



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

St Luke's Care T/A St Luke's Homecare
(AG2021/4237)

ST LUKE'S CARE TRADING AS ST LUKE'S HOMECARE (HOMECARE EMPLOYEES), NSWNMA/ANMF NSW BRANCH AND UNITED WORKERS UNION ENTERPRISE AGREEMENT 2020-2023

Health and welfare services

DEPUTY PRESIDENT BOYCE

SYDNEY, 15 APRIL 2021

Application for approval of the St Luke's Care trading as St Luke's Homecare (Homecare Employees), NSWNMA/ANMF NSW Branch and United Workers Union Enterprise Agreement 2020-2023.

[1] An application has been made for approval of an enterprise agreement to be known as the *St Luke's Care trading as St Luke's Homecare (Homecare Employees), NSWNMA/ANMF NSW Branch and United Workers Union Enterprise Agreement 2020-2023 (Agreement)*. The application was made pursuant to s.185 of the *Fair Work Act 2009 (Act)*. It has been made by St Luke's Care T/A St Luke's Homecare (**Employer**). The Agreement is a single enterprise agreement.

[2] The Employer has provided written undertakings dated 8 April 2021. Those undertakings are attached at **Annexure A** to this decision and become terms of the Agreement. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement (as compared to the relevant provisions of the *Social, Community, Home Care and Disability Services Industry Award 2010*), and that the undertakings will not result in substantial changes to the Agreement.

[3] The following employee organisations (both of which were bargaining representatives for the Agreement), have given notice under s.183 of the Act that they want to be covered by the Agreement:

United Workers' Union (**UWU**); and

Australian Nursing and Midwifery Federation New South Wales Branch (**ANMF NSW Branch**)

[4] In accordance with s.201(2) of the Act, I note that the Agreement covers these organisations.

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

[6] I am satisfied the more beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[7] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 22 April 2021. The nominal expiry date of the Agreement is 30 June 2023.



DEPUTY PRESIDENT

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Annexure A

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

IN THE FAIR WORK
COMMISSION

Fair Work Act 2009 (Cth) ("FW Act")

Matter number:

AG2021/4237

Employer:

St Luke's Care (Employer)

Application:

Section 185 – Application for approval of a single enterprise agreement, namely the St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 - 2023 (Agreement)

Authorised representative:

Luisa Moncada
Director, People & Culture

Undertaking- Section 190

For and on behalf of the Employer I, Luisa Moncada:

1. declare that I have:
 - a. authority to give this undertaking on behalf of the Employer,
 - b. sought the views of all bargaining representatives for this undertaking pursuant to s 190(4) of the FW Act,
2. understand that each undertaking is to be taken to be a term of the Agreement,
3. give the following undertaking/s with respect to the Agreement:
 - a. **St Luke's Care undertakes to review Clause 8 (i) to read;**
 - (i) In the event of a dispute in relation to a matter arising under this Agreement, the Fair Work Act 2009, the NES or any other work related matter, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
 - b. **St Luke's Care undertakes to amend Clause 13.5 (i) to read;**
 - (i) The following base rates of pay will be paid on an hourly basis to an Employee whilst undertaking personal and respite care work under this Agreement:

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

Low Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (3.4% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Low Support Personal/Respite Care	\$22.7962	\$23.3661	\$23.9269

c. St Luke's Care undertakes to amend Clause 14 (i) to read;

- (i) Employees shall not be paid less than the rates for the appropriate classification set out in Table 1, Rates of Pay. This agreement increases the rates from the first full pay period commencing on or after;
- 1 July 2020 – 3.4% for PCA Field Staff Grade 2 & 2.6% for all other grades and positions.
 - 1 July 2021 – 2.5%
 - 1 July 2022 – 2.25%

d. St Luke's Care undertakes to amend Table 1 – Rates of Pay to read;

Low Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (3.4% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Low Support Personal/Respite Care	\$22.7962	\$23.3661	\$23.9269

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

e. St Luke's Care undertakes to review Clause 28.1 (ii) to read;

- (ii) Where the employee is given notice after 5:00 p.m. the day before the rostered service or where the employee arrives at the client's home and the client is not there:
 - (a) If the employee can be given another client, then the employee is to proceed to the client within the rostered time on the same day. Where there is an agreement between the employer and employee then re-rostering of the client may take place on another day.
 - (b) If the employee cannot be given another client within the rostered time on the same day and the cancelled client stood alone as a single engagement, the employee will be entitled to receive payment for their minimum specified hours on that day.
 - (c) If the employee cannot be given another client within the rostered time on the same day and the cancelled client is part of an engagement, the employee will be entitled to receive payment for their minimum specified hours on that day.
 - (d) Payments, in relations to cancellations, will not be made if a carer declines an alternative visit within the same time frame and within their abilities.

f. St Luke's Care undertakes to include a new Clause 28.1 (ii) (e) to read;

- (e) The employer may direct the employee to make-up time equivalent to the cancelled time, in that or the subsequent fortnightly period. This time may be made up working with other client or in other areas of the employer's business providing the employee has the skill and competence to perform the work. This time may also be made up to complete outstanding mandatory learning.

g. St Luke's Care undertakes to review Clause 34 (iv) to read;

- (iv) A casual employee shall be paid an hourly rate, prescribed by Table 1 - Rates of Pay of this Agreement, plus twenty-five percent (25%) thereof.

h. St Luke's Care undertakes to include a new clause; Clause 29.1 (c) to read;

- (c) All time worked by casual employees, in excess of hours prescribed in Clause 27 – Hours shall be paid for at their casually loaded rate (as per Clause 34 (iv)), plus time and one half for the first two (2) 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.

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

i. St Luke's Care undertakes to review Clause 29.2 (a) to read;

- (a) Time off in lieu of overtime is taken on the basis of hour for hour at ordinary pay, that is for example, one (1) hour for each hour of overtime worked. It must be taken within the calendar year of it being accrued at a mutually agreed time.

j. St Luke's Care undertakes to review Clause 29.2 (b) to read;

- (b) Where it is not possible for an employee to take the time off in lieu of overtime within the calendar year period that it is accrued, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.

k. St Luke's Care undertakes to include a new clause; Clause 29.2 (f) to read;

- (f) Upon termination, Time off in Lieu will be paid to the employee at the applicable overtime rate.

l. St Luke's Care undertakes to remove Clause 23 (iii) and review Clause 23 (i) to read;

- (i) An employee who is called upon to relieve an employee in a higher classification or is called upon to act in a vacant position of a higher classification for excess of two (2) hours, shall be entitled to receive for the period of relief or the period during which they act the minimum payment for such higher classification.

m. St Luke's Care undertakes to review Clause 18 (i) to read;

- (i) Broken shift for the purposes of this Clause means a shift worked by an employee that includes breaks in excess of that provided for a meal break where the time between the commencement and the termination of the broken shift shall not exceed twelve (12) hours. For each occasion there is a break in shift (a non-working period), in accordance with this Clause, the allowance in Item 4 of Table 2 will be payable. For example, if the employee has a two (2) hour break in shift (non-working period), they are entitled to a singular payment of the broken shift allowance for that break in shift (non-working period).

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

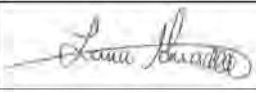

n. St Luke's Care undertakes to add Clause 18 (vi) to read;

- (vi) Payment for a broken shift will be at ordinary pay with applicable penalty rates and shift allowances in accordance with Clause 35, with shift allowances being determined by the finishing time of the broken shift.

o. St Luke's Care undertakes to amend Clause 13.6 (ii) to read;

- (ii) For Certificate IV in Community Services Work (or equivalent):

	Allowance from first pay period on or after 1 July 2020 (2.75% Increase)	Allowance from first pay period on or after 1 July 2021 (2.5% Increase)	Allowance from first pay period on or after 1 July 2022 (2.25% Increase)
Permanent full-time and part-time employee	\$19.7843 per week	\$20.2789 per week	\$20.7352 per week

Date signed:	8th April 2021
For and on behalf of the Employer by: [In accordance with s.190(5) of the FW Act]	Luisa Moncada
Signature:	
Witness name:	Celena Warren
Witness signature:	

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

**ST LUKE'S CARE TRADING AS ST
LUKE'S HOMECARE (HOMECARE
EMPLOYEES),**

NSWNMA/ANMF NSW BRANCH

AND

UNITED WORKERS UNION

ENTERPRISE AGREEMENT

2020 - 2023

TABLE OF CONTENTS

1. Arrangement

<i>Clause</i>	<i>Page</i>
1. Arrangement	2
Part 1 - Application and Operation	5
2. Title	5
3. Parties and term	5
4. Intentions	5
5. Definitions	5
6. Agreement Flexibility.....	7
Part 2 – The National Employment Standards and Dispute Resolution	9
7. The National Employment Standards.....	9
8. Grievance Procedures	9
9. Labour Flexibility	9
10. Transfer of Business.....	10
11. Notice Board.....	10
12. Anti-Discrimination.....	10
Part 3 – Wages and Related Matters	11
13. Wages and Grading Structures.....	11
14. Wages.....	16
15. Payment and Particulars of Wages	16
16. Allowances	17
17. Vehicle / Travelling Allowance.....	17
18. Broken shifts.....	17
19. Preceptor Allowance.....	18
20. Uniforms and Protective Clothing	18
21. Superannuation	19

22.	Remuneration packaging	20
23.	Relieving other Members of Staff (Higher Duties).....	21
Part 4 – Consultation, Notice of Termination of Employment and Severance Payments		22
24.	Consultation	22
25.	Redundancy	24
26.	Termination of Employment	24
Part 5 – Hours of Work and Related Matters		29
27.	Hours	29
28.	Roster of Hours	30
29.	Overtime.....	32
30.	Reasonable Hours	33
31.	Banking of Hours	34
32.	Meals.....	34
33.	Part-Time Work	35
34.	Casual Employees	36
35.	Penalty Rates and Shift Allowances	37
Part 6 – Leave and Public Holidays		38
36.	Public Holidays	38
37.	Personal/ Carer’s Leave	39
38.	Parental Leave	41
39.	Annual Leave	44
40.	Annual Leave Loading	45
41.	Long Service Leave	46
42.	Compassionate Leave	46
43.	Community Service Leave	47
44.	Family Violence Leave.....	47
45.	Special Paid Leave.....	48

Part 7 – Other Matters	50
46. Accommodation and Amenities	50
47. Attendance at Meetings and Fire Drills	50
48. Probationary period.....	50
49. Disciplinary Matters.....	50
50. Representative Leave.....	50
51. Recognised Workplace Representatives	51
52. Continuing Professional Development (Registered Nurses only).....	51
53. Training.....	51
54. Administration Allowance	52
55. Workload Management	52
Table 1– Rates of Pay	53
Table 2 – Other Rates and Allowances.....	54
Signature Page for St Luke’s Care trading as St Luke’s Home Care	55
Signature Page for United Workers Union (UWU)	56
Signature Page for ANMF NSW BRANCH.....	57

Part 1 - Application and Operation

2. Title

- (i) This Agreement shall be known as the St Luke's Care trading as St Luke's Homecare (Homecare Employees), NSWNMA/ANMF NSW Branch and United Workers Union Enterprise Agreement 2020-2023 and is made pursuant to part 2-4 of the Fair Work Act 2009.

3. Parties and term

- (i) This Agreement will be binding on:
 - (a) All current and future employees engaged in performing work for St Luke's Homecare Department (government packaged homecare) in the classifications set out in Table 1 of this Agreement; and
 - (b) St Luke's Care (ABN 16 000 009 012) trading as St Luke's Homecare of 18 Roslyn Street, Potts Point NSW 2011; and
 - (c) United Workers Union of United Workers Union, 19-37 Greek Street, Glebe NSW 2037.
 - (d) New South Wales Nurses and Midwives' Association (NSWNMA) and Australian Nursing and Midwifery Federation New South Wales Branch (ANMF NSW Branch) of 50 O'Dea Avenue, Waterloo, NSW 2017.
 - (e) All current and future employees in Clause 3(i)(a) where it is agreed between the employee and the employer that additional work is to be performed for another entity, including but not limited to St Luke's Private Home Care division.
 - (f) This Agreement shall come into operation from the 7th day after the Agreement is approved by Fair Work Commission (FWC) and shall have a nominal expiry date of 30th June 2023.
 - (g) This Agreement does not apply to any current or future Homecare employees engaged in St Luke's Private Homecare.
 - (h) The parties to this Agreement agree to commence negotiations for a new Agreement between 1 and 31 March 2023.

4. Intentions

- (i) This Agreement is entered into on the understanding that it does not contravene any aspect of the *Fair Work Act 2009* and relevant Regulations. Where any term of this Agreement contravenes legislation, such terms shall not apply. Where this Agreement is silent in whole or in part the relevant legislation shall apply.

5. Definitions

"Act" means the *Fair Work Act 2009* and its associated regulations.

"Agreement" wherever appearing means St Luke's Care trading as St Luke's Homecare (Homecare Employees), NSWNMA/ANMF NSW Branch and Workers Union Enterprise Agreement 2020-2023.

“Assessment Coordinator/Registered Nurse” means an employee with the responsibilities outlined in section 13 of this Agreement for this classification.

“Broken Shift” means when an employee works two or more engagements on the same day, each engagement separated by a non-working period.

“Care Coordinator” means an employee with the responsibilities outlined in section 13 of this Agreement for this classification.

“Casual employee” means an employee engaged and paid as such in accordance with Clause 34.

“Company” means St Luke’s Care of 18 Roslyn Street Potts Point (ABN 16 000 009 012).

“Dementia Support Coordinator” means an employee with the responsibilities outlined in section 13 of this Agreement for this classification.

“Employee” means an employee of the Company, who works in the Homecare Department of St Luke’s Care, and whose employment is governed by the terms and conditions contained in this Agreement at the time of the approval of this Agreement and any employee who accepts employment with the Company in the Homecare Department following the approval of the Agreement.

“Employer” means St Luke’s Care (ABN 16 000 009 012).

“Engagement” means time on the job with the client/s joined by time taken to travel between clients, meal breaks, tea breaks, including overtime worked continuously after the engagement.

“Full-time employee” means an employee of the Company employed to work a minimum of 38 hours per week in accordance with Clause 27.

“Part-time employee” means an employee of the Company employed to work a regular number of hours less than thirty-eight (38 hours) per week in accordance with Clause 33.

“Non-Working Period” means any period separating two (2) or more engagements where the employee does not receive the hourly rate of pay as prescribed in Clause 13.

“Ordinary hourly rate” means one thirty-eighth (1/38th) of the ordinary weekly rate for full-time employees.

“Ordinary weekly rate” means the weekly ordinary rate of pay for a full-time employee. This excludes overtime, penalty rates and loadings.

“Personal Care Assistant” means an employee that undertakes the delivery of home care services to clients.

“Monday to Friday employee” means a permanent employee whose ordinary hours are those regularly worked Monday to Friday.

“Relieving staff” means a full time, part time or casual employee, or a person engaged through an agency and who may be required to temporarily relieve for absences and/or emergencies.

“Travel Allowance” means the amount paid in accordance with Clause 17 where an employee is required to use their motor vehicle on official business or when travelling between clients, excluding travel from the employee's home to the first place of work and return to home at the end of their duties.

“Travel Time” means the time taken to travel between locations, excluding travel from the employee's home to the first place of work and return to home at the cessation of their duties.

“Shift Worker” for the purpose of the National Employment Standards entitlement to an additional one (1) week of annual leave means an employee who works four (4) ordinary hours on ten (10) or more weekends in any calendar year.

“Standard” means the National Employment Standards (NES).

“Union” means the New South Wales Nurses and Midwives’ Association/Australian Nursing and Midwifery Federation New South Wales Branch (the “NSWNMA/ANMF NSW Branch”) or United Workers Union.

6. Agreement Flexibility

- (i) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - (a) the agreement deals with one (1) 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 employee in relation to one (1) or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- (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) result in the employee being better off overall than the employee 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 employee; and
 - (c) is signed by the employer and employee and if the employee is under eighteen (18) years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (1) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (2) how the arrangement will vary the effect of the terms; and
 - (3) how the employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and
 - (4) states the day on which the arrangement commences.
- (iv) The employer must give the employee a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
- (v) The employer or employee may terminate the individual flexibility arrangement:

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

Part 2 – The National Employment Standards and Dispute Resolution

7. The National Employment Standards

- (i) It is the intention of this Agreement that the “National Employment Standards”, as it may be varied from time to time, shall apply to the employees the subject of this Agreement. Any provisions of the “National Employment Standards” that are also referred to or set out in this Agreement are for the ease of the parties.
- (ii) Where the “National Employment Standards” provides, or is varied to provide, a condition or entitlement more favourable to the employee in a particular respect than that set out in this Agreement, the better entitlement will apply.
- (iii) The minimum guarantees provided by the “National Employment Standards” will override less favourable provisions in this Agreement.
- (iv) Where this Agreement provides a condition or entitlement more favourable to the employee than that provided by the National Employment Standards the better entitlement will apply.

8. Grievance Procedures

- (i) In the event of a dispute in relation to a matter arising under this Agreement, the Fair Work Act 2009 or any other work related matter, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- (ii) A party to the dispute may appoint another person, organisation or association, or workplace representative to accompany or represent them in relation to the dispute.
- (iii) If a dispute in relation to a matter arising under the agreement 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 for resolution by conciliation, mediation, or where the matter in dispute remains unresolved, arbitration.
- (iv) If arbitration is necessary Fair Work Commission may exercise the procedural powers in relation to hearings, witnesses, evidence and submissions which are necessary to make the arbitration effective.
- (v) It is a term of this Agreement that while the dispute resolution procedure is being conducted work shall continue normally unless an employee has a reasonable concern about an imminent risk to their health or safety.
- (vi) Any dispute referred to Fair Work Commission under this Clause should be dealt with by a member agreed by the parties at the time or, in default of agreement, a member nominated by either the head of the relevant panel or the President.

9. Labour Flexibility

- (i) An employer may direct an employee to carry out such duties which are within the limits of the employee's skill, competence and training. Such duties may include work which is incidental or peripheral to the employee's main tasks provided that such duties are not designed to promote deskilling.
- (ii) The employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.

- (iii) Any direction issued by the employer pursuant to sub-clause (i) and/or (ii) shall be consistent with the employer's responsibilities to provide a safe and healthy working environment for employees and the employer's duty of care to clients.

10. Transfer of Business

Where there is a transfer of business, the relevant provisions in the legislation shall apply.

11. Notice Board

The employer shall permit a notice board of reasonable dimensions to be erected in a prominent position, upon which the Union representative shall be permitted to post Union notices.

The employer shall make a copy of this Agreement available to all staff.

12. Anti-Discrimination

It is the intention of the parties bound by this Agreement to achieve the object in section 351 of the *Fair Work Act 2009* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, colour, sex, sexual preference, age, marital status, physical or mental disability, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

Part 3 – Wages and Related Matters

13. Wages and Grading Structures

- (i) Where an employee through their contract of employment is receiving wages above the levels contained in this Agreement at its commencement, they will continue to receive the higher wages after this Agreement comes into operation. Any wage increases contained in this Agreement shall be absorbed into the employee's contracted above Agreement wages. Where the wages in the Agreement exceed the contracted wages the employee shall receive the wages contained in the Agreement.

13.1. Grading Structure for Direct Care Workers

- (i) An employee will be engaged as a Personal Care Assistant (PCA) and may be required to undertake work categorised as Personal and Respite Care in accordance with the roster and allocation of work to suit the needs of the business/client/employee.
- (ii) Employees shall be paid at the ordinary hourly rate per hour for the category of work performed in accordance with the roster and allocation of work.

13.2. Personal & Respite Care Work Category

- (i) Employees required to perform Personal Care & Respite Care Work shall do so as follows:
- (ii) There shall be two (2) levels of Care:
 - (a) low needs care; and
 - (b) medium - high needs care.

13.3. Duties

- (i) A Personal Care Assistant (PCA) may be required to perform skilled work including:
 - (a) Low needs personal care/ respite services:
 - (1) assistance with bathing, showering, drying, dressing and grooming, toileting, transfers and mobility (except where there is severely limited/uncontrollable body movements), eating and drinking including the preparation of modified diets, fitting and maintaining aids and appliances including splints, hearing aids, dentures, communication, community access, rehabilitation, recreational and leisure outings and with self-administration of medication.
 - (b) Medium to high personal care/respice services:
 - (1) pressure area care and monitoring skin condition, continence management including implementation of bowel management plans and the management of continence aids and equipment, use of mechanical aids (such as lifting machines and hoists), implementation of therapy support plans, gastronomy care including enteral feeding and administration of medication, implementation of medical management

plans including epilepsy, autonomic hyper – reflexia and anaphylaxis, implementation of behaviour support plans and palliative care.

May be also expected to perform such other duties as directed by St Luke's Care management from time to time.

(ii) An employee required to perform personal and respite care services:

- (a) requires oral communication skills and where appropriate written skills when communicating with clients, members of the public and other employees;
- (b) will perform broad tasks involving the utilisation of a range of developed skills in the provision of personal and respite care services and support;
- (c) will be involved in on the job training of employees performing the same or lower categories of work;
- (d) is responsible for assuring the quality of own work performed;
- (e) will perform work which is clearly defined with established procedures clearly documented and well understood;
- (f) will be required to demonstrate a problem solving approach with solutions usually attributable to application of previously encountered procedures and practices.

13.4. Qualifications:

- (i) The employee will have commenced on the job training and satisfactorily completed the requirements of an employee required to perform Personal Care work;
- (ii) May have a Certificate III in Community Care - Aged Care Work (or equivalent) or have relevant experience or on-the-job training commensurate with the requirements of this work;
- (iii) May have a relevant Certificate IV qualification.

13.5. Wage Rates for Personal and Respite Care Work

- (i) The following base rates of pay will be paid on an hourly basis to an Employee whilst undertaking personal and respite care work under this Agreement:

Low Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (3.35% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Low Support Personal/Respite Care	\$22.7852	\$23.3548	\$23.9153

Medium to High Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (2.6% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Medium to High Support Personal/Respite Care	\$23.8583	\$24.4548	\$25.0417

* The rates above shall not fall below the Fair Work safety net provisions as prescribed by the *Fair Work Act 2009*.

- (ii) When determining the grading of an employee performing personal and respite care, the employer shall refer to the duties prescribed for low care and medium to high care personal and respite services in Clause 13.3;
- (iii) An employee who provides low care services and who is classified as such, shall receive the applicable rates prescribed whilst performing low care personal and respite care;
- (iv) An employee who provides medium to high care services and who is classified as such shall receive the medium to high care rates whilst performing either low or 'medium to high' care respite and personal care services;
- (v) An employee who is classified as Personal Care Assistant - Low Care but who is required to and does perform medium to high personal and respite care work from time to time shall receive the rate prescribed for the higher level of work for the engagement time with a client;
- (vi) For the purpose of classifying an employee in accordance with the grading structure, the employee will be required to demonstrate the required initiative, responsibility, accountability, competency and skills associated with the parameters of that grade;
- (vii) Subject to sub-clause (vi) a PCA engaged to provide low care may apply for positions as a PCA medium/high care provided that they meet the requirements associated with medium/high care work.

13.6. Qualifications Recognition Allowance

In addition to the Wage Rate for personal and respite care, a Qualification Recognition Allowance shall be paid. Where the Certificate IV allowance is payable it shall be in substitution for and not in addition to the Certificate III allowance.

- (i) For Certificate III in Home and Community Care (or equivalent):

	Allowance from first pay period on or after 1 July 2020	Allowance from first pay period on or after 1 July 2021	Allowance from first pay period on or after 1 July 2022
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	(2.75% Increase)	(2.5% Increase)	(2.25% Increase)
Permanent full-time and part-time employee	\$13.1819 per week	\$13.5114 per week	\$13.8155 per week

(ii) For Certificate IV in Community Services Work (or equivalent):

	Allowance from first pay period on or after 1 July 2020 (2.6% Increase)	Allowance from first pay period on or after 1 July 2021 (2.5% Increase)	Allowance from first pay period on or after 1 July 2022 (2.25% Increase)
Permanent full-time and part-time employee	\$19.7843 per week	\$20.2789 per week	\$20.7352 per week

13.7. Care Coordinator Category

(i) Care Coordinators are required to:

- (a) undertake the coordination/management of respite services and aged care community packages in accordance with Commonwealth program guidelines;
- (b) be responsible for establishing constructive relationships with all health care professionals, clients, employees and significant others;
- (c) be responsible for ensuring the effective and efficient delivery of care to clients in respect of the relevant package requirements and St Luke's Care's operational requirements.

13.8. Qualifications

May have a Certificate IV in Community Care Work or other qualifications deemed relevant by St Luke's Care and relevant work experience coordinating community care packages.

13.9. Dementia Support Coordinator

(i) Dementia Support Coordinators are required to:

- (a) Be responsible for delivery of care to the recipients of St. Luke's Home Care e.g. overseeing of rostering issues for client and field staff.
- (b) Establish an appropriate care schedule to meet the clients assessed needs.
- (c) Be responsible for the appropriate introduction of care staff to the clients, providing orientation and care plans to employees and direct liaison with the clients.
- (d) Be responsible and accountable for all care given to clients on each home visit.

13.10. Assessment Coordinator/ Registered Nurse

(i) Assessment Coordinators/Registered Nurses are required to:

- (a) Assess and establish care for new clients

- (b) Undertake nursing and new client assessments that assist in establishing responsive care for clients on Home Care Program
 - (c) Develop, document and implement nursing care plans to achieve measurable nursing care goals
 - (d) Provide evidence based nursing care to clients
 - (e) Coordinate care arrangements for clients
 - (f) Establish and maintain individualised clients budgets
- (ii) The duties and responsibilities prescribed for Care Coordinators, Dementia Support Coordinators and Assessment Coordinators /Registered Nurses are an indication and not an exhaustive list of the requirements of the position, which are contained in the employee's position description.

13.11. Wage Rates for Care Coordinators, Dementia Support Coordinators and Assessment Coordinators/Registered Nurse.

- (i) The following rates of pay will be paid on an hourly basis to an Employee whilst engaged as a Care Coordinator under this Agreement:

Classification	To apply from first pay period after 1 July 2020 (2.6% Increase)	To apply from first pay period after 1 July 2021 (2.5% Increase)	To apply from first pay period after 1 July 2022 (2.25% Increase)
Care Coordinators, Dementia Support Coordinators and Assessment Coordinators/Registered Nurses	Hourly Rate	Hourly Rate	Hourly Rate
*From:	\$30.1446	\$30.8982	\$31.5934
To:	\$40.6247	\$41.6403	\$42.5772

*St Luke's Care and Care Coordinators, Dementia Support Coordinators or Assessment Coordinators/Registered Nurses may negotiate a salary within the band shown. For the purpose of this Agreement, the rate so negotiated shall be deemed the employee's Agreement rate of pay. Salaries in excess of the salary band may also be negotiated between the parties. The negotiated rates shall not fall below the Fair Work safety net provisions as prescribed by the *Fair Work Act 2009*.

- (ii) The negotiated salaries within the salary banding shall be determined by St Luke's Care having regard to the requirements of the position including the complexity and scope of the care packages managed and St Luke's Care's Performance Appraisal policy.
- (iii) Care Coordinators, Dementia Support Coordinators and Assessment Coordinators/Registered Nurses will be required to exercise any/all clinical management and care coordinator functions in relation to the operation of the care service and comply with documentation requirements as determined by the

employer.

14. Wages

- (i) Employees shall not be paid less than the rates for the appropriate classification set out in Table 1, Rates of Pay. This agreement increases the rates from the first full pay period commencing on or after:
 - 1 July 2020 – 3.35% for PCA Field Staff Grade 2 & 2.6% for all other grades and positions.
 - 1 July 2021 – 2.5%
 - 1 July 2022 – 2.25%
- (ii) Nothing in this Agreement shall be deemed or construed to reduce the wages, conditions or allowances of any employee below the level of remuneration accorded to them prior to the date of operation of this Agreement.

15. Payment and Particulars of Wages

- (i) Wages shall be paid either weekly or fortnightly provided that the pay period shall be deemed to be fortnightly.
- (ii) On each pay day the pay shall be made up to a day not more than five (5) days prior to the date of payment.
- (iii) Employees shall have their wages paid by direct deposit or electronic transfer into one account with a bank or other financial institution as nominated by the employee.
- (iv) Wages shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees from the bank, financial institution or Automatic Teller Machine (ATM) by close of business on pay day. Where the wages are not available to the employee by such time, due to circumstances beyond the employer's control, the employer shall not be held accountable for such delay.
- (v) Notwithstanding the provisions of sub-clause (i), an employee who has been given notice of termination of employment in accordance with Clause 26 Termination of Employment (i) and (ii) , shall be paid all monies due to them prior to ceasing duty on the last day of employment. Where an employee is dismissed or their services are terminated without due notice, in accordance with the said Clause 26.3 Termination without notice, any monies due to the employee shall be paid as soon as possible after such dismissal or termination but, in any case, not more than three (3) days thereafter.
- (vi) Where the services of an employee are terminated with due notice all monies owing shall be paid upon cessation of employment or as otherwise elected by the employee but, in the case of termination without due notice, within the next three (3) working days.
- (vii) On pay day, each employee shall be provided with a pay slip in accordance with the Fair Work Act 2009.
- (viii) Pursuant to the Fair Work Act 2009 regarding deductions, if during the employee's employment or upon termination of an employee's employment the employee owes any money to the Company, or any related entity, (including as a result of any overpayments made to the employee), that amount may be offset against any payments, other than payments in relation to statutory entitlements owed, that the Company is obliged to make to the employee. Any such deductions

require the written authorisation of the employee.

- (ix) Where an employee ceases work on Saturday or Sunday, the employees pay will be processed on the next working day, or as otherwise elected by the employee.
- (x) Should St Luke's Care determine to vary the frequency of payment, a minimum of two (2) months' notice will be given to employees.

16. Allowances

- (i) Care Coordinators, Dementia Support Coordinators or Assessment Coordinators/Registered Nurses, required to remain on call after hours to receive and respond to phone calls and the pager as part of the departments rotational on call roster, which commences at the end of their shift until the commencement of the following shift Monday to Friday shall receive an After Hours allowance in accordance with Item 2 of Table 2, (i) for the time so spent.
- (ii) Care Coordinators, Dementia Support Coordinators and Assessment Coordinators/Registered Nurses shall receive the After Hours allowance in Item 2 of Table 2, (ii) on Saturday, Item 2 (iii) on Sunday and Item 2 (iv) on Public Holidays when required to remain on call on such days.
- (iii) Where an employee other than a PCA is not at work and is required to attend a designated place of work (e.g. client, home or office) and perform work, the employee will be paid their basic periodic rate of pay.

Provided that, when a Care Coordinator, Dementia Support Coordinator or Assessment Coordinator/Registered Nurse is required to work overtime after leaving the employer's place of work, the employee shall be paid in accordance with Clause 29.1 or elect to take time off in lieu of overtime in accordance with Clause 29.2.

17. Vehicle / Travelling Allowance

- (i) An employee other than a Personal Care Assistant sent for duty to a place other than their regular place of duty during work hours shall be paid for all excess travelling time at the appropriate hourly rate of pay and reimbursed excess travelling expenses.
- (ii) Where an employee is called upon and agrees to use their own private vehicle for official business shall be paid the per kilometre allowance set out in Item 3 of Table 2 excluding travel time to and from the employee's home to the first place of work and return to home at the end of their duties.
- (iii) Where an employee is required to use public transport for travel on official business such employee is to be reimbursed actual expenses incurred for such travel, excluding travel from the employee's home to the first place of work and return to home at the cessation of their duties.
- (iv) No payment shall be made under sub-clause 17 (ii) and (iii) unless the employer is satisfied that the employee has incurred expenditure for such travel.
- (v) Where Personal Care Assistants are rostered to work with consecutive clients such employees shall be paid at their ordinary hourly rate for the time taken to travel between locations, excluding travel from the employees home to the first place of work and return home at the cessation of their duties.

18. Broken shifts

- (i) Broken shift for the purposes of this Clause means a shift worked by a casual or permanent part-time employee that includes breaks in excess of that provided for a meal break where the time between the commencement and the termination of the broken shift shall not exceed twelve (12) hours. For each occasion there is a break in shift (a non-working period), in accordance with this Clause, the allowance in Item 4 of Table 2 will be payable. For example, if the employee has a two (2) hour break in shift (non-working period), they are entitled to a singular payment of the broken shift allowance for that break in shift (non-working period)
- (ii) Employees working broken shifts shall be paid an additional amount as set out in Item 4 of Table 2 for each break in shift.
- (iii) All work performed beyond the maximum span of twelve (12) hours for a broken shift will be paid at double time.
- (iv) Periods of work shall be so arranged so that all employees shall have a break of ten (10) hours in any twenty-four (24) hour period, unless there is agreement in writing between the employee and the employer.
- (v) Notwithstanding the provisions in this Clause all employees shall have a break of no less than eight (8) hours in any twenty-four (24) hour period.

19. Preceptor Allowance

- (i) Where an eligible employee who has undertaken Preceptor training is designated to orientate a new St Luke's Care employee, the employee is entitled to receive an allowance in accordance with Item 6 – Allowances, in additional to their hourly rate for the time spent training the new employee.

20. Uniforms and Protective Clothing

- (i) Sufficient suitable and serviceable uniforms or overalls shall be supplied, free of cost, to each employee required by the employer to wear them. An employee, to whom a new uniform or part of a uniform has been issued who, without good reason, fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment of a reasonable price for such replacement article.
- (ii) An employee on the termination of their employment shall return any uniform or part thereof supplied by the employer, which is still in use by the employee immediately prior to leaving.
- (iii) An employee that, at the time this Agreement commences operation receives all or some of the allowances prescribed in sub-paragraph (a) to (f) of sub-clause (iv) of Clause 20 shall continue to receive the allowances at the rate payable immediately prior to the date of operation of this Agreement.
- (iv) Subject to sub-clause (iii) the allowances prescribed in sub-clause (a) to (f) of sub-clause (iv) of Clause 20, shall not apply to any employees after the date of operation of this Agreement.
 - (a) In lieu of supplying a uniform to an employee, the employer shall continue to pay to such employee the preserved applicable allowance prescribed subject to Clause 20 of sub-clause (iii).
 - (b) In lieu of supplying special-type shoes where required to an employee, the employer shall continue to pay to such employee the preserved applicable allowance prescribed subject to Clause 20 of sub-clause (iii).
 - (c) In lieu of supplying a cardigan or jacket where required to an employee, the

employer shall continue to pay to such employee the preserved applicable allowance prescribed subject to Clause 20 of sub-clause (iii).

- (d) In lieu of supplying stockings where required to an employee, the employer shall continue to pay to such employee the preserved applicable allowance prescribed subject to Clause 20 of sub-clause (iii).
- (e) In lieu of supplying socks where required to an employee, the employer shall continue to pay to such employee the preserved applicable allowance prescribed subject to Clause 20 of sub-clause (iii).
- (f) If a uniform of an employee is not laundered at the expense of the employer, the employer shall continue to pay to such employee the preserved applicable allowance prescribed subject to Clause 20 of sub-clause (iii).
- (v) An employee who works less than thirty-eight (38) hours per week and who is entitled to receive the allowances prescribed shall be entitled to the allowances in the same proportion as the average hours worked each week bears to thirty-eight (38) ordinary hours.
- (vi) Each employee shall be supplied with appropriate protective clothing and equipment.
- (vii) The attire supplied in (vi) above, shall be replaced by the employer on the basis of fair wear and tear.
- (viii) The attire supplied in (vi) above shall remain the property of St Luke's Care at all times and any employee applying for a new issue supplied by St Luke's Care who fails to return their last issue shall not be entitled to a new issue without payment thereof.
- (ix) Employees are expected to wear their uniform and nametag at all times whilst on duty.
- (x) Where the client supplies equipment, materials and tools, St Luke's Care shall ensure that they are of reasonable quality and comply with safety standards;

21. Superannuation

- (i) St Luke's Care will make superannuation contributions into an approved Superannuation Fund which offers a MySuper product, nominated by the employee in accordance with the Superannuation Guarantee (SG) legislation as varied from time to time.
- (ii) Where an employee does not notify the employer of their chosen fund, Superannuation Guarantee contributions will be made to the employer's default fund HESTA which offers a MySuper product.
- (iii) Superannuation fund payments will be made in accordance with trust fund deeds.

21.1 Salary Sacrifice to Superannuation

- (i) An employee can elect to sacrifice a portion of salary to St Luke's Care's default superannuation fund in accordance with St Luke's policies as amended from time to time. Such election must be made prior to the commencement of the period of service to which the earnings relate and be in accordance with relevant legislation.
- (ii) St Luke's Care will not use any amount that is salary sacrificed by an employee to count towards the employer's obligation to pay contributions under the SG legislation.
- (iii) Contributions payable by the employer in relation to the SG legislation shall be

calculated by reference to the salary which would have applied to the employee under this Agreement in the absence of any salary sacrifice.

- (iv) Any allowance, penalty rate, overtime payment for unused leave entitlements, other than any payments for leave taken whilst employed, shall be calculated by reference to the salary which would have applied to the employee in the absence of any salary sacrifice to superannuation. Payment for leave taken whilst employed will be at the post-salary sacrificed amount.

22. Remuneration packaging

- (i) By agreement with their employer, employees may elect to package a portion of their salary in accordance with this Clause, to obtain a range of benefits. Such election must be made prior to the commencement of the period of service to which the earnings relate.
- (ii) Where an employee elects to package a portion of salary:
 - (a) Subject to Australian Taxation law, the packaged portion of salary will reduce the salary subject to appropriate PAYG taxation deductions by the amount of that packaged portion.
 - (b) Any allowance, penalty rate, overtime payment, payment for unused leave entitlements, weekly workers' compensation, or other payment other than any payment for leave taken in service, to which an employee is entitled under this Agreement or statute which is expressed to be determined by reference to an employee's salary, shall be calculated by reference to the salary packaging or salary sacrificing made under this Agreement.
 - (c) "Salary" for the purpose of this Clause, for superannuation purposes, and for the calculation of Agreement entitlements, shall mean the salary as set out in Clause 14 Wages, and which shall include "approved employment benefits" which refer to fringe benefit savings, administration costs, and the value of packaged benefits
- (iii) The remuneration packaging scheme utilises the organisation's Public Benevolent Institution (PBI) taxation status, which provides for fringe benefit tax exemption caps. The maximum amount of fringe benefits free tax savings that can be achieved under the scheme is where the value of benefits grossed up, equal the fringe benefits exemption cap set by the Australian Taxation Office. Where the grossed up value exceeds the cap, the employer is liable to pay the fringe benefits tax on the amount in excess of the cap, but will pass this cost on to the employee. The employer's share of savings, the combined administration cost, and the value of the package benefits, are deducted from pre-tax dollars.
- (iv) The parties agree that the application of the fringe benefit tax exemption cap and the PBI status of the facility are subject to prevailing Australian taxation laws. Should any change alter St Luke's Care's position in this regard an immediate review of the remuneration packaging arrangement will be undertaken on a best endeavours basis.
- (v) If an employee wishes to withdraw from the remuneration packaging scheme, the employee may do so by giving reasonable notice.
- (vi) Where an employee ceases to salary/remuneration package, arrangements will be made to convert the agreed package amount to salary. Any costs associated with the conversion will be borne by the employee, and the employer shall not be liable to make up any salary lost as a consequence of the employee's decision to convert to salary.

- (vii) Employees accepting the offer to salary/remuneration package do so voluntarily. Employees are advised to seek independent financial advice to apprise them of the implications of salary/remuneration packaging on their individual personal financial situation.
- (viii) Remuneration packaging shall be available in accordance with St Luke's Care Policies.

23. Relieving other Members of Staff (Higher Duties)

- (i) An employee who is called upon to relieve an employee in a higher classification or is called upon to act in a vacant position of a higher classification for three (3) days or more, 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 sub-clause (i) shall not apply where the employee being relieved is absent from duty by reason of their allocated day off duty (ADO).
- (iii) The provisions of this sub-clause shall not apply to Personal Care Assistants – Low Support employees performing Personal Care Assistant – High/Medium Support duties or medium to high level care until they have worked greater than five (5) hours with clients in accordance with Clause 13.5(v).

Part 4 – Consultation, Notice of Termination of Employment and Severance Payments

24. Consultation

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

Major change

- (ii) For a major change referred to in paragraph (i)(a):
 - (a) the employer must notify the relevant employees of the decision to introduce the major change; and
 - (b) subclauses (iii) to (ix) apply.
- (iii) The relevant employees may appoint a representative for the purposes of the procedures in this term.
- (iv) If:
 - (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
 - (b) the employee or employees advise the employer of the identity of the representative;the employer must recognise the representative.
- (v) As soon as practicable after making its decision, the employer must:
 - (a) discuss with the relevant employees:
 - (1) the introduction of the change; and
 - (2) the effect the change is likely to have on the employees; and
 - (3) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
 - (b) for the purposes of the discussion—provide, in writing, to the relevant employees:
 - (1) all relevant information about the change including the nature of the change proposed; and
 - (2) information about the expected effects of the change on the employees; and
 - (3) any other matters likely to affect the employees.
- (vi) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (vii) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.
- (viii) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (ii)(a) and subclauses (iii) and (v) are taken not to apply.

(ix) In this term, a major change is ***likely to have a significant effect*** on employees if it results in:

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

Change to regular roster or ordinary hours of work

(x) For a change referred to in paragraph (i)(b):

- (a) the employer must notify the relevant employees of the proposed change; and
- (b) subclauses (xi) to (xv) apply.

(xi) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(xii) If:

- (a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and
- (b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(xiii) As soon as practicable after proposing to introduce the change, the employer must:

- (a) discuss with the relevant employees the introduction of the change; and
- (b) for the purposes of the discussion—provide to the relevant employees:
 - (1) all relevant information about the change, including the nature of the change; and
 - (2) information about what the employer reasonably believes will be the effects of the change on the employees; and
 - (3) information about any other matters that the employer reasonably believes are likely to affect the employees; and
- (c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(xiv) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(xv) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(xvi) In this term:

relevant employees means the employees who may be affected by a change referred to in subclause (i).

25. Redundancy

(i) Discussions Before Terminations

- (a) Where the employer has made a decision that they no longer wish the job an employee has been doing to be done by anyone, and that decisions may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and their workplace representatives.
- (b) The discussions shall take place as soon as practicable after the employer has made a definite decision and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.
- (c) For the purpose of the discussion the employer shall, as soon as practicable, provide to the employees concerned and if requested by the employee, any nominated employee representative which may be a union representative, all relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that any employer shall not be required to disclose confidential information the disclosure of which would adversely affect the employer.

26. Termination of Employment

(i) Notice for Changes in Production, Programme, Organisation or Structure –

This sub-clause sets out the notice provisions to be applied to terminations by the employer for reasons arising from production, programme, organisation or structure:

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

Period of continuous service	Period of notice
Less than 1 year	At least 1 week
1 year and less than 3 years	At least 2 weeks
3 years and less than 5 years	At least 3 weeks
5 years and over	At least 4 weeks

- (b) In addition to the notice above, employees over forty-five (45) years of age at the time of the giving of the notice, with not less than two (2) years' continuous service, shall be entitled to an additional week's notice.
- (c) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

(ii) Notice for Technological Change –

This sub-clause sets out the notice provisions to be applied to terminations by the employer for reasons arising from the introduction of "technology":

- (a) In order to terminate the employment of an employee the employer shall give to the employee three (3) months' notice of termination.
- (b) Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.
- (c) The period of notice required by this sub-clause to be given shall be deemed to be service with the employer for the purposes of the Long Service Leave Act 1955 or any Act amending or replacing the Act, and Clause 36 - Public Holidays and Clause 39 - Annual Leave.

(iii) Time Off During the Notice Period -

- (a) During the period of notice of termination given by the employer, an employee shall be allowed up to one (1) days' time off without loss of pay during each week of notice, to a maximum of five (5) weeks, for the purpose of seeking other employment.
- (b) If the employee has been allowed paid leave for more than one (1) day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the employer, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

(iv) Employee Leaving During the Notice Period –

If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this Clause had the employee remained with the employer until the expiry of such notice. Provided that in such circumstance the employee shall not be entitled to payment in lieu of notice.

(v) Statement of Employment –

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

(vi) Notice to Centrelink –

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

(vii) Centrelink Employment Separation Certificate

The employer shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an "Employment Separation Certificate" in the form required by Centrelink.

(viii) **Transfer to Lower Paid Duties –**

Where an employee is transferred by agreement to lower paid duties, for reasons set out in sub-clause 25 (i) (a), the employee shall be entitled to the same period of notice of transfer as the employee would have been entitled to if the employee's 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 ordinary-time rate for the number of weeks' notice still owing.

26.1 Severance Pay

(i) In addition to the period of notice prescribed for termination, an employee whose employment is terminated for reasons set out in Clause 25 shall be paid the following amount of severance pay in respect of a period of continuous service.

(a) If an employee is under forty-five (45) years of age, the employer shall pay in accordance with the following scale:

Years of Service	Entitlement
Less than 1 year	Nil
1 year and less than 2 years	4 weeks
2 years and less than 3 years	7 weeks
3 years and less than 4 years	10 weeks
4 years and less than 5 years	12 weeks
5 years and less than 6 years	14 weeks
6 years and over	16 weeks

(b) Where an employee is forty-five (45) years of age or over, the entitlement shall be in accordance with the following scale:

Years of Service	Entitlement
Less than 1 year	Nil
1 year and less than 2 years	5 weeks
2 years and less than 3 years	8.75 weeks
3 years and less than 4 years	12.5 weeks
4 years and less than 5 years	15 weeks
5 years and less than 6 years	17.5 weeks
6 years and over	20 weeks

- (c) "Week's pay" means the all-purpose rate of pay for the employee concerned at the date of termination. For the purposes of this Clause, in addition to the ordinary rate of pay and over-agreement payments, all allowances, penalties or shift payment to which the employee would be entitled shall form part of an employee's "week's pay".
- (d) A "week's pay" for a particular employee shall be determined according to the average week's pay received by the employee in the period immediately prior to their last date of employment equal to the number of weeks of severance pay to which the employee is entitled under subparagraphs (a) and (b) of paragraph (i) of this sub-clause.
- (e) The employer shall also pay the following amounts to any employee terminated pursuant to this clause:
 - (1) Pro rata long service leave; and
 - (2) Accrued annual leave.

(ii) Incapacity to Pay

Subject to an application by the employer and further order of Fair Work Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in subparagraphs (a) and (b) of paragraph (i) of this sub-clause.

Fair Work Commission shall have regard to such financial and other resources of the employer concerned as Fair Work Commission thinks relevant, and the probable effect paying the amount of severance pay in the said sub-clause (i) will have on the employer.

(iii) Alternative Employment

Subject to an application by the employer and further order of Fair Work Commission, an employer may pay a lesser amount (or no amount) of severance pay than that contained in paragraph (i) of this sub-clause if the employer obtains acceptable alternative employment for an employee.

26.2 Termination and Resignation

Where the employer terminates the employment of a permanent employee for reasons other than gross misconduct, the employee shall be given notice in accordance with Clause 26 (i) (a). The employer may provide payment in lieu of notice.

The notice of termination required to be given by an employee shall be the same as that required of the employer, except that there shall be no additional notice based on the age of the employee concerned. If the employee fails to give notice the employer shall, subject to written authority of the employee in accordance with the *Fair Work Act 2009*, have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice.

26.3 Termination without notice

Notwithstanding Clause 25 - Redundancy, in consideration of the nature of the services provided by the employer, the type of clientele serviced and the environment and philosophy honoured by the Company may terminate the employment without notice where the employee has committed an offence that is considered serious and wilful misconduct.

Regard shall be given to the severity of the offence and each transgression shall be determined upon its own merits as well as in the context of the workplace, the duties carried out at the time, the overall conduct of the employee and the employee's work history.

26.4 Termination due to permanent absence

Notwithstanding Clause 25 - Redundancy, if the Employee is absent from work as a result of injury or illness (not related to their employment) for a period of three (3) consecutive months or for an aggregate period of three (3) months in any twelve (12) consecutive months as prescribed in Regulation 3.01(5)(b) of the *Fair Work Regulations 2009*, the Employer may terminate their employment upon the giving of notice or the payment of salary in lieu of notice, based on the absence no longer being deemed as "temporary".

Part 5 – Hours of Work and Related Matters

27. Hours

- (i) This sub-clause shall apply to full-time employees.
- (ii) The ordinary hours of work of a full time employee exclusive of meal times, shall be one hundred and fifty-two (152) hours per twenty-eight (28) calendar days or seventy-six (76) hours per fortnight or an average of thirty-eight (38) hours per week in each roster cycle.
- (iii) The hours of work prescribed in sub-clause (ii) above shall be worked in one of the following ways:
 - (a) Thirty-eight (38) hours per week, to be arranged in order that an employee shall not be required to work their ordinary hours on more than five (5) days in one (1) week; or
 - (b) Seventy-six (76) hours per fortnight, to be arranged in order that an employee shall not be required to work their ordinary hours on more than ten (10) days in the fortnight; or
 - (c) One hundred and fifty-two (152) hours per twenty-eight (28) calendar days, to be arranged in order that an employee shall not be required to work their ordinary hours on more than nineteen (19) days in the cycle.
 - (d) As otherwise agreed in writing between the employer and employee.
- (iv) The ordinary hours of work, exclusive of meal times shall consist of not more than ten (10) ordinary hours of work on a day shift with not less than eight (8) hours break between each shift; provided that an employee shall not work more than five (5) consecutive days in any seven (7) day period within the spread of 7.00am to 8.00pm unless the employee so requests and the employer agrees.
- (v) Except for one (1) meal break each day, all time from the time of commencing until the time of finishing duty each day shall be computed as ordinary working time.
- (vi) Two (2) separate ten (10) minute intervals (in addition to meal breaks) shall be allowed each employee on duty during each ordinary shift. Subject to agreement between the employer and the employee, such intervals may alternatively be taken as one (1) twenty (20) minute interval or by one (1) ten (10) minute interval with the employee allowed to proceed off duty ten (10) minutes before completion of the normal shift finishing time. Such interval(s) shall count as working time. Employees who are engaged for less than an eight (8) hour shift on any one (1) day shall only be entitled to one (1) tea break of ten (10) minutes, provided a minimum of four (4) hours work is completed.
- (vii) Employees engaged in Personal Care Assistant duties may be rostered to have a paid twenty (20) minute break in place of the meal break where they are required to remain with the client during such break.
- (viii) Each employee shall be entitled to not less than four (4) full days in each fortnight free from duty or two (2) full days in each week free from duty and such rostered days off shall, where practicable, be consecutive unless otherwise agreed in accordance with Clause 27 – Hours.
- (ix) Full-time employees shall receive a minimum payment of four (4) hours for each start in respect of ordinary hours of work.
- (x) Employees working a broken shift shall be paid an additional amount as set out in Item 4 Table 2 for each broken shift and the period of time between the

commencement and termination of such shift shall not exceed twelve (12) hours. A broken shift means when an employee works two (2) or more engagements on the same day, each engagement separated by a non-working period.

- (xi) All full-time employees in receipt of an Allocated Days Off ('ADO') at the time of this Agreement being certified shall continue to have their hours of work so arranged unless otherwise agreed between the employee and employer.
- (xii) An employee who has their hours of work arranged in accordance with paragraph (c) of sub-clause (iii) or sub-clause (xi) of this clause shall access an ADO in the following manner:
 - (a) An employee shall be entitled to an allocated day off in each roster cycle of twenty-eight (28) calendar days or thirty-five (35) calendar days, as the case may be. Such employees shall have the hours worked on each of those days arranged to include a proportion of one (1) hour on the basis of two-fifths (0.4) of one (1) hour for each eight (8) hour shift worked and one half (0.5) of one (1) hour for each ten (10) hour shift which shall accumulate towards the employee's allocated day off.
 - (b) The employee's allocated day off duty prescribed above shall be taken at an agreed time having regard to the needs of the place of employment. Such allocated day off duty shall, where possible, be consecutive with the rostered days off prescribed in sub-clause (viii) of this Clause. Provided that the employer and the employee may agree to accumulate up to twelve (12) allocated days off per year, to be taken in conjunction with the employee's annual leave or, by mutual agreement, taken at another time within eighteen (18) months of such accrual occurring.
 - (c) Allocated days off duty may not be rostered to occur on public holidays.
 - (d) No time towards allocated days off duty shall accrue during periods of workers' compensation, long service leave, parental leave, time in lieu, during allocated days off or annual leave entitlements prescribed under the "Act". Time toward allocated days off will accrue on public holidays, compassionate leave and personal / carers leave.
 - (e) However, an employee returning to duty from the abovementioned leave shall be given the next allocated day off in sequence.
 - (f) Where an employee's allocated day off duty falls during a period of paid sick leave the employee's available sick leave shall not be debited for that day.

28. Roster of Hours

- (i) The ordinary hours of work for Personal Care Assistants shall be displayed on a roster in a place conveniently accessible to employees. Where reasonably practicable, the roster shall be displayed at least two (2) weeks in advance, but no less than seven (7) days prior to the commencing date of the first working period in the roster subject to sub-clause (ii).
- (ii) Alternative means of communicating changes of rosters such as telephone communication, direct contact, mail or facsimile will be accepted.
- (iii) Sub-clause (i) shall not make it obligatory for the employer to display any roster or ordinary hours of work of members of the casual or relieving staff.
- (iv) Provided further that a roster may be altered at any time to enable the service of the department to be carried on where another employee is absent from duty on account of illness or in emergency, but where such alteration involves a full time employee working on a day which would have been their day off, such employee

may elect to be paid at overtime rates or have a day off in lieu thereof, which shall be as mutually arranged.

- (v) Sub-clause (i) shall not apply where the only change to the roster of a part-time employee is the mutually agreed addition of extra hours to be worked such that the part-time employee still has two (2) rostered days off in that week or four (4) rostered days off in that fortnight, as the case may be.

28.1 Client Cancellation

- (i) Where an employee is given notice before 5:00 p.m. the day before the rostered service was to take place that a client shall not be requiring the service, then no payment shall be made to the employee in respect of that client.
- (ii) Where the employee is given notice after 5:00 p.m. the day before the rostered service or where the employee arrives at the client's home and the client is not there:
 - (a) If the employee can be given another client, then the employee is to proceed to the client within the rostered time on the same day. Where there is an agreement between the employer and employee then re-rostering of the client may take place on another day.
 - (b) If the employee cannot be given another client within the rostered time on the same day and the cancelled client stood alone as a single engagement, the employee is to be paid for half (1/2) the time that would have been worked with a minimum of one (1) hour payment regardless of the fact that the engagement has been cancelled.
 - (c) If the employee cannot be given another client within the rostered time on the same day and the cancelled client is part of an engagement, the employee is to be paid for half (1/2) the time that would have been worked to a minimum of one (1) hour.
 - (d) Payments, in relations to cancellations, will not be made if a carer declines an alternative visit within the same time frame and within their abilities.
- (iii) Notwithstanding the provisions of sub-clauses (i) and (ii) of this Clause, if the total hours worked at the end of the fortnight are less than an employee's contract hours, then the contract hours shall be paid.
- (iv) Notwithstanding sub-clauses (i) and (ii) of this Clause where the employer is unable to meet the minimum contract hours of a full-time or part-time employee for reasons associated with death, hospitalisation or other like extenuating circumstances, the following procedures shall be followed in the sequence provided:
 - (a) work shall be re-allocated from casual employees to the part-time or full-time employee; or
 - (b) where possible, the additional hours beyond the contract hours shall be re-allocated from another employee to the employee; or
 - (c) where the employee agrees, the employee may have access to annual leave or long service leave; or
 - (d) the employee and employer may agree to a period of unpaid leave; or
 - (e) failing agreement in paragraph (d) of this sub-clause, refer to Clause 8 - Grievance Procedures.

Notwithstanding the provisions in paragraphs (a) to (e) of this sub-clause, inclusive, if after six (6) weeks the client still does not require the service, the employee shall be entitled to the provisions as set out in Clause 25 - Redundancy.

29. Overtime

29.1 General Provisions

- (i) Employees shall work reasonable overtime when required by the employer.
 - (a) All time worked by employees in excess of the rostered daily ordinary hours in accordance with Clause 27 - Hours shall be paid for at the rate of time and one half for the first two (2) 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. Overtime rates shall be calculated on the appropriate rate as set out in Table 1 – Rates of Pay.
 - (b) All time worked by permanent part time employees, in excess of hours prescribed in Clause 27 – Hours shall be paid for at the rate of time and one half for the first two (2) 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.

Time worked up to the hours prescribed in Clause 27 – Hours 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

- (ii) With the exception of employees working broken shifts, an employee recalled to work overtime after leaving the employer's premises shall be paid for a minimum of four (4) hours work at the appropriate rate for each time so recalled. If the work required is completed in less than four (4) hours, the employee shall be released from duty
- (iii) An employee required to work overtime following the completion of their normal shift for more than one and one half (1 ½) hours, the employee before starting overtime shall be allowed a meal break of thirty (30) minutes which shall be paid for at the appropriate ordinary rate. An employee and employer may agree to any variation of this provision to meet the circumstances of the work in hand, provided that the employer shall not be required to make any payments for any time allowed in excess of thirty (30) minutes.
- (iv) An employee working overtime shall be allowed a twenty (20) minute break after each subsequent four (4) hours of overtime provided that the employee continues to work after such a break. All such time shall be counted as time worked.
- (v) Provided that benefits of sub-clause (iii) and (iv) of Clause 29.1 shall not apply to permanent part time employees, until the expiration of the hours prescribed in Clause 27 – Hours.
- (vi) An employee recalled to work overtime after leaving the employer's premises and who is required to work for more than four (4) hours shall be allowed twenty (20) minutes for the partaking of a meal and a further twenty (20) minutes after each subsequent four (4) hours overtime; all such time shall be counted as time worked.
- (vii) Where an employee is required to work an overtime shift on their rostered day off, the appropriate meal breaks for that shift, as prescribed by Clause 27 - Hours, shall apply.

(viii) If an employee is recalled to duty during a meal break, they shall be paid at overtime rates for the total period of the meal break.

(ix) An employee 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 eight (8) or ten (10) (broken shift) 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 eight (8) or ten (10) (broken shift) consecutive hours off duty in the twenty-four (24) hours preceding their next day or shift;

shall subject to this sub-clause, be released after completion of such overtime until they have had eight (8) or ten (10) (broken shift) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

If on the instruction of the employer such an employee resumes or continues to work without having such eight (8) or ten (10) (broken shift) 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 eight (8) or ten (10) (broken shift) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

29.2 Time in Lieu of Overtime

- (i) In lieu of receiving payment for overtime in accordance with this Clause, employees may be compensated by way of time off in lieu of overtime on the following basis:
 - (a) Time off in lieu of overtime is taken on the basis of hour for hour at ordinary pay, that is for example, one (1) hour for each hour of overtime worked. It must be taken within four (4) months of it being accrued at a mutually agreed time.
 - (b) Where it is not possible for an employee to take the time off in lieu of overtime within the four (4) month period, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.
 - (c) Employees cannot be compelled to take time off in lieu of overtime.
 - (d) Records of all time off in lieu of overtime owing to employees and taken by employees must be maintained by the employer.
 - (e) Where no election is made the employee shall be paid overtime in accordance with this Agreement.

30. Reasonable Hours

- (i) Subject to sub-clause (ii) below an employer may require an employee to work reasonable overtime at overtime rates unless or as otherwise provided for under the Agreement.
- (ii) An employee may refuse to work overtime in circumstances where the working of such overtime would result in the employee working hours which are unreasonable.
- (iii) For the purposes of sub-clause (ii) what is unreasonable or otherwise will be determined having regard to:
 - (a) Any risk to employee health and safety.

- (b) The employee's personal circumstances including any family and carer responsibilities.
- (c) The needs of the workplace or enterprise.
- (d) The notice (if any) given by the employer of the overtime and by the employee of their intention to refuse it; and
- (e) Any other relevant matter.

31. Banking of Hours

- (i) A full time or part time employee may, by agreement made daily, weekly or fortnightly with their Manager or Supervisor:
 - (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 rostered 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) An employee 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) An employee who works more than their rostered or contracted hours shall not receive payment for any weekend, shift penalties or allowances that would otherwise have been due for that extra time worked.
- (iv) Time debited or credited under these arrangements shall all be at ordinary time, i.e., an hour for an hour.
- (v) An employee may not have more than seventy-six (76) hours in debit or credit at any point in time.
- (vi) Employees who have hours in debit must be given first option to work additional hours prior to the use of casual employees.
- (vii) Each facility must keep detailed records of all hours credited and debited to employees under these arrangements. Employees must have full access to these records.
- (viii) On termination of employment the employer must pay the employee 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 (2) weeks' notice.

32. Meals

- (i) Time not exceeding one (1) hour and not less than thirty (30) minutes shall be allowed for each meal, provided that, where an employee is called upon to work for any portion of their meal break, such time shall count as ordinary working time.
- (ii) An employee shall not be required to work more than five (5) hours without a meal break. Such meal break shall be of between thirty (30) and sixty (60) minutes duration, and shall not count as time worked.
- (iii) Employees may be rostered to have a twenty (20) minute paid break in place of a meal break where they are expected to remain with the client during such a break.

- (iv) An employee who is required to work overtime after 5.00pm for more than two (2) hours without being notified on the previous day or earlier that they will be so required to work shall be paid the amounts set out in Item 5 of Table 2 - Other Rates and Allowances.

33. Part-Time Work

Permanent Part-time Employees -

- (i) A permanent part-time employee is one who is permanently appointed by the facility to work a specified number of hours which are less than those prescribed for a full-time employee. Before commencing part-time employment, the employer and employee will agree in writing the guaranteed minimum number of hours to be worked and the rostering arrangements which will apply to those hours. The terms of the agreement may be varied by agreement and recorded in writing.

By agreement between employer and employee, the specified number of hours may be balanced over a week, fortnightly or monthly period.

Provided further that there shall be no interruption to the continuity of employment merely by reason of an employee working on a "week on, week off" basis in accordance with this sub-clause.

- (ii) Permanent part-time employees shall receive a minimum payment of two (2) hours for each start.
- (iii) Permanent part time Personal Care Assistants shall receive a minimum of (1) one hour for each engagement.
- (iv) Permanent part-time employees shall be entitled to all other benefits of this Agreement not otherwise expressly provided for herein in the same proportion as their ordinary hours of work bear to full-time hours excluding the allowances prescribed in Table 2 – Other Rates and Allowances which shall be paid at the rates identified in the table.
- (v) 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 employees first and prior to the engagement of any casual employees.
- (vi) The hours worked by the employee will be formally reviewed and amended by the employer to reflect hours regularly worked on an annual basis. Where the employee is regularly working more than their specified contracted hours, then the employee may request on a 6 (six) monthly basis, for their contracted hours to be reviewed by the employer to reflect the hours regularly worked. The hours worked in the following circumstances will not be incorporated into the adjustment:
 - (a) If the increase in the hours is as a direct result of an employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and
 - (b) If the increase in hours is due to a temporary increase in hours, only due, for example to the specific needs of a client.
 - (c) Any adjusted contracted hours resulting from a review identified in sub-Clause 31 (vii) should, however, be such as to readily reflect the roster cycles and shift configurations utilised in the department.

34. Casual Employees

- (i) A casual employee is one engaged on an hourly basis otherwise than as a permanent part-time employee or full-time employee.
- (ii) A casual employee may only be engaged in the following circumstances: for short term periods where there is a need to supplement the workforce arising from fluctuations in the needs of the facility; or in the place of another employee who is absent; or in an emergency.
- (iii) Casual Personal Care Assistants shall receive a minimum payment of one (1) hour for each engagement.
- (iv) A casual employee shall be paid an hourly rate calculated on the basis of one thirty-eighth (1/38th) of the appropriate rate, prescribed by Table 1 - Rates of Pay of this Agreement, plus twenty-five percent (25%) thereof.
- (v) A casual employee who is required to and does work on a public holiday prescribed by Clause 36, Public Holidays, shall in addition to the casual loading be paid double time and one half for all time worked.
- (vi) For weekend and public holiday work, casual employees shall, in addition to the casual loading receive the following rates:
 - (a) time and one-half for work between midnight Friday and midnight Saturday;
- (vii) double time for work between midnight Saturday and midnight Sunday;
- (viii) double time and one-half for work on a public holiday.
- (ix) For the entitlement to long service leave, see the *Long Service Leave Act 1955*.
- (x) With respect to a casual employee, the provisions of the following clauses shall not apply: Clause 40 - Annual Leave Loading; Clause 37, - Personal/Carers Leave; Clause 42 - Compassionate Leave (no paid entitlement); Clause 28 - Roster of Hours; and Clause 39 - Annual Leave.

34.1 Casual conversion to full-time or part-time employment

- (i) A casual employee who has been engaged by St Luke's Care for regular hours of employment each week under this Agreement during a period of twelve (12) months, thereafter has the right to elect to have their contract of employment converted to full-time or part-time employment if the employment is to continue beyond the conversion process. A casual employee may also retain the right to remain on casual employment.
- (ii) St Luke's Care must give the employee notice in writing of the provisions of sub-clause 34.1 within four (4) weeks of the employee having attained such period of twelve (12) months. The employee retains their right of election under sub-clause 34.1 if the employer fails to comply with sub-clause 34.1 (ii).
- (iii) Any such casual employee who does not within four (4) weeks of receiving written notice elect to convert their contract of employment to full-time or part-time employment is deemed to have elected against any such conversion.
- (iv) Any casual employee who has a right to elect under sub-clause 34.1(i), on receiving notice under sub-clause 34.1(ii) or after the expiry of the time for giving such notice, may give four (4) weeks' notice in writing to the employer that they seek to elect to convert their contract of employment to full-time or part-time employment, and within four (4) weeks of receiving such notice the employer must consent to or refuse the

election but must not unreasonably so refuse.

- (v) Once a casual employee has elected to become and been converted to a full-time or part-time employee, the employee may only revert to casual employment by written agreement with the employer.
- (vi) If a casual employee has elected to have their contract of employment converted to full-time or part-time employment in accordance with sub-clause 34.1(iv), the employer and employee must, subject to clause 34.1(iv), discuss and agree on:
 - (a) which form of employment the employee will convert to, being full-time or part-time; and
- (vii) if it is agreed that the employee will become a part-time employee, the number of hours and the pattern of hours that will be worked, as set out in Clause 33 — Part-time Work.
- (viii) An employee who has worked on a full-time basis throughout the period of casual employment has the right to elect to convert their contract of employment to full-time employment and an employee who has worked on a part-time basis during the period of casual employment has the right to elect to convert their contract of employment to part-time employment, on the basis of the same number of hours and times of work as previously worked, subject to operational requirements and unless other arrangements are agreed on between the employer and employee.
- (ix) Following such agreement being reached, the employee converts to full-time or part-time employment.
- (x) Where, in accordance with sub-clause 34.1(iv) St Luke's Care refuses an election to convert, the reasons for doing so must be fully stated to and discussed with the employee concerned and a genuine attempt made to reach agreement.

35. Penalty Rates and Shift Allowances

- (i) An additional allowance of thirty percent (30%) shall be paid for all ordinary hours that fall outside the spread of hours 7am to 8pm., Monday to Friday, for the actual time worked outside the said spread of hours.
 - (ii) An allowance of twenty percent (20%) shall be payable for all ordinary hours worked by an employee between 6pm and 8pm Monday to Friday.
 - (iii) Employees whose ordinary working hours include work on a Saturday or Sunday shall be paid:
 - (a) for work between midnight Friday and midnight on Saturday - time and one half;
 - (b) for work between midnight Saturday and midnight on Sunday - double time.
- These penalties shall be in substitution for and not cumulative upon the shift allowances expressed in sub-clause (i) and (ii).
- (iv) For the purpose of this Clause, the rates prescribed shall apply in respect of ordinary hours of work only and shall apply to all employees including casual employees.

Part 6 – Leave and Public Holidays

36. Public Holidays

- (i) An employee other than a casual employee, shall be entitled to the following public holidays without loss of pay: New Year's Day; Australia Day; Good Friday; Easter Saturday; Easter Sunday, Easter Monday; Anzac Day; Queen's Birthday; Labour Day, Christmas Day; Boxing Day; and any other day duly proclaimed and observed as a public holiday within the area in which the place of employment is situated.
- (ii) In addition to those public holidays specified in sub-clause (i), employees shall be entitled to an extra public holiday each year. Such public holiday shall occur on the day on which August Bank Holiday is observed, or at the election of the employer may be transferred as an additional public holiday to a day between Christmas and New Year.
 - (a) Any individual employer wishing to transfer the August Bank holiday shall nominate before 1 July of each calendar year the day on which the additional public holiday is to be observed. Such date shall occur within the days Monday to Friday inclusive and shall not coincide with a date that is already a gazetted public holiday for that calendar year. Once such an election is made, such date then becomes the date on which the additional public holiday is to be observed for all workers in that establishment covered by this Agreement.
 - (b) The foregoing does not apply in areas where in each year:-
 - (1) A day in addition to the eleven (11) named public holidays specified in sub-clause (i) is proclaimed and observed as a public holiday; or
 - (2) Two (2) half (1/2) days in addition to the eleven (11) named public holidays specified in sub-clause (i) are proclaimed and observed as half-public holidays.
 - (c) An employee who is required to and does work on any public holiday prescribed in this Clause, shall be paid in lieu of all other shift allowances (except broken shift allowance), weekend penalty rates, as follows:
 - (d) Full-time employees:
 - (1) Double time and one-half for all ordinary time worked. Alternatively, if the employee so elects, half time extra for all time worked in addition to the weekly rate and have one ordinary working day added to the period of annual leave.
 - (e) Permanent part-time employees:
 - (1) Double time and one-half for all ordinary time worked on the public holiday although where the time worked by agreement is less than the employees' usual rostered shift, the balance of the rostered shift shall be paid at ordinary pay. Alternatively, if the employee so elects, half time extra for all time worked in addition to the weekly rate and have the equivalent number of hours worked added to be taken in conjunction with annual leave;
 - (f) Casual employees
 - (1) Double time and one-half for casuals for all time worked. Such payment shall be taken to be in addition to the casual loading referred to in Clause 34, sub-clause (iv)
- (iii) Monday to Friday employees as defined in Clause 5 - Definitions who are not required and do not work on those days where a proclaimed public holiday falls but would normally be expected to work on those days shall be paid for that day.
- (iv) Full-time shift-workers as defined in Clause 5 - Definitions rostered off duty on a public holiday, which falls on a normal rostered day, shall be paid one (1) day's pay

in addition to the weekly rate; or if the employee so elects, have one (1) day added to their period of annual leave.

- (v) The elections referred to in sub-clause (c) must be made in writing by the employee at the commencement of each anniversary year of employment and is irrevocable during that period of employment.
- (vi) An employee shall be allowed one (1) day of leave in lieu of a public holiday that falls on a day during the employees' period of annual leave.

37. Personal/ Carer's Leave

(i) The National Employment Standards

- (a) Employees are entitled to personal leave in accordance with the provisions of the "Standard".
- (b) Casual employees have no entitlement to paid personal/carer's leave, but do have an entitlement to unpaid carer's leave.

(ii) Meaning of Personal/Carer's Leave

Personal/carer's leave is either:

- (a) paid leave (sick leave) taken by an employee because of a personal illness, or injury, of the employee; or
- (b) paid or unpaid leave (carer's leave) taken by an employee to provide care or support to a member of the employee's immediate family, or a member of the employee's household, who requires care or support because of:
 - (1) a personal illness, or injury, of the member; or
 - (2) an unexpected emergency affecting the member.

(iii) Accrual of Paid Personal/Carer's Leave

- (a) For each year of service with their employer, an employee is entitled to ten (10) days of paid personal/carer's leave.
- (iv) An employee's entitlement to paid personal/carer's leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.
- (v) Part time employees will receive a pro-rata entitlement to paid personal/carer's leave.
- (vi) No payment will be made in lieu of accumulated personal/carer's leave.
- (vii) Casual employees have no entitlement to paid personal/carer's leave.
- (viii) Personal/carer's is not paid on termination.

(ix) Meaning of Immediate Family or Household

- (a) The entitlement to carer's or compassionate leave is subject to the person in respect of whom the leave is taken being either:
 - (1) a member of the employee's immediate family; or
 - (2) a member of the employee's household.

(x) The term “immediate family” includes:

- (1) a spouse of the employee; or
- (2) de facto partner of the employee which means a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis and shall include partners of the same sex or different sexes; and
- (3) former de facto partner of the employee;
- (4) a child or an adult child (including an adopted child, a step child or an ex-nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse or partner of the employee;
- (5) A relative of the employee who is a member of the same household, where for the purpose of this subparagraph:
 - (i) “relative” means a person related by blood, marriage or affinity;
 - (ii) “affinity” means a relationship that one spouse because of marriage or enduring same sex relationships has to blood relatives of the other; and
 - (iii) “household” means a family group living in the same domestic dwelling.

(xi) Payment of Paid Personal/Carer’s Leave

If, in accordance with this Clause an employee takes a period of paid personal/carers leave, the personal/carers leave shall be paid at the employee’s base rate of pay for the employee’s ordinary hours of work in the period.

(xii) Unpaid Carer’s Leave

(a) An employee is entitled to a period of up to two (2) days unpaid carer’s leave for each occasion when a member of the employee’s immediate family, or a member of the employee’s household, requires care or support during such a period because of:

- (1) a personal illness, or injury, of the member; or
- (2) an unexpected emergency affecting the member.

(xiii) This entitlement extends to casual employees and the employer agrees not to fail to re-engage a casual employee because the employee accessed the entitlements provided for in this sub-clause. The rights of the employer to engage or not to engage a casual employee are otherwise not affected.

(xiv) An employee is entitled to unpaid carer’s leave for a particular occasion only if the employee cannot take an amount of paid personal/carers leave.

(xv) Taking of Paid Personal /Carer’s Leave

(a) An employee is entitled to use their paid personal/carers leave entitlement as paid sick leave in accordance with the National Employment Standards.

(xvi) An employee shall, wherever practicable, give the employer notice prior to their intention to take such leave, the name of the person requiring care and that person’s relationship to the employee, the reason for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior

notice of the absence, the employee shall notify the employer by telephone of such absence at the first opportunity.

- (xvii) All periods of personal/carer's leave shall require satisfactory evidence as outlined in the National Employment Standards. Provided that, the employer may dispense of the requirement for such evidence where the absence does not exceed two (2) consecutive days or where in the employer's opinion the circumstances are such as not to warrant such requirements.

38. Parental Leave

- 38.1** Parental Leave entitlements are governed by the National Employment Standards.
- 38.2** Eligible employees who are the primary carer of a newborn or adopted child get up to 18 weeks' leave paid at the national minimum wage under the Australian Government Paid Parental Leave Scheme.
- 38.3** An employee entitled to parental leave in accordance with the National Employment Standards is also eligible for employer paid parental leave in addition to the Australian Government Paid Parental Leave Scheme outlined in subclause 38.4(iv)
- 38.4** The entitlements of employees to parental leave are governed by the National Employment Standards (the NES) as detailed in the *Fair Work Act 2009*. The following provisions shall also apply in addition to those set out in the NES:

(i) The Basic Entitlement

- (a) After 12 months continuous service parents are entitled to a combined total of 52 weeks (paid and unpaid) parental leave on a shared basis in relation to the birth of a child of the employee, or the employee's spouse or de facto partner or same sex partner or the placement of a child with the employee for adoption.
- (b) Parents may simultaneously take up to eight weeks leave.
- (c) Return to work after parental leave:
- (1) An employee returning to work after a period of parental leave is entitled to be employed in:
- (i) the position held by the employee immediately before proceeding on that leave, or
- (ii) if the employee worked part-time or on a less regular casual basis because of the pregnancy before proceeding on maternity leave—the position held immediately before commencing that part-time work or less regular casual work, or

- (iii) if the employee was transferred to a safe job before proceeding on maternity leave—the position held immediately before the transfer.
 - (2) If the position no longer exists but there are other positions available that the employee is qualified for and is capable of performing, the employee is entitled to be employed in a position as nearly as possible comparable in status and pay to that of the employee's former position.
 - (3) In this section, a reference to employment in a position includes, in the case of a casual employee, a reference to work for an employer on a regular and systematic basis.
- (d) Transfer to a safe job
- (1) This section applies whenever the present work of a female employee is, because of her pregnancy or breastfeeding, a risk to the health or safety of the employee or of her unborn or new born child. The assessment of such a risk is to be made on the basis of a medical certificate supplied by the employee and of the obligations of the employer under the *Work Health and Safety Act 2011 (NSW)*.
 - (2) The employer is to temporarily adjust the employee's working conditions or hours of work to avoid exposure to that risk.
 - (3) If such an adjustment is not feasible or cannot reasonably be required to be made, the employer is to transfer the employee to other appropriate work that:
 - (i) will not expose her to that risk, and
 - (ii) is as nearly as possible comparable in status and pay to that of her present work.
 - (4) If there is no appropriate safe job available, and the employee is entitled to unpaid parental leave then the employee is entitled to take paid 'no safe job leave' for the risk period, and be paid at their base rate of pay for ordinary hours of work for as long as is necessary to avoid exposure to that risk, as certified by a medical practitioner.
- (ii) An employer must not fail to re-engage a regular casual employee because:
- (a) the employee or employee's spouse, defacto or same sex partner is pregnant; or
 - (b) the employee is or has been immediately absent on parental leave.

The rights of an employer in relation to engagement and re-engagement of casual employees are not affected, other than in accordance with this clause.

(iii) Right to request

- (a) An employee entitled to parental leave may request the employer to allow the employee:
 - (1) to extend the period of unpaid parental leave for a further continuous period of leave not exceeding 12 months;
 - (2) to return from a period of parental leave on a part-time basis whilst the child is of school age or younger;

to assist the employee in reconciling work and parental responsibilities.

- (b) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect on the workplace or the employer's business. Such grounds might include cost, lack of adequate replacement staff, loss of efficiency and the impact on customer service.

- (c) Employee's request and the employer's decision to be in writing

The employee's request and the employer's decision made pursuant to subclause (iii) Right to Request must be recorded in writing.

- (d) Request to return to work part-time

Where an employee wishes to make a request pursuant to subclause (iii) Right to Request such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.

(iv) Communication during parental leave

- (a) Where an employee is on parental leave and a definite decision has been made to introduce significant change at the workplace, the employer shall take reasonable steps to:
 - (1) make information available in relation to any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave; and
 - (2) provide an opportunity for the employee to discuss any significant effect the change will have on the status or responsibility level of the position the employee held before commencing parental leave.
- (b) The employee shall take reasonable steps to inform the employer about any significant matter that will affect the employee's decision regarding the duration of parental leave to be taken, whether the employee intends to return to work and whether the employee intends to request to return to work on a part-time basis.
- (c) The employee shall also notify the employer of changes of address or other contact details which might affect the employer's capacity to comply with paragraph (a) of this subclause.

(v) Paid Parental Leave

- (a) An employee who commences parental leave (primary carer) will be entitled to either:
 - (1) fourteen (14) weeks paid parental leave which shall be inclusive of their parental leave entitlement to be paid at the commencement of the parental leave period; or
 - (2) At the request of the employee, twenty eight (28) weeks paid parental leave at half pay.

The period of paid parental leave will be based on average hours worked in the preceding 12 months prior to proceeding on parental leave.

- (b) An employee who is secondary carer (partner) leave will be paid two (2) weeks leave at the ordinary rate of pay.
- (c) the employer will pay the superannuation guarantee levy on the employer paid parental leave.

39. Annual Leave

39.1 The National Employment Standards

- (i) Employees are entitled to annual leave in accordance with the provisions of the "National Employment Standards".
- (ii) In accordance with sub-clause (i) full time employees shall be entitled to four (4) weeks annual leave.
- (iii) Part time employees are entitled to annual leave on a pro-rata basis.
- (iv) Further to subsection (i) eligible employees who are defined as a shift worker Clause 5 "Definitions" shall be entitled to one (1) week additional paid annual leave (pro-rata) in accordance with the provision.
- (v) Casual employees have no entitlement to paid annual leave.

39.2 Payment of Annual Leave

- (i) If an employee takes annual leave during a period, the annual leave shall be paid at the employee's ordinary pay immediately before the period begins.
- (ii) If the employment of an employee who has not taken an amount of accrued annual leave ends at a particular time, the employee's untaken accrued annual leave shall be paid at the employee's ordinary pay at that time.
- (iii) Annual leave loading, if any, shall be paid in accordance with Clause 40 of this Agreement.

39.3 Taking of Annual Leave

- (i) An employee is entitled to take an amount of annual leave during a particular period if:

- (a) at least that amount of annual leave is credited to the employee; and
- (ii) the employer has authorised the employee to take the annual leave during that period.
- (iii) In the taking of leave, the employee shall make written application to the employer, giving at least four (4) weeks' notice before the intended period of leave.
- (iv) 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.
- (v) The employee will not ordinarily be granted annual leave in less than one (1) week intervals however the employee may request shorter periods and the employer may authorise such leave having regard to the operational requirements of the department and the employees' circumstances.
- (vi) The employer will not ordinarily grant an employee the ability to take paid annual leave until their first anniversary date, except by mutual agreement.
- (vii) Extensive accumulated annual leave: An employee must take an amount of annual leave or alternatively make an election in accordance with paragraph (vi) herein, during a particular period if:
 - (a) the employee is directed to take an amount of annual leave by the employer;
 - (b) at the time that the direction is given, the employee has annual leave credited to them of more than eight (8) weeks or one-thirteenth (1/13) of the number of ordinary hours worked by the employee for the employer during the period of one hundred and four (104) weeks ending at the time that the direction is given; and
 - (c) the amount of annual leave that the employee is directed to take is less than, or equal to two (2) weeks or one-quarter (1/4) of the amount of credited annual leave of the employee at the time that the direction is given.

39.4 Cashing Out of Annual Leave

- (i) By mutual consent between the employer and the employee, an employee may elect to cash out their entitlement to annual leave in accordance with the procedure set out in the *Fair Work Act 2009* (or any legislation that replaces that Act).
- (ii) By way of summary, an employee may make an election to cash out annual leave if:
 - (a) the employee gives a written election to St Luke's Care requesting a cash out of annual leave;
 - (b) the request by the employee to cash out any accrued entitlements to annual leave does not result in the employee having a remaining annual leave entitlement being less than four (4) weeks.

40. Annual Leave Loading

- (i) Employees who become entitled to annual leave under Clause 39 of this Agreement shall receive an annual leave loading of seventeen and one-half percent (17½%) of the appropriate ordinary rate of pay for the classification in which the employee was employed immediately before commencing annual leave. Such rate of pay shall not include any penalty, shift or overtime rates prescribed by this Agreement. Annual leave loading is only payable on four (4) weeks of annual leave and not on the additional annual leave as set out in Clause 39.1 (iv), ADO entitlements as set out in Clause 27, (xi) or extra leave for public holidays worked.

- (ii) No loading is payable where the annual holiday is taken wholly or partly in advance, provided however, that if the employment of such an employee continues until the day upon which they would have become entitled under Clause 39 of this Agreement to such annual holiday, the loading then becomes payable, in respect of the period of such holiday and is to be calculated in accordance with the Agreement rate of wages applicable on such day.
- (iii) Before an employee is given and takes their annual holiday or where by agreement between the employer and employee the annual holiday is given and taken in more than one (1) separate period, then before each of such separate periods, the employer shall pay the employee the loading in accordance with sub-clause (i) of this Clause.
- (iv) Where the employment of an employee is terminated by the employer for a cause other than misconduct and, at the time of termination, the employee has not been given and has not taken any annual holidays which have accrued on a pro-rata basis they shall be paid the loading provided for in sub-clause (i) of this Clause for the period not taken.
- (v) Where an employee who works shift work is given and takes an annual holiday they shall be paid the loading set out in sub-clause (i) of this Clause, provided that if the amount to which the employee would have been entitled by way of shift work allowances and weekend penalty rates for the ordinary time (not including time on a public holiday) which the employee would have worked during the period of the holiday exceeds the loading calculated in accordance with this Clause, then that amount shall be paid to the employee in lieu of the loading. The roster as displayed in advance shall determine the leave loading payable in respect of the annual leave period for which they have applied.
- (vi) Where it is not possible to determine the shifts that the employee would have worked had they not requested leave, a review of the timesheets three (3) months preceding the period of leave will be reviewed to determine the appropriate calculation of loadings.

41. Long Service Leave

- (i) Long Service Leave shall be in accordance with the *NSW Long Service Leave Act 1955* (as amended from time to time) or any replacement Act.
- (ii) Employees regulated by this Agreement who are receiving more advantageous long service leave provisions than prescribed in the *Long Service Leave Act 1955* shall continue to receive the superior entitlements in accordance with the long service leave provisions applicable at the time this Agreement is made.

42. Compassionate Leave

- (i) Compassionate leave shall be available to employees in accordance with the National Employment Standards, as summarised below.
 - (a) Employees (other than casuals) are entitled to two (2) days paid compassionate leave for each permissible occasion when a member of the immediate family or

a member of the employee's household;

- (1) contracts or develops a personal illness that poses a serious threat to their life; or
 - (2) sustains a personal injury that poses a threat to their life;
 - (3) dies.
- (ii) Where the employee is involved in funeral arrangements, travelling etc., leave may be allowed for up to three (3) days for each permissible occasion.
- (iii) If required by the employer, the employee may be required to provide reasonable evidence for taking such leave.

43. Community Service Leave

Community service leave shall be available to employees in accordance with the National Employment Standards, as summarised below:

- (i) St Luke's Care will approve unpaid leave to enable employees to undertake an eligible community service activity, which is summarised as;
 - (a) Jury service
 - (b) A voluntary emergency management activity defined in the NES which involves dealing with an emergency or natural disaster where the employee is engaged on a voluntary basis as a member of a recognised emergency management body, and is requested, or it would be reasonable to expect that the employee would be requested, to engage in the activity; or
 - (c) An activity prescribed in the *Fair Work Regulations 2009*.
 - (d) Employees must notify St Luke's Care as soon as possible of the date which they are required to attend for jury, emergency service or reserve service. Employees must provide St Luke's Care proof of their attendance, the duration of attendance and any amount received from the government for that service.

44. Family Violence Leave

- (i) General Principle
 - (a) The employer recognises that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, the employer is committed to providing help and support to staff experiencing family violence.
- (ii) Definition of Family Violence
 - (a) The employer accepts the definition of family violence as stipulated in the relevant state legislation. Family violence includes physical, sexual, financial, verbal or emotional abuse by an immediate family member (current or former).
- (iii) General Measures
 - (a) Proof of current family violence may be required and can be in the form an agreed document issued by the Police Service, a Court, a Doctor, district

nurse, maternal and child health care nurse, a Family Violence Support Service or Lawyer.

- (b) All personal information concerning family violence will be kept confidential the employer.
- (c) An employee experiencing family violence may raise the issue with their immediate supervisor or the Human Resources department. The supervisor may seek advice from Human Resources if the employee chooses not to contact Human Resources directly, provided that the employee has consented for that to occur.
- (d) Where requested by an employee, the Human Resources department will liaise with the employee's supervisor on the employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with sub clauses (iv) Leave and (v) Individual Support.

(iv) Leave

- (a) An employee experiencing family violence will have access to their accrued personal leave and three (3) days of paid leave per annum for medical appointments, legal proceedings court appearances, counselling, relocation or to make other safety arrangements upon approval of the Director, Aged Care.
- (b) An employee will also have access to their accrued personal leave and a further two (2) days unpaid leave. In the event the employee has exhausted their personal leave entitlement, further leave may be provided at the absolute discretion of the employer.

(v) Individual Support

- (a) In order to provide support to an employee experiencing family violence and to provide a safe work environment to all employees, the employer will, subject to operational requirements, consider any reasonable request from an employee experiencing family violence for:
 - (1) changes to their span of hours or pattern or hours and/or shift patterns;
 - (2) job redesign or changes to duties within their skills and capabilities;
 - (3) relocation to suitable employment within the workplace;
 - (4) a change to their telephone number or email address to avoid harassing contact.
- (b) Any changes agreed to will be reviewed on an ongoing basis to determine their continued relevance and necessity.
- (c) An employee experiencing ongoing family violence will be provided access to the Employee Assistance Program (EAP).

45. Special Paid Leave

- (i) Should a full time or part time employee be deemed a close contact of a COVID-19 positive person whom they encountered at work and they have been instructed by NSW Health and the Employer to self-isolate, they will be entitled to apply for Special Paid Leave for the period of self-isolation at their ordinary rate.

- (ii) Where a casual employee has been deemed a close contact of a COVID-19 positive person whom they encountered at work and they have been instructed by NSW Health and the Employer to self-isolate, they will be able to access an ex-gratia payment for this period which will be reimbursed to the Employer once they have received the Pandemic Leave Disaster Payment through the Government.
- (iii) Should the employee then test positive for COVID-19 and it has been proved through genomic testing that the infection was acquired during the course of their duties, the employee would be entitled to submit a Workers Compensation claim.
- (iv) In the event a Workers Compensation claim is not submitted or the employee was not proved to have acquired the COVID-19 infection through the course of their duties then the Special Paid Leave shall revert to sick leave. Should the employee have an insufficient sick leave balance, they will move into an annual leave in advance status.

Part 7 – Other Matters

46. Accommodation and Amenities

- (i) The minimum standards set in the *Occupational Health and Safety Regulations 2001* shall be met in the provision of amenities for staff.

47. Attendance at Meetings and Fire Drills

- (i) An employee required to attend occupational health and safety committee and/or board of management meetings as an employee representative shall, if such meetings are held outside the ordinary hours of work, be entitled to receive payment at the "ordinary rate" for the actual time spent in attendance at such meetings. In lieu of receiving payment, employees 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) An employee in attendance at compulsory fire safety practices (e.g. fire drill and evacuation procedures) in accordance with the requirements St Luke's Care policies shall be paid for the time spent in attendance at their "ordinary rate" where such time is concurrent or continuous with their shift on that day. Where such time spent in attendance is not continuous with their rostered shift, then the provisions of Clause 29 - Overtime, shall apply.

48. Probationary period

- (i) Employees (other than casual employees) will be subject to a three (3) month probationary period.
- (ii) If an employee is absent from work during the probationary period for any reason, the probationary period may be extended by a period equal to the period of absence by notice in writing by the employer.
- (iii) If the employer is not satisfied with the employees' performance during the probationary period, the employer may extend the probationary period for a further period of up to three (3) months by giving the employee notice in writing.
- (iv) The probationary period does not affect, and is separate to, the qualifying period of employment in the Act.
- (v) At any time during the probationary period, the employer or employee can terminate the employment by giving one (1) weeks' notice.

49. Disciplinary Matters

- (i) In all dealings with employees the employer commits to the principles of procedural fairness.
- (ii) Any employee required to attend a meeting that might result in a disciplinary outcome, will be entitled to have a support person (which may include a work colleague, a family member, a friend, a union representative) attend and will be entitled to ordinary pay for the duration of the meeting

50. Representative Leave

- (i) Leave required by the Union Delegate to attend trade union and union delegate

courses / seminars shall be as follows:

- (a) to a maximum of three (3) days per year (from 1 January to 31 December each year) for the totality of all applications of trade union, union delegate training leave and attending NSWNMA/ANMF or United Workers Union (as applicable) conferences, provided that:
 - (1) two (2) weeks' notice is provided in writing by the employee outlining the purpose and the duration of the leave requested;
 - (2) the taking of leave is arranged having regard to the operational requirements of the employer;
 - (3) this leave shall be unpaid leave.
- (b) Leave of absence granted pursuant to this Clause shall count as service for all purposes of this Agreement.

51. Recognised Workplace Representatives

- (i) Recognised workplace representatives will be provided with reasonable access to telephone, internet, email, facsimile, photocopying, notice boards and meeting facilities (where available) for the purpose of carrying out work as a recognised workplace representative including, consulting with workplace colleagues and their union.

52. Continuing Professional Development (Registered Nurses only)

- (i) St Luke's Care recognises that training/education is essential for the maintenance and development of nursing practice. St Luke's Care will continue to provide and support training/education opportunities where possible.
- (ii) The responsibility for staff development is shared between employees and the employer. Employees are expected to participate in professional skill development to ensure that they perform at a standard consistent with nursing competencies relevant to their classification and registration.
- (iii) On the basis of assessed needs, a range of programs/topics relevant to nursing care delivery will be provided by the employer and nurses are encouraged to attend.
- (iv) The provision of mandatory training is the responsibility of the employer. Attendance at mandatory training sessions provided by the employer is the responsibility of the employee.
- (v) Training and or resources will be provided by St Luke's Care to assist nurses in meeting their CPD requirements.

53. Training

The employer will allocate sufficient hours within staff rosters to allow all staff to complete mandatory training (which may include e-learning) and undertake such training as is reasonably deemed necessary to maintain an appropriate level of competency for their designated role.

54. Administration Allowance

The employer will provide the employee with a payment of 0.5 hours of the employee's ordinary base hourly rate of pay per fortnight, to recognise time spent on administration tasks associated with their role.

55. Workload Management

- (i) The employer agrees that any matter of excessive workload that is referred to the attention of the appropriate senior manager will be dealt with expeditiously. The employer will use its best endeavours to ensure that any such referral receives a response within two (2) business days. Where a response requires additional time, the employer will initially acknowledge receipt of the issue raised within two (2) business days and respond within three (3) business days.

- (ii) Replacement of absences

The employer will ensure that the backfilling of any position will be undertaken by appropriately qualified and/or experienced staff, taking account of operational and legislative requirements and to ensure continuity of care for clients.

Table 1– Rates of Pay**Low Support Personal/Respite Care***

Classification	Rate to apply from the first pay period on or after 1 July 2020 (3.35% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Low Support Personal/Respite Care	\$22.7852	\$23.3548	\$23.9153

Medium to High Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (2.6% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Medium to High Support Personal/Respite Care	\$23.8583	\$24.4548	\$25.0417

Care Coordinators, Dementia Support Coordinators and Assessment Coordinators/Registered Nurses

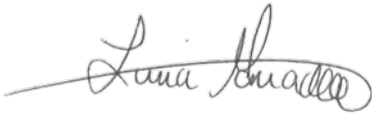
Classification	To apply from first pay period after 1 July 2020 (2.6% Increase)	To apply from first pay period after 1 July 2021 (2.5% Increase)	To apply from first pay period after 1 July 2022 (2.25% Increase)
Care Coordinators, Dementia Support Coordinators and Assessment Coordinators/Registered Nurses	Hourly Rate	Hourly Rate	Hourly Rate
*From:	\$30.1446	\$30.8982	\$31.5934
To:	\$40.6247	\$41.6403	\$42.5772

Table 2 – Other Rates and Allowances

Item	Clause	Brief Description	To apply from first pay period on or after 1/07/2020 (2.75% Increase) (10% Increase for Item 2)	To apply from first pay period on or after 1/07/2021 (2.5% Increase)	To apply from first pay period on or after 1/07/2022 (2.25% Increase)
Item 1	Clause 13.6 (i)	Certificate III	\$13.1819 per week	\$13.5114 per week	\$13.8155 per week
	(ii) (ii)	Certificate IV	\$19.7843 per week	\$20.2789 per week	\$20.7352 per week
Item 2	Clause 16.1 (i)	After Hours Phone Allowance (Mon- Fri)	\$64.5183 per shift	\$66.1313 per shift	\$67.6192 per shift
	Clause 16.1 (ii)	After Hours Phone Allowance (Saturday)	\$99.7101 per shift	\$102.2028 per shift	\$104.5024 per shift
	Clause 16.1 (ii)	After Hours Phone Allowance (Sunday)	\$117.3060 per shift	\$120.2386 per shift	\$122.9440 per shift
	Clause 16.1 (ii)	After Hours Phone Allowance (Public Holiday)	\$140.7672 per shift	\$144.2864 per shift	\$147.5328 per shift
Item 3	Clause 17 (ii)	Vehicle/Travel Allowance	\$0.9107 cents/km	\$0.9334 cents/km	\$0.9544 cents/km
Item 4	Clause 18 (ii)	Broken Shift Allowance	\$9.3684 each break in shift	\$9.6026 each break in shift	\$9.8187 each break in shift
Item 5	Clause 32 (iv)	Meal Allowance - Overtime	\$14.9463 per meal	\$15.3200 per meal	\$15.6647 per meal
Item 6	Clause 19 (i)	Preceptor Allowance	\$2.2766 per hour	\$2.3335 per hour	\$2.3861 per hour

Signature Page for St Luke's Care trading as St Luke's Home Care

DATED this 17th day of March 2021



Luisa Moncada

Director, People & Culture

St Luke's Care

Authorised to sign on behalf of

St Luke's Home Care

18 Roslyn Street,

POTTS POINT NSW 2011

(Address)



Witness

Celena Warren

18 Roslyn Street,

POTTS POINT NSW 2011

(Name and address of witness)



Mel Gatfield

National Director – New Organising

NSW Secretary

United Workers Union

19-37 Greek Street

GLEBE NSW 2037



WITNESS

David Wolff

40 Second St

Ashbury NSW 2193

Signature Page for ANMF NSW BRANCH

Brett Holmes

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

Margaret Potts

WITNESS
Margaret Mary Potts
50 O'Dea Ave, Waterloo

O'Bray Smith

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

Margaret Potts

WITNESS
Margaret Mary Potts
50 O'Dea Ave, Waterloo

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

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

IN THE FAIR WORK
COMMISSION

Fair Work Act 2009 (Cth) ("FW Act")

Matter number:

AG2021/4237

Employer:

St Luke's Care (Employer)

Application:

Section 185 – Application for approval of a single enterprise agreement, namely the St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 - 2023 (Agreement)

Authorised representative:

Luisa Moncada
Director, People & Culture

Undertaking- Section 190

For and on behalf of the Employer I, Luisa Moncada:

1. declare that I have:
 - a. authority to give this undertaking on behalf of the Employer,
 - b. sought the views of all bargaining representatives for this undertaking pursuant to s 190(4) of the FW Act,
2. understand that each undertaking is to be taken to be a term of the Agreement,
3. give the following undertaking/s with respect to the Agreement:
 - a. **St Luke's Care undertakes to review Clause 8 (i) to read;**
 - (i) In the event of a dispute in relation to a matter arising under this Agreement, the Fair Work Act 2009, the NES or any other work related matter, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
 - b. **St Luke's Care undertakes to amend Clause 13.5 (i) to read;**
 - (i) The following base rates of pay will be paid on an hourly basis to an Employee whilst undertaking personal and respite care work under this Agreement:

St Luke's Care trading as St Luke's Home Care, NSWNMA/ANF NSW Branch & United Workers Union Enterprise Agreement 2020 – 2023 Undertakings

Low Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (3.4% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Low Support Personal/Respite Care	\$22.7962	\$23.3661	\$23.9269

c. St Luke's Care undertakes to amend Clause 14 (i) to read;

- (i) Employees shall not be paid less than the rates for the appropriate classification set out in Table 1, Rates of Pay. This agreement increases the rates from the first full pay period commencing on or after:
- 1 July 2020 – 3.4% for PCA Field Staff Grade 2 & 2.6% for all other grades and positions.
 - 1 July 2021 – 2.5%
 - 1 July 2022 – 2.25%

d. St Luke's Care undertakes to amend Table 1 – Rates of Pay to read;

Low Support Personal/Respite Care*

Classification	Rate to apply from the first pay period on or after 1 July 2020 (3.4% Increase)	Rate to apply from the first pay period on or after 1 July 2021 (2.5% Increase)	Rate to apply from the first pay period on or after 1 July 2022 (2.25% Increase)
	Base Hourly Rate	Base Hourly Rate	Base Hourly Rate
Low Support Personal/Respite Care	\$22.7962	\$23.3661	\$23.9269

e. St Luke's Care undertakes to review Clause 28.1 (ii) to read;

- (ii) Where the employee is given notice after 5:00 p.m. the day before the rostered service or where the employee arrives at the client's home and the client is not there:
 - (a) If the employee can be given another client, then the employee is to proceed to the client within the rostered time on the same day. Where there is an agreement between the employer and employee then re-rostering of the client may take place on another day.
 - (b) If the employee cannot be given another client within the rostered time on the same day and the cancelled client stood alone as a single engagement, the employee will be entitled to receive payment for their minimum specified hours on that day.
 - (c) If the employee cannot be given another client within the rostered time on the same day and the cancelled client is part of an engagement, the employee will be entitled to receive payment for their minimum specified hours on that day.
 - (d) Payments, in relations to cancellations, will not be made if a carer declines an alternative visit within the same time frame and within their abilities.

f. St Luke's Care undertakes to include a new Clause 28.1 (ii) (e) to read;

- (e) The employer may direct the employee to make-up time equivalent to the cancelled time, in that or the subsequent fortnightly period. This time may be made up working with other client or in other areas of the employer's business providing the employee has the skill and competence to perform the work. This time may also be made up to complete outstanding mandatory learning.

g. St Luke's Care undertakes to review Clause 34 (iv) to read;

- (iv) A casual employee shall be paid an hourly rate, prescribed by Table 1 - Rates of Pay of this Agreement, plus twenty-five percent (25%) thereof.

h. St Luke's Care undertakes to include a new clause; Clause 29.1 (c) to read;

- (c) All time worked by casual employees, in excess of hours prescribed in Clause 27 – Hours shall be paid for at their casually loaded rate (as per Clause 34 (iv), plus time and one half for the first two (2) 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.

i. St Luke's Care undertakes to review Clause 29.2 (a) to read;

- (a) Time off in lieu of overtime is taken on the basis of hour for hour at ordinary pay, that is for example, one (1) hour for each hour of overtime worked. It must be taken within the calendar year of it being accrued at a mutually agreed time.

j. St Luke's Care undertakes to review Clause 29.2 (b) to read;

- (b) Where it is not possible for an employee to take the time off in lieu of overtime within the calendar year period that it is accrued, it is to be paid out at the appropriate overtime rate based on the rates of pay applying at the time payment is made.

k. St Luke's Care undertakes to include a new clause; Clause 29.2 (f) to read;

- (f) Upon termination, Time off in Lieu will be paid to the employee at the applicable overtime rate.

l. St Luke's Care undertakes to remove Clause 23 (iii) and review Clause 23 (i) to read;

- (i) An employee who is called upon to relieve an employee in a higher classification or is called upon to act in a vacant position of a higher classification for excess of two (2) hours, shall be entitled to receive for the period of relief or the period during which they act the minimum payment for such higher classification.

m. St Luke's Care undertakes to review Clause 18 (i) to read;

- (i) Broken shift for the purposes of this Clause means a shift worked by an employee that includes breaks in excess of that provided for a meal break where the time between the commencement and the termination of the broken shift shall not exceed twelve (12) hours. For each occasion there is a break in shift (a non-working period), in accordance with this Clause, the allowance in Item 4 of Table 2 will be payable. For example, if the employee has a two (2) hour break in shift (non-working period), they are entitled to a singular payment of the broken shift allowance for that break in shift (non-working period).

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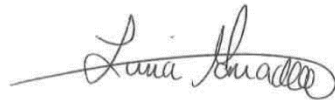
n. St Luke's Care undertakes to add Clause 18 (vi) to read;

- (vi) Payment for a broken shift will be at ordinary pay with applicable penalty rates and shift allowances in accordance with Clause 35, with shift allowances being determined by the finishing time of the broken shift.

o. St Luke's Care undertakes to amend Clause 13.6 (ii) to read;

- (ii) For Certificate IV in Community Services Work (or equivalent):

	Allowance from first pay period on or after 1 July 2020 (2.75% Increase)	Allowance from first pay period on or after 1 July 2021 (2.5% Increase)	Allowance from first pay period on or after 1 July 2022 (2.25% Increase)
Permanent full-time and part-time employee	\$19.7843 per week	\$20.2789 per week	\$20.7352 per week

Date signed:	8th April 2021
For and on behalf of the Employer by: [In accordance with s.190(5) of the FW Act]	Luisa Moncada
Signature:	
Witness name:	Celena Warren
Witness signature:	