



FAIR WORK  
AUSTRALIA

## DECISION

*Fair Work Act 2009*

s.185 - Application for approval of a single-enterprise agreement

**Three Tree Lodge Lithgow Limited T/A Three Tree Lodge Residential  
Care Services**  
(AG2011/14680)

### **THREE TREE LODGE LITHGOW LIMITED NSWNA & HSU EAST ENTERPRISE AGREEMENT 2011-2014**

Aged care industry

COMMISSIONER MCKENNA

SYDNEY, 9 JANUARY 2012

*Application for approval of the Three Tree Lodge Lithgow Limited NSWNA & HSU East  
Enterprise Agreement 2011-2014.*

[1] An application has been made for approval of an enterprise agreement known as the *Three Tree Lodge Lithgow Limited NSWNA & HSU East Enterprise Agreement 2011-2014* ("the Agreement"). The application was made pursuant to s.185 of the *Fair Work Act 2009* ("the Act"). The application has been made by Three Tree Lodge Lithgow Limited T/A Three Tree Lodge Residential Care Services ("the applicant"). The Agreement is a single-enterprise agreement.

[2] A written undertaking has been provided by the applicant. A copy of the undertaking is attached as Annexure A. The New South Wales Nurses' Association ("NSWNA"), the Australian Nursing Federation ("ANF") and the Health Services Union East Branch (HSU-East) concur with the content of the undertakings. I note that, under s.191 of the Act, the undertaking is taken to be a term of the Agreement.

[3] I am satisfied that each of the requirements of ss.186, 187 and 188 of the Act relevant to this application for approval has been met.

[4] The NSWNA, ANF and HSU-East have given notice under s.183 of the Act that they wish to be covered by the Agreement. In accordance with s.201(2) of the Act, I note that the Agreement covers these organisations.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from seven days after the issuing of this decision. The nominal expiry date will be 30 June 2014.



Annexure A

**Three Tree Lodge**  
RESIDENTIAL AGED CARE FACILITY

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Commissioner McKenna  
Fair Work Australia  
90 William Street  
EAST SYDNEY NSW 2011

Dear Commissioner McKenna

Re: AG2011/14680- Three Tree Lodge Lithgow Limited NSWNA & HSU East Enterprise Agreement  
2011-2014

**Undertakings**

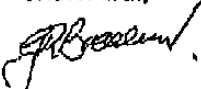
In respect of the Three Tree Lodge Lithgow Limited NSWNA & HSU East Enterprise Agreement 2011-2014, the following undertakings are provided by the employer.

- 1) Remove sub clause 21.8 (b)
- 2) Insert a new sub clause 21.8(b) with the following wording

"An employee whose employment has ceased with Three Tree Lodge, shall receive the same amount of annual leave loading that they would have received as per normal course of employment as per subclauses 21.5(a) and 21.5(b)"

A copy of this undertaking will be attached to the Enterprise Agreement and will be distributed to all employees covered by the Agreement.

Yours Faithfully



Garry Brown  
Board Chair of Three Tree Lodge Limited  
Date: 5/1/2012

Witness Signature

 5/1/2012

Name

Dorothy Marree Beljon  
JP-NSW-Reg No 141804

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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.

# **Three Tree Lodge Lithgow Limited NSWNA & HSU East Enterprise Agreement 2011-2014**

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## **PART 1 - PRELIMINARIES**

### **1. Introduction**

This Agreement is made under section 172 of the *Fair Work Act 2009*.

- 1.1 The employer will take the necessary steps to seek approval of this Agreement under section 186 of the Act
- 1.2 The employer will formally advise the Unions when the Agreement is made in order for the Unions to apply under section 183 of the Fair Work Act 2009 to be covered by the agreement.
- 1.3 It is the intention of this agreement that the Unions will be covered by this Agreement

### **2. Title**

This Agreement shall be known as Three Tree Lodge Lithgow Limited NSWNA & HSU Enterprise Agreement 2011-2014 and throughout is referred to as "this Agreement".

### **3. Parties Bound**

This Agreement shall be binding according to its terms upon the following:

- (a) Three Tree Lodge Lithgow Limited
- (b) HSU East;
- (c) the New South Wales Nurses' Association;
- (d) the Australian Nursing Federation; and
- (e) and all those employees of the employer performing work within the classifications contained in this agreement and employed in a residential aged care facility or a program run from an aged care facility in NSW.

### **4. Commencement**

The agreement will commence 7 days after the date of approval by Fair Work Australia.

### **5. Expiry**

This Agreement shall have a nominal expiry date of 30 June 2014.

### **6. Definitions**

Where a term of this Agreement has a corresponding definition in the Act, the Regulations or the NES, the definition in the Act, the Regulations or the NES shall apply. Any such terms that are also defined in this Agreement are defined for the convenience only of the parties and shall be overridden to the extent of any inconsistency with the definition found in the Act, the Regulations or the NES.

For the purposes of this Agreement:

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**Act** means the *Fair Work Act 2009* (as amended).

**Base rate of pay** (refer to section 16 of the Act) means a rate of pay for a period worked (however the rate is described) that does not include incentive-based payments and bonuses, loadings, monetary allowances, penalty rates or any other similar separately identifiable entitlements.

**Board** means the Nursing and Midwifery Board of Australia.

**De facto partner** means:

- (a) a person who, although not legally married to the employee, lives with the employee in a relationship as a couple on a genuine domestic basis (whether the employee and the person are of the same sex or different sexes); and
- (b) includes a former de facto partner of the employee.

**Employment classifications** mean those set out in Schedule A to this Agreement and shall apply as if they had been reproduced in full in this clause.

**FWA** means Fair Work Australia

**Immediate Family** means:

- (a) a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the employee; or
- (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the employee.

**NES** means the National Employment Standards as amended from time to time.

**Ordinary Pay** includes: the base rate of pay; any applicable over-agreement payments for ordinary hours of work; and Climatic & Isolation Allowance. It does not include, shift or weekend penalties.

**Regulations** means the regulations associated with the *Fair Work Act 2009* (as amended from time to time).

**Union** or **Unions** means HSU East; the New South Wales Nurses' Association and the Australian Nursing Federation New South Wales Branch.

## **7. Complete Agreement**

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- 7.1 Other than individual agreements reached in accordance with Clause 8 - Agreement Flexibility, this Agreement is intended to cover all matters pertaining to the employment relationship. In this regard, it represents a complete statement of the mutual rights and obligations between the employer and the employees to the exclusion (to the extent permitted by law) of other laws, awards, agreements (whether registered or unregistered), custom and practice and like instruments or arrangements.
- 7.2 For the purposes of this clause, the terms "award" or "awards" include any applicable award or enterprise agreement and includes those howsoever described in the Act as an award, modern award, federal award, transitional federal award, pre-reform federal award, pre-reform certified agreement, a rationalised and/or simplified federal award, a preserved State agreement or a notional agreement preserving a State award.
- 7.3 Notwithstanding clauses 7.1 and 7.2, the NES will prevail over the content of this Agreement, to the extent of any inconsistency or omission

## **8. Agreement Flexibility**

- 8.1 Notwithstanding any other provision of this agreement, an employer and an individual employee may agree to vary the application of certain terms of this agreement to meet the genuine individual needs of the employer and the individual employee. The terms the employer and the individual employee may agree to vary the application of are those concerning:
- (a) Arrangements for when work is performed in relation to:
    - (i) the timing of breaks;
    - (ii) time off in lieu of overtime; and
    - (iii) penalty rates.

It is anticipated that any agreement would result from the employee requiring the change to accommodate personal circumstances. Any such change will not financially disadvantage other employees.
  - (b) overtime and penalty rates in respect to CSE 5, DDON and DON;
  - (c) the inclusion of allowances in base salary; and
  - (d) the inclusion of leave loading in base salary.
- 8.2 The employer and the individual employee must have genuinely made the agreement without coercion or duress.
- 8.3 The agreement between the employer and the individual employee must:
- (a) be confined to a variation in the application of one or more of the terms listed in clause 8.1; and
  - (b) result in the employee being better off overall than the employee would have been if no individual flexibility agreement had been agreed to.
- 8.4 The agreement between the employer and the individual employee must also:
- (a) be in writing, name the parties to the agreement and be signed by the employer and the individual employee and, if the employee is under 18 years of age, the employee's parent or guardian;



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- (b) state each term of this agreement that the employer and the individual employee have agreed to vary;
  - (c) detail how the application of each term has been varied by agreement between the employer and the individual employee;
  - (d) detail how the agreement results in the individual employee being better off overall in relation to the individual employee's terms and conditions of employment; and
  - (e) state the date the agreement commences to operate.
- 8.5 The employer must give the individual employee a copy of the agreement within 14 days after it is agreed and keep the agreement as a time and wages record.
- 8.6 Except as provided in clause 8.4(a) the agreement must not require the approval or consent of a person other than the employer and the individual employee.
- 8.7 An employer seeking to enter into an agreement must provide a written proposal to the employee. Where the employee's understanding of written English is limited the employer must take measures, including translation into an appropriate language, to ensure the employee understands the proposal.
- 8.8 The agreement may be terminated:
- (a) by the employer or the individual employee giving 28 days' notice of termination, in writing, to the other party and the agreement ceasing to operate at the end of the notice period; or
  - (b) at any time, by written agreement between the employer and the individual employee.
- 8.9 The right to make an agreement pursuant to this clause is in addition to, and is not intended to otherwise affect, any provision for an agreement between an employer and an individual employee contained in any other term of this agreement.
- 9. National Employment Standards**
- 9.1 It is the intention of this Agreement that the NES, as it may be varied from time to time, shall apply to the employees the subject of this Agreement. Any provisions of the NES that are also referred to or set out in this Agreement are for the convenience only of the parties.
- 9.2 Where the NES 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 condition or entitlement set out in this Agreement shall be overridden to the extent that it is less favourable than the NES.
- 10. No Extra Claims**
- 10.1 The parties bound by this Agreement acknowledge that this Agreement settles all claims in relation to the terms and conditions of employment of the employees to whom it applies and agree that they will not pursue any extra claims during the term of this Agreement.

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- 10.2 Without limiting the generality of the foregoing, there shall be no industrial action for the purpose of supporting or advancing claims against the employer until the nominal expiry date has passed and the requirements of the Act have been satisfied.
- 10.3 Where any disagreement arises, the parties shall follow the Dispute Settlement Procedure contained in this Agreement. The parties acknowledge that the terms of this Agreement represent the totality of all matters in the employment relationship and that no industrial action shall be taken in support of any matter(s) whatsoever which is (are) covered or not covered by this Agreement until its nominal expiry date has passed and the requirements of the Act have been satisfied.

**11. Availability of Agreement**

- 11.1 The employer must ensure that copies of this Agreement and the NES are available to all employees to whom they apply either on a notice board which is conveniently located at or near the workplace or through electronic means, whichever makes them more accessible.

**PART 2 - ENGAGEMENT**

**12. Employee Engagement**

**12.1 Minimum Employment Period:**

- (a) Employees (other than casual employees) will be on a period of probation for the first six months of engagement (12 months for small business) for the purpose of determining the employee's suitability for ongoing employment.
- (b) At any time during the probation period, the employer or the employee can terminate the employment by providing written notice in accordance with clause 29 – Termination of Employment.
- (c) Employees will not be protected from unfair dismissal, where they are terminated within the probation period ending at the earlier of:
  - (i) the time when the person is given notice of the dismissal:
  - (ii) immediately before the dismissal

**12.2 Full-time Employees:** A full-time employee is one engaged as such and whose ordinary hours of work average 38 hours per week.

**12.3 Part-time Employees:**

- (a) A part-time employee is an employee who is engaged to work less than an average of 38 ordinary hours per week and whose hours of work are reasonably predictable.
- (b) 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.
- (c) Reasonable additional hours may be worked in accordance with clause 15 - Hours.
- (d) At the request of an employee, the hours worked by the employee will be reviewed annually. Where the employee is regularly working more than their guaranteed minimum number of hours then such hours shall be adjusted by the employer, and

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recorded in writing to reflect the hours regularly worked. The hours worked in the following circumstances will not be incorporated in the adjustment:

- i. if the increase in hours is as a direct result of an employee being absent on leave, such as for example, annual leave, long service leave, maternity leave, workers compensation; and
  - ii. if the increase in hours is due to a temporary increase in hours only due, for example, to the specific needs of a resident or client.
- (e) Any adjusted guaranteed minimum number of hours resulting from a review identified in sub-clause 12.3(d) should, however, be such as to readily reflect roster cycles and shift configurations utilised at the workplace.

#### **12.4 Casual Employees:**

- (a) A casual employee is one who is engaged as such on an hourly basis otherwise than as a full-time employee or a part-time employee.
- (b) Casual Conversion
  - i. A casual employee who has been rostered on a regular and systematic basis over a period of 52 weeks has the right to request conversion to permanent employment:
    - (A) on a full-time contract where the employee has worked on a full-time basis throughout the period of casual employment; or
    - (B) on a part-time contract where the employee has worked on a part-time basis throughout the period of casual employment. Such contract would be on the basis of the same number of hours as previously worked, unless other arrangements are agreed between the employer and the employee.
  - ii. The employer may consent to or refuse the request, but shall not unreasonably withhold agreement to such a request.
  - iii. Casual conversion will not apply where a casual has covered absences of permanent staff that are expected to return to work.

#### **12.5 Apprentices:**

- (a) In addition to the above categories, employees may be engaged as apprentices.
- (b) Apprentice means an employee who is serving a period of training under a training contract for the purpose of rendering him or her fit to be a qualified worker in the industry.
- (c) No apprentice shall be permitted or required to perform work which would prevent the apprentice from attending classes at his or her relevant training establishment.

#### **12.6 Trainees:**

Trainees shall be employed in accordance with the provisions set out in Schedule D to this Agreement.

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## 12.7 Recognition of Service and Experience

- (a) From the time of commencement of employment an employee has three months in which to provide documentary evidence to the employer detailing any other relevant service or experience not disclosed at the time of commencement. This evidence, in the absence of other documentary evidence, may take the form of a statutory declaration.
- (b) Until such time as the employee furnishes any such documentation contemplated in sub-clause (a), the employer shall pay the employee at the level for which proof has been provided.
- (c) If within three months of commencing employment an employee does provide documentary evidence of other previous relevant service or experience not disclosed at the time of commencement, the employer shall pay the employee at the appropriate rate as and from the date of commencement that would have been paid from that date had the additional evidence been provided at that time.
- (d) If an employee provides documentary evidence of other previous relevant service or experience not disclosed at the time of commencement after the said three months period, the employee shall be paid a rate appropriate for the previous relevant service or experience then proved, but only from the date of providing that evidence to the employer.
- (e) An employee who is working in the same classification for more than one organisation shall notify the employer within one month of the end of each quarter of their hours worked with those other employers in the last quarter.
- (f) An employee who is entitled to progress to the next year of service or experience (by reason of hours worked with other employers) as and from a particular date must provide proof of that entitlement within three months of that entitlement arising. If that proof is so provided, the employee shall be paid at the higher rate as and from the date they were entitled to progress to the next year of service or experience. If the proof is provided outside that three-month period, the employee shall be paid at the higher rate only from the date that proof is provided.
- (g) For the purpose of yearly progression based on service and experience an employee must complete 1976 hours of work less any Annual Leave taken during the year.

## 13. Pay and Payment

### 13.1 Full-Time and Part-Time Employees

The base rates of pay in the appropriate employment classification for full-time employees and for part-time employees shall be the hourly rates of pay set out in Column 1 of Table 1 of Schedule B to this Agreement.

### 13.2 Casual Employees

- (a) The base rates of pay in the appropriate employment classification for casual employees shall be the hourly rates of pay set out in Column 1 of Table 1 of Schedule B to this Agreement. In addition, a casual loading will be paid in accordance with the following table.

Date	%
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1 July 2011	21.50
1 July 2012	22.67
1 July 2013	23.83
1 July 2014	25

- (b) Where it is expressly stated in this Agreement that overtime, weekend payments and public holiday payments are to be made to casual employees, such payments shall be taken to be inclusive of and not in addition to the casual loading referred to in this sub-clause.

### 13.3 Apprentices

The base rates of pay in the appropriate employment classification for apprentices shall be the hourly rates of pay set out in Column 1 of Table 1 of Schedule B to this Agreement.

### 13.4 Trainees

The base rates of pay in the appropriate employment classification for trainees shall be the hourly rates of pay set out in Schedule D to this Agreement.

### 13.5 Other Entitlements

In addition to being paid their ordinary pay:

- (a) **Full-Time Employees:** Full-time employees shall have the benefit of all of the other entitlements set out in this Agreement
- (b) **Part-Time Employees:** Part-time employees shall have the benefit of all of the other entitlements set out in this Agreement on a pro rata basis in the same proportion as their ordinary hours of work bear to full-time hours.
- (c) **Casual Employees:**
  - i. For weekend and public holiday work, casual employees shall receive the penalty rates prescribed in Clause 18 - Shift and Weekend Work and Clause 19 - Public Holidays. Such payment shall be taken to be inclusive of and not in addition to the casual loading referred to in sub-clause 13.2.
  - ii. A casual employee will be paid shift allowances calculated on the ordinary pay excluding the casual loading with the casual loading component then added to the penalty rate of pay.
  - iii. A casual employee is entitled to overtime payment only when a casual works in excess of 76 hours per fortnight. Overtime shall be paid in accordance with Clause 17 - Overtime. Such payment shall be taken to be inclusive of and not in addition to the casual loading referred to in sub-clause 13.2.
  - iv. Casual employees shall have the benefit of all of the other entitlements set out in this Agreement on a pro rata basis in the same proportion as their ordinary hours of work bear to full-time hours.
  - v. A casual employee's entitlement to long service leave shall be governed by the provisions of the Long Service Leave Act 1955 (NSW).

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- vi. Clauses that shall not apply to casual employees include: Clause 15 - Rosters; Clause 21 - Annual Leave; Clause 21.9 Live-In; Clause 26 - Repatriation Leave.
  - (d) Apprentices
    - i. Apprentices attending college for training shall be entitled to fares to and from home to college.
    - ii. An apprentice who obtains and hands to the employer a certificate or statement of having passed his or her first year technical college examination and in respect of whom a satisfactory report as to conduct, punctuality and progress is furnished shall be paid the weekly allowance set out in Item 7 of Table 2 of Schedule B to this Agreement in addition to the rates prescribed in the ensuing twelve months, plus the additional weekly allowance set out in Item 7 of Table 2 of Schedule B to this Agreement if he or she passes each subsequent year.

### **13.6 Payment of Wages**

- (a) Wages shall be paid fortnightly.
- (b) Employees shall have their wages paid by direct deposit or electronic transfer into one account with a bank or other financial institution in New South Wales as nominated by the employee. Wages shall be deposited by the employer in sufficient time to ensure that wages are available for withdrawal by employees by the 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.
- (c) Where the services of an employee are terminated with due notice, all moneys owing shall be paid upon cessation of employment, but in the case of termination without due notice, within three working days.
- (d) Where the employer has overpaid an employee, the employer shall notify the employee in writing of such overpayment and how such overpayment is made up, and may recover such amounts, with the agreement of the employee as to the amount of the overpayment and method of such recovery. This sub-clause authorises the use of deductions from wages for the purpose of such recovery. All such deduction from wages must be authorised in writing by the employee.

### **13.7 Particulars of Wages**

- (a) On pay day each employee shall be provided with a pay slip in electronic form or hardcopy which complies with the relevant provisions of the Act. (See Regulation 3.46 of the Fair Work Regulations 2009 replicated below):
  - i. the employer's name; and
  - ii. the employee's name; and
  - iii. the period to which the pay slip relates; and
  - iv. the date on which the payment to which the pay slip relates was made; and

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- v. the gross amount of the payment; and
  - vi. the net amount of the payment; and
  - vii. any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement; and
  - viii. on and after 1 January 2010 - the Australian Business Number (if any) of the employer.
- (b) If an amount is deducted from the gross amount of the payment, the pay slip must also include the name, or the name and number, of the fund or account into which the deduction was paid.
- (c) If the employee is paid at an hourly rate of pay, the pay slip must also include:
- i. the rate of pay for the employee's ordinary hours (however described); and
  - ii. the number of hours in that period for which the employee was employed at that rate; and
  - iii. the amount of the payment made at that rate.
- (d) If the employee is paid at an annual rate of pay, the pay slip must also include the rate as at the latest date to which the payment relates.
- (e) If the employer is required to make superannuation contributions for the benefit of the employee, the pay slip must also include:
- i. the amount of each contribution that the employer made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or
  - ii. the amounts of contributions that the employer is liable to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.

## **14. Hours**

### **14.1 Reasonable Additional Hours**

All hours worked over an average of 38 ordinary hours per week, will be deemed to be additional hours. All hours worked by part-time employees beyond their guaranteed minimum number of hours will be treated as additional hours for the purpose of this subclause. From time to time, employees may be required to work a reasonable amount of additional hours. All additional hours worked will be paid in accordance with this Agreement.

An employee may not be required to work additional hours in circumstances where the working of additional hours would result in the employee working hours which are unreasonable having regards to (refer to section 62 of the *Fair Work Act 2009*):

- (a) any risk to employee health and safety from working the additional hours;
- (b) the employee's personal circumstances, including family responsibilities;

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- (c) the needs of the workplace or enterprise in which the employee is employed;
  - (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;
  - (e) any notice given by the employer of any request or requirement to work the additional hours;
  - (f) any notice given by the employee of his or her intention to refuse to work the additional hours;
  - (g) the usual patterns of work in the industry, or the part of an industry, in which the employee works;
  - (h) the nature of the employee's role, and the employee's level of responsibility;
  - (i) whether the additional hours are in accordance with averaging terms included under section 63 in a modern award or enterprise agreement that applies to the employee, or with an averaging arrangement agreed to by the employer and employee under section 64;
  - (j) any other relevant matter.

#### **14.2 Arrangement of Hours**

- (a) The ordinary hours of work, exclusive of meal times, shall not exceed an average of 38 hours per week.
- (b) The hours of work prescribed in sub-clause (a) may be arranged as follows:
  - (i) 152 hours in a 28 calendar-day cycle to be arranged so that each employee shall not work their ordinary hours on more than 19 days in the 28 calendar-day cycle; or
  - (ii) 190 hours per 35 calendar days to be arranged so that each employee shall not work their ordinary hours on more than 19 days in the 35 calendar-day cycle; or
  - (iii) 76 hours per fortnight to be arranged so that each employee shall not work their ordinary hours on more than ten days in the fortnight; or
  - (iv) 38 hours per week to be arranged so that each employee shall not work their ordinary hours on more than five days in the week; or
  - (v) as otherwise agreed in writing between the employer and the employee.
- (c) Each employee shall be entitled to not less than four full days in each fortnight free from duty or two full days in each week free from duty (rostered days off), and every effort shall be made for such rostered days off to be consecutive, unless otherwise agreed.
- (d) Each shift shall consist of no more than 10 hours of work at ordinary time provided that an employee shall not work more than seven consecutive shifts unless the employee so requests and the employer agrees.



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- (e) Full-time employees shall receive a minimum payment of four hours for each start in respect of ordinary hours of work.
  - (f) Part-time and casual employees shall receive a minimum payment of two hours for each start.
  - (g) Employees must receive a minimum break of eight (8) hours between ordinary rostered shifts, which are not broken shifts.
  - (h) Except for meal breaks and the periods not worked in broken shifts, all time from the commencement to the cessation of duty each shift shall count as working time.
  - (i)
    - i. A Director of Nursing shall be free from duty for not less than nine days in each 28 consecutive days and such days free from duty may be taken in one or more periods.
    - ii. If any of the days mentioned in sub-clause (i) cannot be taken by reason of emergency, such day or days shall be given and taken within 28 days of becoming due.
    - iii. A Director of Nursing shall, where practicable, inform the employer by giving not less than seven days' notice of the days he or she proposes to be free from duty; provided that such days shall be subject to the approval of the employer, and such approval shall not be unreasonably withheld.
  - (j) The employer will ensure there is provision for handover between Registered Nurses at the commencement of each shift to inform of any changes to a residents health status.

#### **14.3 Allocated Days Off (ADO)**

- (a) A full-time employee whose ordinary hours of work are arranged in accordance with sub-clause 14.2(b)(i) and (ii) shall be entitled to an ADO in each cycle of 28 days or 35 days as the case may be. The ordinary hours of work on each of those days shall be arranged to include a proportion of one hour on the basis of 0.4 of one hour for each 8-hour shift worked and 0.5 of one hour for each 10-hour shift worked which shall accumulate towards the employee's allocated day off duty on pay.
- (b) A full-time employee's ADO shall be determined by mutual agreement between the employee and the employer having regard to the needs of the place of employment or sections thereof. Such ADO shall, where practicable, be consecutive with the rostered days off. Provided that ADO's shall not be rostered on public holidays.
- (c) Where the employer and the employee agree, up to five (5) ADO's may be accumulated and taken in conjunction with the employee's annual leave or at another agreed time.
- (d) No time towards an ADO shall accumulate during periods of workers' compensation, unpaid parental leave, long service leave, any period of unpaid leave or annual leave.
- (e) Credit towards an ADO shall continue to accumulate whilst an employee is on paid personal/carers' leave. Where an allocated day off duty falls during a period of personal/carers leave, the employee's available sick leave shall not be debited for that day.

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- (f) Employees entitled to ADO's shall continue to accrue credits towards them in respect of each day those employees are absent on leave in accordance with clause 19 - Public Holidays.
  - (g) An employee will be paid for any accumulated ADOs, at ordinary pay, on the termination of their employment for any reason.

#### **14.4 Broken Shifts**

- (a) An employee may agree to work broken shifts at any time for any duration; however an employee may be required to work broken shifts in the following circumstances:
  - (i) in an emergency – including staff absence; or
  - (ii) up to and including a 4 week continuous period for circumstances other than those covered by subclauses 14.4(a)(i) and (ii).
    - (A) Where an employee has served a period of broken shifts in accordance with subclause (iii) the employee shall not be required to serve a further period on broken shifts until he or she has been off broken shifts for a period equivalent to the previous period on broken shifts.
- (b) A "broken shift" for the purposes of this sub-clause means a single shift worked by an employee that includes one or more breaks in excess of that provided for meal breaks, where the time between the commencement and termination of the broken shift shall not exceed 12 hours.
- (c) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.
- (d) Where a broken shift is worked, an employee shall receive an allowance equivalent to half an hour of their ordinary pay per shift.
- (e) Payment for a broken shift shall be at ordinary pay with penalty rates and shift allowances in accordance with Clause 18 - Shift and Weekend Work, with shift allowances being determined by the commencing time of the broken shift.
- (f) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double ordinary pay.

#### **15. Rosters**

- 15.1 (a) The ordinary hours of work for each employee shall be displayed on a roster in a place conveniently accessible to employees. Such roster shall be displayed two weeks prior to the commencing date of the first working period in any roster.
- (b) Sub-clause (a) shall not make it obligatory for the employer to display any roster of ordinary hours of work of members of the casual or relieving staff.

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- 15.2 (a) A roster may be altered at any time so as to enable the service of the organisation to be carried on where another employee is absent from duty on account of illness or in an emergency. Where such alteration involves an employee working on a day which would have been his or her rostered day off, such employee may elect to be paid at overtime rates or have a day off in lieu which shall be mutually arranged.
- (b) Sub-clause (a) 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 rostered days off in that week or four rostered days off in that fortnight, as the case may be.
- 15.3 (a) Where the employer is unable to meet the guaranteed minimum number of hours of a permanent employee for reasons associated with death, hospitalisation or other like extenuating circumstances, the following procedures shall be followed in the sequence provided:
- (i) work shall be re-allocated from casual employees to the permanent employee; or
  - (ii) hours shall be reallocated from another employee who is working hours additional to their guaranteed minimum number of hours; or
  - (iii) where the employee agrees, the employee may have access to annual or long service leave; or
  - (iv) the employee may be stood down by the employer in accordance with s. 524 of the Act.
- (b) Notwithstanding the provisions in sub-clauses 15.3(a)(i) to 15.3 (a)(iv) inclusive, if after six weeks - or earlier if by mutual agreement - the employer is unable to provide the guaranteed minimum number of hours, the employee shall be entitled to the provisions set out in Clause 31 - Redundancy.
- (c) Nothing in this clause shall prohibit the employee and employer reaching agreement as to a period of authorised unpaid leave.
- 15.4 Where an employee is entitled to an allocated day off duty in accordance with clause 14 - Hours that allocated day off duty is to be shown on the roster of hours for that employee.
- 15.5 Each sleepover shall appear on the roster.

**16. Breaks**

- 16.1 Two separate ten-minute tea breaks (in addition to meal breaks) shall be allowed each employee on duty during each ordinary shift of 7.6 hours or more; where less than 7.6 ordinary hours are worked employees shall be allowed one 10-minute tea break in each four-hour period. Subject to agreement between the employer and the employee, the two ten-minute tea breaks may alternatively be taken as one 20-minute tea break, or by one ten-minute tea break with the employee allowed to proceed off duty ten minutes before the completion of the normal shift finishing time. Such tea break(s) shall count as working time.

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- 16.2 Employees shall not be required to work more than five (5) hours without a meal break. Such meal break shall be of between 30 and 60 minutes duration and shall not count as time worked.
- 16.3 Notwithstanding the provisions of sub-clause 16.2, an employee required to work in excess of 10 hours in a shift shall be entitled to a 60-minute meal break. Such time shall be taken as either two thirty-minute meal breaks or one 60-minute meal break, subject to agreement between the employer and employee.
- 16.4 An employee who is required to work overtime for more than two hours and such overtime goes beyond 7:00 a.m., 1:00 p.m., and 6:00 p.m. shall, at the option of the employer, be supplied with a meal or shall be paid, as the case may be:
- (a) the amount for breakfast set out in Item 2 of Table 2 of Schedule B to this Agreement;
  - (b) the amount for lunch set out in Item 3 of Table 2 of Schedule B to this Agreement
  - (c) the amount for the evening meal set out in Item 4 of Table 2 of Schedule B to this Agreement.

**17. Overtime**

- 17.1 All time worked by employees outside the ordinary hours in accordance with Clause 14, Hours shall be paid at the base rate of pay in accordance with the following:
- (a) Monday to Saturday - Overtime shall be paid time and one half up to two (2) hours each day and thereafter double time;
  - (b) Sunday - Overtime shall be paid at double time;
  - (c) Public Holidays - Overtime shall be paid double time and one-half;
  - (d) Overtime rates under this clause will be in substitution for and not cumulative upon the shift and weekend penalties prescribed in clause 18, Shift and Weekend Work and the casual loading in clause 13.2.
  - (e) Overtime penalties do not apply to Directors of Nursing; Deputy Directors of Nursing; and Assistant Directors of Nursing.
- 17.2 An employee must receive the following breaks between shifts:
- (a) 8 hours where reasonable additional hours are worked which are not overtime hours; and
  - (b) 10 hours where overtime is worked or where broken shifts are worked on successive days.
- 17.3 Where the next shift is due to commence before the employee has had their break, one of the following will apply:
- (a) The employee will be released prior to, or after the completion of their shift to permit them to have their break without loss of pay for the working time occurring during such absence.

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- (b) If at the request of the employer an employee works without their break, they shall be paid until they are released from duty at overtime rates. Once released from duty such employees shall be entitled to be absent from work until they have had their break without loss of pay for working time occurring during such an absence.
- 17.4 With the exception of employees working broken shifts, employees who are recalled to work overtime after leaving the employer's place of work shall be paid a minimum of four hours at the applicable overtime rate for each time so recalled. Provided that, except in unforeseen circumstances, an employee shall not be required to work the full four hours if the tasks they were recalled to perform are completed within a shorter period.
- (a) An employee recalled to work overtime shall be reimbursed reasonable travel expenses incurred in respect of the recall to work.
- (b) Provided that where an employee elects to use his or her own vehicle the employee shall be paid the per kilometre allowance set out in Item 5 of Table 2 of Schedule B to this Agreement.
- 17.5 For the purposes of assessing overtime, each day shall stand alone, provided that where anyone period of overtime is continuous and extends beyond midnight, all overtime hours in this period shall be regarded as if they had occurred within the one day.
- 17.6 All time worked by part-time employees in excess of 10 hours per shift shall be paid for at overtime rates.
- 17.7 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 hour off for each hour of overtime worked. However, any applicable shift and weekend penalties shall still be paid as if the time was worked when taking such time in lieu. It must be taken within four 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 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 and an employer cannot be compelled to agree to provide the employee with time off in lieu of overtime.
- (d) The employer must maintain records of all time in lieu of overtime owing and taken by employees.
- (e) Where no election is made the employee shall be paid overtime rates in accordance with this Agreement.

## **18. Shift and Weekend Work**

- 18.1 Employees shall be paid the following penalties, calculated on their ordinary pay, for shifts rostered as follows:

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- (a) 10% for afternoon shift commencing after 10:30 a.m. and before 1:00 p.m.
  - (b) 12.5% for afternoon shift commencing at or after 1:00 p.m. and before 4:00 p.m.
  - (c) 15% for night shift commencing at or after 4:00 p.m. and before 4:00 a.m.
  - (d) 10% for night shift commencing at or after 4:00 a.m. and before 6:00 a.m.
  - (e) Laundry staff working afternoon or night shift continuously from 30 September, 1993 shall be paid 20% in addition to the ordinary pay for such shift.
  - (f) The shift penalties above do not apply to Directors of Nursing; Deputy Directors of Nursing and Assistant Directors of Nursing.
  - (g) In addition to applicable shift penalties casual employees will also be entitled to the casual loading calculated on their base rate of pay.

18.2 Employees shall be paid the following penalties for ordinary hours of work occurring on a Saturday or a Sunday:

- (a) for work between midnight on Friday and midnight on Saturday - time and one half.
- (b) for work between midnight on Saturday and midnight on Sunday - time and three-quarters.

These weekend penalties shall be in substitution for and not cumulative upon the shift penalties prescribed in sub-clause 18.1 and the casual loading at sub-clause 13.2.

18.3 Employees shall be paid the following penalties for ordinary hours of work occurring on a Saturday or a Sunday:

- (a) for work between midnight on Friday and midnight on Saturday - time and one half.
- (b) for work between midnight on Saturday and midnight on Sunday - time and three-quarters.

These weekend penalties shall be in substitution for and not cumulative upon the shift penalties prescribed in sub-clause 18.1 and the casual loading at sub-clause 13.2.

## 19. **Public Holidays**

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

19.2 The employer may request an employee to work on a particular public holiday.

19.3 The employee may refuse the request (and take the day off) if the employee has reasonable grounds for doing so as per section 114 of the Fair Work Act 2009. This Agreement contemplates that the employer will require work on public holidays, or particular public holidays, and the parties acknowledge that the nature of the work performed by the employee, the type of employment (for example, whether full-time, part-time, casual or shift work) and the nature of the employer's workplace or enterprise (including its operational requirements) will require work on public holidays, or particular public holidays.

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- 19.4 Public holidays shall be allowed to employees without loss of ordinary pay.
- 19.5 (a) For the purposes of this subclause the following are to be public holidays; New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, ANZAC Day, Queen's Birthday, Local Labour Day, Christmas Day, Boxing Day and any other day duly proclaimed and observed as a public holiday within the area in which the facility is situated.
- (i) Further to this, if under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday, then the substituted day or part-day is the public holiday.
- (b) Subject to subclause 19.6, any other day duly proclaimed and observed as a public holiday within the area in which the facility is situated.
- (c) The employer and employees may agree to substitute another day for a public holiday.
- 19.6 In addition employees shall be entitled to an extra public holiday each year. Such public holiday shall occur on one of the following days as determined by the employer:
- (a) On the day on which the August Bank Holiday is observed; or
- (b) On a day between Christmas and New Year within the days Monday to Friday inclusive and not coinciding with a date that is already a gazetted public holiday for that calendar year; or
- (c) On a gazetted and proclaimed local public holiday. In areas where only one half-day is proclaimed and observed, the whole day will be regarded as a public holiday for the purposes of this agreement. In these circumstances if a further one half day local public holiday occurs in that calendar year, it will not be observed for the purposes of this clause.
- (d) The employer shall nominate before July 1 of each calendar year, the date on which this extra public holiday is to be observed. Once such an election is made, such date then becomes the date on which the extra public holiday is to be observed for all workers in that establishment covered by this agreement, provided however that if no such election is duly made, the extra public holiday will be observed on the August Bank Holiday.
- (e) Notwithstanding anything elsewhere contained in this agreement, this subclause shall apply in substitution for a local public holiday or half public holiday proclaimed and observed in any local government area or part of a local government area under subclause 19.5(b).
- 19.7 It is the intention of this agreement that an employee will ordinarily be entitled to 11 public holidays per annum or whatever is proclaimed by the Public Holiday Act (NSW) 2010, being the nominal 10 public holidays and the extra public holiday under subclause 19.6.
- 19.8 Example: An employee works full time in the local area of Newcastle. This employee would be entitled to the ten named public holidays under subclause 19.5 (a)(i) and an extra public holiday under subclause 19.6, being either the (August Bank holiday) or (a day between Christmas and New Year) or (a local public holiday, e.g. Newcastle Show Day). Under no circumstances would this employee be entitled to either of the (August

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Bank holiday) or (a day between Christmas and New Year) and (a local public holiday, e.g. Newcastle Show Day). However, where a special or additional public holiday is proclaimed and observed in Newcastle, as a 'one-off' additional or special public holiday, the employee would be entitled to that day as a public holiday under this agreement pursuant to subclause 19.5(b).

- 19.9 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 penalties (except broken shift allowances), weekend penalties, casual loading and part-time loading, as follows:
- (a) Full-time Employees: Time and one half for all ordinary time worked in addition to the weekly rate. Alternatively, if the employee elects, half-time extra for all time worked in addition to the weekly rate and have one ordinary working day added to be taken in conjunction with the period of annual leave.
  - (b) Part-time Employees: Double and a half for all time worked on the public holiday, although where the time worked by agreement is less than the rostered shift, the balance of the rostered shift will be paid at ordinary pay. Alternatively, if the employee 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 the period of annual leave.
  - (c) Casual Employees: Double time and one-half the basic rate of pay for casuals for all time worked. Such payment shall be taken to be inclusive of and not in addition to the casual loading referred to in sub-clause 13.2.
- 19.10 Full-time shift-workers rostered off duty on a public holiday shall be paid one day's pay in addition to the weekly rate, or if the employee so elects have one day added to be taken in conjunction with their period of annual leave.
- 19.11 The election referred to in subclause 19.8 is to be made in writing by the employee at the commencement of each year of employment and is irrevocable during that period of employment.

## **20. Allowances**

### **20.1 In Charge Allowance**

- (a) A registered nurse who is designated to be in charge during the day, evening or night of a residential aged care facility shall be paid in addition to his or her appropriate salary, whilst so in charge, the per shift allowance set out in Item 8 (for less than 100 beds) or Item 9 (for 100 or more beds) of Table 2 of Schedule B to this Agreement.
- (b) A registered nurse who is designated to be in charge of a shift in a section of a residential aged care facility shall be paid in addition to his or her appropriate salary, the per shift allowance set out in Item 10 of Table 2 of Schedule B to this Agreement.
- (c) This sub-clause shall not apply to registered nurses holding classified positions of a higher grade than a registered nurse.

### **20.2 Vehicle/Travelling Allowance**



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- (a) An employee sent for duty to a place other than his or her regular place of duty shall be paid for all excess travelling time at the appropriate rate of pay and reimbursed excess travelling expenses.
  - (b) Where an employee is called upon and agrees to use his or her private vehicle for official business, the employee shall be paid the per kilometre allowance set out in Item 6 of Table 2 of Schedule B to this Agreement excluding travel to and from the employee's home to the first place of work and return to home at the end of his or her duties.
  - (c) 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 his or her duties.
  - (d) No payment shall be made under sub-clauses 20.2(b) and (c) unless the employer is satisfied that the employee has incurred expenditure for such travel.

### **20.3 Uniforms Allowance**

- (a) Subject to sub-clause 20.3(c) sufficient suitable and serviceable uniforms or overalls shall be supplied free of cost, to each employee required to wear them. An employee to whom a new uniform or part of a uniform has been supplied by the organisation, who fails to return the corresponding article last supplied, shall not be entitled to have such article replaced without payment for it at a reasonable price, in the absence of a satisfactory reason for the loss of such article or failure to produce such uniform or part thereof.
- (b) Upon termination, an employee shall return any uniform or part thereof supplied by the organisation, which is still in use by the employee, immediately prior to leaving.
- (c) In lieu of supplying a uniform where required to an employee, the employer shall pay the employee the weekly allowance set out in Item 11 of Table 2 of Schedule B to this Agreement.
- (d) In lieu of supplying special-type shoes where required to an employee, the employer shall pay the employee the weekly allowance set out in Item 12 of Table 2 of Schedule B to this Agreement.
- (e) In lieu of supplying a cardigan or jacket where required to an employee the employer shall pay the employee the weekly allowance set out in Item 13 of Table 2 of Schedule B to this Agreement.
- (f) In lieu of supplying stockings where required the employer shall pay the employee the weekly allowance set out in Item 14 of Table 2 of Schedule B to this Agreement.
- (g) In lieu of supplying socks where required to an employee the employer shall pay the employee the weekly allowance set out in Item 15 of Table 2 of Schedule B to this Agreement.
- (h) If, in any facility, the uniforms of an employee are not laundered at the expense of the facility, the sum per week set out in Item 16 of Table 2 of Schedule B to this Agreement shall be paid to the said employee.
- (i) An employee who works less than thirty-eight hours per week shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to thirty-eight ordinary hours.

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- (j) Each employee whose duties require them to work out of doors shall be supplied with overboots. Sufficient raincoats shall also be made available for use by these employees.
  - (k) Each employee whose duties require them to work in a hazardous situation with or near machinery shall be supplied with appropriate protective clothing and equipment.
  - (l)
    - (i) Laundry allowance shall not be paid to any employee on absences exceeding one week.
    - (ii) All other allowances in this clause will not be paid to employees during absences on:
      - (A) Workers Compensation; Long Service Leave and periods of leave without pay; and
      - (B) Personal/Carers leave beyond 3 weeks.

#### **20.4 On Call Allowance**

- (a) An employee who agrees to be on call, that is, the employee agrees to make themselves ready and available to return to work at short notice whilst off duty, shall be paid the allowance, for each period of 24 hours or part thereof, set out in Item 17 of Table 2 of Schedule B to this Agreement.
- (b) An employee who is directed to remain on call during a meal break shall be paid the meal break allowance set out in Item 18 of Table 2 of Schedule B to this Agreement, provided that no allowance shall be paid if, during a period of 24 hours, including such period of on call, the employee is entitled to receive the allowance prescribed in sub-clause 20.4(a).
- (c) Where an employee on call in accordance with sub-clause 20.4(a), leaves the residential aged care facility and is recalled to duty, she or he shall be reimbursed all reasonable fares and expenses actually incurred. Where in these circumstances the employee elects to use his or her own vehicle the employee shall be paid the per kilometre allowance set out in Item 5 of Table 2 of Schedule B to this Agreement.
- (d) This subclause shall not apply to a Director of Nursing, Deputy Director of Nursing or Assistant Director of Nursing.

#### **20.5 Climatic & Isolation Allowance**

- (a)
  - (i) Subject to sub-clause 20.5(b) persons employed in organisations in places situated upon or to the west of a line drawn as herein specified shall be paid the weekly allowance set out in Item 19 of Table 2 of Schedule B to this Agreement in addition to the salary to which they are otherwise entitled.
  - (ii) The line shall be drawn as follows: viz., commencing at Tocumwal and thence to the following towns in the order stated, namely: Lockhart; Narrandera; Leeton; Peak Hill; Gilgandra; Dunedoo; Coolah; Boggabri; Inverell; and Bonshaw.
- (b)
  - (i) Persons employed in organisations in places situated upon or to the west of a line drawn as herein specified shall be paid the weekly allowance set out in Item 20 of Table 2 of Schedule B to this Agreement in addition to the salary to which they are otherwise entitled.

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- (ii) The line shall be drawn as follows: viz., commencing at a point on the right bank of the Murray River opposite Swan Hill (Victoria) and thence to the following towns in the order stated, namely: Hay; Hillston; Nyngan; Walgett; Collarenebri; and Mungindi.
  - (c) The allowances prescribed by this clause are not cumulative.
  - (d) Except for the computation of overtime the allowances prescribed by this clause shall be regarded as part of salary for the purposes of this Agreement.
  - (e) An employee who works less than thirty-eight hours per week shall be entitled to the allowances prescribed by this clause in the same proportion as the average hours worked each week bears to thirty-eight ordinary hours.

#### **20.6 Continuing Education Allowance**

- (a) A registered nurse or enrolled nurse who holds a continuing education qualification in a clinical field, in addition to the qualification leading to registration or enrolment, shall be paid an allowance subject to the conditions set out in this clause.
- (b) The qualification must be accepted by the employer to be directly relevant to the competency and skills used by the employee in the duties of the position.
- (c) The allowance is not payable to Deputy Directors of Nursing or Directors of Nursing unless it can be demonstrated to the satisfaction of the employer that more than fifty per cent of the employee's time is spent doing clinical work.
- (d) The allowance is not payable to Clinical Nurse Specialists, Clinical Nurse Consultants or Clinical Nurse Educators.
- (e) A registered nurse or enrolled nurse holding more than one relevant qualification is only entitled to the payment of one allowance, being the allowance of the highest monetary value.
- (f) The employee claiming entitlement to a continuing education allowance must provide evidence to the employer that they hold that qualification.
- (g) A registered nurse who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 21 of Table 2 of Schedule B to this Agreement.
- (h) A registered nurse who holds a relevant postgraduate diploma or degree in a clinical field (other than a nursing undergraduate degree) that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 22 of Table 2 of Schedule B to this Agreement.
- (i) A registered nurse who holds a relevant master's degree or doctorate in a clinical field that is accepted by the employer to be directly relevant to the competency and skills used by the registered nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 23 of Table 2 of Schedule B to this Agreement.

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- (j) An enrolled nurse who holds a relevant certificate IV qualification in a clinical field (not including a certificate IV qualification which has the effect of upgrading the qualification leading to enrolment) that is accepted by the employer to be directly relevant to the competency and skills used by the enrolled nurse in carrying out the duties of the position shall be paid the weekly allowance set out in Item 24 of Table 2 of Schedule B to this Agreement.
  - (k) The allowances set out in sub-clauses 20.6 (g), (h), (i) and (j) are not included in the employee's ordinary pay and will not constitute part of the all-purpose rate.
  - (l) A registered nurse or enrolled nurse who is employed on a part-time or casual basis shall be paid these allowances on a pro rata basis.
  - (m) The rates for these allowances shall be adjusted in accordance with increases in other wage-related allowances contained in this Agreement.

## **20.7 Higher Duties**

- (a) Subject to sub-clauses (b), (c) and (d) of this clause, 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, shall be entitled to receive for the period of relief or the period during which he or she so acts the minimum payment for such higher classification.
- (b) The provisions of sub clause (a) of this clause shall not apply where the employee of the higher classification is off duty pursuant to sub-clause 14.2 - Arrangement of Hours, except insofar as a Director of Nursing accumulates days off for a continuous period of one week or more; nor when an employee in a higher grade is absent from duty by reason of his/her additional day off duty as a consequence of working a 38 hour week.
- (c) Further, the provisions of sub-clause (a) of this clause shall not apply where a Director of Nursing is absent from duty for a period of three working days or less for any reason other than pursuant to sub-clause 14.2 - Arrangement of Hours.
- (d) Subject to sub-clauses (b) and (c) above, the provisions of sub-clause (a) shall not apply where a day worker is being relieved and is absent from duty for a period of three consecutive working days or less which have been rostered in advance.

## **20.8 Service Allowance**

- (a) All full-time employees (previously employed under the Charitable Aged and Disability Care Services (State) Award), appointed prior to 1 June, 1980, shall after 10 years' continuous service with the employer, be paid in addition to the rates prescribed in Schedule B - Pay, Other Rates and Allowances of this Agreement, a service allowance in the following manner:

For 10 years of service but less than 15 years	5%
For 15 years of service but less than 20 years	7½%
For 20 years of service and over	10%.
- (b) Payments due under this clause will be made on the usual pay day when other payments under this Agreement are made.

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- (c) Continuous service with the employer prior to the commencement of this Agreement shall be taken into account when computing service for the purposes of this clause.
  - (d) Continuous service shall be deemed not to have been broken by absence from the employer due to membership of the defence forces of the Commonwealth in time of war or during any period of special leave for members of the Military Reserve Forces.

### **PART 3 - LEAVE**

#### **21. Annual Leave**

- 21.1 (a) Employees are entitled to annual leave in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 6 of the Act).

- (b) Casual employees have no entitlement to annual leave.

#### **21.2 Accrual of Annual Leave**

- (a) All employees, other than shiftworkers, are entitled to 4 weeks paid annual leave.
- (b) Shiftworkers are entitled to one additional week of Annual Leave.
- (c) For the purposes of the NES a shiftworker is defined as:
  - (i) an employee who is regularly rostered to work their ordinary hours outside Monday to Friday, 6am to 7pm; and/or
  - (ii) an employee who works for more than four ordinary hours on 10 or more weekends.
- (d) The entitlement to paid annual leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year

#### **21.3 Payment of Annual Leave**

- (a) If an employee takes annual leave during a period, the annual leave shall be paid at the employee's base rate of pay for the employee's ordinary hours of work in the period.
- (b) An Employee going on leave may elect to be paid:
  - (i) prior to commencing such leave; or
  - (ii) through their normal pay cycle.
- (c) Once the leave has commenced the election cannot be changed unless the Employer agrees.
- (d) 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.
- (e) Annual leave loading, if any, shall be paid in accordance with clause 22.6.

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## 21.4 Taking of Annual Leave

- (a) (a) An employee is entitled to take an amount of annual leave during a particular period if:
  - (i) 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.
- (b) In the taking of leave, the employee shall make written application to the employer, preferably giving one calendar month notice of the desired period of such leave, allowing for exceptional circumstances.
- (c) 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.
- (d) **Extensive accumulated annual leave:** An employee must take an amount of annual leave during a particular period if:
  - (i) reasonably directed to do so by the employer;
  - (ii) at the time the direction is given, the employee has more than 8 weeks annual leave credited to him or her; and
  - (iii) the amount of annual leave left to the employees credit is at least 2 weeks.

## 21.5 Annual Leave Loading

- (a) In addition to their Annual Leave payment, an employee, other than a shiftworker, will be paid an annual leave loading of 17.5% of their Annual Leave on a maximum of four weeks annual leave per annum.
- (b) Shiftworkers, in addition to their Annual Leave payment, will be paid the higher of:
  - (i) an annual leave loading of 17.5% of their Annual Leave; or
  - (ii) the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.
- (c) The Annual Leave loadings is not payable for days which have been added to annual leave in accordance with the election provisions of clause 19, Public Holidays.
- (d) Shift allowances and weekend penalties are not payable for public holidays which occur during a period of annual leave.

## 21.6 Annual Leave and Service

A period of annual leave does not break an employee's continuity of service and annual leave counts as service for all purposes.

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## **21.7 Cashing out of Annual leave**

- (a) An employee may elect to cash out up to 5 days' (pro-rata for part time employees) accrued annual leave per year by agreement with the Employer, subject to the following:
  - (i) the election must be made in writing by the employee and signed by the Employer to confirm agreement;
  - (ii) the employee must be paid the equivalent amount that would have been payable had the employee taken annual leave; and
  - (iii) the agreement would not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks..

## **21.8 Payment of Annual Leave on Termination**

- (a) On the termination of their employment, an Employee will be paid their untaken annual leave.
- (b) Except where the Employee's employment is terminated for misconduct, annual leave loading is payable on termination (including resignation) of an Employee's employment. Weekend and shift penalties are not payable on termination (including resignation) for any reason.

## **22. Personal/Carer's Leave and Compassionate Leave**

- 22.1 (a) Employees are entitled to personal/carers leave and compassionate leave in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 7 of the Act).

- (b) Casual employees have no entitlement to paid personal/carers leave or compassionate leave, but do have an entitlement to unpaid leave.

### **22.2 Entitlement to paid Personal/Carers Leave**

- (a) For each year of service with his or her employer, an employee is entitled to 10 days of paid personal/carers leave.
- (b) An employee's entitlement to paid personal/carers leave accrues progressively during a year of service according to the employee's ordinary hours of work, and accumulates from year to year.

### **22.3 Taking of Personal/Carer's Leave**

An employee may take paid personal/carers leave if the leave is taken:

- (a) because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee; or
- (b) 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:
  - (i) a personal illness, or personal injury, affecting the member; or
  - (ii) an unexpected emergency affecting the member..

### **22.4 Payment of Paid Personal/Carer's Leave**

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When an employee takes a period of entitled paid personal/carer's leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

#### **22.5 Personal /Carers Leave on Public Holidays**

If the period during which an employee takes paid personal/carer's leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal/carer's leave on that public holiday.

#### **22.6 Unpaid Carer's Leave**

- (a) An employee is entitled to 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 because of:
  - (i) a personal illness, or personal injury, affecting the member; or
  - (ii) an unexpected emergency affecting the member.
- (b) An employee may take unpaid carer's leave as:
  - (i) a single continuous period of up to 2 days; or
  - (ii) any separate periods agreed with the employer.
- (c) An employee is entitled to unpaid carer's leave for a particular occasion only if the employee cannot take an amount of paid personal/carer's leave.

#### **22.7 Compassionate Leave**

- (a) An employee is entitled to 2 days of compassionate leave for each occasion when a member of the employee's immediate family, or a member of the employee's household:
  - (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
  - (ii) sustains a personal injury that poses a serious threat to his or her life; or
  - (iii) dies.
- (b) An employee may take compassionate leave as:
  - (i) a single continuous period of 2 days; or
  - (ii) 2 separate periods of 1 day each; or
  - (ii) any separate periods agreed with the employer.

#### **22.8 23.8 Payment for Compassionate Leave**

- (a) If an employee takes a period of paid compassionate leave, the employer must pay the employee, other than a casual employee, at the employee's base rate of pay for the employee's ordinary hours of work in the period.
- (b) Casual employees are entitled to unpaid compassionate leave



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## 22.9 Notice and Evidence Requirements

- (a) To be entitled to leave under clause 22 an employee must give the employer notice:
  - (i) as soon as reasonably practicable (which may be at a time before or after the leave has started) that the employee is (or will be) absent from his or her employment;
  - (ii) of the period, or expected period of the leave
- (b) An employer may require an employee to give the employer evidence that would satisfy a reasonable person that the leave was taken for a permissible reason or occasion.
- (c) To be entitled to personal leave during the period, the employee must give the employer as soon as reasonably practicable (which may be at a time before or after the personal leave has started):
  - (i) if personal leave last longer than 2 consecutive working days and it is reasonably practicable to do so - a medical certificate from a medical practitioner stating that in their opinion, the employee was, is, or will be unfit for work during the period because of a personal illness or injury
  - (ii) if it is not reasonably practicable for the employee to give the employer a medical certificate - a statutory declaration made by the employee stating that the employee was, is, or will be unfit for work during the period because of a personal illness or injury.
- (d) To be entitled to carer's leave during the period, the employee must give the employer as soon as reasonably practicable (which may be at a time before or after the carer's leave has started):
  - (i) a medical certificate from a medical practitioner stating that in their opinion the member requires or required care and support during the period due to personal illness or injury; or
  - (ii) a statutory declaration made by the employee stating that the employee requires or required leave during the period to provide care or support to the member because the member requires or required care or support during the period because of personal illness, or injury, of the member or an unexpected emergency affecting the member.
- (e) To be entitled to compassionate leave during the period, the employee must give the employer as soon as reasonably practicable (which may be at a time before or after the sick leave has started):
  - (i) a medical certificate from a medical practitioner stating that in their opinion the member is suffering from an illness or injury that poses a serious threat to the member's life; or
  - (ii) a statutory declaration made by the employee stating that the employee requires or required leave during the period due to the death of the member.

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## **22.10 Service**

- (a) A period of paid personal/carer's leave or compassionate leave does not break an employee's continuity of service and counts as service for all purposes.
- (b) A period of unpaid personal/carer's leave does not break an employee's continuity of service, but does not count as service.

## **23. Community Service Leave**

23.1 Employees are entitled to community service Leave in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 8 of the Act).

### **23.2 Eligible community service activities**

- (a) entitle an employee, acting reasonably, to be absent from employment for periods including:
  - (i) time when the employee engages in the activity;
  - (ii) reasonable travelling time associated with the activity;
  - (iii) reasonable rest time immediately following the activity.
- (b) include:
  - (i) jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or
  - (ii) a voluntary emergency management activity; or
  - (iii) an activity prescribed in regulations made for the purpose of subsection (4).

### **23.3 Jury Service**

- (a) There is no limit on the amount of unpaid jury service leave an employee can take in a 12 month period of employment.
- (b) Employees, other than casuals, are entitled to be paid:
  - (i) for the first 10 days when absent from work in one or more periods to attend jury service re a particular jury service summons.
  - (ii) the difference between what the employee received as jury service pay and the base rate of pay for the employee's ordinary hours of work in the period or periods.
- (c) The employer may require the employee to provide evidence that would satisfy a reasonable person:
  - (i) that the employee took all necessary steps to obtain any amount of jury service pay to which they were entitled; and
  - (ii) of the total amount of jury service pay, paid or payable to the employee.
- (d) No payment is required where evidence is required by the employer and not provided by the employee.

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#### **23.4 Voluntary emergency management activity (VEMA)**

- (a) An employee engages in a VEMA if:
  - (i) they voluntarily participate;
  - (ii) the activity involves dealing with an emergency or natural disaster;
  - (iii) they are a member of, or have a member like association with a recognised emergency management body (REMB); and
  - (iv) the REMB requests their participation

#### **24. Parental Leave**

24.1 Employees are entitled to parental leave in accordance with the provisions of the NES (refer to Chapter 2, Part 2-2, Division 5 of the Act).

##### **24.2 Paid parental leave**

- (a) Full-time and part-time employees, who are eligible for unpaid parental leave, will also be entitled to paid parental leave at ordinary pay, from the date the parental leave commences.
- (b) Paid parental leave includes:
  - (i) 9 weeks paid maternity leave for the primary carer;
  - (ii) 9 weeks paid adoption leave for the initial primary carer of the adopted child; and
  - (iii) 1 week paid partner leave for the secondary carer
- (c) Paid partner leave for the secondary carer will be payable to:
  - (i) the father; or
  - (ii) partner of the birth mother; or
  - (iii) partner of the initial primary carer of an adopted child.
- (d) Partner includes same-sex and current de facto partner.
- (e) Any period of "paid no safe job leave" taken by an employee pursuant to the "Transfer to a Safe Job" provisions of the Act shall be deducted from the employee's entitlement to paid maternity leave.

#### **25. Long Service Leave**

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- 25.1 An employee's entitlement to long service leave shall be in accordance with the provisions of this Agreement and the Long Service Leave Act 1955 (NSW) provided that should there be any inconsistency between that legislation and the provisions of this Agreement these provisions shall prevail to the extent the Agreement entitles employees to long service leave in excess of the employees' entitlement to long service leave under the Long Service Leave Act (1955) NSW.
- 25.2 (a) Each employee shall be entitled to two months long service leave on ordinary pay after ten years' service; thereafter additional long service leave shall accrue on the basis of five months long service leave for each ten years' service. This additional leave may be taken on a pro-rata basis each five years after completing the initial 10 year period of service.
- (b) Where the services of an employee with at least five years' service are terminated by the employer for any reason other than the employee's serious and wilful misconduct, or by the employee on account of illness, incapacity or domestic or other pressing necessity, or by reason of the death of the employee, he/she shall be entitled to be paid a proportionate amount on the basis of two months for ten years service.
- 25.3 For the purpose of sub-clause 25.2:
- (a) service shall mean continuous service with any one employer/organisation;
- (b) service shall not include:
- (i) any period of leave without pay except in the case of employees who have completed at least ten years service (any period of absence without pay being excluded there from) in which case service shall include any period without pay not exceeding six months taken after 1 June, 1980;
- (ii) any period of service as a part-time worker except as provided for in sub-clause 25.6.
- 25.4 (a) The employer shall give to each employee at least one month's notice of the date from which it is proposed that the employee's long service leave shall be given and taken. Long service leave shall be taken as soon as practicable having regard to the needs of the workplace, or where the employer and the employee agree, such leave may be postponed to an agreed date.
- 25.5 (a) On the termination of employment of an employee, otherwise than by his or her death, an employer shall pay to the employee the monetary value of all long service leave accrued and not taken at the date of such termination and such monetary value shall be determined according to the salary payable to the employee at the date of such termination.
- (b) Where an employee who has acquired a right to long service leave, or after having had five years' service and less than ten years' service dies, the employees personal representative shall, upon request, be entitled to receive the monetary value of the leave not taken or which would have accrued to such employee had his or her services terminated as referred to in sub-clause 25.2(b) and such monetary value shall be determined according to the salary payable to the employee at the time of his or her death.
- 25.6 Full-time and part-time employees shall be entitled to have previous part-time service as a part-time worker which is the equivalent of at least two full days' duty per week

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taken into account for long service leave purposes in conjunction with full-time and/or part-time service on the basis of the proportion that the actual number of hours worked each week bears to forty hours up until 30 April, 1985 and bears to thirty-eight hours on and from 1 May, 1985, provided the part-time service as a part-time worker merges without break with the subsequent full-time service or part-time employment.

25.7 Where an employee has been granted a period of long service leave prior to the coming into force of this Agreement, the amount of such leave shall be debited against the amount of leave due under this Agreement.

25.8 Employees of the employer previously covered by long service leave provisions or arrangements contained in industrial instruments or State legislation will have their long service leave accrued entitlement carried over but the accrual and access to long service leave entitlements from the date of transfer shall be in accordance with this Agreement.

e.g. an employee with 15 years continuous service under an industrial instrument or State legislation at the time of transfer may have an accrued entitlement of 3 months long service leave. From this time onwards employees would accrue their entitlements in accordance with this Agreement, at the rate of 2.5 months for each five years service as the continuity of service for long service leave purposes is not affected by the entering into of this Agreement. Thus, after 20 years continuous service the employee would be entitled to 5.5 months long service leave, made up of 3 months under the previous industrial instrument or State legislation and a further 2.5 months under this Agreement.

## **26. Repatriation Leave**

26.1 Employees who are ex-servicemen or ex-service women may be granted special leave in one or more periods up to a maximum of 6½ working days in any period of twelve months without deduction from annual or sick leave credits for the following purposes in connection with an accepted war-caused disability or in connection with an application to the Repatriation Department for a disability to be so accepted:

- (a) to attend a hospital or clinic or visit a medical officer in that regard;
- (b) to attend a hospital, clinic or medical officer or to report for periodical examination or attention;
- (c) to attend limb factories for the supply, renewal and repair of artificial replacements and surgical appliances.

26.2 Employees are to provide the employer with documentary evidence as to the attendance prior to the payment of special leave being granted.

## **27. Leave Without Pay**

27.1 By agreement between the employer and a permanent employee, an employee may be granted a period of leave without pay.

27.2 The period of leave without pay will not break the continuity of service of the employee but will not count for the purpose of:

- (a) accruing annual leave or personal/carers leave, incremental progression, and public holidays;

- (b) accruing long service leave, except in the case of employees who have completed at least ten years' service (any period of absence without pay being excluded therefrom) in which case service shall include any period without pay not exceeding six months taken after 1 June, 1980;
- (c) the qualifying period for paid and unpaid parental leave; and
- (d) the calculation of notice and severance pay in accordance with clause 29, Termination of Employment and clause 31, Workload Management Redundancy.

## 28. Ceremonial Leave

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

## PART 4 - OTHER PROVISIONS

## 29. Termination of Employment

- 29.1 30.1. Prior to reaching any decision to terminate the employment of an employee on grounds other than would justify summary dismissal, the employer will:
- (a) inform the employee that the termination of their employment is being considered;
  - (b) advise the employee of the reasons for termination; and
  - (c) provide the employee with an opportunity to show cause why their employment should not be terminated.
- 29.2 An employee shall be given reasonable time to respond, and shall be provided with details of any relevant material. Where a meeting is held with the employee, the employee is entitled to have a witness present. The witness may be e.g. a co-worker, a workplace union delegate, an officer of the union, a family member, or any other person.
- 29.3 Employment, other than of a casual, will be terminated only by appropriate notice on either side or by the payment by the employer or forfeiture by the employee of wages in lieu of notice. Provided that employment may be terminated by part of the period of notice specified, and part payment or forfeiture, in lieu of the period of notice specified.
- 29.4 Notice of termination by the employer:
- |     |       |   |                                 |
|-----|-------|---|---------------------------------|
| (a) | (i)   | <u>Period of Continuous Service</u>                                     | <u>Minimum Period of Notice</u> |
|     |       | 1 year or less  | 1 week                          |
|     |       | More than 1 year but not more than 3 years                              | 2 weeks                         |
|     |       | More than 3 years but not more than 5 years                             | 3 weeks                         |
|     |       | More than 5 years   | 4 weeks                         |
|     | (ii)  | A Director of Nursing shall be entitled to four weeks notice.           |                                 |
|     | (iii) | A Care Service Employee Grade 5 shall be entitled to four weeks notice. |                                 |

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- (b) Employees (other than casuals) aged 45 years or older will be entitled to an additional one week's notice if the employee has completed at least two years continuous service for the employer.
  - (c) Casuals are to be given notice to the end of the current shift worked.

**29.5 Notice by employee -**

- (a) Subject to sub-clauses 30.5(b), (c) and (d), employees shall give the employer the same notice period as per 30.4(a)(i).
- (b) A Director of Nursing shall give four (4) weeks notice of termination in writing.
- (c) A Care Service Employee Grade 5 shall give four (4) weeks notice of termination in writing.
- (d) Casuals shall only be required to give notice to the end of the current shift worked.

**29.6** The employer may, without notice, summarily dismiss an employee at any time for serious misconduct or wilful disobedience. Payment is up to the time of dismissal only.

**29.7** The employer will give the employee a statement signed by the employer stating the period of employment and when the employment was terminated if the employee requests.

**29.8 Abandonment of Employment**

Where an employee is absent from work for a continuous period of two working days without the consent of the employer, and without notification to the employer, the employer shall be entitled to inform the employee by written correspondence that unless the employee provides a satisfactory explanation for her or his absence within two days of the receipt of such a request, the employee will be considered to have abandoned employment.

**30. Consultation Regarding Major Workplace Change**

**30.1 Employer to notify**

- (a) Where an employer has made a definite decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) Significant effects include termination of employment; major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities, promotion opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations; and the restructuring of jobs. Provided that where this Agreement makes provision for alteration of any of these matters an alteration is deemed not to have significant effect.

**30.2 Employer to discuss change**

- (a) The employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in clause 30.1, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

- (b) The discussions must commence as early as practicable after a definite decision has been made by the employer to make the changes referred to in clause 30.1.
- (c) For the purposes of such discussion, the employer must provide in writing to the employees concerned and their representatives, if any, all relevant information about the changes including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees provided that no employer is required to disclose confidential information the disclosure of which would be contrary to the employer's interests.

## 31. Redundancy

- 31.1 For the purposes of this clause, "continuous service" shall be interpreted in the same manner as "service of a worker" is interpreted in the Long Service Leave Act 1955 (NSW) as at the date this Agreement comes into operation. Periods of leave without pay, including parental leave without pay, do not break the continuity of service of an employee but are not to be taken into account in calculating length of service for the purposes of this clause.
- 31.2 Redundancy occurs where the employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone and this is not due to the ordinary and customary turnover of labour.
- 31.3 Unless FWA subsequently orders otherwise pursuant to sub-clause 31.4, where the employment of an employee is to be terminated for the reason set out in sub-clause 31.2, the employer shall pay, in addition to other payments due to that employee, the following retrenchment pay in respect of the following continuous periods of service:
- (a) Where the employee is under 45 years of age, the employer shall pay the employee in accordance with the following scale:

### Minimum Years of Service

### Retrenchment Pay

Less than 1 year	Nil
1 year and less than 2 years	4 weeks pay
2 years and less than 3 years	7 weeks pay
3 years and less than 4 years	10 weeks pay
4 years and less than 5 years	12 weeks pay
5 years and less than 6 years	14 weeks pay
6 years and over	16 weeks pay.

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

### Minimum Years of Service

### Retrenchment Pay

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



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- (c) "Weeks pay" means the rate of pay for the employee concerned at the date of termination, and shall include in addition to the ordinary pay any over-agreement payments and the following, if applicable:
- (i) shift and weekend penalties as prescribed in clause 18 - Shift and Weekend Work;
  - (ii) broken shift allowance as prescribed in clause 14.4 - Broken Shifts;
  - (iii) climatic and isolation allowances as prescribed in clause 20.6 - Continuing Education Allowance.

31.4 Subject to an application by the employer and further order of FWA the employer may pay a lesser amount (or no amount) of retrenchment pay than that contained in sub-clause 31.3. FWA shall have regard to such financial and other resources of the employer concerned as FWA thinks relevant, and the probable effect paying the amount of retrenchment pay in sub-clause 31.3 will have on the employer. Provided that where a Deputy Director of Nursing or Assistant Director of Nursing has their position made redundant and they are offered an alternative position at a lower rate of pay which they do not accept, they shall be paid the full entitlement contained in sub-clause 31.3 and the employer may not make application to FWA under this sub-clause.

## **32. Workload Management**

- 32.1 The parties to this agreement acknowledge that employees and management have a responsibility to maintain a balanced workload and recognise the adverse affects that excessive workloads may have on employee/s and the quality of resident/client care.
- 32.2 To ensure that employee concerns involving excessive workloads are effectively dealt with by Management the following procedures should be applied:
- (a) In the first instance, employee/s should discuss the issue with their immediate supervisor and, where appropriate, explore solutions.
  - (b) If a solution cannot be identified and implemented, the matter should be referred to an appropriate senior manager for further discussion.
  - (c) If a solution still cannot be identified and implemented, the matter should be referred to the Facility Manager for further discussion.
  - (d) The outcome of the discussions at each level and any proposed solutions should be recorded in writing and fed back to the effected employees.
- 32.3 Workload management must be an agenda item at staff meetings on at least a quarterly basis. Items in relation to workloads must be recorded in the minutes of the staff meeting, as well as actions to be taken to resolve the workloads issue/s. Resolution of workload issues should be based on the following criteria including but not limited to:
- (a) Clinical assessment of residents' needs;
  - (b) The demand of the environment such as facility layout;
  - (c) Statutory obligation, (including, but not limited to, workplace health and safety legislation;
  - (d) The requirements of nurse regulatory legislation;
  - (e) Reasonable workloads;

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- (f) Accreditation standards; and
  - (g) Budgetary considerations.

32.4 If the issue is still unresolved, the employee/s may advance the matter through Clause 39 - Grievance and Dispute Resolution Procedures. Arbitration of workload management issues may only occur by agreement of all parties.

### **33. Labour Flexibility and Mixed Functions**

- 33.1 The employer may direct an employee to carry out such duties as are within the limits of the employee's skill, competence and training.
- 33.2 The employer may direct an employee to carry out such duties and use such tools and equipment as may be required, provided the employee possesses the relevant skills and competence to perform such tasks. Where the employee does not possess such skills and competence, appropriate training shall be facilitated.
- 33.3 Any direction issued by the employer pursuant to sub-clauses 33.1 and/or 33.2 shall be consistent with the employer's responsibility to provide a safe and healthy working environment for employees, and the employer's duty of care to residents and/or clients.
- 33.4 Where an employer has decided there is no longer a requirement for a Deputy Director of Nursing or an Assistant Director of Nursing to be appointed in a workplace, the employer shall ensure that the workload previously performed by that nurse manager is adequately allocated to other management staff, and that the workloads of all other nurses on the nursing care roster within that workplace will remain consistent with their substantive role, duties and classifications.

### **34. Remuneration Packaging**

- 34.1 Where agreed between the employer and an employee, the employer may introduce remuneration packaging. The terms and conditions of such a package may make provision for a salary greater than that contained in the salary band. The package overall shall not be less favourable than the entitlements otherwise available under this Agreement on a global or overall basis and shall be subject to the following provisions:
  - (a) the employer shall ensure that the structure of any package complies with taxation and other relevant laws;
  - (b) the employer shall confirm in writing to the employee the classification level and the current salary payable as applicable to the employee under this Agreement;
  - (c) the employer shall advise the employee in writing of his or her right to choose payment of that salary referred to in sub-clause (b) above instead of a remuneration package;
  - (d) the employer shall advise the employee, in writing, that all Agreement conditions, other than the salary and those conditions as agreed in sub-clause (e) below shall continue to apply;
  - (e) when determining the remuneration package, the non-salary fringe benefit shall be in accordance with relevant Australian Taxation Office legislation;
  - (f) a copy of the agreement shall be made available to the employee;

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- (g) the employee shall be entitled to inspect details of the payments made under the terms of this agreement;
  - (h) the configuration of the remuneration package shall remain in force for the period agreed between the employee and the employer;
  - (i) where at the end of the agreed period the full amount allocated to a specific benefit has not been utilised, by agreement between the employer and the employee, an unused amount may be carried forward to the next period, or paid as salary which will be subject to usual taxation requirements;
  - (j) remuneration packaging is only offered on the strict understanding and agreement that in the event existing taxation law is changed regarding Fringe Benefit Tax or personal tax arrangements, and that change may impact on this agreement, all salary packaging arrangements may at the discretion of the employer be terminated. Upon termination in these circumstances the employee's rate of pay will revert to the rate of pay that applied immediately prior to a salary packaging agreement made pursuant to this clause, or the appropriate Agreement rate of pay whichever is greater;
  - (k) where changes are proposed to salary packaging arrangements other than to flow on wage increases, or salary packaging arrangements are to be cancelled for reasons other than legislative requirements, then the employer and/or the employee must give three months notice of the proposed change;
  - (l) in the event that an employee ceases to be employed by the employer this agreement will cease to apply as at the date of termination and all leave entitlements due on termination shall be paid at the rates in accordance with sub-clause (b) above. Any outstanding benefit shall be paid on or before the date of termination; and
  - (m) any pay increases granted to employees under this Agreement shall also apply to employees subject to remuneration packaging arrangements within this clause.

### **35. Superannuation**

- 35.1 The employer will make superannuation contributions into an approved Superannuation Fund nominated by the employee in accordance with the Superannuation Guarantee (SG) legislation as varied from time to time.
- 35.2 An 'approved fund' means:
  - (a) the Health Employees' Superannuation Trust Australia (H.E.S.T.A.);
  - (b) the Health Industry Plan;
  - (c) the First State Super;
  - (d) the Health Super; or
  - (e) any agreed complying superannuation fund; provided that the employer shall not unreasonably withhold agreement unless it establishes good and proper reasons for the withholding of agreement.
- 35.3 An employee will nominate one approved fund to which all statutory superannuation contributions shall be paid.

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- 35.4 Should an employee fail to nominate a fund, the employers default fund will be Health Employers Superannuation Trust Australia (H.E.S.T.A) into which contributions shall be paid under this Agreement.
- 35.5 The superannuation contributions will be paid at ordinary pay, which for the purpose of this Agreement includes ordinary time worked on public holidays and public holiday loadings.
- 35.6 **Contributions:**
- (a) The employer shall make, in respect of qualified employees, superannuation contributions into an approved fund on a monthly basis. With respect to casual employees, contributions shall be remitted at least quarterly.
- 35.7 **Salary Sacrifice to Superannuation**
- (a) An employee can elect to sacrifice a portion of salary to superannuation. 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.
  - (b) Salary sacrifice to superannuation means the option of making additional superannuation contributions by electing to sacrifice a portion of the gross earnings (pre tax dollars). This will give the effect of reducing the taxable income by the amount for salary sacrifice.
  - (c) Employers 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.
  - (d) 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.
  - (e) Any additional superannuation contributions made in accordance with this clause shall be paid into the same superannuation fund that receives the employer's SG contributions.
  - (f) 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

### **36. Attendance at Meetings**

- 36.1 Any employee required to attend Occupational Health and Safety Committee and/or Board of Management meetings in the capacity of employee representative shall, if such meetings are held outside the ordinary hours of work, be entitled to receive ordinary pay per hour 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 shall not be viewed as overtime for the purposes of this Agreement.

### **37. Training**

- 37.1 Employees will be given on-going training as necessary, relevant to their roles and responsibilities.

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- 37.2 Each employee shall provide to the employer details of their attendance at training and the employer shall keep a record of this attendance.
- 37.3 Upon termination of the employee's employment the employer shall provide to the employee a written statement of the hours of training attended by the employee.
- 37.4 Where practicable, such training shall be provided to employees during their normal rostered hours of work. Where this is not practicable:
- (a) Employees shall attend training outside their normal rostered working hours when required to do so by the employer;
  - (b) The employer shall provide employees with two (2) weeks notice of the requirement to attend training outside of their normal rostered working hours;
  - (c) Notwithstanding Clause 17 - Overtime, attendance at such training shall be paid ordinary pay for the period of training.
  - (d) The employer requiring an employee to attend training shall also pay to the employee ordinary pay for time travelling to and from a period of training referred to in sub-clause (c) that is in excess of the time normally taken for that employee to attend work.
  - (e) When receiving travelling time as set out in sub-clause (d), an employee using his or her own vehicle for attendance at such training shall be paid the per kilometre allowance set out in Item 5 of Table 2 of Schedule B to this Agreement.
  - (f) Training provided outside the normal rostered hours of work shall be arranged so as to allow full-time employees to have at least eight or ten hours off-duty before or after training and the end or beginning of their shift, whichever is applicable as set out in Clause 14 - Hours. Where practicable, similar arrangements should also be made available to all other employees.
  - (g) Any training undertaken by an employee that occurs at a workplace is not intended to replace or supplement staffing levels and the normal levels of service delivery at such a workplace.
  - (h) Notwithstanding sub-clause 14.2(h) - Hours, clause 17 - Overtime will not apply where attendance at such training is outside the normal rostered working time of other than full-time employees and where it interrupts the applicable eight or ten hour break between shifts.

## **38. Amenities**

- 38.1 The minimum standards as set out in all relevant occupational health and safety legislation shall be met in the provision of amenities to employees.
- 38.2 Such amenities include:
- (a) change rooms and lockers
  - (b) meal room;
  - (c) facilities for boiling water, warming and refrigerating food and for washing and storing dining utensils;
  - (d) rest room;
  - (e) washing and bathing facilities;

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- (f) sanitary conveniences; and
  - (g) safe and secure workplace.
  - (h) Inspection of Lockers

Lockers may only be opened for inspection in the presence of the employee but in cases where the employee neglects or refuses to be present or in any circumstances where notice to the employee is impracticable, such inspection may be carried out in the absence of the employee by an officer of the employer and an employee representative where practicable, otherwise by any two officers appointed by the employer for that purpose.

### **39. Grievance and Dispute Resolution Procedures**

- 39.1 Unless otherwise stated the terms "party" or "parties" referred to in this clause means the employer and/or the employees, as the context requires.
- 39.2 This dispute resolution procedure will apply to disputes about:
  - (a) any matters arising in the employment relationship, except matters relating to the actual termination of employment of an employee;
  - (b) threatened termination, with the exception that the arbitration provisions in subclause 39.6 do not apply unless the parties agree. Further, the parties rights are reserved during this process and the employer may exercise their right to terminate the employee in accordance with the agreement;
  - (c) matters in relation to the NES;
  - (d) matters arising under the agreement; and
  - (e) whether an employer had reasonable business grounds under subsection 65(5) of the Fair Work Act - (requests for flexible working arrangements) or 76(4) of the Fair Work Act - (requests for extending unpaid parental leave).
- 39.3 An employer or employee may appoint another person, organisation or association (e.g. Union official) to accompany and/or represent them for the purposes of this clause.
- 39.4 In the event of a dispute the parties will initially attempt to resolve the matter at the workplace level, including, but not limited to:
  - (a) the employee and his or her supervisor discussing the matter; and
  - (b) if the matter is still not resolved the parties arranging further discussions involving more senior levels of management (as appropriate).
- 39.5 If a dispute about this agreement or the NES is unable to be resolved at the workplace, in accordance with subclause 39.4, a party to the dispute may refer the matter to FWA or other appropriate statutory tribunal.
- 39.6 While the dispute resolution procedure is being conducted, work must continue in accordance with this agreement and the Fair Work Act 2009. Subject to applicable occupational health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace that is safe and appropriate for the employee to perform.

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**EXECUTION:**

Signed for and on behalf of Three Tree Lodge Lithgow Limited by its duly authorised officer:

Signed for the employer: .....

Print Full Name:               Garry Roy Brown

Position:                       Chairperson

Authority:                      Board Chair

Signed by witness: .....

Print Full Name: .....

Address: .....

.....

Date: .....

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PAGE 61

INSERT EXECUTION PAGE FOR

NSW Nurses' Association  
&  
Australian Nursing Federation



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INSERT EXECUTION PAGE FOR  
HSU East

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## SCHEDULE A - EMPLOYMENT CLASSIFICATIONS

This Schedule contains the following employment classifications and definitions:

### I. GENERAL EMPLOYMENT CLASSIFICATIONS

### II. NURSES' EMPLOYMENT CLASSIFICATIONS

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### I. GENERAL EMPLOYMENT CLASSIFICATIONS

The following employment classifications and definitions apply to this Agreement:

#### 1. CARE SERVICE EMPLOYEES

**1.1 Care Service Employee New Entrant** means an employee with less than 500 hours work experience in this industry who performs basic duties under direct supervision. Such employees perform routine functions requiring understanding of clear rules and procedures. Work is performed using established practices, procedures and instructions including compliance with documentation requirements as determined by the employer. Problems should be referred to a more senior staff member. Indicative tasks an employee at this level may perform are as follows:

**Typical Duties - New Entrant - Care Stream:** Carry out simple tasks under supervision to assist a higher grade Care Service Employee attending to the personal needs of residents.

**Typical Duties - New Entrant - Support Stream:** General assistance to higher grade employees in the full range of domestic duties.

**Typical Duties - New Entrant - Maintenance Stream:** General labouring assistance to higher grade employees in the full range of gardening and maintenance duties.

**1.2 Care Service Employee Grade 1** means an employee who works under limited supervision individually or in a team environment or on sleep-over. Employees at this level work within established guidelines including compliance with documentation requirements as determined by the employer. In some situations detailed instructions may be necessary. Indicative tasks an employee at this level may perform are as follows:

**Typical Duties - Grade 1 - Care Stream:** Under limited supervision, provide assistance to residents in carrying out simple personal care tasks which shall include but not be limited to: supervise daily hygiene eg assisting with showers or baths, shaving, cutting nails; lay out clothes and assist in dressing; make beds and tidy rooms; store clothes and clean wardrobes; assist with meals. Under direct supervision, provide assistance to a higher Grade Care Service Employee in attending to the personal care needs of a resident.

**Typical Duties - Grade 1 - Support Stream:** Performance under limited supervision of the full range of Domestic duties including but not limited to: general cleaning of accommodation, food service, and general areas; general waiting, table service and clearing duties; assistance in the preparation of food, including the cooking and/or preparation of light refreshments; all laundry duties.

**Typical Duties - Grade 1 - Maintenance Stream:** Performance under limited supervision of labouring duties associated with gardening and general maintenance activities, including but not limited to: sweeping; hosing; garbage collection and disposal; keeping the outside of buildings clean and tidy; mowing lawns and assisting the gardener in labouring.

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**1.3 Care Service Employee Grade 3** means an employee who holds either a Certificate Level III in Aged Care Work or other appropriate Qualifications/Experience acceptable to the employer and:

- (a) is designated by the employer as having the responsibility for leading and/or supervising the work of others; or
- (b) is required to work individually with minimal supervision and has been designated by the employer as having overall responsibility for a particular function within the residential aged care facility.

An employee who holds appropriate Trade Qualifications and is required to act on them. Where the work of such employee requires the holding of a licence, the licence allowance from the applicable State trades award shall be paid. Employees at this level may be required to plan, direct, and train staff and comply with documentation requirements as determined by the employer and assist in the development of budgets. Indicative tasks an employee at this level may perform are as follows:

**Typical Duties – Grade 3 - Care Stream:** Coordinate and direct the work of staff. Schedule work programs on a routine and regular basis. Develop and implement programs of activities for residents. Develop resident care plans.

**Typical Duties - Grade 3 - Support Stream:** Responsible for the planning, ordering and preparing of all meals. Responsible for the provision of domestic services. Schedule work programs on a routine and regular basis. Coordinate and direct the work of staff. Drive a Minibus or Larger Vehicle.

**Typical Duties - Grade 3 - Maintenance Stream:** Carry out maintenance, repairs, gardening and other tasks falling within the scope of trades skills. Undertake the more complicated repairs to equipment and appliances calling for trades skills. Coordinate and direct the work of staff performing gardening duties. Schedule work programs on a routine and regular basis.

## **1.4 Other**

**“Catering Officer”** means a person who is responsible for catering services.

**“Diversional Therapist”** means a person who provides, facilitates and co-ordinates group and individual leisure and recreational activities. This person must be a graduate from an approved university course which includes: the Associate Diploma and Diploma of Applied Science (Diversional Therapy) at the University of Sydney; Bachelor of Applied Sciences (Leisure and Health) at the University of Sydney; Bachelor of Applied Science (Diversional Therapy) at the University of Western Sydney, Macarthur; the Diploma or Bachelor of Health Sciences (Leisure and Health) at Charles Sturt University; the Associate Diploma course in Diversional Therapy conducted by the Cumberland College of Health Sciences; or who has such other qualifications deemed to be equivalent.

**“Maintenance Supervisor (Tradesperson)”** means an employee who has trade qualifications and has overall responsibility for maintenance at the place of employment and may be required to supervise other maintenance staff.

**“Maintenance Supervisor (Otherwise)”** means an employee who is required to perform maintenance duties as required and who may be required to supervise other maintenance staff and has overall responsibility for maintenance at the place of employment.

**“Physiotherapist”** means an officer registered or conditionally registered under the Physiotherapists' Act 2001.

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## 1.5 Miscellaneous

Note: Employees classified and paid as Recreational Activities Officers as at 10 November, 1998 shall be reclassified in accordance with the new definitions of Care Services Employee. Employees reclassified at Level 2 by virtue of the above exercise, shall be paid at Level 3 from the effective date of this Agreement, and continue to be so paid whilst employed in the provision of recreational activities by their current employer. These employees may be required to perform the duties of a Level 3 Care Services Employee where they have the skill and competence to do so.

## 2. CLERICAL & ADMINISTRATIVE EMPLOYEES

- (a) Grades: All employees shall be graded in one of the following grades and informed accordingly in writing within 14 days of appointment to the position held by the employee and subsequent graded positions.
- (b) An employee shall be graded in the grade where the principal function of his or her employment, as determined by the employer, is of a clerical nature and is described in subclauses (c) to (g) of this clause.
- (c) A **Clerical & Administrative Employee Grade 1** position is described as follows:
  - (i) The employee may work under direct supervision with regular checking of progress.
  - (ii) An employee at this grade applies knowledge and skills to a limited range of tasks. The choice of actions required is clear.
  - (iii) Usually work will be performed within established routines, methods and procedures that are predictable, and which may require the exercise of limited discretion.

Indicative tasks an employee at this level may perform are as follows:

**Grade 1 - Information Handling:** Receive and distribute incoming mail; receive and dispatch outgoing mail; collate and dispatch documents for bulk mailing; file and retrieve documents

**Grade 1 - Communication:** Receive and relay oral and written messages; complete simple forms.

**Grade 1 - Enterprise:** Identify key functions and personnel; apply office procedures.

**Grade 1 - Technology:** Operate office equipment appropriate to the tasks to be completed; open computer file, retrieve and copy data; close files

**Grade 1 - Organisational:** Plan and organise a personal daily work routine.

**Grade 1 - Team:** Complete allocated tasks.

**Grade 1 - Business Financial:** Record petty cash transactions; prepare banking documents; prepare business source documents.

- (d) A **Clerical & Administrative Employee Grade 2** position is described as follows:
  - (i) The employee may work under routine supervision with intermittent checking.
  - (ii) An employee at this grade applies knowledge and skills to a range of tasks. The choice of actions required is usually clear, with limited complexity in the choice.

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- (iii) Work will be performed within established routines, methods and procedures, which involve the exercise of some discretion and minor decision making.

Indicative tasks an employee at this level may perform are as follows:

**Grade 2 - Information Handling:** Update and modify existing organisational records; remove inactive files; copy data on to standard forms.

**Grade 2 - Communication:** Respond to incoming telephone calls; make telephone calls; draft simple correspondence.

**Grade 2 - Enterprise:** Provide information from own function area; re-direct inquiries and/or take appropriate follow-up action; greet visitors and attend to their needs.

**Grade 2 - Technology:** Operate equipment; identify and/or rectify minor faults in equipment; edit and save information; produce document from written text using standard format; shutdown equipment.

**Grade 2 - Organisational:** Organise own work schedule; know roles and functions of other employees.

**Grade 2 - Team:** Participate in identifying tasks for team; complete own tasks; assist others to complete tasks.

**Grade 2 - Business Financial:** Reconcile invoices for payment to creditors; prepare statements for debtors; enter payment summaries into journals; post journals to ledger.

(e) A **Clerical & Administrative Employee Grade 3** position is described as follows:

- (i) The employee may work under limited supervision with checking related to overall progress.
- (ii) An employee at this grade may be responsible for the work of others and may be required to co-ordinate such work.
- (iii) An employee at this grade applies knowledge with depth in some areas and a broad range of skills. Usually work will be performed within routines, methods and procedures where some discretion and judgement is required.

Indicative tasks an employee at this level may perform are as follows:

**Grade 3 - Information Handling:** Prepare new files; identify and process inactive files; record documentation movements.

**Grade 3 - Communication:** Respond to telephone, oral and written requests for information; draft routine correspondence; handle sensitive inquiries with tact and discretion.

**Grade 3 - Enterprise:** Clarify specific needs of client/other employees; provide information and advice; follow-up on client/employee needs; clarify the nature of a verbal message; identify options for resolution and act accordingly.

**Grade 3 - Technology:** Maintain equipment; train others in the use of office equipment; select appropriate media; establish document structure; produce documents.

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**Grade 3 - Organisational:** Co-ordinate own work routine with others; make and record appointments on behalf of others; make travel and accommodation bookings in line with given itinerary.

**Grade 3 - Team:** Clarify tasks to achieve group goals; negotiate allocation of tasks; monitor own completion of allocated tasks.

**Grade 3 - Business Financial:** Reconcile accounts to balance; prepare bank reconciliations; document and lodge takings at bank; receive and document payment/takings; dispatch statements to debtors; follow up and record outstanding accounts; dispatch payments to creditors; maintain stock control records.

(f) A **Clerical & Administrative Employee Grade 4** position is described as follows:

- (i) The employee may be required to work without supervision, with general guidance on progress and outcomes sought. Responsibility for the organisation of the work of others may be involved.
- (ii) An employee at this grade applies knowledge with depth in some areas and a broad range of skills. There is a wide range of tasks, and the range and choice of actions required will usually be complex.
- (iii) An employee at this grade applies competencies usually applied within routines, methods and procedures where discretion and judgement is required, for both self and others.

Indicative tasks an employee at this level may perform are as follows:

**Grade 4 - Information Handling:** Categorise files; ensure efficient distribution of files and records; maintain security of filing system; train others in the operation of the filing system; compile report; identify information source(s) inside and outside the organisation.

**Grade 4 - Communication:** Receive and process a request for information; identify information source(s); compose report/correspondence.

**Grade 4 - Enterprise:** Provide information on current service provision and resource allocation within area of responsibility; identify trends in client requirements.

**Grade 4 - Technology:** Maintain storage media; devise and maintain filing system; set printer for document requirements when various setups are available; design document format; assist and train network users; shutdown network equipment.

**Grade 4 - Organisational:** Manage diary on behalf of others; assist with appointment preparation and follow up for others; organise business itinerary; make meeting arrangements; record minutes of meeting; identify credit facilities; prepare content of documentation for meetings.

**Grade 4 - Team:** Plan work for the team; allocate tasks to members of the team; provide training for team members.

**Grade 4 - Business Financial:** Prepare financial reports; draft financial forecasts/budgets; undertake and document costing procedures.

(g) A **Clerical & Administrative Employee Grade 5** position is described as follows:

- (i) The employee may be supervised by professional staff and may be responsible for the planning and management of the work of others.

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- (ii) An employee at this grade applies knowledge with substantial depth in some areas, and a range of skills, which may be varied or highly specific. The employee may receive assistance with specific problems.
  - (iii) An employee at this grade applies knowledge and skills independently and non-routinely. Judgement and initiative are required.

Indicative tasks an employee at this level may perform are as follows:

**Grade 5 - Information Handling:** Implement new/improved system; update incoming publications; circulate publications; identify information source(s) inside and outside the organisation.

**Grade 5 - Communication:** Obtain data from external sources; produce reports; identify need for documents and/or research.

**Grade 5 - Enterprise:** Assist with the development of options for future strategies; assist with planning to match future requirements with resource allocation.

**Grade 5 - Technology:** Establish and maintain a small network; identify document requirements; determine presentation and format of document and produce it.

**Grade 5 - Organisational:** Organise meetings; plan and organise conference.

**Grade 5 - Team:** Draft job vacancy advertisement; assist in the selection of staff; plan and allocate work for the team; monitor team performance; organise training for team.

**Grade 5 - Business Financial:** Administer PAYE salary records; process payment of wages and salaries; prepare payroll data.

- (h) Any employee paid on a classification/grade carrying a higher wage rate as at 10 November, 1998 shall have the difference between the higher rate and the new agreed grade/rate preserved whilst remaining to undertake the duties associated with the classification held prior to the date referred to above.

Clerks who are paid at a grade above that of Grade 5 as at 10 November, 1998 shall have the difference between that grade, inclusive of the 1998 State Wage Case Increase, and the new agreed grade preserved whilst employed in a clerical position with their current employer.

## II. NURSES' EMPLOYMENT CLASSIFICATIONS

The following employment classifications and definitions apply to this Agreement:

**Assistant in Nursing** means a person, other than a registered nurse, trainee or enrolled nurse or Care Service Employee who is employed in nursing duties in a residential aged care facility.

**Assistant in Nursing - Team Leader** means an employee who holds either a Certificate Level III in Aged Care Work or other appropriate Qualifications/Experience acceptable to the employer who is designated by the employer as having the responsibility for leading and/or supervising the work of other Assistants in Nursing.

**Assistant Director of Nursing** means:

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- (a) A person appointed as such in any sized facility and includes a person appointed as the nurse in charge during the evening or night in a facility where the adjusted daily average of occupied beds is not less than 150.
- (b) A person appointed as such to a position approved by the employer including persons appointed to be in charge of a ward or group of wards.

**Clinical Nurse Consultant** means a registered nurse appointed as such to the position, who has had at least five years' post registration experience and who has in addition approved post registration nursing qualifications relevant to the field in which they are appointed or such other qualifications or experience deemed appropriate by the employer.

**Clinical Nurse Educator** means a registered nurse with relevant post registration certificate qualifications or experience deemed appropriate by the employer, who is required to implement and evaluate educational programmes at the residential aged care facility. The Clinical Nurse Educator shall cater for the delivery of clinical nurse education at the residential aged care facility. The Clinical Nurse Educator may also be responsible for new employee orientation at the residential aged care facility. A nurse will achieve Clinical Nurse Educator status on a personal basis by being required by the residential aged care facility to provide the educational programmes detailed above. Nothing in this clause shall affect the role carried out by the Clinical Nurse Specialist as a specialist resource and the Clinical Nurse Consultant in the primary role of clinical consulting, researching etc.

**Clinical Nurse Specialist** means:

- (a) In residential aged care facilities where there are 250 or more beds:

A registered nurse with specific post registration qualifications and twelve months experience working in the clinical area of her or his specified post registration qualification; or a registered nurse with four years post registration experience in a specific clinical area and working in the clinical area of her or his specified post registration experience.

- (b) In residential aged care facilities where there are less than 250 beds:

A registered nurse with specific post registration qualifications and twelve months experience working in the clinical areas of her or his specified post registration qualification.

**Deputy Director of Nursing** means a registered nurse appointed to assist the Director of Nursing in the management of a Nursing Home and take a shared responsibility for the clinical care of residents when the employer deems that assistance is required.

**Director of Nursing** means a registered nurse who is appointed in accordance with the requirements of the Public Health Act 1991 as being responsible for care of the residents of the nursing home. The Director of Nursing must hold minimum necessary qualifications as required by Regulations to the NSW Public Health Act 1991.

**Enrolled Nurse** means a nurse enrolled with the Nursing and Midwifery Board of Australia who:

- prior to July 1, 2010 held an endorsement for medication administration; or
- subsequent to July 1, 2010 has completed the Board's required approved qualifications in order to have the notation on their licence removed. For a nurse who applies to have their enrolment notation removed, this classification shall also apply from the date upon which the Board so removes the notation; or
- has been enrolled for the first time subsequent to July 1, 2010.

Upon being "authorised to administer medications" by the Board, an employee shall be classified as an EN.



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- Where an employee was previously classified as an EN (without medication qualification) - Thereafter the employee will be paid as an EN - Authorised level (b).
  - Where an employee was not previously classified as an EN (without medication qualification) - Thereafter the employee shall be paid at level (a)
  - An employee classified at level (a) who is not required to deliver medication shall be entitled to progress to level (b) after one year's service.
  - Once an EN has worked 1,000 hours in a role where they are required to deliver medication, the employee will be classified and paid at the EEN Yr 1 rate and thereafter be entitled to progress to the second and third years of that salary scale.
  - An EEN may be required to lead and/or supervise the work of others.

**Enrolled Nurse (without medication qualification)** means a nurse enrolled with the Board who has the following notation on their licence: "Does not hold Board-approved qualifications in administration of medications" attached to their enrolment.

**Nurse** includes Registered Nurses, Enrolled Nurses and Assistants in Nursing.

**Nurse Educator** means a registered nurse with a post registration certificate, who has relevant experience or other qualifications deemed appropriate by the employer, and who is appointed to a position of Nurse Educator. A Nurse Educator shall be responsible for the development, implementation and delivery of nursing education programmes within a residential aged care facility or group of residential aged care facilities. Nurse education programmes shall mean courses conducted such as post registration certificates, continuing nurse education, orientation programmes including new graduate programmes, post enrolment courses for enrolled nurses and where applicable general staff development courses.

- (a) A person appointed to a position of Nurse Educator who holds relevant tertiary qualifications in education or tertiary post graduate specialist clinical nursing qualifications shall commence on the 3rd year rate of the salary scale.
- (b) A person appointed as the sole nurse educator for a group of residential aged care facilities shall be paid at the 3rd year rate of the salary scale.

Incremental progression for Nurse Educators shall be on completion of 12 months satisfactory full-time equivalent service, provided that progression shall not be beyond the 3rd year rate unless the person possesses the qualifications detailed in paragraphs (a) and (b). Persons appointed to the 3rd year rate by virtue of those paragraphs shall progress to the 4th year rate after completion of 12 months satisfactory full time service.

**Nurse Practitioner** means a registered nurse appointed as such and who is authorised by the Board, pursuant to Section 19A of the Nurses Act 1991, to practice as a Nurse Practitioner.

**Registered Nurse** means a person registered by the Board as such.

**Senior Nurse Educator** means a registered nurse with a post registration certificate or appropriate qualifications, who has, or is working towards, recognised tertiary qualifications in education or equivalent and has demonstrated experience and skills in the field of education, and who is appointed to a position of Senior Nurse Educator. A Senior Nurse Educator shall be responsible for one or more Nurse Educators in the planning, co-ordination, delivery and evaluation of educational programmes such as post registration certificate courses, continuing nurse education, orientation programmes including new graduate programmes, post enrolment courses for enrolled nurses and where applicable general staff development courses either in a residential aged care

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facility or in a group of residential aged care facilities. Incremental progression shall be on completion of 12 months' satisfactory service.

**Trainee Enrolled Nurse** means a person who is being trained to become an enrolled nurse.

## SCHEDULE B - PAY, OTHER RATES AND ALLOWANCES

**Table 1 - Rates of Pay**

Classification		First Pay period after approval from FWA	First Pay period on or after 11 April 2012 2.5%	First Pay period on or after 11 April 2013 2.5%
<b>Assistant in Nursing</b>				
	1st year	\$17.52	\$18.01	\$18.55
	2nd year	\$18.26	\$18.77	\$19.33
	3rd year	\$18.68	\$19.20	\$19.77
	Thereafter	\$19.04	\$19.52	\$20.10
<b>Experienced: Cert III</b>	1 <sup>st</sup> year	\$18.34	\$18.85	\$19.42
	2 <sup>nd</sup> year	\$18.63	\$19.15	\$19.72
	Thereafter	\$19.23	\$19.77	\$20.36
<b>Trainee Enrolled Nurse</b>				
	1st year	\$17.22	\$17.65	\$18.09
	2nd year	\$17.79	\$18.24	\$18.69
	3rd year	\$18.36	\$18.82	\$19.29
	Thereafter	\$18.93	\$19.40	\$19.89
<b>Enrolled Nurse</b>				
	level (a)	\$22.55	\$23.12	\$23.69
	level (b)	\$23.04	\$23.62	\$24.21
	1st year	\$23.65	\$24.24	\$24.85
	2nd year	\$24.21	\$24.81	\$25.43
	Thereafter	\$24.78	\$25.40	\$26.03
<b>Registered Nurse</b>				
	1st year	\$26.60	\$27.26	\$27.95
	2nd year	\$28.21	\$28.92	\$29.64
	3rd year	\$29.93	\$30.68	\$31.45
	4th year	\$31.76	\$32.56	\$33.37
	5th year and thereafter	\$33.70	\$34.54	\$35.41
<b>Nursing Unit Manager (personal to current occupants as at 1.03.99)</b>				
<b>Level I</b>	1st year	\$37.36	\$38.30	\$39.26
	2nd year	\$38.42	\$39.38	\$40.36
<b>Level II</b>		\$39.37	\$40.36	\$41.36
<b>Level III</b>		\$40.41	\$41.42	\$42.45
<b>Nurse undergoing pre-registration assessment</b>		\$20.70	\$21.22	\$21.75
<b>Clinical Nurse Specialist</b>		\$35.08	\$35.95	\$36.85

<b>Classification</b>	<b>First Pay period after approval from FWA</b>	<b>First Pay period on or after 11 April 2012 2.5%</b>	<b>First Pay period on or after 11 April 2013 2.5%</b>
<b>Clinical Nurse Consultant</b>	\$41.43	\$42.47	\$43.53
<b>Clinical Nurse Educator</b>	\$35.08	\$35.95	\$36.85
<b>Nurse Educator</b>			
1st year	\$37.36	\$38.30	\$39.26
2nd year	\$38.42	\$39.38	\$40.36
3rd year	\$39.37	\$40.36	\$41.36
4th year	\$41.43	\$42.47	\$43.53
<b>Senior Nurse Educator</b>			
1st year	\$42.42	\$43.49	\$44.57
2nd year	\$43.29	\$44.38	\$45.49
3rd year	\$44.74	\$45.86	\$47.01
<b>Deputy Director of Nursing</b>			
<20 beds			
20-75 beds	\$40.22	\$41.23	\$42.26
<b>Director of Nursing</b>			
50-75 beds	\$47.41	\$48.60	\$49.81
75-100 beds	\$48.40	\$49.61	\$50.85

<b>Classification</b>	<b>First Pay period after approval from FWA</b>	<b>First Pay period on or after 11 April 2012 2.5%</b>	<b>First Pay period on or after 11 April 2013 2.5%</b>
<b>Maintenance Supervisors:</b>			
<b>Maintenance Supervisor (Otherwise)</b>	\$21.02	\$21.55	\$22.09
<b>Maintenance Supervisor (Otherwise) - in charge of staff</b>	\$21.49	\$22.02	\$22.57
<b>Maintenance Supervisor (Tradesperson)</b>	\$22.83	\$23.40	\$23.99
<b>Catering Officers:</b>			
<b>Trainee Catering Officer</b>			
1 <sup>st</sup> year	\$18.53	\$18.99	\$19.46
2 <sup>nd</sup> year	\$18.87	\$19.34	\$19.82
3 <sup>rd</sup> year	\$19.26	\$19.74	\$20.24
<b>Assistant Catering Officer</b>			
80-120 beds	\$19.46	\$19.94	\$20.44
120-300 beds	\$20.77	\$21.29	\$21.82
300-500 beds	\$22.32	\$22.88	\$23.46
500-1000 beds	\$22.95	\$23.52	\$24.11
<b>Catering Officer</b>			
80-120 beds	\$21.71	\$22.26	\$22.81
120-200 beds	\$22.32	\$22.88	\$23.46
200-300 beds	\$22.95	\$23.52	\$24.11
300-500 beds	\$24.12	\$24.72	\$25.34
500-1000 beds	\$26.07	\$26.72	\$27.39
<b>Care Service Employees</b>			
Level 1	\$17.78	\$18.23	\$18.68
Level 3	\$20.10	\$20.60	\$21.12
<b>Diversional Therapist</b>			
1 <sup>st</sup> year	\$19.35	\$19.84	\$20.33
2 <sup>nd</sup> year	\$20.36	\$20.87	\$21.39
3 <sup>rd</sup> year	\$21.32	\$21.85	\$22.40
4 <sup>th</sup> year	\$22.31	\$22.87	\$23.44
5 <sup>th</sup> year	\$23.26	\$23.84	\$24.43

Classification		First Pay period after FWA Approval	First Pay period on or after 11 April 2012 2.5%	First Pay period on or after 11 April 2013 2.5%
<b>Apprentices:</b>				
<b>Apprentice Cook</b>	<b>1<sup>st</sup> year</b>	\$12.06	\$12.36	\$12.67
	<b>2<sup>nd</sup> year</b>	\$16.58	\$17.00	\$17.42
	<b>3<sup>rd</sup> year</b>	\$18.59	\$19.05	\$19.53
<b>Apprentice Gardener</b>	<b>1<sup>st</sup> year</b>	\$10.04	\$10.29	\$10.55
	<b>2<sup>nd</sup> year</b>	\$12.06	\$12.36	\$12.67
	<b>3<sup>rd</sup> year</b>	\$16.07	\$16.48	\$16.89
	<b>4<sup>th</sup> year</b>	\$18.08	\$18.53	\$19.00
<b>Clerical &amp; Administrative Employees:</b>				
<b>Juniors</b>	<b>16 years &amp; under</b>	\$9.67	\$9.91	\$10.16
	<b>17 years</b>	\$10.97	\$11.25	\$11.53
	<b>18 years</b>	\$12.56	\$12.88	\$13.20
	<b>19 years</b>	\$14.17	\$14.52	\$14.89
	<b>20 years</b>	\$15.62	\$16.01	\$16.41
<b>Adults</b>	<b>Grade 1</b>	\$19.23	\$19.71	\$20.20
	<b>Grade 2</b>	\$20.41	\$20.92	\$21.44
	<b>Grade 3</b>	\$21.64	\$22.18	\$22.74
	<b>Grade 4</b>	\$22.64	\$23.20	\$23.78
	<b>Grade 5</b>	\$23.68	\$24.27	\$24.88

\* Salary Band-Grade 5 - Employers and employees may negotiate a rate within the salary band as shown. For the purposes of this Agreement, the rate so negotiated shall be deemed to be the employee's Agreement rate of pay. Salaries in excess of the salary band may also be negotiated between the parties.

**Table 2 - Other Rates and Allowances**

Item No.	Brief Description	Clause No.	First pay period after approval from FWA (\$)	First pay after 11 April 2012	First pay after 11 April 2013
1	Sleepover	21.4(b)	2.2 hours of ordinary pay	2.2 hours of ordinary pay	2.2 hours of ordinary pay
2	Overtime - Breakfast	17.4(a)	12.52 per meal	12.89 per meal	13.27 per meal
3	Overtime – Luncheon	17.4(b)	16.20 per meal	16.69 per meal	17.19 per meal
4	Overtime - Evening Meal	17.4(c)	23.64 per meal	24.34 per meal	25.07 per meal
5	Vehicle Allowance	18.4(b) 21.5(c) 38.4(e)	0.34 per km	0.36 per km	0.38 per km
6	Vehicle Allowance – official business	21.2(b)	0.74 per km	0.76 per km	0.78 per km
7	Apprentice - TAFE Examination Allowance	14.6(d)(ii)	1.91 per week	1.96 per week	2.01 per week
8	In charge of residential aged care facility less than 100 beds	21.1(a)	21.53 per shift	22.17 per shift	22.83 per shift
9	In charge of residential aged care facility, 100 beds or more	21.1(a)	34.69 per shift	35.56 per shift	36.45 per shift
10	In charge of section	21.1(b)	21.53 per shift	22.07 per shift	22.62 per shift
11	Uniform	21.3(c)	6.41 per week	7.64 per week	7.86 per week
12	Shoes	21.3(d)	1.99 per week	2.04 per week	2.10 per week
13	Cardigan or Jacket	21.3(e)	1.91 per week	1.96 per week	2.01 per week
14	Stockings	21.3(f)	3.18 per week	3.27 per week	3.36 per week
15	Socks	21.3(g)	0.63 per week	0.65 per week	0.67 per week
16	Laundry	21.3(h)	5.33 per week	5.48 per week	5.64 per week
17	On call	21.5(a)	19.19 per day	19.76 per day	20.35 per day
18	On call during meal break	21.5(b)	10.38 per period	10.69 per period	11.01 per period
19	Climatic & Isolation	21.6(a)	5.38 per week	5.54 per week	5.70 per week
20	Climatic & Isolation	21.6(b)	10.15 per week	10.45	10.76

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21	Continuing education allowance: RN	21.7(g)	18.08 per week	18.62	19.17
22	Continuing education allowance: RN	21.7(h)	30.12 per week	31.02	31.98
23	Continuing education allowance: RN	21.7(i)	36.13 per week	37.21	38.32
24	Continuing education allowance: EN	21.7(j)	12.04 per week	12.40	12.77
25	Broken Shift	15.4(d)	0.5 hours of ordinary pay per shift		



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## SCHEDULE C - SUPPORTED WAGE SYSTEM

**C.1** This schedule defines the conditions which will apply to employees who because of the effects of a disability are eligible for a supported wage under the terms of this Agreement.

**C.2** In this schedule:

**approved assessor** means a person accredited by the management unit established by the Commonwealth under the supported wage system to perform assessments of an individual's productive capacity within the supported wage system

**assessment instrument** means the tool provided for under the supported wage system that records the assessment of the productive capacity of the person to be employed under the supported wage system

**disability support pension** means the Commonwealth pension scheme to provide income security for persons with a disability as provided under the Social Security Act 1991, as amended from time to time, or any successor to that scheme

**relevant minimum wage** means the minimum wage prescribed in this Agreement for the class of work for which an employee is engaged

**supported wage system** means the Commonwealth Government system to promote employment for people who cannot work at full Agreement wages because of a disability, as documented in the Supported Wage System Handbook. The Handbook is available from the following website: [www.jobaccess.gov.au](http://www.jobaccess.gov.au)

**SWS wage assessment agreement** means the document in the form required by the Department of Education, Employment and Workplace Relations that records the employee's productive capacity and agreed wage rate

### **C.3 Eligibility criteria**

**C.3.1** Employees covered by this schedule will be those who are unable to perform the range of duties to the competence level required within the class of work for which the employee is engaged under this Agreement, because of the effects of a disability on their productive capacity and who meet the impairment criteria for receipt of a disability support pension.

**C.3.2** This schedule does not apply to any existing employee who has a claim against the employer which is subject to the provisions of workers compensation legislation or any provision of this Agreement relating to the rehabilitation of employees who are injured in the course of their employment.

### **C.4 Supported wage rates**

**C.4.1** Employees to whom this schedule applies will be paid the applicable percentage of the relevant minimum wage according to the following schedule:

<b>Assessed capacity (clause</b>	<b>Relevant minimum wage</b>
<b>Error! Reference source not</b>	
<b>found.)</b>	<b>%</b>
<b>%</b>	
10	10
20	20

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<b>Assessed capacity (clause Error! Reference source not found.)</b>	<b>Relevant minimum wage</b>
<b>%</b>	<b>%</b>
30	30
40	40
50	50
60	60
70	70
80	80
90	90

C.4.2 Provided that the minimum amount payable must be not less than \$73 per week.

C.4.3 Where an employee's assessed capacity is 10%, they must receive a high degree of assistance and support.

#### **C.5 Assessment of capacity**

C.5.1 For the purpose of establishing the percentage of the relevant minimum wage, the productive capacity of the employee will be assessed in accordance with the Supported Wage System by an approved assessor, having consulted the employer and employee and, if the employee so desires, a union which the employee is eligible to join.

C.5.2 All assessments made under this schedule must be documented in an SWS wage assessment agreement, and retained by the employer as a time and wages record in accordance with the Act.

#### **C.6 Lodgement of SWS wage assessment agreement**

C.6.1 All SWS wage assessment agreements under the conditions of this schedule, including the appropriate percentage of the relevant minimum wage to be paid to the employee, must be lodged by the employer with Fair Work Australia.

C.6.2 All SWS wage assessment agreements (SWSA) must be agreed and signed by the employee and employer parties to the assessment. Where a union, party to this agreement, is not a party to the SWSA, the assessment will be referred by Fair Work Australia to the union by certified mail and the SWSA will take effect unless an objection is notified to Fair Work Australia within 10 working days.

#### **C.7 Review of assessment**

The assessment of the applicable percentage should be subject to annual or more frequent review on the basis of a reasonable request for such a review. The process of review must be in accordance with the procedures for assessing capacity under the supported wage system.

#### **C.8 Other terms and conditions of employment**

Where an assessment has been made, the applicable percentage will apply to the relevant minimum wage only. Employees covered by the provisions of this schedule will be entitled to the

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same terms and conditions of employment as other workers covered by this Agreement on a pro rata basis.

### **C.9 Workplace adjustment**

An employer wishing to employ a person under the provisions of this schedule must take reasonable steps to make changes in the workplace to enhance the employee's capacity to do the job. Changes may involve re-design of job duties, working time arrangements and work organisation in consultation with other workers in the area.

### **C.10 Trial period**

C.10.1 In order for an adequate assessment of the employee's capacity to be made, an employer may employ a person under the provisions of this schedule for a trial period not exceeding 12 weeks, except that in some cases additional work adjustment time (not exceeding four weeks) may be needed.

C.10.2 During that trial period the assessment of capacity will be undertaken and the percentage of the relevant minimum wage for a continuing employment relationship will be determined.

C.10.3 The minimum amount payable to the employee during the trial period must be no less than \$73 per week.

C.10.4 Work trials should include induction or training as appropriate to the job being trialled.

C.10.5 Where the employer and employee wish to establish a continuing employment relationship following the completion of the trial period, a further contract of employment will be entered into based on the outcome of assessment under clause C.5.

## **SCHEDULE D - NATIONAL TRAINING WAGE**

### **D.1 Title**

This is the *National Training Wage Schedule*.

### **D.2 Definitions**

In this schedule:

**adult trainee** is a trainee who would qualify for the highest minimum wage in Wage Level A, B or C if covered by that wage level

**approved training** means the training specified in the training contract

**Australian Qualifications Framework (AQF)** is a national framework for qualifications in post-compulsory education and training

**out of school** refers only to periods out of school beyond Year 10 as at the first of January in each year and is deemed to:

- (a) include any period of schooling beyond Year 10 which was not part of or did not contribute to a completed year of schooling;
- (b) include any period during which a trainee repeats in whole or part a year of schooling beyond Year 10; and
- (c) not include any period during a calendar year in which a year of schooling is completed

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**relevant State or Territory training authority** means the bodies in the relevant State or Territory which exercise approval powers in relation to traineeships and register training contracts under the relevant State or Territory vocational education and training legislation

**relevant State or Territory vocational education and training legislation** means the following or any successor legislation:

Australian Capital Territory: *Training and Tertiary Education Act 2003*;

New South Wales: *Apprenticeship and Traineeship Act 2001*;

Northern Territory: *Northern Territory Employment and Training Act 1991*;

Queensland: *Vocational Education, Training and Employment Act 2000*;

South Australia: *Training and Skills Development Act 2008*;

Tasmania: *Vocational Education and Training Act 1994*;

Victoria: *Education and Training Reform Act 2006*; or

Western Australia: *Vocational Education and Training Act 1996*

**trainee** is an employee undertaking a traineeship under a training contract

**traineeship** means a system of training which has been approved by the relevant State or Territory training authority, which meets the requirements of a training package developed by the relevant Industry Skills Council and endorsed by the National Quality Council, and which leads to an AQF certificate level qualification

**training contract** means an agreement for a traineeship made between an employer and an employee which is registered with the relevant State or Territory training authority

**training package** means the competency standards and associated assessment guidelines for an AQF certificate level qualification which have been endorsed for an industry or enterprise by the National Quality Council and placed on the National Training Information Service with the approval of the Commonwealth, State and Territory Ministers responsible for vocational education and training, and includes any relevant replacement training package

**year 10** includes any year before Year 10

### **D.3 Coverage**

D.3.1 Subject to clauses 0 to 0 of this schedule, this schedule applies in respect of an employee covered by this Agreement who is undertaking a traineeship whose training package and AQF certificate level is allocated to a wage level by Appendix D1 to this schedule or by clause D.5.4 of this schedule.

D.3.2 This schedule only applies to AQF Certificate Level IV traineeships for which a relevant AQF Certificate Level III traineeship is listed in Appendix D1 to this schedule.

D.3.3 This schedule does not apply to the apprenticeship system or to any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997.

D.3.4 This schedule does not apply to qualifications not identified in training packages or to qualifications in training packages which are not identified as appropriate for a traineeship.

D.3.5 Where the terms and conditions of this schedule conflict with other terms and conditions of this Agreement dealing with traineeships, the other terms and conditions of this Agreement prevail.

D.3.6 At the conclusion of the traineeship, this schedule ceases to apply to the employee.

#### **D.4 Types of Traineeship**

The following types of traineeship are available under this schedule:

D.4.1 a full-time traineeship based on 38 ordinary hours per week, with 20% of ordinary hours being approved training; and

D.4.2 a part-time traineeship based on less than 38 ordinary hours per week, with 20% of ordinary hours being approved training solely on-the-job or partly on-the-job and partly off-the-job, or where training is fully off-the-job.

#### **D.5 Minimum Wages**

##### **D.5.1 Minimum wages for full-time traineeships**

###### **(a) Wage Level A**

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	256.00	282.00	336.00
Plus 1 year out of school	282.00	336.00	391.00
Plus 2 years out of school	336.00	391.00	455.00
Plus 3 years out of school	391.00	455.00	521.00
Plus 4 years out of school	455.00	521.00	
Plus 5 or more years out of school	521.00		

###### **(b) Wage Level B**

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	<b>Highest year of schooling completed</b>		
	<b>Year 10</b>	<b>Year 11</b>	<b>Year 12</b>
	<b>per week</b>	<b>per week</b>	<b>per week</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>
School leaver	256.00	282.00	327.00
Plus 1 year out of school	282.00	327.00	376.00
Plus 2 years out of school	327.00	376.00	441.00

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
Plus 3 years out of school	376.00	441.00	503.00
Plus 4 years out of school	441.00	503.00	
Plus 5 or more years out of school	503.00		

**(c) Wage Level C**

Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level I-III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per week	per week	per week
	\$	\$	\$
School leaver	256.00	282.00	327.00
Plus 1 year out of school	282.00	327.00	368.00
Plus 2 years out of school	327.00	368.00	411.00
Plus 3 years out of school	368.00	411.00	458.00
Plus 4 years out of school	411.00	458.00	
Plus 5 or more years out of school	458.00		

**(d) AQF Certificate Level IV traineeships**

- (i) (Subject to clause D.5.3 of this schedule, the minimum wages for a trainee undertaking a full-time AQF Certificate Level IV traineeship are the minimum wages for the relevant full-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clause D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a full-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per week	per week
	\$	\$
Wage Level A	541.00	562.00
Wage Level B	522.00	542.00
Wage Level C	475.00	493.00

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## D.5.2 Minimum wages for part-time traineeships

### (a) Wage Level A

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level A by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	8.42	9.28	11.05
Plus 1 year out of school	9.28	11.05	12.86
Plus 2 years out of school	11.05	12.86	14.97
Plus 3 years out of school	12.86	14.97	17.14
Plus 4 years out of school	14.97	17.14	
Plus 5 or more years out of school	17.14		

### (b) Wage Level B

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level B by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	8.42	9.28	10.76
Plus 1 year out of school	9.28	10.76	12.37
Plus 2 years out of school	10.76	12.37	14.51
Plus 3 years out of school	12.37	14.51	16.55
Plus 4 years out of school	14.51	16.55	
Plus 5 or more years out of school	16.55		

### (a) Wage Level C

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Level C by Appendix D1 are:

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
School leaver	8.42	9.28	10.76
Plus 1 year out of school	9.28	10.76	12.11

	Highest year of schooling completed		
	Year 10	Year 11	Year 12
	per hour	per hour	per hour
	\$	\$	\$
Plus 2 years out of school	10.76	12.11	13.52
Plus 3 years out of school	12.11	13.52	15.07
Plus 4 years out of school	13.52	15.07	
Plus 5 or more years out of school	15.07		

**(b) School-based traineeships**

Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a school-based AQF Certificate Level I–III traineeship whose training package and AQF certificate levels are allocated to Wage Levels A, B or C by Appendix D1 are as follows when the trainee works ordinary hours:

Year of schooling	
Year 11 or lower	Year 12
per hour	per hour
\$	\$
8.42	9.28

**(c) AQF Certificate Level IV traineeships**

- (i) Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for a trainee undertaking a part-time AQF Certificate Level IV traineeship are the minimum wages for the relevant part-time AQF Certificate Level III traineeship with the addition of 3.8% to those minimum wages.
- (ii) Subject to clauses D.5.2(f) and D.5.3 of this schedule, the minimum wages for an adult trainee undertaking a part-time AQF Certificate Level IV traineeship are as follows, provided that the relevant wage level is that for the relevant AQF Certificate Level III traineeship:

Wage level	First year of traineeship	Second and subsequent years of traineeship
	per hour	per hour
	\$	\$
Wage Level A	17.80	18.49
Wage Level B	17.17	17.83
Wage Level C	15.63	16.22

**(d) Calculating the actual minimum wage**

- (i) Where the full-time ordinary hours of work are not 38 or an average of 38 per week, the appropriate hourly minimum wage is obtained by multiplying the relevant minimum wage in clauses D.5.2(a)–(e) of this schedule by 38 and then dividing the figure obtained by the full-time ordinary hours of work per week.
- (ii) Where the approved training for a part-time traineeship is provided fully off-the-job by a registered training organisation, for example at school or at



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TAFE, the relevant minimum wage in clauses D.5.2(a)-(e) of this schedule applies to each ordinary hour worked by the trainee.

- (iv) Where the approved training for a part-time traineeship is undertaken solely on-the-job or partly on-the-job and partly off-the-job, the relevant minimum wage in clauses D.5.2(a)-(e) of this schedule minus 20% applies to each ordinary hour worked by the trainee.

#### **D.5.3 Other minimum wage provisions**

- (a) An employee who was employed by an employer immediately prior to becoming a trainee with that employer must not suffer a reduction in their minimum wage per week or per hour by virtue of becoming a trainee. Casual loadings will be disregarded when determining whether the employee has suffered a reduction in their minimum wage.
- (b) If a qualification is converted from an AQF Certificate Level II to an AQF Certificate Level III traineeship, or from an AQF Certificate Level III to an AQF Certificate Level IV traineeship, then the trainee must be paid the next highest minimum wage provided in this schedule, where a higher minimum wage is provided for the new AQF certificate level.

#### **D.5.4 Default wage rate**

The minimum wage for a trainee undertaking an AQF Certificate Level I–III traineeship whose training package and AQF certificate level are not allocated to a wage level by Appendix D1 is the relevant minimum wage under this schedule for a trainee undertaking an AQF Certificate to Level I–III traineeship whose training package and AQF certificate level are allocated to Wage Level B.

#### **D.6 Employment conditions**

- D.6.1 A trainee undertaking a school-based traineeship may, with the agreement of the trainee, be paid an additional loading of 25% on all ordinary hours worked instead of paid annual leave, paid personal/carer's leave and paid absence on public holidays, provided that where the trainee works on a public holiday then the public holiday provisions of this Agreement apply.
- D.6.2 A trainee is entitled to be released from work without loss of continuity of employment and to payment of the appropriate wages to attend any training and assessment specified in, or associated with, the training contract.
- D.6.3 Time spent by a trainee, other than a trainee undertaking a school-based traineeship, in attending any training and assessment specified in, or associated with, the training contract is to be regarded as time worked for the employer for the purposes of calculating the trainee's wages and determining the trainee's employment conditions.
- D.6.4 Subject to clause 0 of this schedule, all other terms and conditions of this Agreement apply to a trainee unless specifically varied by this schedule.

## APPENDIX D1 - ALLOCATION OF TRAINEESHIPS TO WAGE LEVELS

The wage levels applying to training packages and their AQF certificate levels are:

### D1.1 Wage Level A

Training package	AQF certificate level
Aeroskills	II
Aviation	I
	II
	III
Beauty	III
Business Services	I
	II
	III
Chemical, Hydrocarbons and Refining	I
	II
	III
Civil Construction	III
Coal Training Package	II
	III
Community Services	II
	III
Construction, Plumbing and Services	I
Integrated Framework	II
	III
Correctional Services	II
	III
Drilling	II
	III
Electricity Supply Industry—Generation Sector	II
	III (in Western Australia only)
Electricity Supply Industry—Transmission, Distribution and Rail Sector	II
Electrotechnology	I
	II
	III (in Western Australia only)
Financial Services	I
	II
	III
Floristry	III
Food Processing Industry	III
Gas Industry	III
Information and Communications Technology	I
	II
	III
Laboratory Operations	II
	III
Local Government (other than Operational Works Cert I and II)	I
	II
	III
Manufactured Mineral Products	III
Manufacturing	I
	II
	III
Maritime	I
	II
	III

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<b>Training package</b>	<b>AQF certificate level</b>
Metal and Engineering (Technical)	II
	III
Metalliferous Mining	II
	III
Museum, Library and Library/Information Services	II
	III
Plastics, Rubber and Cablemaking	III
Public Safety	III
Public Sector	II
	III
Pulp and Paper Manufacturing Industries	III
Retail Services (including wholesale and Community pharmacy)	III
Telecommunications	II
	III
Textiles, Clothing and Footwear	III
Tourism, Hospitality and Events	I
	II
	III
Training and Assessment	III
Transport and Distribution	III
Water Industry (Utilities)	III

#### **D1.2 Wage Level B**

<b>Training package</b>	<b>AQF certificate level</b>
Animal Care and Management	I
	II
	III
Asset Maintenance	I
	II
	III
Australian Meat Industry	I
	II
	III
Automotive Industry Manufacturing	II
	III
Automotive Industry Retail, Service and Repair	I
	II
	III
Beauty	II
Caravan Industry	II
	III
Civil Construction	I
Community Recreation Industry	III
Entertainment	I
	II
	III
Extractive Industries	II
	III
Fitness Industry	III
Floristry	II
Food Processing Industry	I
	II
Forest and Forest Products Industry	I
	II

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Training package	AQF certificate level
	III
Furnishing	I
	II
	III
Gas Industry	I
	II
Health	II
	III
Local Government (Operational Works)	I
	II
Manufactured Mineral Products	I
	II
Metal and Engineering (Production)	II
	III
Outdoor Recreation Industry	I
	II
	III
Plastics, Rubber and Cablemaking	II
Printing and Graphic Arts	II
	III
Property Services	I
	II
	III
Public Safety	I
	II
Pulp and Paper Manufacturing Industries	I
	II
Retail Services	I
	II
Screen and Media	I
	II
	III
Sport Industry	II
	III
Sugar Milling	I
	II
	III
Textiles, Clothing and Footwear	I
	II
Transport and Logistics	I
	II
Visual Arts, Craft and Design	I
	II
	III
Water Industry	I
	II

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### D1.3 Wage Level C

Training package	AQF certificate level
Agri-Food	I
Amenity Horticulture	I
	II
	III
Conservation and Land Management	I
	II
	III
Funeral Services	I
	II
	III
Music	I
	II
	III
Racing Industry	I
	II
	III
Rural Production	I
	II
	III
Seafood Industry	I
	II
	III

## Signature Page for the Employer

### EXECUTION:

Signed for and on behalf of Free Tree Lodge Limited by its duly authorised officer:

Signed for the employer:

Print Full Name:

Garry Roy Brown

Position:

Chairperson

Authority:

Board Chair

Signed by witness:

Print Full Name:

Dorothy Marree Nelson  
JP NSW Reg No 141804

Address:

Date:

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Signature Page for the NSWNA/ANF

*Brett Holmes*

.....  
Brett Howard Holmes  
General Secretary,  
NSW Nurses' Association, and  
Branch Secretary  
Australian Nursing Federation – NSW Branch  
50 O'Dea Ave  
WATERLOO NSW 2017

*Margaret Potts*

.....  
WITNESS

Margaret Mary Potts  
50 O'Dea Ave, Waterloo

*Coral Levett*

.....  
Coral Vicky Levett  
President  
NSW Nurses' Association, and  
President  
Australian Nursing Federation – NSW Branch  
50 O'Dea Ave  
WATERLOO NSW 2017

*Margaret Potts*

.....  
WITNESS

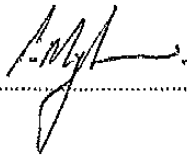
Margaret Mary Potts  
50 O'Dea Ave, Waterloo

*Authority to sign Agreement on behalf of employees is in accordance with Rule 34 of the  
Rules of the NSWNA and Rule 40 of the Rules of the Australian Nursing Federation.*

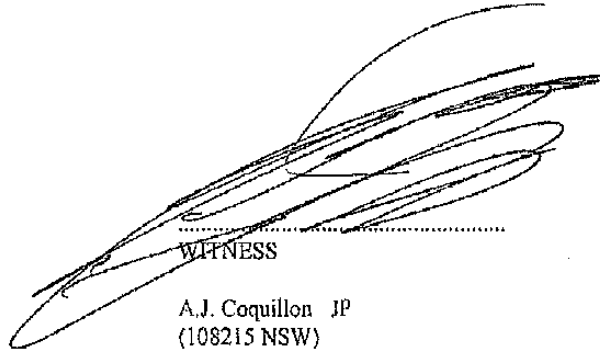
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Signature Page for HSU – East

Signed for and on behalf of the Health Services Union-East Branch by its duly authorised officer:



Peter Mylan  
Acting General Secretary  
Health Services Union-East Branch  
Level 2, 109 Pitt Street  
SYDNEY NSW 2000



WITNESS

A.J. Coquillon JP  
(108215 NSW)  
Level 2, 109 Pitt Street  
SYDNEY NSW 2000



# Three Tree Lodge

RESIDENTIAL AGED CARE FACILITY

2A Col Drewe Dr  
Bowenfels NSW 2790  
PO Box 3035  
Bowenfels NSW 2790  
P (02) 6354 2666  
F (02) 6354 2665  
threetree@hotmail.au  
ABN: 58 147 644 844  
ACN: 147 644 844

Commissioner McKenna  
Fair Work Australia  
90 William Street  
EAST SYDNEY NSW 2011

Dear Commissioner McKenna

Re: AG2011/14680- Three Tree Lodge Lithgow Limited NSWNA & HSU East Enterprise Agreement  
2011-2014

## Undertakings

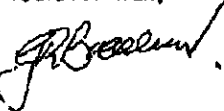
In respect of the Three Tree Lodge Lithgow Limited NSWNA & HSU East Enterprise Agreement 2011-2014, the following undertakings are provided by the employer.

- 1) Remove sub clause 21.8 (b)
- 2) Insert a new sub clause 21.8(b) with the following wording

"An employee whose employment has ceased with Three Tree Lodge, shall receive the same amount of annual leave loading that they would have received as per normal course of employment as per subclauses 21.5(a) and 21.5(b)"

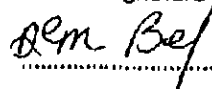
A copy of this undertaking will be attached to the Enterprise Agreement and will be distributed to all employees covered by the Agreement.

Yours Faithfully



Garry Brown  
Board Chair of Three Tree Lodge Limited  
Date... 5/1/2012

Witness Signature

 5/1/2012

Name

Dorothy Marree Beljon  
JP-NSW-Reg No 141804