in the field of education appointed to a position of Senior Nurse Educator.

A Senior Nurse Educator shall be responsible for one or more Nurse Educators in the planning, co-ordination, delivery, and evaluation of education programmes such as post registration certificate courses, continuing nurse education, new graduate orientation, post registration enrolled nurses courses and where application general staff development courses either on a hospital or group of hospital basis.

Incremental progression shall be on completion of 12 months' satisfactory service.

- (xviii) **"Clinical Nurse Consultant"** means a Registered Nurse appointed as such to the position of, who has had a least five years post-basic registration experience and who has in addition approved post-basic nursing qualifications relevant to the field in which they are appointed or such other qualification or experience deemed appropriate by the Employer.
- (xix) **"Day Worker"** means a worker who works their ordinary hours from Monday to Friday inclusive and who commences work on such days at or after 6.00 am and before 10.00 am otherwise than as a part of the shift system.
- (xx) **"Nurse Practitioner"** is a Registered Nurse appointed to the role; has obtained an additional qualification relevant to the regulating authority to enable them to become licensed Nurse Practitioners. A Nurse Practitioner is authorised to function autonomously and collaboratively in an advance and extended clinical role.

Role of a licensed Nurse Practitioner

- (1) The Nurse Practitioner is able to assess and manage the care of patients using nursing knowledge and skills. It is dynamic practise that incorporates application of high level knowledge and skills, beyond that required of a Registered Nurse in extended practise across stable unpredictable and complex situations.
- (2) The Nurse Practitioner role is grounded in the nursing profession's values, knowledge, theories and practise and provides innovative and flexible health care delivery that complements other health care providers.

Scope of practice

The scope of practise of the Nurse Practitioner is determined by the context in which:

- (1) The Nurse Practitioner is authorised to practise. The Nurse Practitioner therefore remains accountable for the practise for which they directed; and
- (2) The professional efficacy whereby practise is structured in a nursing model and enhanced by autonomy and accountability.

The Nurse Practitioner is authorised to directly refer patients to other health professions, 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.

- (xxi) **"Experience"** in relation to a student nurse, Enrolled Nurse, or Assistant in Nursing means experience before and/or after the commencement of this Agreement whether within New South Wales or elsewhere and in the case of a student nurse, Enrolled Nurse or Assistant in Nursing who was formerly a student nurse includes experience as such student nurse.

For the purpose of determining the year of experience for part time or casual employment a year of experience shall be 1976 hours of employment.

- (xxii) **"Service"** for the purpose of Clause 11 – Wages, means service before or after the commencement of this Agreement in New South Wales, or elsewhere as a Nurse (specifically an Assistant in Nursing, Registered

Nurse or Enrolled Nurse as applicable), provided that all service recognised prior to the commencement of this Agreement shall continue to be recognised.

To the foregoing shall be added any actual periods on and from January 1971 during which a Registered Nurse undertook a post-basic course whilst an employee of and rendering service in an institution or hospital and such course is recognised by the Board or acceptable to the NSW Department of Health, provided that no more than three such courses shall count as service.

(xxiii) **“Shift Worker”** means a worker who is not a day worker as defined.

(xxiv) **“Immediate Family”** means a Nurse Caregiver’s spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the Nurse Caregiver; or a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Nurse Caregiver. A spouse includes a former spouse. A child includes an adult child.

(xxv) **“Award”** means the Nurses Award 2010.

8. RELATIONSHIP TO NATIONAL EMPLOYMENT STANDARDS

Entitlements in accordance with the National Employment Standards (“NES”) are provided for under the *Fair Work Act 2009*. Where this Agreement also has provisions regarding matters dealt with under NES and the provisions in the NES set out in the Act are more favourable to a Nurse Caregiver in a particular respect than those provisions, then the NES will prevail in that respect. The provisions in this Agreement otherwise apply.

9. CONSULTATION REGARDING CHANGE

Consultation Regarding Major Change

- (i) This term applies if 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 Nurse Caregivers of the Employer.
- (ii) The Employer must notify the relevant Nurse Caregivers of the decision to introduce the major change. The relevant Nurse Caregivers may appoint a representative, which may be a representative from the NSWNMA / ANMF – NSW Branch, for the purposes of the procedures in this term. If a relevant Nurse Caregiver appoints, or relevant Nurse Caregivers appoint, a representative for the purposes of consultation; and the Nurse Caregiver(s) advise the Employer of the identity of the representative; the Employer must recognise the representative.
- (iii) As soon as practicable after making its decision, the Employer must discuss with the relevant Nurse Caregivers:
 - (a) the introduction of the change; and
 - (b) the effect the change is likely to have on the Nurse Caregivers; and
 - (c) measures the Employer is taking to avert or mitigate the adverse effect of the change on the Nurse Caregivers; and
- (iv) For the purposes of the discussion — provide, in writing, to the relevant Nurse Caregivers all relevant information about the change including the nature of the change proposed; and information about the expected effects of the change on the Nurse Caregivers; and any other matters likely to affect the Nurse

Caregivers.

- (v) However, the Employer is not required to disclose confidential or commercially sensitive information to the relevant Nurse Caregivers.
- (vi) The Employer must give prompt and genuine consideration to matters raised about the major change by the relevant Nurse Caregivers.
- (vii) If a term in this Agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the Employer, the requirements set out in subclauses (ii) and (iii) are taken not to apply.
- (viii) In this term, a major change is likely to have a significant effect on Nurse Caregivers if it results in;
 - (a) the termination of the employment of Nurse Caregivers;
 - (b) major change to the composition, operation or size of the Employer's workforce;
 - (c) the skills required of Nurse Caregivers;
 - (d) the elimination or diminution of job opportunities (including opportunities for promotion or tenure);
 - (e) the alteration of hours of work;
 - (f) the need to retrain Nurse Caregivers;
 - (g) the need to relocate Nurse Caregivers to another workplace;
 - (h) the restructuring of jobs.
- (ix) In this term, relevant Nurse Caregivers means the Nurse Caregivers who may be affected by the major change.

Consultation Regarding Changes to Regular Rosters or Ordinary Hours of Work

- (x) Where the Employer proposes to change a Nurse Caregiver's regular roster or ordinary hours of work, the Employer must consult with the Nurse Caregiver or Nurse Caregivers affected and their representatives, if any about the proposed change.
- (xi) The Employer will:
 - (a) provide to the Nurse Caregiver or Nurse Caregivers affected and their representatives, if any, information about the proposed change i.e. information about the nature of the change to the Nurse Caregiver's regular roster or ordinary hours of work and when that change is proposed to commence;
 - (b) invite the Nurse Caregiver or Nurse Caregivers affected and their representatives, if any, to give their views about the impact of the proposed change, including any impact in relation to their family or caring responsibilities; and
 - (c) give consideration to any views about the impact of the proposed change that are given by the Nurse Caregiver or Nurse Caregivers concerned and/or their representatives, if any.
- (xii) These provisions are to be read in conjunction with other Agreement provisions concerning the scheduling of work and notice requirements in particular subclause (vii) of Clause 13 – Hours of Work and Free Time of

Nurse Caregivers other than Directors of Nursing.

- (xiii) The relevant Nurse Caregivers may appoint a representative, which may be a representative from the NSWNMA / ANMF – NSW Branch, for the purposes of consultation. If a relevant Nurse Caregiver appoints, or relevant Nurse Caregivers appoint, a representative for the purposes of consultation; and the Nurse Caregiver(s) advise the Employer of the identity of the representative, the Employer must recognise the representative.

10. DISPUTE RESOLUTION PROCEDURE

- (i) In the event of a dispute in relation to a matter arising under this agreement or the National Employment Standards (“NES”), in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the Nurse Caregiver or Nurse Caregivers concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the Nurse Caregiver or Nurse Caregivers concerned and more senior levels of management as appropriate.
- (ii) A party to the dispute may appoint another person, organisation or association, which may be the NSWNMA / ANMF – NSW Branch, to appoint or represent them in relation to the dispute.
- (iii) If a dispute in relation to a matter arising under the agreement or the NES is unable to be resolved at the workplace, and all agreed steps for resolving it have been taken, the dispute may be referred to Fair Work Commission (FWC) for resolution by conciliation and, where the matter in dispute remains unresolved, arbitration.
- (iv) It is a term of this assignment that while the dispute resolution procedure is being conducted work shall continue according to the custom and practise before the grievance arose unless a Nurse Caregiver has a reasonable concern about an imminent risk to their health or safety.
- (v) If arbitration is necessary the FWC may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- (vi) The above steps shall take place within seven days (health and safety matters are exempt from this Clause).
- (vii) For the avoidance of doubt, Nurse Caregiver grievances are included in the matters to be dealt with in accordance with the dispute resolution procedure of the Agreement.

11. WAGES

- (i) Wages shall be in accordance with Table 1: Monetary Rates, of Appendix 1 – Wage Rate Schedule of this Agreement.
- (ii) The non-wage based allowances shall be paid in accordance with Table 2: Allowances, of Appendix 1 – Wage Rate Schedule of this agreement.
- (iii) The wage increases provided in subclause (i) above shall be absorbed into any payment made to the Nurse Caregiver beyond the minimum rates contained within this Agreement.
- (iv) An Enrolled Nurse who is endorsed to administer medication will be classified and paid as Enrolled Nurse from the commencement of the first full pay period following the issuing by the Board of their Letter of Endorsement to Administer Medication or Authority to Practise Certificate, Enrolled Nurse including Endorsement to Administer Medication, whichever is issued earlier.
- (v) Provided that an Enrolled Nurse 1st year shall not progress to Enrolled Nurse 2nd year until completion of

twelve months' (1976 hours) service at the 1st year rate (or for part-time Nurse Caregivers the full-time equivalent of 1976 hours), and to the 3rd year rate until completion of twelve months' service at the 2nd year rate (or for part-time Nurse Caregivers the full-time equivalent of 1976 hours), and so on throughout the scale.

- (vi) In relation to the salaries of Deputy Director of Nursing, "beds" means adjusted daily average of occupied beds.
- (vii) Any further wage increase shall be at the discretion of the Employer, unless the rate of pay falls below the Nurses Award rate, in such circumstances the rate of pay shall default to the minimum rate prescribed in accordance with the Nurses Award rate.

12. SUPERANNUATION

- (i) The subject of superannuation is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- (ii) Contributions shall at the option of the Nurse Caregiver be paid into either:
 - (a) the Health Employees Superannuation Trust Australia (HESTA) fund; or
 - (b) such other complying superannuation fund or scheme as nominated by the Nurse Caregiver.
- (iii) Should a Nurse Caregiver fail to nominate a fund, the Employer will make superannuation contributions into the My Super product provided by the HESTA fund.
- (iv) Contributions into the nominated fund shall be paid monthly.
- (v) In addition to the Employer's statutory contributions to the Fund a Nurse Caregiver may make additional contribution from their salary and on receiving written authorisation from the Nurse Caregiver the Employer must commence making contributions to the Fund in accordance with the Superannuation Guarantee Charge Act 1992.
- (vi) Superannuation fund payments will be made in accordance with trust fund deeds.
- (vii) Where a Nurse Caregiver salary packages their wages in accordance with this agreement, superannuation shall be paid on the pre-packaged wages.

13. HOURS OF WORK AND FREE TIME OF NURSE CAREGIVERS OTHER THAN DIRECTORS OF NURSING

Span of Hours

- (i) The ordinary hours of work for day workers, other than Directors of Nursing, exclusive of meal times, shall be 152 hours per 28 calendar days to be worked Monday to Friday inclusive and to commence on such days at or after 6.00 am and before 10.00 am.
- (ii) The ordinary hours of work for shift workers, other than Directors of Nursing, exclusive of meal times, shall not exceed an average of 38 hours per week in each roster cycle.
- (iii) The hours of work for a full-time Nurse Caregiver shall be arranged by mutual agreement between the

Employer and Nurse Caregiver to be for a fixed period of 38 hours per week.

- (iv) Except where authorised by subclause (v) of this clause, each shift shall consist of no more than ten hours on a day shift or 11 hours on a night shift with not less than eight hours break between each shift; provided that a Nurse Caregiver shall not work more than seven consecutive shifts unless the Nurse Caregiver so requests and the Director of Nursing agrees. A Nurse Caregiver shall not work more than two quick shifts in any period of seven days.

A quick shift is an evening shift followed by a morning shift.

- (v) Except for breaks for meals, the hours of duty each day shall be continuous. Provided that in the case of permanent part-time Nurse Caregivers an exemption from this provision and from subclause (iv) of this clause with regard to the span of hours only may apply to enable an additional break of no more than four hours. In any event, the span of hours shall not exceed 12 hours. Prior to this occurring the Employer will consult with the Nurse Caregiver(s) impacted and if requested by the Nurse Caregiver(s), any nominated representative which may be a representative from the NSWNMA / ANMF – NSW Branch.

(vi)

- (a) Each Nurse Caregiver shall 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 and no duties shall be performed by the Nurse Caregiver on any of such free days except overtime. Where practicable, days off shall be consecutive and shall not be preceded by an evening shift or a night shift unless additional eight hours are granted as sleeping time. An evening shift shall be one which commences at or after 1.00 pm and before 4.00 pm.

- (b) A Nurse Caregiver, at their request, may be given free from duty time in one or more periods but no period shall be less than one full day.

- (c) For the purpose of this subclause “full day” means from midnight to midnight or midday to midday.

- (vii) An Employer shall not alter the period over which the ordinary hours of work of Nurse Caregivers are balanced except upon giving one month’s notice of their intention to do so to affected Nurse Caregivers and if requested by the Nurse Caregiver a nominated representative which may be a NSWNMA / ANMF – NSW Branch representative.

Accrued Days Off (ADOs)

- (viii) Nurse Caregivers may, with the agreement of the Employer in consideration of operational requirements, have their prescribed hours of work arranged in such a manner that in each roster cycle of 28 calendar days each Nurse Caregiver shall not work their ordinary hours of work on more than 19 days in the cycle. Therefore the Nurse Caregiver shall work an additional two hours a week (40 hours worked in a week) over a four week period, in order to accrue a paid day off (an ADO) per month.

- (ix) For Nurse Caregivers who were accumulating ADOs as at 5th August 2014 (the date of approval of the *St John of God Healthcare NSW Hospitals and New South Wales Nurses and Midwives’ Association / ANMF-NSW Branch, Nurses Enterprise Agreement 2014*) and have continued to do so since that time:

Where possible, these hours of work for these Nurse Caregivers will be arranged in such a manner that in each roster cycle of 28 days each Nurse Caregiver shall not work their ordinary hours on more than 19 days in the cycle. Therefore the Nurse Caregiver shall work an additional two hours a week (40 hours worked in a week) over a four week period, in order to accrue a paid day off per month.

- (x) The Employer is to decide when Nurse Caregivers take their additional days off duty as prescribed by subclause (viii) and (ix) of this Clause (as a consequence of the implementation of the 38 hour week). Where necessary the Employer must consult with the affected Nurse Caregivers to ascertain the Nurse Caregivers' preference and must take any such preferences into account when arriving at a decision. Where practicable additional days of duty shall be consecutive with the rostered days off duty prescribed in subclause (vi) of this clause.
- (xi) Once set, the additional days off may not be changed except in accordance with the provisions of Clause 15 – Rosters.
- (xii) Where the Employer's decision (in accordance with subclause (x) of this clause) is that a Nurse Caregiver's additional days off be accumulated, no more than six days may be accumulated in any one year of employment. By mutual agreement this may be extended to no more than 12 days at any one time.

Where the Nurse Caregiver wants to accumulate more than six accumulated additional days off the Nurse Caregiver must apply to the Employer and the Employer will not unreasonably decline the request. Such accumulated additional days off must be taken in conjunction with the Nurse Caregiver's annual leave or as otherwise agreed.

Direction to take ADO leave

- (xiii) Notwithstanding the above, Nurse Caregivers must take an amount of ADO leave during a particular period if at the time the direction is given the Nurse Caregiver has a balance greater than six days.

Breaks

- (xiv)
 - (a) Each Nurse Caregiver shall be allowed a break of not less than 30 minutes and not more than 60 minutes for each meal occurring on duty.
 - (b) Nurse Caregivers shall not be required to work more than five hours without a meal break. The meal break may be delayed and taken at a later time during the shift where mutually agreed between the Employer and Nurse Caregiver.
- (xv) Two separate ten-minute intervals (in addition to meal breaks) shall be allowed each Nurse Caregiver on duty during each ordinary shift of eight or ten hours as the case may be. Subject to agreement between the Employer and the Nurse Caregiver, such intervals may alternatively be taken as one 20-minute interval, or by one ten-minute interval with the Nurse Caregiver allowed to proceed off duty ten minutes before the completion of the normal shift finishing time. Such interval(s) shall count as working time.
- (xvi) Upon request by the Nurse Caregiver the breaks prescribed by subclause (xiv) and (xv) may be taken together as a single break for Nurse Caregivers working night duty shifts. This will be subject to approval by the Nurse Caregiver in Charge and approval will depend on the operational requirements for the relevant shift.
- (xvii)
 - (a) Subclauses (xiv) and (xv) of this clause shall not apply to a Nurse Caregiver who, before going on night duty, is provided with a meal between 9.00 pm and 11.00 pm and who is allowed two intervals of 20 minutes each during the period of night duty but such intervals shall count as working time and

shall be paid for as such.

- (b) Where a Nurse Caregiver is required to change into a uniform or a specified type of garment at the Employer's premises they shall be allowed ten minutes for such a purpose and such time shall be counted as working time and paid for as such.

(xviii)

- (a) Except as provided for in paragraph (b) below a Nurse Caregiver shall not be employed on night duty for a longer period than eight consecutive weeks. After having served a period of night duty a Nurse Caregiver shall not be required to serve a further period on night duty until they have been off night duty for a period equivalent to the previous period on night duty.
- (b) The provisions of paragraph (a) above shall not apply to an Assistant Director of Nursing, a Nursing Unit Manager or a general Nurse Caregiver in charge, as the case may be, who is employed permanently in charge at night, nor to a Nurse Caregiver who requests to be employed on night duty and the Director of Nursing consents.

- (xix) A Nurse Caregiver changing from night duty to day duty or from day duty to night duty shall be free from duty during the 20 hours immediately preceding the commencement of the changed day.

- (xx) The provision of paragraph (a) of subclause (vi), paragraphs (a) and (b) of subclause (xvii) and subclause (xix) of this clause, shall not apply if the Nurse Caregiver is required to perform duty to enable the nursing service of the Employer to be carried on or where another Nurse Caregiver is absent from duty on account of illness or in an emergency.

On Call

(xxi)

- (a) Nurse Caregivers may be required to remain on call. Any such time on call shall not be counted as time worked (except insofar as a Nurse Caregiver may take up actual duty in response to a call), but shall be paid for in accordance with Clause 17 – Special Allowances, of this Agreement: Provided, however, no Nurse Caregiver shall be required to remain on call whilst on leave or on the day before entering upon leave.
- (b) No Nurse Caregiver shall be required to remain on call whilst on a rostered day off, nor on completion of the shift on the day preceding a rostered day off. This provision shall not apply where in special circumstance it is necessary for the Employer to place staff on call on rostered days off or on completion of the shift on the day preceding a rostered day off in order to ensure the provision of services.

14. BANKING OF HOURS

- (i) A full-time or part-time Nurse Caregiver may, by agreement made daily, weekly or fortnightly with their Nurse Unit Manager or Director of Nursing:
 - (a) Work less than their daily, weekly or fortnightly rostered or contracted hours and work those hours at a later date; or
 - (b) Work more than their daily, weekly, or fortnightly roster or contracted hours and take time off in lieu of payment, or may set off the additional hours worked against any owing under (a) above.

- (ii) A Nurse Caregiver who works less than their rostered or contracted hours shall be paid as if those hours had been worked during the relevant period, including payment for any weekend or shift penalties that would otherwise have been due for the time not worked.
- (iii) A Nurse Caregiver who works more than their rostered or contracted hours shall not receive payment for any weekend or shift penalties that would otherwise have been due for that extra time worked in accordance with the banking hour provisions prescribed under this Clause.
- (iv) Time debited or credited under these arrangements shall all be at ordinary time, i.e. an hour for an hour.
- (v) A Nurse Caregiver may not have more than 76 hours in debit or credit at any point in time.
- (vi) Nurse Caregivers who have hours in debit must be given first option to work additional hours prior to the use of casual Nurse Caregivers.
- (vii) The Employer must keep detailed records of all hours credited and debited to Nurse Caregivers under these arrangements. Nurse Caregivers must have full access to these records.
- (viii) On termination of employment the Employer must pay the Nurse Caregiver for all hours in credit and may deduct from termination pay the value of any hours in debit.
- (ix) Either party shall have the right to terminate an agreement under this Clause with two weeks' notice.

15. ROSTERS

- (i) The ordinary hours of work for each Nurse Caregiver, other than for casual Nurse Caregivers, shall be displayed on a roster in a place conveniently accessible to Nurse Caregivers.
- (ii) The roster shall be displayed where practicable at least two weeks prior, but in any event not less than one week prior, to the commencing date of the first working period in the roster. Provided that in the case of a permanent part-time Nurse Caregiver whose hours are balanced over four weeks, the roster shall be displayed where practicable, at least four weeks prior to the commencing date of the first working period in the roster but in any event not less than one week prior, to the commencing date of the first working period in the roster.
- (iii) Notwithstanding the foregoing provisions of this clause, a roster may be altered at any time to enable the nursing service of the Employer to be carried on where another Nurse Caregiver is absent from duty on account of illness or in an emergency: Provided that where any such alteration involves a Nurse Caregiver working on a day which would otherwise have been such Nurse Caregiver's day off, the day off in lieu thereof shall be as mutually arranged.
- (iv) Prior to the date of the changed shift, such change of roster shall be notified verbally or in writing to the Nurse Caregiver concerned.
- (v) A Nurse Caregiver may change their roster at short notice, with the agreement of their Nurse Unit Manager or Director of Nursing for any reasonable ground.
- (vi) The Employer may change a Nurse Caregiver's roster at short notice, with the agreement of the Nurse Caregiver, for any reasonable ground including unexpected situations and unforeseen fluctuations in patient dependency.
- (vii) Where a Nurse Caregiver is entitled to an additional day off duty (ADO) in accordance with Clause 13 – Hours of Work and Free Time of Nurse Caregivers other than Directors of Nursing, of this Agreement, such

day is to be shown on the roster of hours for that Nurse Caregiver.

- (viii) All rosters shall be retained for at least six years.

16. RECOGNITION OF SERVICE AND EXPERIENCE

- (i) The Employer shall notify each Nurse Caregiver in writing of the requirements of this clause at the time of the Nurse Caregiver's commencement of employment. If the Employer does not so notify the Nurse Caregiver then the requirements of this clause shall not commence until the Employer does so notify the Nurse Caregiver.
- (ii) From the time of commencement of employment the Nurse Caregiver has three months in which to provide documentary evidence to the Employer detailing any other 'service' or 'experience', as defined in Clause 7 – Definitions, not disclosed at the time of commencement. This evidence, in absence of other documentary evidence may take the form of a statutory declaration.
- (iii) Until such time as the Nurse Caregiver furnishes any such documentation outlined in (ii) above the Employer shall pay the Nurse Caregiver at the level for which documentary evidence has been provided.
- (iv) If within three months of commencing employment a Nurse Caregiver does provide documentary evidence of other previous service or experience not disclosed at the time of commencement, the Employer shall pay the Nurse Caregiver at the appropriate rate as and from the date of commencement that would have been paid from that date had the additional evidence been provided at that time.
- (v) If a Nurse Caregiver provides documentary evidence of other previous service or experience not disclosed at the time of commencement after the said three months period, the Nurse Caregiver shall be paid a rate appropriate for the previous service, or experience, then provided but only from the date of providing that evidence to the Employer.

17. SPECIAL ALLOWANCES

(i) In Charge

- (a) A Registered Nurse in charge during the day, evening or night of a hospital having a daily average of occupied beds of less than 100 shall be paid, in addition to their appropriate salary, whilst so in charge, the sum set out in Item 1, Table 2: Allowances, at Appendix 1, per shift.
- (b) A Registered Nurse in charge of a shift in a ward or unit during the day, evening or night in the absence of the Nursing Unit Manager shall be paid, in addition to their appropriate salary, whilst so in charge, the sum set out in Item 2, Table 2: Allowances, at Appendix 1, per shift. This subclause shall only apply where the Registered Nurse is in charge of one of more other Nurse Caregivers in the ward or unit in question.
- (c) This subclause shall not apply to Registered Nurses holding classified position of a higher grade than that of Clinical Nurse Specialist.

(ii) In Charge of Ward / Unit and Hospital

- (a) A Registered Nurse who is designated to be in-charge of a ward or unit when the Nursing Unit Manager is not rostered for duty and who is also designated to be in-charge of a hospital with less than 100 beds during the day, evening or night on the same shift shall be paid an allowance per shift of the sum set out in Item 3, Table 2: Allowances, at Appendix 1. This subclause shall only apply where the Registered Nurse or Clinical Nurse Specialist is in charge of one of more other Nurse

Caregivers in the ward or unit it question.

- (b) This subclause shall not apply to the Registered Nurses holding classified position of a higher grade than that of a Registered Nurse or Clinical Nurse Specialist.

(iii) **On Call**

- (a) A Nurse Caregiver required by the Employer to be on call otherwise than provided in (iii) (b) and (iii) (c) hereof shall be paid the sum as set in Item 4, Table 2: Allowances, at Appendix 1, for each period of 24 hours or part thereof provided that only one allowance shall be payable in any period of 24 hours.
- (b) A Nurse Caregiver required to be on call on rostered days off shall be paid the sum as set in Item 5, Table 2: Allowances, at Appendix 1, for each period of 24 hours or part thereof provided that only one allowance shall be payable in any period of 24 hours.
- (c) The parties recognise the importance of Nurse Caregivers being afforded the opportunity to take a meal break, noting however that where a Nurse Caregiver is required and authorised by the Employer to remain on call during a meal break, such Nurse Caregiver shall be paid the allowance as set out in Item 6, Table 2: Allowances, at Appendix 1. If a Nurse Caregiver is recalled during such meal break they shall be paid at overtime rates for the total period of the meal break.
- (d) Where a Nurse Caregiver on call leaves the hospital and is recalled to duty, he or she shall be reimbursed all reasonable fares and expenses actually incurred provided that where a Nurse Caregiver uses a motor vehicle in these circumstances that the allowance payable shall be in accordance with the published ATO rates for motor vehicle usage. The provisions of this paragraph shall apply to all Nurse Caregivers.
- (e) The provisions of this subclause shall apply to all classifications up to and inclusive of the Nurse Unit Manager.

18. PENALTY RATES FOR SHIFT AND WEEKEND WORK

- (i) Nurse Caregivers working afternoon or night shift shall be paid the following percentages in addition to the ordinary rate for such shift provided that Nurse Caregivers who work less than 38 hours per week shall only be entitled to the additional rates where their shifts commence prior to 6.00 am or finish subsequent to 6.00 pm.

Afternoon shift commencing at 10.00 am and before 1.00 pm – 10%

Afternoon shift commencing at 1.00 pm and before 4.00 pm – 12.5%

Night shift commencing at 4.00 pm and before 4.00 am – 15%

Night shift commencing at 4.00 am and before 6.00 am – 10%

- (ii) **“Ordinary rate”** and **“ordinary time”** shall not include any percentage addition by reason of the fact that a Nurse Caregiver works less than 38 hours per week but shall include amounts payable under Clause 11 – Wages; and subclause (iii) of Clause 17 – Special Allowances.
- (iii) For the purposes of this clause day, afternoon and night shifts shall be defined as follows:

“Day Shift” means a shift which commences at or after 6.00 am and before 10.00 am.

“Afternoon Shift” means a shift which commences at or after 10.00 am and before 4.00 pm.

“Night Shift” means a shift which commences at or after 4.00 pm and before 6.00 am on the day following.

- (iv) Nurse Caregivers whose ordinary working hours include work on a Saturday and/or Sunday shall be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and one half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of time and three quarters. These extra rates shall be in substitution for and not cumulative upon the shift premiums prescribed in the subclause (i) of this clause.

The foregoing paragraph shall apply to Nurse Caregivers who work less than 38 hours per week, but such Nurse Caregivers shall not be entitled to be paid in addition any allowance prescribed by Clause 26 – Permanent Part-Time Employment and Clause 27 – Casual Nurse Caregivers of this Agreement in respect of their employment between midnight on Friday and midnight on Sunday.

- (v) The additional payments prescribed by this clause shall not form part of the Nurse Caregiver's ordinary pay for the purposes of this Agreement, except as provided in Clause 29 – Rate of Pay for Annual Leave and Annual Leave Loading, of this Agreement.

(vi) **Penalty Rates for Departments which Routinely Function from 7:00am to 6:00pm:**

- (a) This subclause shall only apply to Nurse Caregivers who work an entire ordinary time shift in a discrete designated day procedure ward or unit which routinely functions between the hours of 7.00 am and 6.00 pm.
- (b) This subclause shall not apply to any Nurse Caregiver whose employment commences prior to 15 December 1994 and who has been employed on a continuous basis since that date.
- (c) A Nurse Caregiver to whom this subclause applies shall not be entitled to an additional shift penalty rate payment for ordinary time worked prior to 6.00 pm on any week day.
- (d) A Nurse Caregiver to whom this subclause applies shall be paid in addition to their ordinary rate, a penalty payment at the rate of 15% for all ordinary time worked after 6.00 pm on any week day.

19. FARES AND EXPENSES

- (i) A Nurse Caregiver required to travel in the performance of duty shall be paid all reasonable out of pocket expenses (including fares).
- (ii) A Nurse Caregiver who is engaged for a definite period and who completed the period of engagement or who is dismissed before completing such period for any reason other than misconduct or inefficiency shall also be reimbursed return fares to such place of engagement or to the Nurse Caregiver's immediate destination, whichever is the cheaper.
- (iii) Subclause (ii) of this clause shall not apply to student nurses or to nurses travelling to a hospital for post graduate training.
- (iv) Fares within the meaning of this clause shall only include fares incurred in respect to travel within New South Wales.
- (v) A Nurse Caregiver who claims reimbursement of fares, pursuant to this clause, shall furnish to the Employer,

upon request, satisfactory proof that they have they have incurred those fares and not received reimbursement from another Employer in respect of those fares.

20. TELEPHONE ALLOWANCE

- (i) When a Nurse Caregiver is required to be on call the Nurse Caregiver shall be reimbursed for any work related telephone expenses incurred during the relevant on call period.

21. UNIFORM AND LAUNDRY ALLOWANCES

- (i) Where the Employer requires a uniform to be worn, an adequate supply (as specified by the hospital Uniform Policy) of such uniforms shall be provided to the Nurse Caregivers.
- (ii) A laundry allowance of the sum set out in Item 7, Table 2: Allowances, at Appendix 1, shall be paid to the Nurse Caregiver; provided that the payment of such laundry allowance shall not be made to any Nurse Caregiver on absences exceeding one week.
- (iii) No uniform shall be replaced within 18 months of the date of issue, provided that where a uniform is damaged in the course of employment, the uniform shall be replaced or repaired by the Employer.
- (iv) The Nurse Caregiver shall be required to return the replaced uniform when new uniform is issued.
- (v) Uniforms provided by the Employer shall at all times remain the property of the Employer and must be returned to the Employer on termination.
- (vi) Failure to return hospital uniforms may lead to a delay in the processing of any termination payment and to the Employer deducting, by agreement with the Nurse Caregiver in writing, the cost of the uniforms from any monies owing to the Nurse Caregiver.
- (vii) All casual Nurse Caregivers shall be required to dress in accordance with the Employer designated standards.

22. HIGHER GRADE DUTY

- (i) A Nurse Caregiver who is called upon to relieve a Nurse Caregiver in a higher classification or is called upon to act in a vacant position of a higher classification shall be entitled to receive, for the period of relief or the period during which they act, the minimum payment for such higher classification.
- (ii) The provisions of subclause (i) shall not apply where the Nurse Caregiver being relieved is absent from duty for a period of three consecutive working days or less which have been rostered in advance, except where the duties of the higher position involve being in charge of the facility during the period in question.

23. OVERTIME

- (i) Subject to subclause (ii) of this Clause the Employer may require a Nurse Caregiver to work reasonable overtime.
- (ii) A Nurse Caregiver may refuse to work overtime in circumstances where the working of such overtime would result in the Nurse Caregiver working hours which are unreasonable.
- (iii) For the purposes of subclause (ii) of this Clause what is unreasonable or otherwise will be determined having regard to:

- (a) The risk to the Nurse Caregiver's health and safety;
- (b) The Nurse Caregiver's personal circumstances including any family and carer responsibilities;
- (c) The needs of the facility;
- (d) The notice (if any) given by the Employer of the overtime and by the Nurse Caregiver of their intention to refuse it; and
- (e) Any other relevant matter.

Rate of Pay for Overtime and Recall to Duty

(iv)

- (a) Subject to paragraph (b) hereof all time worked by Nurse Caregivers other than Directors of Nursing in excess of the rostered daily ordinary hours of work shall be overtime and shall be paid for at the rate of time and one half for the first two hours and double time thereafter in respect of each overtime shift worked or in respect of overtime worked prior to or at the conclusion of a normal shift. Provided that overtime worked on Sundays shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.
- (b) All time worked by permanent part-time Nurse Caregivers, in excess of the rostered daily ordinary hours of work prescribed for the majority of full-time Nurse Caregivers employed on that shift in the ward or section concerned shall be paid for at the rate of time and one half for the first two hours and double time thereafter except that on Sundays such overtime shall be paid for at the rate of double time and on public holidays at the rate of double time and one half.

Provided that time worked up to the rostered daily ordinary hours of work prescribed for a majority of the full-time Nurse Caregivers employed on that shift in the ward or section concerned shall not be regarded as overtime but an extension of the contract hours for that day and shall be paid at the ordinary rate of pay.

- (v) A Nurse Caregiver recalled to work overtime after leaving the Employer's premises shall be paid for a minimum of four hours at the appropriate rate for each time so recalled. If the work required is completed in less than four hours, the Nurse Caregiver shall be released for the day.
- (vi) A Nurse Caregiver who works so much overtime:
 - (a) Between the termination of their ordinary work on any day or shift and the commencement of their ordinary work on the next day or shift that they have not had at least ten consecutive hours off duty between these times; or
 - (b) On a Saturday, a Sunday and a holiday, not being ordinary working days, or on a rostered day off without having had ten consecutive hours off duty in the next 24 hours preceding their next day or shift; shall subject to this subclause, be released after completion of such overtime until they have had ten consecutive hours off duty without loss of pay for ordinary working time occurring during such absence. If on the instruction of the Employer such a Nurse Caregiver resumes or continues to work without having such ten consecutive hours off duty they shall be paid at double time of the appropriate rate applicable on such day until they are released from duty for such period and they then shall be entitled to be absent until they have had ten consecutive hours off duty without loss of pay for ordinary working time.

Meal Breaks During Overtime

- (vii) A Nurse Caregiver required to work overtime following on the completion of their normal shift for more than two hours shall be allowed 20 minutes for the partaking of a meal and a further 20 minutes after each subsequent four hours' overtime. All such time shall be counted as time worked; provided that benefits of this subclause shall not apply to permanent part-time Nurse Caregivers, until the expiration of the normal shift for a majority of the full-time Nurse Caregivers employed on that shift in the ward or section concerned.
- (viii) A Nurse Caregiver recalled to work overtime after leaving the Employer's premises and who is required to work for more than four hours shall be allowed twenty minutes for partaking of such a meal and a further 20 minutes after each subsequent four hour's overtime; all such time shall be counted as time worked.
- (ix) The meals referred to in subclauses (vii) and (viii) of this Clause shall be allowed to the Nurse Caregiver free of charge. Where the hospital is unable to provide such meals, an allowance per meal of the sum set out in Item 8, Table 2: Allowances of Appendix 1, shall be paid to the Nurse Caregiver concerned.
- (x) Where a Nurse Caregiver is required to work an overtime shift on his or her rostered day off, the appropriate meal breaks for that shift, as prescribed by Clause 13 – Hours of Work and Free Time of Nurse Caregivers Other Than Directors of Nursing shall apply.
- (xi) If a Nurse Caregiver is recalled to duty during a meal break; they shall be paid at overtime rates for the total period of the meal break.

Time Off in Lieu of Overtime

- (xii) Time off in lieu of overtime (Time in Lieu) must be agreed to and pre-approved before being worked, by the Employer.
- (xiii) Instead of receiving payment for authorised overtime, Nurse Caregivers may be compensated by way of Time in Lieu on the following basis:
 - (a) Nurse Caregivers cannot be compelled to take Time in Lieu rather than receive payment for overtime;
 - (b) The Employer cannot be compelled to agree to provide Nurse Caregivers with Time in Lieu; and
 - (c) Time in Lieu shall accrue at the appropriate overtime rate (e.g. if the overtime rate was 150% of the ordinary rate of pay, the Nurse Caregiver shall accrue 1.5 hours' Time in Lieu for every 1 hour worked).
 - (d) The Employer must maintain records of all Time in Lieu owing and taken by Nurse Caregivers.
 - (e) Where no election is made, the Nurse Caregiver will be paid overtime rates in accordance with this Agreement.
 - (f) Time in Lieu must be taken within four months of it being accrued at a mutually agreed time. Time in Lieu not taken within that period may be paid out.
 - (g) The Employer can compel a Nurse Caregiver to take Time in Lieu before four months has passed from the date when Time in Lieu was accrued.
 - (h) All unused Time In Lieu will be paid out on termination.

24. PAYMENT OF WAGES

- (i) Wages shall be paid fortnightly by electronic funds transfer into one or more accounts (maximum three) nominated by the Nurse Caregiver held at any major bank, building society or credit union.
- (ii) Each Nurse Caregiver shall be provided with a pay advice slip on each occasion that wages are paid, which will contain details in accordance with the *Fair Work Regulations 2009*.
- (iii) Where payment is not made by pay day the Employer shall rectify the matter without delay.
- (iv) As a courtesy, both Nurse Caregivers and the Employer should inform each other as soon as possible of any payment issue.

Overpayment of Wages

- (v) Where a Nurse Caregiver is paid for work not subsequently performed or is overpaid in any other manner, with permission in writing from the Nurse Caregiver, the Employer is entitled to make adjustment to the subsequent wages or salaries of the Nurse Caregiver.

One-off Overpayments

- (vi) Subject to sub-clauses (viii) and (ix), one-off overpayments may be recovered by the Employer in the pay period immediately following the pay period in which the overpayment was made, or in the period immediately following the pay period in which it was discovered that overpayment has occurred.

Cumulative Overpayments

- (vii) Subject to sub-clauses (viii) and (ix), cumulative overpayments may be recovered by the Employer at a rate agreed between the Employer and the Nurse Caregiver, provided that the rate at which the overpayment is recovered is not at a lesser rate than the rate at which it was overpaid or \$50 per week, depending on which is the lesser amount per pay period.
- (viii) In exceptional circumstances, other arrangements for the recovery of overpayments may be agreed between the Employer and the Nurse Caregiver.
- (ix) The Employer is required to notify the Nurse Caregiver of their intention to recoup an overpayment, provide the Nurse Caregiver with details to sufficiently establish that an overpayment has occurred and to consult with the Nurse Caregiver as to the appropriate recovery rate.

Underpayment of Wages

- (x) Where a Nurse Caregiver is underpaid in any manner, the Employer will rectify the error as soon as practicable with consideration to subclauses (xi) and (xii).
- (xi) Notwithstanding sub-clause (x), an error shall be rectified no later than in the pay immediately following the date on which the Employer discovers, or is advised, that the error occurred.
- (xii) Notwithstanding the provisions of sub-clause (xi) a Nurse Caregiver shall be paid any underpayment immediately by way of a special payment where the underpayment of wages has created financial hardship.

Termination Payments

- (xiii) Upon termination of employment, the Employer shall pay to the Nurse Caregiver all monies earned by or

payable to the Nurse Caregiver as soon as practicable through the normal payroll system. Provided that:

- (a) where the employment is terminated without notice in accordance with this clause the Employer shall, as soon as reasonably possible, pay all monies earned by or payable to the Nurse Caregiver;
- (b) any outstanding debts or overpayments accrued by the Nurse Caregiver may be recovered from the final payment payable to the Nurse Caregiver on termination, if authorised in writing by the Nurse Caregiver;
- (c) by agreement the monies earned by or payable to the Nurse Caregiver may be paid by electronic funds transfer into the Nurse Caregiver's account(s).

25. SALARY PACKAGING

- (i) The Employer has Public Benevolent Institution ("PBI") status for Fringe Benefits Tax purposes and as a result is able to offer salary packaging to its Nurse Caregivers.
- (ii) Where the Employer or the new Employer, through a transfer of business do not enjoy PBI status with the Australian Taxation Office (ATO), the Employer or the new Employer as described above will not be obliged to salary package and may at any time cease the salary packaging arrangements with the Nurse Caregiver.
- (iii) Salary packaging is the sacrifice or substitution of salary for benefits, provided that the total cost to the Employer will be no greater than if all the Nurse Caregiver's entitlements had been taken as PAYG salary. The cost of the benefit (including taxes and administrative expenses) is deducted from the gross salary of a Nurse Caregiver to arrive at the cash component.
- (iv) By agreement between the Employer and the Nurse Caregiver, the rate of pay specified by this Agreement may be salary packaged in accordance with the Employer's Salary Packaging policy as applying from time to time.
- (v) Salary packaging may be entered into on a voluntary basis and is an arrangement for the payment of wages or salary payable under this Agreement whereby the total remuneration is broken into a cash and a non-cash /benefits component.
- (vi) Nurse Caregivers are encouraged to seek independent financial advice prior to entering into any form of salary packaging and the Employer will not be responsible for that advice or any outcome which may result there from.
- (vii) Where legislative e.g. *Fringe Benefit Tax Act 1988* and / or *Income Tax Assessment Act* or other changes have the effect of reducing or withdrawing the personal benefits identified / resulting from this Agreement, the Employer will not be liable to make up the salary benefits lost by a Nurse Caregiver as a consequence of such changes and where other changes have the effect of increasing the cost of packaging to the Employer, then these costs will either be paid by the Nurse Caregiver participating in packaging or the Nurse Caregiver may choose to cease the arrangement.
- (viii) The parties agree that in the event that the salary packaging ceases to be an advantage to a Nurse Caregiver, or a Nurse Caregiver decides, for whatever reason, to stop participating in salary packaging, arrangement will be made to reinstate as salary the agreed amount packaged. Any costs associated with the conversion to salary will be borne by the Nurse Caregiver and the Employer will not be liable to make up any benefit lost as a consequence of a Nurse Caregiver's decision to convert to salary.
- (ix) The cost of salary packaging is the reasonable cost incurred by the Nurse Caregiver as levied and varied

from time to time.

26. PERMANENT PART-TIME EMPLOYMENT

(i)

- (a) A permanent part-time Nurse Caregiver is one who is permanently appointed by a facility to work a specified number of hours which are less than those prescribed for a full-time Nurse Caregiver.
- (b) By agreement between the Employer and Nurse Caregiver, the specified number of hours may be balanced over a week, a fortnight or on the request of the Nurse Caregivers and agreement of the Employer, this may be four weeks. Provided that the average weekly hours shall be deemed to be the specified number of hours for the purpose of accrual of annual leave.
- (c) A Nurse Caregiver whose hours are averaged over four weeks shall be paid each week or fortnight according to the Nurse Caregiver's average weekly or fortnightly hours as appropriate.
- (d) Provided further that there shall be no interruption to the continuity of employment merely by reason of a Nurse Caregiver, whose hours are balanced over a fortnight or over four weeks, not working in any one week in accordance with paragraph (b).
- (e) Any additional shifts that arise due to the need of the Employer to supplement the workforce and/or respond to fluctuations caused by absence or emergency, shall be offered where ever possible to permanent part-time Nurse Caregivers first and prior to the engagement of any casual Nurse Caregivers. Such additional shifts shall be paid at the ordinary time rate of pay and shall accrue relevant leave entitlements (annual leave and personal leave), where such hours are less than those prescribed for a full-time Nurse Caregiver over the span of a fortnight.

(ii) Permanent part-time Nurse Caregivers shall be paid an hourly rate calculated on the basis of one thirty-eighths of the appropriate rate prescribed in Appendix 1 of this Agreement and, where applicable, one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 17 – Special Allowances, of this Agreement, with a minimum payment of two hours for each start, and one thirty-eight of the appropriate allowances prescribed by Clause 21 – Uniform and Laundry Allowances of this Agreement, but shall not be entitled to an additional day off or part thereof, as prescribed by subclauses (viii) and (ix) of Clause 13 – Hours of Work and Free Time of Nurse Caregivers Other Than Directors of Nursing.

(iii) Permanent part-time entitlements to Annual leave and Public holidays are prescribed in Clause 28 – Annual leave and Public holidays.

Review of Part-Time Hours

(iv) Where the Nurse Caregiver is regularly working more than their specified contracted hours they may request that their contracted hours are reviewed by their Manager. The Manager will not unreasonably reject the request. If the request cannot be accommodated the Manager will formally respond to the Nurse Caregiver stating the reasons. The Manager will also take into account that the hours worked in the following circumstances will not be incorporated to any adjustment made.

- (a) If the increase in hours is a direct result of a Nurse Caregiver being absent on leave, for example annual leave, long service leave, maternity leave, workers compensation; and
- (b) If the increase in hours is temporary only, for example due to the specific needs of a resident or client.

Any adjusted contracted hours resulting from a review by the Employer should be in accordance with roster

cycles and shift configurations utilised at the workplace.

27. CASUAL EMPLOYMENT

- (i) A casual Nurse Caregiver is one engaged on an hourly basis otherwise than as a permanent part-time or full-time Nurse Caregiver.
- (ii) A casual Nurse Caregiver shall be paid an hourly rate calculated on the basis of one thirty-eighth of the appropriate rate, prescribed by Clause 11 – Wages of this Agreement and where applicable one thirty-eighth of the appropriate allowance or allowances prescribed by Clause 17 – Special Allowances, of this Agreement plus 25% thereof, with a minimum payment of two hours for each start, and one thirty-eighth of the appropriate allowances prescribed by Clause 21 – Uniform and Laundry Allowances of this Agreement.
- (iii) With respect to a casual Nurse Caregiver the provisions of Clause 13 – Hours of Work and Free Time of Nurse Caregivers Other Than Directors of Nursing; Clause 15 – Rosters; Clause 19 – Fares and Expenses; Clause 23 – Overtime and Clause 28 – Annual Leave and Public Holidays, of this Agreement shall not apply. Further, casual Nurse Caregivers shall not be entitled to an additional day off or part thereof as prescribed by subclause (viii) and (ix) of Clause 13 – Hours of Work and Free Time of Nurse Caregivers Other Than Directors of Nursing.
- (iv) Where a Casual Nurse Caregiver employed in the classification of Assistant in Nursing requests upon termination of employment, the Employer will conduct a reconciliation to determine whether the Casual Nurse Caregivers total earnings under the Agreement were more than they would have been if earned employed under the Award. The reconciliation will cover the period of the Casual Nurse Caregivers service with the Employer (the “reconciliation period”).
- (v) If during the reconciliation period:
 - (a) The Casual Nurse Caregivers total earnings under the Agreement are less than the Award, the Employer will pay the sum required to remunerate the Casual Nurse Caregiver as if they had been employed under the Award; or
 - (b) The Casual Nurse Caregivers total earnings under the Agreement are equal to or more than the Award, no additional remuneration is required.
- (vi) For the entitlement to payment in respect of long service leave, see the *Long Service Leave Act 1955*.
- (vii) Casual Conversion
 - (a) A casual Nurse Caregiver who has been rostered on a regular and systematic basis over a period of six months has the right to request conversion to permanent employment:
 - (1) On a full-time contract where the Nurse Caregiver has worked on a full-time basis throughout the period of casual employment; or
 - (2) On a permanent part-time contract where the Nurse Caregiver has worked on a permanent part-time basis throughout the period of casual employment. Such contract would be on the basis of the same number of hours as previously worked, unless other arrangements are agreed between the Employer and Nurse Caregiver.
 - (b) The Employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request.

- (c) Casual conversions will not apply where a casual Nurse Caregiver covered absences of permanent staff that are expected to return to work.
- (d) Notwithstanding the above, casual Nurse Caregivers are welcome to apply for any vacancy that is advertised within the first six months of their employment or at any time.

28. ANNUAL LEAVE AND PUBLIC HOLIDAYS

- (i) Annual leave shall accrue progressively during a year of service according to the Nurse Caregiver's ordinary hours of work and accumulates from year to year.
 - (a) Full-Time shiftworker Nurse Caregivers are entitled to six weeks annual leave per annum.
 - (b) Part-Time shiftworker Nurse Caregivers are entitled to four weeks annual leave per annum.
 - (c) Shiftworkers are entitled to an additional week of annual leave. For the purpose of the additional week of annual leave provided by the NES, a shiftworker is defined as: a Nurse Caregiver who is not a Day Worker as defined in Clause 7 – Definitions, of this Agreement.
 - (d) All other Nurse Caregivers are entitled to four weeks annual leave per annum.
- (ii) **Public Holidays**
 - (a) Nurse Caregivers who accrue six weeks annual leave in accordance with (i)(a) of this Clause will be paid an additional loading of 50% for work performed on public holidays (in lieu of any shift penalties otherwise payable), plus;
 - (b) Additional leave (a working day) is granted where a special or proclaimed PH (not being one of the 11 specifically named public holidays prescribed by subclause (iii) of this clause) occurs during a period of annual leave.
 - (c) Caregivers who accrue four weeks annual leave in accordance with (i)(b) or (i)(d) and who work on a public holiday may elect to be paid an additional loading of either a) 150% or b) 50% plus time off for time actually worked in lieu of any shift penalties otherwise payable. Provided that an election can only be made or varied on commencement or anniversary. Where payment is made in lieu of leave in respect of the time worked on a public holiday payment shall be made for a minimum of four hours' work, and any balance of the day or shift not worked shall be paid at ordinary rates.
 - (d) Where a rostered day off for a shiftworker who accrues four weeks annual leave in accordance with (i)(b) of this Clause coincides with a public holiday they shall be paid one day's pay or, if they elect, have one day added to annual leave. Provided that an election can only be made or varied on commencement or anniversary.
 - (e) Where a public holiday falls on a day approved as annual leave for a caregiver who accrues four weeks annual leave in accordance with (i)(b) or (i)(d) of this Clause, the day shall be paid as a public holiday and the annual leave shall be recredited.
- (iii) For the purpose of this subclause the following are to be public holidays, namely: New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday, Local Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the hospital is situated.

(iv)

(a) Nurse Caregivers shall in addition be entitled to a public holiday on either:

- (1) The August Bank Holiday.
- (2) A day between Christmas and New Year between Monday to Friday that is not gazetted as a public holiday.
- (3) Any other day agreed between the Nurse Caregiver and the Employer.

Provided that

- (1) This additional day shall not apply where one day, or two half days, are proclaimed and observed in addition to the 11 named public holidays.
- (b) To avoid any doubt, where only one half day is proclaimed and observed, the whole day will be taken as a public holiday instead, and no further additional public holidays observed.

(v) **Taking of Annual Leave**

- (a) Accrued Days Off (ADOs) as per Clause 13 – Hours of Work and Free Time of Nurse Caregivers Other Than Directors of Nursing shall not accrue during periods of annual leave, except where Nurse Caregivers are absent on additional annual leave accrued in accordance with subclauses (ii)(b) and subclause (ii)(c) of this clause.
- (b) Annual leave shall be taken in an amount and at a time which is approved by the Employer subject to the operational requirements of the workplace. The Employer shall not unreasonably withhold or revoke such approval.

(vi) **Direction to Take Excess Annual Leave**

- (a) Annual leave must be taken within 18 months following the date of accrual.
- (b) The Employer may direct the Nurse Caregiver to take a period of annual leave provided that the Employer must first meet with the Nurse Caregiver to genuinely attempt to agree on ways to reduce the amount of untaken accrued leave.
- (c) If agreement cannot be reached, an Employer can then give a written direction to a Nurse Caregiver to take a period (or periods) of annual leave, subject to the following requirements:
 - (1) The direction must be in writing and must not result in the Nurse Caregiver retaining less than the caregiver's annual entitlement after the directed annual leave is taken. For example, a Caregiver who is entitled to four weeks annual leave, with a balance of six weeks, may be directed to take up to two weeks. A Nurse Caregiver who is entitled to four weeks annual leave and one week additional annual leave for working Sundays and/or Public Holidays, with a balance of seven and one-half weeks, may be directed to take up to two and one-half weeks.
 - (2) The Nurse Caregiver cannot be directed to take any period of leave of less than one week;
 - (3) The leave cannot commence less than four weeks or more than 12 months after the date of the direction; and
 - (4) The direction cannot otherwise be inconsistent with any leave arrangements already in place, such as leave already agreed to;

- (5) After a direction is given, the Nurse Caregiver can still request a period of annual leave as if the direction had not been made. If this happens, the Employer cannot unreasonably refuse this request.
- (6) The direction will be automatically deemed withdrawn where a separate period of annual leave is agreed after a direction is made, if the direction would then result in the Nurse Caregiver's remaining annual leave entitlement falling below the threshold specified in (vi)(c)(1) above.

(vii) **Cashing out of Annual Leave**

- (a) Upon receipt of a written request by a Nurse Caregiver, the Employer may authorise the Nurse Caregiver to receive pay in lieu of an amount of annual leave.
 - (1) Paid annual leave must not be cashed out if the cashing out would result in the Nurse Caregiver's remaining accrued entitlement to paid annual leave being less than four weeks; and
 - (2) Where a Nurse Caregiver forgoes an entitlement to take an amount that would have been payable to the Nurse Caregiver had the Nurse Caregiver taken the leave that the Nurse Caregiver has foregone.
 - (3) Superannuation guarantee contributions will be paid in relation to the amount of annual leave and annual leave loading for which payment is received in lieu.

(viii) All unused annual and additional annual leave shall be paid to the Caregiver on cessation of employment.

(ix) **Additional Annual Leave**

- (a) In addition to the leave prescribed by subclause (i) Nurse Caregivers who work their ordinary hours on Sundays and/or public holidays are entitled to receive additional annual leave as follows:

Sundays and / or Public Holidays	Additional Annual Leave
4-10	1 day
11-17	2 days
18-24	3 days
25-31	4 days
32 or more	5 days

Provided that a Nurse Caregiver may elect to cash out accrued additional annual leave at any time.

- (b) Provided that where a Nurse Caregiver qualifies for additional annual leave under subclauses (i)(c) and (ix)(a), no more than one weeks additional annual leave shall accrue.
- (c) Unused accrued additional annual leave shall be cashed out on termination.

29. RATE OF PAY FOR ANNUAL LEAVE AND ANNUAL LEAVE LOADING

- (i) A part-time Nurse Caregiver working irregular hours or whose ordinary hours have changed from part-time to full-time is entitled to take annual leave on the basis of the average number of hours worked.
- (ii) Nurse Caregivers who accrue annual leave in accordance with Clause 28 (i)(a) or (i)(b) shall be paid shift penalties and allowances that would have otherwise been paid had the Nurse Caregiver not taken the leave when taking:
 - (1) The first four weeks of annual leave accrued in accordance with Clause 28 (i)(a) or (i)(b);
 - (2) Additional annual leave accrued in accordance with Clause 28 (i)(c) or Clause 28 (ix)(a) as the case may be;
But not when taking
 - (3) Leave accrued in accordance with Clause 28 (i)(a) that is in excess of four weeks; or
 - (4) Additional annual leave accrued under Clause 28 (ii)(b) and (iv).
- (iii) Nurse Caregivers who accrue annual leave in accordance with Clause 28 (i)(d) shall be paid the greater of 17.5% leave loading or the penalties that would have otherwise been paid had the Nurse Caregiver not taken leave.
- (iv) Leave loading will be paid at the same time as annual leave is paid, including where annual leave is paid in advance.
- (v) Leave loading shall apply to accrued annual leave paid on termination in accordance with subclause (ii) above.

30. PERSONAL / CARERS LEAVE

- (i) Subject to the limitations and conditions outlined in this Clause, a Nurse Caregiver other than a casual Nurse Caregiver is entitled to ten days of personal leave for each completed year of service.
- (ii) Accrual of Paid Personal / Carer's Leave.

A Nurse Caregiver's entitlement to paid personal leave accrues progressively during a year of service according to the Nurse Caregiver's ordinary hours of work, and accumulates from year to year.
- (iii) All periods of sickness shall be certified by a registered health practitioner, or where this is not reasonably practicable, by a statutory declaration. The Employer may dispense with the requirements of a certificate from a registered health practitioner when the absence does not exceed two consecutive days or where, in the Employer's opinion, the circumstances are such as not to warrant such requirement.
- (iv) Each Nurse Caregiver shall notify the Employer of an absence from work due to illness or injury two hours prior to the commencement of their rostered shift or as soon as reasonably practicable thereafter and shall, as far as reasonably practicable, inform the Employer of the estimated duration of the absence.
- (v) With respect to a Nurse Caregiver who is eligible for sick leave and who produces a satisfactory certificate from a registered health practitioner to the effect that they have been incapacitated for a period while on annual leave, the Employer may re-credit such Nurse Caregiver with an equivalent period of annual leave, provided that no such re-crediting shall be granted to a Nurse Caregiver on leave prior to retirement, resignation or termination of services and provided the Employer is satisfied on the circumstance and the

nature of the incapacity.

- (vi) Subject to the provision of a satisfactory certificate from a registered health practitioner and sick leave being due, long service leave shall be re-credited where an illness of at least one week's duration occurs during the period of long service leave; provided that the period of leave does not occur prior to retirement, resignation or termination of services.
- (vii) Carers Leave
 - (a) A Nurse Caregiver, other than a casual Nurse Caregiver, with responsibilities in relation to a member of their immediate family as defined under Clause 7 – Definitions, who requires the Nurse Caregiver's care and support because of a personal illness or injury affecting the member or there is an unexpected emergency affecting the member, shall be entitled to use, in accordance with this subclause, any current or accrued personal leave entitlement, provided for under this Clause for such absence. Such leave may be taken for part of a single day.
 - (b) A casual Nurse Caregiver is entitled to two days of unpaid carer's leave for each occasion when a member of the Nurse Caregiver's immediate family requires care or support because of a personal illness, injury, or an unexpected emergency.
 - (c) The Nurse Caregiver shall, if required, establish, either by production of a certificate from a registered health practitioner or statutory declaration, the illness/injury of the person concerned and that the illness/injury is such as to require care by another person. In normal circumstances, a Nurse Caregiver must not take carer's leave under this subclause where another person has taken leave to care for the same person.
 - (d) A Nurse Caregiver shall, wherever practicable, give the Employer notice, prior to the absence, of the intention to take leave, the name of the person requiring care and that person's relationship to the Nurse Caregiver, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the Nurse Caregiver to give prior notice of absence, the Nurse Caregiver shall notify the Employer by telephone of such absence at the first opportunity on the day of absence.

(viii) Unpaid Leave for Family Purposes

Where a Nurse Caregiver has exhausted all paid personal leave entitlements, the Nurse Caregiver is entitled to take unpaid personal leave to care for members of their immediate family who are sick and require care or support or who require care due to an unexpected emergency. The Employer and Nurse Caregiver shall agree on the period. In the absence of agreement, the Nurse Caregiver is entitled to take up to two days of unpaid leave per occasion, provided the requirement of (vii) (c) and (d) are met.

31. LONG SERVICE LEAVE

- (i) Save as hereinafter provided, Nurse Caregivers shall be entitled to long service leave in accordance with the provisions of the Long Service Leave Act 1955 (NSW) as amended from time to time.
- (ii) Every Nurse Caregiver 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. Such leave shall be taken at a time mutually arranged between the Employer and the Nurse Caregiver.
- (iii) Nurse Caregivers shall be able to access accrued long service leave any time after the completion of seven

years continuous service.

- (iv) Long service leave may be taken in periods of one or more days.
- (v) Where the service of a Nurse Caregiver with at least five years' service is terminated, the Nurse Caregiver shall be entitled for five years' service to one month's long service leave on full pay and for service after five years to a proportionate amount of such leave on full pay calculated on the basis of two months' long service leave for ten years' service.
- (vi) Where a Nurse Caregiver has acquired a right to Long Service leave under this Clause, then in every such case:
 - (a) If before such leave has been entered upon, the employment of a Nurse Caregiver has been terminated, the Nurse Caregiver shall be entitled to receive the monetary value of the leave to which the Nurse Caregiver was entitled computed at the rate of salary which the Nurse Caregiver had been receiving immediately prior to the termination of employment.
 - (b) If a Nurse Caregiver dies before entering upon such extended leave, or if after having entered upon the same dies before its termination, their partner, or in the case of a partner leaving children their children or their guardians or other dependent relatives or their legal representatives, shall be entitled to receive the monetary value of the leave not taken or not completed, as the case may be, and computed at the rate of salary which the Nurse Caregiver had been receiving at the time of death.
- (vii) For the purpose of this clause:
 - (a) Continuous service in the same hospital prior to the coming into force of this Agreement shall be taken into account.
 - (b) One month equals four and one-third weeks.
 - (c) Continuous service shall be deemed not to have been broken by:
 - (1) Any period of absence on leave without pay not exceeding six months.
 - (2) Absence of a Nurse Caregiver from the hospital whilst a member of Defence Forces of the Commonwealth in time of war.
- (viii) Where any Nurse Caregiver has been granted a period of long service leave prior to the coming into force of this Agreement the amount of such leave shall be debited against the amount of leave due under this Agreement.
- (ix) Any period(s) of part-time employment with the same employer shall count towards long service leave as provided for in this Clause. Such long service leave shall be paid for on the basis of the proportion that the average number of hours worked per week bears to 38 hours.
- (x) Where a Nurse Caregiver has accrued a right to an allocated day off duty on pay prior to entering a period of long service leave such day shall be taken on the next working day immediately.

A Nurse Caregiver returning to duty from long service leave shall be given the next allocated day off duty in sequence irrespective of whether sufficient credits have been accumulated or not.

(xi) **Direction to Take Excess Long Service Leave**

- (a) A Nurse Caregiver is deemed to have an excess accrued long service leave balance if any amount of

leave that has accrued in the first ten years of service remains unused at 13 years continuous service; and if any amount of leave that remains unused within three years of each subsequent five years of service.

- (b) The Employer must first meet with the Nurse Caregiver to genuinely attempt to agree on ways to reduce the amount of untaken accrued long service leave.
- (c) If agreement cannot be reached, an Employer can then give a written direction to a Nurse Caregiver to take a period (or periods) of accrued long service leave, subject to the following requirements:
 - (1) The Employer can only direct up to a maximum of four weeks of a Nurse Caregiver's balance in any 12 months period, inclusive of up to five, non-consecutive single day absences.
 - (2) The direction must be in writing and the Employer must give the following notice;
 - (i) for single day absences, no less than 48 hours' notice is provided;
 - (ii) for any other period, no less than four weeks' notice is provided.
- (d) For leave greater than a single day absence, the leave cannot commence less than four weeks or more than 12 months after the date of the direction; and
- (e) The direction cannot otherwise be inconsistent with any leave arrangements already in place, such as leave already agreed to;
- (f) After a direction is given, the Nurse Caregiver can still request a period of long service leave as if the direction had not been made. If this happens, the employer cannot unreasonably refuse this request.
- (g) The direction will be automatically deemed withdrawn where a separate period of long service leave is agreed after a direction is made, if the direction would then result in the Nurse Caregiver's remaining long service leave entitlement falling below the threshold specified in (xii)(a) above.

32. COMPASSIONATE LEAVE

- (i) A Nurse Caregiver is entitled to two days of compassionate leave for each occasion (*a permissible occasion*) when a member of the Nurse Caregiver's immediate family, or a member of the Nurse Caregiver'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.
- (ii) A Nurse Caregiver may take compassionate leave for a particular permissible occasion if the leave is taken:
 - (a) To spend time with the member of the Nurse Caregiver's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, referred to in subclause (i); or
 - (b) After the death of the member of the Nurse Caregiver's immediate family or household referred to in subclause (i).

- (iii) For the purposes of this Clause “immediate family” is defined with Clause 7 – Definitions.
- (iv) A Nurse Caregiver may take compassionate leave for a particular permissible occasion as a single continuous two day period; or two separate periods of one day each; or any separate periods to which the Nurse Caregiver and the Employer agree.
- (v) Where the Nurse Caregiver is involved in funeral arrangements, travelling etc., leave may be allowed for up to three days for each permissible occasion.
- (vi) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the Nurse Caregiver may take the compassionate leave for that occasion at any time while the illness or injury persists.
- (vii) If in accordance with this Clause, a Nurse Caregiver, other than a casual Nurse Caregiver, takes a period of compassionate leave, the Employer must pay the Nurse Caregiver at the Nurse Caregiver's base rate of pay for the Nurse Caregiver's ordinary hours of work in the period. For casual Nurse Caregivers, compassionate leave is unpaid leave.
- (viii) The Nurse Caregiver, if required by the Employer, shall supply relevant evidence of the requirement for such leave.

33. SUPPORT FOR NURSE CAREGIVERS EXPERIENCING DOMESTIC VIOLENCE

- (i) The Employer will exercise compassion, flexibility and confidentiality in considering requests from Nurse Caregivers who are seeking support during a situation of family and/or domestic violence.
- (ii) Nurse Caregivers can apply to access their accrued leave, including personal leave, or access five days unpaid leave per calendar year as necessary to help cope during this situation.
- (iii) Nurse Caregivers will be able to access free independent counselling assistance, and may apply for additional financial assistance through the St John of God Health Care Caregivers Facing Hardship Policy.
- (iv) Nurse Caregivers can also make a request to the Employer for flexible work practices. Flexible work practices may include but are not limited to:
 - (a) changes to the Nurse Caregiver's span of hours or pattern or hours and/or shift patterns;
 - (b) job redesign or changes to duties;
 - (c) relocation to suitable employment within the organisation;
 - (d) a change to their telephone number or email address to avoid harassing contact; and
 - (e) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.

34. PATIENT DUTY OUTSIDE OF THE HOSPITAL

- (i) Periods during which a Nurse Caregiver is engaged in nursing duties outside of the Hospital delivering patient care shall be paid as working time under this Agreement. Where applicable, overtime shall be payable.

- (ii) All reasonable out-of-pocket expenses shall be reimbursed.
- (iii) Rostered time shall be paid as such even though a Nurse Caregiver may be travelling, in hotel/motel accommodation, or waiting for transport.
- (iv) In respect of non-rostered time not spent in nursing duties:
 - (a) Periods in hotel/motel accommodation or waiting for transport shall not be counted as working time;
 - (b) Periods spent travelling shall count as working time.

35. MEDICAL EXAMINATION OF NURSES

- (i) On commencement of employment the Nurse Caregiver shall be notified of the availability of the following provisions which the Employer shall provide at the request of the Nurse Caregiver:
 - (a) As soon as practicable after the Nurse Caregiver commences duty, a Mantoux test on the Nurse Caregiver.
 - (1) Where the Mantoux test is negative, immunisation with BCG vaccine will be administered;
 - (2) Where the Mantoux test is positive (otherwise than as a result of BCG vaccination), the Nurse Caregiver will be referred to a chest clinic for assessment.
- (ii) For protection against other communicable diseases:
 - (b) Where a Nurse Caregiver has not had a complete course of immunisation against diphtheria, tetanus, poliomyelitis, measles, mumps and hepatitis, pertussis, influenza, immunisation against those diseases;
 - (c) Booster immunisation against tetanus at ten-year intervals will be administered;
 - (d) A rubella antibody test, and where a Nurse Caregiver has a negative result, rubella immunisation will be administered.
- (iii) The costs involved in the various screening and protection procedures should be borne by the Employer.

36. TERMINATION OF EMPLOYMENT

Notice of Termination by the Employer

- (i) In order to terminate the employment of the Nurse Caregiver, where employed on a full-time or part-time basis, the Employer shall give to the Nurse Caregiver the period of notice specified in the table below:

Period of Continuous Service	Period of Notice
1 year or less	1 Week
Over 1 year and up to the completion of 3 years	2 Weeks
Over 3 years and up to the completion of 5 years	3 Weeks
Over 5 years of completed service	4 Weeks

- (ii) In addition to this notice, where the Nurse Caregiver is over 45 years of age at the time of giving the notice with not less than two years continuous service, they will be entitled to an additional week's notice.
- (iii) Payment in lieu of the notice will be made if the appropriate notice period is not required to be worked. Employment may be terminated by the Nurse Caregiver payment for the remainder of the period of notice.
- (iv) In calculating any payment in lieu of notice, the wages the Nurse Caregiver would have received in respect of the ordinary time they would have worked during the period of notice had their employment not been terminated will be used.
- (v) The period of notice in this Clause shall not apply in the case of dismissal for misconduct, or in the case of casual Nurse Caregivers or Nurse Caregivers engaged for a specific period of time or for a specific task or tasks.
- (vi) Notwithstanding the foregoing provisions, where the Nurse Caregiver has been working part of the required period of notice, and the Employer has engaged the Nurse Caregiver as a trainee for a specific period of time, the Employer shall, once the traineeship is completed and provided that the trainees' services are retained, have all service including the training period counted in determining their entitlement. In the event that a trainee is terminated at the end of the traineeship and is re-engaged by the Employer within six months of such termination, the period of traineeship shall be counted as service in determining any future termination.

Notice of Termination by the Nurse Caregiver

- (vii) The notice of termination required to be given by the Nurse Caregiver is the same as that required of the Employer, except that there is no requirement on the Nurse Caregiver to give additional notice based on the age of the Nurse Caregiver concerned.

Summary Dismissal

- (viii) The Employer shall have the right to dismiss the Nurse Caregiver without notice for conduct that justifies instant dismissal including but not limited to neglect of duty or misconduct and in such cases the wages including any pro-rata accrued legal entitlements shall be paid up to the time of dismissal only.

37. ATTENDANCE AT MEETINGS AND FIRE DRILLS

- (i) Any Nurse Caregiver required to work outside the ordinary hours of work in satisfaction of the requirements for compulsory fire safety practises (fire drill and evacuation procedures) contained from time within the *Private Hospitals and Day Procedure Centres Act 1988*, and the regulations made thereunder, shall be entitled to be paid their "ordinary rate" for the actual time spent in attendance at such practises. In lieu of receiving payment, Nurse Caregivers may with the agreement of the Employer be permitted to be free from duty for a period of time equivalent to the period spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.
- (ii) Any Nurse Caregiver required to attend Occupational Health and Safety Committee and/or Board of Management meetings in the capacity of a Nurse Caregiver 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. In lieu of receiving payment, Nurse Caregivers may with the agreement of the Employer be permitted to be free from duty for a period of time equivalent to the period spent in attendance at such meetings. Such time spent in attendance shall not be viewed as overtime for the purposes of this Agreement.

- (iii) For the purposes of this clause “ordinary rate” shall include amounts payable under Clause 11 – Wages, and Clause 17 – Special Allowances, subclause (i) and (ii), and Clause 27 – Casual Employment.

38. NURSING WORKLOADS

Workload Management for Nurses

- (i) The Employer is committed and acknowledges a responsibility to ensure staffing levels are appropriate for the delivery of high quality patient care.
- (ii) The parties agree that existing flexibility in respect of Nurse Caregiver patient ratios will be maintained. The current practice of staffing based on collaboration between ward/unit management and the Hospital’s clinical services executive will continue on a shift by shift basis, taking into account both occupancy and patient acuity.

Reasonable Workload Principles

- (iii) Nursing staffing levels and skill mix at each ward/unit shall be determined on the basis of:
- (a) clinical assessment of patient needs (including patient acuity);
 - (b) the demands of the environment such as ward layout and other local requirements / resources;
 - (c) statutory obligations including workplace safety and health legislation;
 - (d) the requirements of nurse regulatory legislation and professional standards; and
 - (e) reasonable workloads.
- (iv) Should any Nurse Caregiver(s) in any department, ward or unit believe that an unreasonable and excessive workload is being imposed other than occasionally or infrequently then:
- (a) The Nurse Caregiver(s) should attempt to resolve the matter with the appropriate ward/unit Nurse Manager.
 - (b) If appropriate action is not taken to address the workload issues within seven working days the Nurse Caregiver(s) should provide their concerns to the Director of Nursing (using Attachment 1 - Nursing Workload Review Request, if desired) setting out the details of the situation.
 - (c) The Executive shall respond to the Nurse Caregiver(s) within seven working days.
 - (d) If the matter remains unresolved the Nurse Caregiver(s) may seek to resolve the matter using the steps outlined in Clause 10 – Dispute Settlement Procedure of this Agreement.
- (v) The Employer will ensure that responses to concerns raised by Nurse Caregivers enable a better understanding of the Employer’s staffing practices, and will include data relating to staffing and activity as necessary.
- (vi) Nothing shall prevent a Nurse Caregiver(s) from seeking to resolve the matter using the Dispute Settlement Clause in this Agreement.

39. PARENTAL LEAVE

- (i) Except as hereinafter provided, Nurse Caregivers shall be entitled to parental leave in accordance with the provisions of the *Fair Work Act 2009*. A summary of the entitlement is provided below.

Interpretation

- (ii) In this Clause:

'adoption', in relation to a child, is a reference to a child who:

- (a) is, or will be, under 16 as at the day of placement, or the expected day of placement, of the child; and
- (b) has not, or will not have, lived continuously with the employee for a period of six months or more as at the day of placement, or the expected day of placement, of the child; and
- (c) is not (otherwise than because of the adoption) a child of the employee or the employee's spouse or de facto partner.

'continuous service' means service under an unbroken contract of employment and includes:

- (d) any period of parental leave; and
- (e) any period of authorised leave or absence.

'expected date of birth' means the day certified by a medical practitioner to be the day on which the medical practitioner expects the Nurse Caregiver or the Nurse Caregiver's spouse, as the case may be, to give birth to a child;

'parental leave' means leave provided for by subclause (iii) of this clause;

'spouse' includes a de facto partner.

Entitlement to parental leave (Unpaid)

- (iii)

- (a) Subject to this subclause and to subclauses (v) and (vi) hereof, a Nurse Caregiver is entitled to take up to 52 consecutive weeks of unpaid leave in respect of -
 - (1) the birth of a child to the Nurse Caregiver or the Nurse Caregiver's spouse; or
 - (2) the placement of a child with the Nurse Caregiver with a view to the adoption of the child by the Nurse Caregiver; or
 - (3) the Nurse Caregiver has or will have responsibility for the care of the child.
- (b) A Nurse Caregiver is not entitled to take parental leave unless they:
 - (1) have, before the expected date of birth or placement, completed at least 12 months' continuous service with the Employer;
 - (2) have given the Employer at least ten weeks' written notice of their intention to take the leave or

four weeks in the event of concurrent leave that is to be taken in separate periods and is not the first of those periods. Provided that if it is not practicable to do so, then as soon as practicable which may be a time after the leave has started; and

(3) has notified the Employer of the dates on which they wish to start and finish the leave.

- (c) A Nurse Caregiver shall not be in breach of this Clause as a consequence of failure to give the required notice if such failure is occasioned by the confinement or adoption placement occurring earlier than the expected date.

Concurrent Leave

- (d) A Nurse Caregiver is not entitled to take parental leave at the same time as the Nurse Caregiver's spouse, except to the extent of concurrent leave of up to eight weeks authorised under the *Fair Work Act 2009*.
- (e) Concurrent leave may be taken in separate periods and must not be taken in a period of less than two weeks unless otherwise agreed by the Employer.
- (f) Concurrent leave must not start before the date of birth of the child if the leave is birth-related leave, or the day of placement of the child if the leave is adopted-related leave unless otherwise agreed by the Employer.
- (g) The entitlement to parental leave is reduced by any period of parental leave taken by the Nurse Caregiver's spouse in relation to the same child.

Entitlement to parental leave (Paid)

- (iv) Nurse Caregivers shall be entitled to paid parental leave in accordance with this Clause subject to:
- (a) Meeting the requirements for parental leave as specified in subclause (iii) of this clause.
- (b) The period of paid parental leave shall coincide with a period of parental leave.
- (c) The entitlement to paid parental leave shall be:
- (1) 14 week's paid parental leave for the primary carer, which may be taken at half pay over 28 weeks, or
- (2) one week's paid leave in the case of leave taken by the spouse as concurrent leave.
- (d) The rate of pay for parental leave shall be based on the Nurse Caregiver's ordinary rate of pay prior to proceeding on leave.
- (e) The period of paid parental leave is reduced by any period of paid parental leave taken by the Nurse Caregiver's spouse in relation to the same child, except the period of one week's leave referred to in subclause (iv)(c)(2) hereof.
- (f) Paid parental leave must be taken in accordance with subclause (viii), or consecutive with any period of paid parental leave taken by the Nurse Caregiver's spouse.
- (g) The amount of paid parental leave provided in this Agreement shall not be reduced in terms of its monetary value by the Commonwealth Government's scheme of publically funded paid parental leave (however titled or styled). For avoidance of doubt, the value of the paid parental leave provided under

this Agreement will be in addition to the value of the leave provided by the Commonwealth scheme.

Certification

(v)

- (a) A Nurse Caregiver who has given notice of his or her intention to take parental leave, other than for adoption, is to provide to the Employer a certificate from a medical practitioner stating that the Nurse Caregiver or the Nurse Caregiver's spouse, as the case may be, is pregnant and the expected date of birth.
- (b) A Nurse Caregiver who has given notice of his or her intention to take parental leave for adoption, is to provide to the Employer:
 - (1) a statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the Nurse Caregiver for adoption purposes; or
 - (2) a statement from the appropriate government authority confirming that the Nurse Caregiver is to have custody of the child pending an application for an adoption order.

Notice of spouse's parental leave

(vi)

- (a) A Nurse Caregiver who has given notice of his or her intention to take parental leave or who is actually taking parental leave is to notify the Employer of particulars of any period of parental leave taken or to be taken by the Nurse Caregiver's spouse in relation to the same child.
- (b) Any notice given is to be supported by a statutory declaration by the Nurse Caregiver as to the particulars notified.

Transfer to a safe job

(vii)

- (a) Where in the opinion of a duly qualified medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Nurse Caregiver make it inadvisable for the Nurse Caregiver to continue in her present position during a stated period (the risk period), the Nurse Caregiver shall, if the Employer deems it practicable, be transferred to a safe job with no other change to the Nurse Caregiver's terms and conditions of employment, and the Nurse Caregiver shall be paid for the safe job at the Nurse Caregiver's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.
- (b) If the transfer to a safe job is not practicable, the Nurse Caregiver shall be entitled to 'no safe job leave' where the Employer shall pay the Nurse Caregiver at the Nurse Caregiver's base rate of pay for the Nurse Caregiver's ordinary hours of work during the risk period, but the Employer may require further medical certificates to be provided in accordance with the provisions of the *Fair Work Act 2009*. Provided that 'no safe job leave' will cease when parental leave commences.

When leave must commence

(viii)

- (a) A female Nurse Caregiver who has given notice of her intention to take parental leave, other than for an adoption, is to start the leave six weeks before the expected date of birth unless in respect of any period closer to the expected date of birth a medical practitioner has certified that the Nurse Caregiver is fit to work.
- (b) If the leave is birth-related leave but subclause (viii)(a) does not apply, the period of leave must start on the date of birth of the child.
- (c) If the leave is adoption-related leave, the period of leave must start on the day of placement of the child.
- (d) Provided that leave may start at any time within 12 months after the date of birth or day of placement of the child if the employee has a spouse who is not an employee and the spouse has a responsibility for the care of the child for the period between the date of birth or day of placement of the child and the start date of the leave.

Right to request variation of Period of Parental Leave

(ix)

- (a) Provided the aggregate of any leave does not exceed the period to which the Nurse Caregiver is entitled under subclause (iii) hereof:
 - (1) the period of parental leave may be lengthened once only by the Nurse Caregiver giving the Employer written notice of the proposed extension at least four weeks before the end date of the original leave period;
 - (2) the period may be further lengthened only by agreement between the Nurse Caregiver and the Employer.
- (b) The period of parental leave may, with the consent of the Employer, be shortened by the Nurse Caregiver giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.

Notwithstanding provisions in subclause (iii), a Nurse Caregiver may seek an extension of parental leave from 12 months to 24 months, provided that the total leave of a Nurse Caregiver couple shall not exceed 24 months. Such a request shall be in writing and may not be unreasonably refused.

Cancellation of Parental Leave

(x)

- (a) Parental leave, other than adoption leave, applied for but not commenced, shall be cancelled when the pregnancy of the Nurse Caregiver or the Nurse Caregiver's spouse terminates other than by the birth of a living child.
- (b) Where the pregnancy of a Nurse Caregiver on maternity leave terminates other than by the birth of a living child, or the placement of child for adoption with a Nurse Caregiver does not proceed or continue, the Employer must give at least four weeks' notice to the caregiver to resume work or where

a female Nurse Caregiver who has given birth, not earlier than six weeks after the date of birth of the child.

Special Maternity Leave and Sick Leave

(xi)

- (a) A female Nurse Caregiver is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because:
 - (1) she has a pregnancy-related illness; or
 - (2) She has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.
- (b) If a Nurse Caregiver has an entitlement to paid sick leave she may take that leave instead of taking unpaid special maternity leave under this subclause.
- (c) The above period of leave shall be supported by a certificate from a duly qualified medical practitioner.
- (d) Special Maternity Leave (including paid sick leave accessed in accordance with this subclause) does not reduce the amount of unpaid parental leave available to a Nurse Caregiver.
- (e) A Nurse Caregiver returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of a Nurse Caregiver who was transferred to a safe job pursuant to subclause (vii) to the position she held immediately before such transfer.
- (f) Where such position no longer exists but there are other positions available, for which the Nurse Caregiver is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

Special Parental Leave for Adoption Purposes

- (xii) A Nurse Caregiver seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The Nurse Caregiver and the Employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the Nurse Caregiver is entitled to take up to two days unpaid leave. Where paid leave is available to the Nurse Caregiver, the Employer may require the Nurse Caregiver to take such leave instead.

Parental Leave and Other Leave Entitlements

(xiii)

- (a) A Nurse Caregiver may take any annual leave, long service leave, accrued time off or time off in lieu to which he or she is then entitled, in lieu of or in conjunction with parental leave, provided that it does not extend the period to which the Nurse Caregiver is entitled under subclause (iii) hereof.
- (b) Paid authorised absences other than those referred to in subclause (xiii)(i) above shall not be available to a Nurse Caregiver during his or her absence on parental leave.

Return to work after parental leave

(xiv)

- (a) A Nurse Caregiver shall confirm his or her intention of returning to work by notice in writing to the Employer given not less than four weeks prior to the expiration of the period of parental leave.
- (b) On finishing parental leave, a Nurse Caregiver is entitled to the position he or she held immediately before starting parental leave.
- (c) If the position referred to in subclause (xiv)(b) is not available, the Nurse Caregiver is entitled to an available position:
 - (1) for which the Nurse Caregiver is qualified; and
 - (2) that the Nurse Caregiver is capable of performing, most comparable in status and pay to that of his or her former position.
- (d) Where, immediately before starting parental leave, a Nurse Caregiver was acting in, or performing on a temporary basis the duties of, the position referred to in subclause (xiv)(b), that subsection applies only in respect of the position held by the Nurse Caregiver immediately before taking the acting or temporary position.
- (e) Notwithstanding the provisions of this clause, a Nurse Caregiver may request to return to work on a part time basis (or reduced part time basis in the case of an existing part-time Nurse Caregiver) where the Nurse Caregiver is the parent, or has responsibility for the care of the child who is of school age or younger to enable the Nurse Caregiver to care for the child. Such a request may not be unreasonably refused.

Effect of Parental Leave on Employment

(xv) Absence on parental leave:

- (a) does not break the continuity of service of a Nurse Caregiver; and
- (b) is not to be taken into account when calculating the period of service for a purpose of this Agreement or a relevant contract of employment.

Termination of Employment

(xvi)

- (a) A Nurse Caregiver on parental leave may terminate his or her employment at any time during the period of leave by notice given in accordance with this Agreement.
- (b) The Employer shall not terminate the employment of a Nurse Caregiver on the grounds of pregnancy or absence on parental leave, but otherwise the rights of the Employer in relation to termination of employment are not hereby affected.

Replacements

(xvii)

- (a) A replacement is a person specifically engaged as a result of a Nurse Caregiver proceeding on

parental leave.

- (b) The Employer shall, before engaging a replacement under this subclause, inform that person of the temporary nature of the employment and of the rights of the Nurse Caregiver who is being replaced.
- (c) The Employer shall, before engaging a person to replace a Nurse Caregiver temporarily promoted or transferred in order to replace a Nurse Caregiver exercising his or her rights under this clause, inform that person of the temporary nature of the promotion or transfer and of the rights of the Nurse Caregiver who is being replaced.
- (d) Provided that nothing in this subclause shall be construed as requiring the Employer to engage a replacement.

Casual Employment

- (xviii) A Nurse Caregiver may elect to cease parental and adoption leave, subject to any mandatory period of absence, in order to return to employment with the Employer as a casual Nurse Caregiver for the duration of the period of absence that would otherwise have applied.
- (xix) Provided that it is the Nurse Caregiver's responsibility to determine if working as a casual Nurse Caregiver during this period may affect other parental leave statutory entitlements.

Keeping in Touch Days

- (xx) A Nurse Caregiver may access, subject to agreement by the Employer, up to ten keeping in touch days during the period of parental leave in accordance with the provisions of section 79A of the *Fair Work Act 2009* (as amended).

Caregiver Leave for Pre-Natal or Parenting Classes

- (xxi) If a Nurse Caregiver is required to attend pre-natal appointments or parenting classes and such appointments or classes are only available or can only be attended during the ordinary rostered shift of a Nurse Caregiver, then on production of satisfactory evidence of attendance at such appointment or class, the Nurse Caregiver may access his or her personal leave credit under the Agreement. The Nurse Caregiver must give the Employer prior notice of the Nurse Caregiver's intention to take such leave.

40. REDUNDANCY

- (i) 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 Nurse Caregivers of the Employer, the Employer shall consult with affected Nurse Caregivers in accordance with the consultation regarding change provision of this Agreement.

Transfer to lower paid duties

- (ii) Where a Nurse Caregiver is transferred to lower paid duties for reason set out in paragraph (i) the Nurse Caregiver shall be entitled to the same period of notice of transfer as she/he would be entitled to if her/his employment had been terminated, and the Employer may at the Employer's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary time rate of pay and the new lower ordinary time rates for the number of weeks' notice still owing.

Severance Pay

- (iii) In addition to the period of notice prescribed for termination, a Nurse Caregiver whose employment is terminated for reasons set out in paragraph (i) shall be paid the following amount of severance pay in respect of a period of continuous service.

Years of Service	Severance Pay
Less than 1 year	Nil
1 year and less than 2 years	4 weeks' pay
2 years and less than 3 years	6 weeks' pay
3 years and less than 4 years	7 weeks' pay
4 years and less than 5 years	8 weeks' pay
5 years and less than 6 years	10 weeks' pay
6 years and less than 7 years	12 weeks' pay
7 years and less than 8 years	14 weeks' pay
8 years and less than 9 years	16 weeks' pay
9 years and less than 10 years	18 weeks' pay
10 years and less than 11 years	20 weeks' pay
11 years but less than 12 years	22 weeks' pay
12 years but less than 13 years	24 weeks' pay
13 years but less than 14 years	26 weeks' pay
14 years but less than 15 years	28 weeks' pay
15 years and over	30 weeks' pay

Definitions

- (iv) "Week's Pay" means the all-purpose rate of pay for the Nurse Caregiver concerned at the date of termination, and shall include, in addition to the ordinary rate of pay, over-Agreement payments, shift / weekend penalties and allowances provided for in accordance with this Agreement.

Nurse Caregiver Leaving During Notice Period

- (v) A Nurse Caregiver whose employment is terminated for reasons set out in paragraph (i) may terminate their employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had they remained with the Employer until the expiry of such notice. Provided in such circumstances the Nurse Caregiver shall not be entitled to payment in lieu of notice.

Alternative Employment

- (vi) Subject to an application by the Employer and further order of Fair Work Commission, the Employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (iii) of this subclause if

the Employer obtains acceptable alternative employment for a Nurse Caregiver.

Time off Period of Notice

- (vii) During the period of notice of termination given by the Employer a Nurse Caregiver shall be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (viii) If the Nurse Caregiver has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the Nurse Caregiver shall, at the request of the Employer, produce proof of attendance at an interview or they shall not receive payment for the time absent.
- (ix) For this purpose a statutory declaration will be sufficient.

Statement of Employment

- (x) The Employer shall, upon receipt from a Nurse Caregiver whose employment has been terminated, provide the Nurse Caregiver with a written statement specifying the period of the Nurse Caregiver's employment and the classification of, or the type of work performed by, the Nurse Caregiver.

Notice to Centrelink

- (xi) Where a decision has been made to terminate the employment of Nurse Caregivers, the Employer shall notify Centrelink thereof as soon as possible, giving relevant information including the number and categories of the Nurse Caregivers likely to be affected and the period over which the terminations are intended to be carried out.

Centrelink Separation Certificate

- (xii) The Employer shall, upon receipt of a request from a Nurse Caregiver whose employment has been terminated, provide to the Nurse Caregiver an "Employment Separation Certificate" in the form required by Centrelink.

Nurse Caregivers with Less Than One Year's Continuous Service

- (xiii) This clause does not apply to Nurse Caregivers with less than one year's continuous service.

Nurse Caregivers Exempted

- (xiv) This clause shall not apply where employment has been terminated because the conduct of a Nurse Caregiver justifies instant dismissal or in the case of casual Nurse Caregivers, or Nurse Caregivers engaged for a specific period of time or for a specific task or tasks.

41. QUALIFICATION ALLOWANCE

- (i) A Nurse Caregiver who holds a post graduate qualification in a clinical field, in addition to the qualification leading to their registration, shall be paid a continuing education allowance, subject to the following conditions set out below:
 - (a) the allowance is only payable where the qualification is accepted by the Employer to be directly relevant to the competency and skills used by the Nurse Caregiver in the duties of the position;
 - (b) a Nurse Caregiver holding more than one relevant qualification is only entitled to one allowance, being

the allowance of the highest monetary value;

- (c) a Nurse Caregiver claiming entitlement to a qualification allowance must provide evidence to the Employer that they hold that qualification;
- (ii) Subject to the provisions in subclause (i) of this Clause, a Nurse Caregiver who holds a Master's Degree, Graduate Diploma, Graduate Certificate or Doctorate shall be paid the sum set out in Items 11, 12 and 13 at Table 2: Allowances, at Appendix 1 dealing with Continuing Education Allowance.
- (iii) The above allowances are not to be included in the Nurse Caregiver's ordinary rate of pay. The allowances are payable during periods of paid leave taken by a Nurse Caregiver.
- (iv) The continuing education allowance shall be considered salary-related allowances for the purpose of salary and salary related allowance increases that may occur from the first date of operation of this Agreement.

42. STUDY / PROFESSIONAL DEVELOPMENT LEAVE

- (i) The Employer recognises that training/education is essential for the maintenance and development of knowledge and skills. The Employer will continue to provide and support training/education opportunities where possible.
- (ii) The responsibility for staff development is shared between Nurse Caregivers and the Employer.
- (iii) Nurse Caregivers are expected to participate in professional skill development to ensure that they perform at a standard consistent with competencies relevant to their classification and registration and that aligns to the strategic direction of the hospital(s).
- (iv) On the basis of assessed needs, a range of programs / topics relevant to care delivery will be provided by the Employer and staff are encouraged to attend.
- (v) The provision of mandatory training and skills updates is a joint responsibility between the Employer and Nurse Caregiver. Attendance at mandatory training and skills update decisions provided by the Employer is the responsibility of the Nurse Caregiver. Mandatory training will be paid at the appropriate rate as per the applicable shift rate for those on duty and at the ordinary rate of pay for those who attend in their own time, unless the provisions of Clause 23 – Overtime are satisfied, in which case the appropriate overtime rate will be applicable.
- (vi) The Employer's training / educational goals for nursing staff will be established and reviewed in consultation with Nurse Caregivers. Individual training / educational goals and needs will be established and reviewed as part of the Employer's performance and competency appraisal system.
- (vii) Nurse Caregivers may apply for reasonable study leave and course participation. To apply Nurse Caregivers must provide the following details to their manager:
 - (a) The study program, including unit description and fees.
 - (b) Their personal contribution e.g. fees, books, travel, accommodation, own time, etc.
 - (c) Anticipated benefits to the Nurse Caregiver and their career development.
 - (d) Anticipated benefits to the Division/Department and how this study will contribute to meeting the Division/Department priorities.

- (viii) Applications should be provided with six but no less than two weeks' notice. Applications submitted with less than two weeks' notice may be considered dependent on the operational requirements of the Employer.
- (ix) Upon receipt of the Nurse Caregiver's application, the Employer will endeavour to respond to the application within two weeks however this may not be possible and will be dependent upon operational requirements of the Employer at the time.
- (x) Approval will be at the discretion of the Employer.

43. FLEXIBILITY ARRANGEMENT

- (i) The Employer and Nurse Caregivers covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
 - (a) The Agreement deals with one or more of the following matters:
 - (1) arrangements about when work is performed;
 - (2) overtime rates;
 - (3) penalty rates;
 - (4) allowances;
 - (5) leave loading; and
 - (b) the arrangement meets the genuine needs of the employer and Nurse Caregiver in relation to one or more of the matters mentioned in paragraph (a); and
 - (c) the Employer and the individual Nurse Caregiver must have genuinely made the agreement without coercion or duress.
- (ii) 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) results in the Nurse Caregiver being better off overall than the Nurse Caregiver would be if no arrangement was made.
- (iii) The Employer must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the Employer and Nurse Caregiver; and
 - (c) is signed by the Employer and Nurse Caregiver and if the Nurse Caregiver is under 18 years of age, signed by a parent or guardian of the Nurse Caregiver; and
 - (d) includes details of;

- (1) the terms of the Agreement that will be varied by the arrangement; and
- (2) how the arrangement will vary the effect of the terms; and
- (3) how the Nurse Caregiver will be better off overall in relation to the terms and condition of their employment as a result of the arrangement; and
- (e) states the day on which the arrangement commences.
- (iv) The Employer must give the Nurse Caregiver a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (v) The Employer or Nurse Caregiver 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 Nurse Caregiver agree in writing – at any time.

44. UNION REPRESENTATIVE LEAVE

- (i) The Employer recognises and acknowledges that accredited workplace union delegates have an important role to play in the workplace and may be appointed as endorsed delegates of the union.
- (ii) Accredited delegates will be treated fairly and will be able to perform their role without any fear of discrimination or victimisation in their employment.
- (iii) Accredited delegates will have reasonable access to telephone, facsimile and photocopying facilities for the purpose of carrying out work as a delegates subject to the prior approval of their manager.
- (iv) The Employer acknowledges the need for training to be delivered to accredited delegates to ensure an adequate and practical understanding of:
 - (a) this Agreement and other associated legislation;
 - (b) dispute resolution procedures;
 - (c) Union delegate role in the workplace.
- (v) The Employer will support Union Delegates to attend training courses, conferences or seminars as follows:
 - (a) Up to three days per calendar year (1 January to 31 December) per Hospital for the totality of all applications will be granted provided that:
 - (1) The scope, content and level of the training course or seminar is designed to enhance understanding in the areas outlined in subclause (iv) above;
 - (2) two weeks' notice is provided to the Employer;
 - (3) the timing of the leave must have regard to the operational requirements of the Employer;
 - (4) this leave shall be paid at the ordinary time rate of pay.
 - (b) Leave of absence granted pursuant to this clause shall count as service for all purposes of this

Agreement.

45. PAID EMERGENCY SERVICES LEAVE

- (i) At the discretion of the Employer, whose discretion will be exercised on the basis of operational requirements and what is reasonable in a particular circumstance, the Employer will facilitate a Nurse Caregiver who is a member of a voluntary emergency relief organisation such as the Rural Fire Services, Red Cross, St John Ambulance and the State Emergency Services to be released from normal duty without loss of pay (up to a maximum of three shifts per year) to assist in regard to a critical incident where a local emergency situation arises that requires the attendance of the Nurse Caregiver.

46. CEREMONIAL LEAVE

- (i) A Nurse Caregiver who is legitimately required by Aboriginal or Torres Strait Islander tradition to be absent from work for Aboriginal or Torres Strait Islander ceremonial purposes will be entitled up to ten working days unpaid leave in any one year, with the approval of the Employer.

47. JURY SERVICE

- (i) A Nurse Caregiver other than a casual Nurse Caregiver, required to attend for jury service during their ordinary working hours shall be reimbursed by the Employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the amount of ordinary salary they would have received in respect of the ordinary time they would have worked had he or she not been on jury service. The period of payments of jury service shall be limited to the period prescribed under relevant State Legislation.
- (ii) A Nurse Caregiver shall notify the Employer as soon as possible of the date upon which they are required to attend for jury service. Further the Nurse Caregiver shall give the Employer proof of their attendance at the Court, the duration of such attendance and the amount received in respect of such jury service.

48. LABOUR FLEXIBILITY

- (i) The Employer may direct a Nurse Caregiver to carry out duties that are within the limits of the Nurse Caregiver's skill, competence and training. Such duties may include work which is incidental or peripheral to the Nurse Caregiver's main tasks provided that such duties are not designed to promote deskilling.
- (ii) The Employer may direct a Nurse Caregiver to carry out duties and use such equipment as may be required provided that the Nurse Caregiver has been properly trained or has otherwise acquired the necessary skills in the use of such equipment. Any such direction issued by the Employer shall be consistent with the Employer's responsibility to provide a safe and healthy working environment for Nurse Caregivers and the Employer's duty of care to patients.

49. PURCHASED LEAVE

- (i) Purchased leave is where Nurse Caregivers have planned absence of two weeks of leave which is funded by salary deductions spread evenly over the year. This allows Nurse Caregivers to continue to receive pay during such leave.
- (ii) Purchased leave must be utilised within the 12 months in which it is purchased.
- (iii) Purchased leave counts as service for all purposes.

- (iv) Applications for purchased leave will be based on the operational requirements of the Employer, having regard to the personal needs and family responsibilities of staff.
- (v) The Employer's approval of purchased leave will be based on the operational requirements of the Employer, having regard to the personal needs and family responsibilities of staff.
- (vi) Once a period of purchased leave has been approved, it may only be revoked by the Employer where exceptional circumstances exist. In the event of revocation, any accumulated leave may be paid out to the Nurse Caregiver, or the leave deferred to a date mutually agreed by Employer and Nurse Caregiver.
- (vii) Where a Nurse Caregiver leaves the Employer during a year in which purchased leave has not been taken, final payment will be adjusted to take the account of deductions not yet made and leave not taken.
- (viii) Annual leave loading is not payable on purchased leave.

50. STAFF AMENITIES

- (i) The Employer shall provide for the use of Nurse Caregivers:
 - (a) A suitable changing room, rest area and adequate washing and toilet facilities;
 - (b) The Employer shall provide for a Nurse Caregiver morning and afternoon tea, supper and early morning tea (which shall include tea or coffee together with milk and sugar) when the Nurse Caregiver is on duty, at times appropriate for the partaking thereof.

Appendix 1 – Wage Rate Schedule

Table 1: Monetary Rates

Classification	Current Rate	From FFPP following successful ballot ^a
	\$ per hour	\$ per hour
		2.50%
Assistant In Nursing		
First Yr exp	22.8163	23.3867
Second Yr exp	23.5473	24.1360
Third Yr exp	24.2844	24.8915
Thereafter	25.0447	25.6708
Enrolled Nurse without Medication Qualification		
First Yr exp	28.0036	28.7037
Second Yr exp	28.6204	29.3359
Third Yr exp	29.2336	29.9644
Fourth Yr exp	29.8568	30.6032
Thereafter	30.4767	31.2386
Enrolled Nurse		
First Yr exp	28.5635	29.2776
Second Yr exp	29.1933	29.9231
Third Yr exp	29.8170	30.5624
Fourth Yr exp	30.4537	31.2150
Thereafter	31.0869	31.8641
Enrolled Nurse Advanced Qualifications	32.2838	33.0909
Nurse Undergoing Pre-Registration Training	31.3435	32.1271
Registered Nurse		
First Yr exp	31.7538	32.5476
Second Yr exp	33.4795	34.3165
Third Yr exp	35.2087	36.0889
Fourth Yr exp	37.0583	37.9848
Fifth Yr exp	38.8947	39.8671
Sixth Yr exp	40.7341	41.7525
Seventh Yr exp	42.8287	43.8994
Eighth Yr exp	44.5949	45.7098
Clinical Nurse Specialist		
Grade 1	46.4072	47.5674
Grade 2	49.8505	51.0968
Clinical Nurse Educator	46.4072	47.5674

**St John of God Health Care NSW Hospitals and New South Wales Nurses and Midwives'
Association / ANMF – NSW Branch, Nurses Enterprise Agreement 2019**

Nurse Educator		
First Yr exp	51.4806	52.7676
Second Yr exp	52.9319	54.2552
Third Yr exp	54.2280	55.5837
Fourth Yr exp	57.0567	58.4831
Clinical Nurse Consultant	57.0563	58.4827
Associate Nurse Unit Manager	49.8502	51.0965
Nursing Unit Manager		
Level 1	55.9375	57.3359
Level 2	58.5914	60.0562
Level 3	60.1497	61.6534
Senior Nurse Educator		
First Yr exp	58.4405	59.9015
Second Yr exp	59.6401	61.1311
Third Yr exp	61.6374	63.1783
Asst Director of Nursing - 100 beds and over	60.1629	61.6670
Deputy Director of Nursing		
Less than 100 beds	58.5914	60.0562
100 beds and less than 200 beds	60.1831	61.6877
Nurse Practitioner		
First Yr exp	61.4685	63.0052
Second Yr exp	62.5749	64.1393
Third Yr exp	64.1393	65.7428
Fourth Yr exp	65.7429	67.3865

Table 2: Allowances

Item No	Brief Description		Current Rate	From following successful ballot
				FFPP a 2.50%
1	In Charge of Hospital	per shift	68.7424	70.4610
2	In Charge Ward / Unit in absence of NUM	per shift	34.3659	35.2250
3	In Charge Ward / Unit and Hospital	per shift	85.9201	88.0681
4	On Call	per 24 hrs	26.4863	27.1485
5	On Call on RDO	per 24 hrs	52.3316	53.6399
6	On Call during Meal Break	per meal break	14.7193	15.0873
7	Laundry Allowance	per week	6.6820	6.8491
8	Meal on Overtime	per meal	22.8616	23.4331
9	Breakfast	per meal	4.6648	4.7814
10	Other Meals	per meal	8.4785	8.6905
11	Continuing Education Allowance - Masters or PHD	per week	33.0737	33.9005
12	Continuing Education Allowance - Post. Grad. Diploma	per week	33.0737	33.9005
13	Continuing Education Allowance - Graduate Certificate	per week	16.5579	16.9718

Attachment 1

Nursing Workload Review Request



To:	CC:
From:	Date:
Subject: <i>[Insert name / location of ward / department]</i>	

I am / we are writing to seek a review of current workload conditions in relation to the level of patient care / nursing task workload. Specifically the concerns I / we have are in relation to (*tick as appropriate*):

- ☐ the type of work required to be performed
- ☐ the amount of work required to be performed / workload (e.g. no of patients / admissions / patient acuity)
- ☐ the workforce engaged to undertake the work (eg: skill mix, staffing levels)

Please provide details of your concerns. In particular, you should mention:

- *the location and time/timing, or frequency of occurrence*
- *any impact on your fellow caregivers*
- *any impact on patients*
- *actions taken to address your concerns to this point in time (by you or others)*

Yours sincerely,

[signed]

Nurse Manager to complete


Date received:

Date actioned:

Date details provided to the DON:

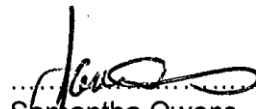
SIGNATORIES

Executed by St John of God Health Care Inc.



.....
Colman O'Driscoll
Chief Executive Officer – Burwood and
Richmond Hospitals

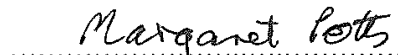
8/10/2019
.....
Date


Witness

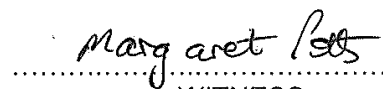

.....
Samantha Owens
Senior HR Partner
2 Day Street
Windsor, NSW, 2756

8/10/2019
.....
Date


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


.....
WITNESS
Margaret Mary Potts
50 O'Dea Ave, Waterloo


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


.....
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.

IN THE FAIR WORK COMMISSION

FWC Matter No.:

AG2019/3852

Applicant:

St John of God Health Care Inc.

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Eve Dawson, Group Manager HR and Employee Relations for St John of God Health Care Inc. and St John of God Outreach Services give the following undertakings with respect to the St John of God Health Care NSW Hospitals and New South Wales Nurses and Midwives' Association / ANMF – NSW Branch, Nurses Enterprise Agreement 2019 ("the Agreement"):

1. I have the authority given to me by St John of God Health Care Inc. and St John of God Outreach Services to provide this undertaking in relation to the application before the Fair Work Commission.
2. The Employer undertakes that where an Employee employed as a casual in the classification of Assistant in Nursing, Enrolled Nurse without Medication Qualification or Enrolled Nurse performs work that would constitute overtime under Clause 23 if it were not for Clause 27(iii) will receive the penalty outlined in Clause 23 calculated on the base rate of pay, and casual loading calculated on the loaded rate of pay.
3. The Employer undertakes that where an Employee employed as a casual in the classification of Assistant in Nursing, Enrolled Nurse without Medication Qualification or Enrolled Nurse performs work between midnight Friday and midnight Sunday they receive the penalty rate as outlined in Clause 18(iv). They will also receive the casual loading, calculated on the loaded rate of pay.
4. The Employer undertakes that each Employee will be given a contract of employment prior to commencement; to give reasonable predictability to the hours of work, that outlines the minimum guaranteed hours of work and the rostering provisions that apply to those hours. This contract can only be varied by mutual agreement.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

21 November 2019
Date