DECISION

Fair Work Act 2009
s.185 - Application for approval of a single-enterprise agreement

Corumbene Nursing Home for the Aged Inc
(AG2021/119)

CORUMBENE NURSING HOME FOR THE AGED INC. GENERAL AGREEMENT 2020

Aged care industry

COMMISSIONER CIRKOVIC MELBOURNE, 23 MARCH 2021

Application for approval of the Corumbene Nursing Home for the Aged Inc. General Agreement 2020.

[1] An application has been made for approval of an enterprise agreement known as the *Corumbene Nursing Home for the Aged Inc. General Agreement 2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Corumbene Nursing Home for the Aged Inc. The Agreement is a single enterprise agreement.

[2] The Agreement lodged contained errors on:

- Page 26-7, clause 20.4;
- Page 27, clause 20.5;
- Page 34-5, clause 25.12; and
- Page 36, clause 26.5(a).

[3] On 19 March 2021 an amended version of the Agreement correcting this error was filed. I am satisfied that the correction should be made and that it is appropriate to do so pursuant to s.586 of the Act.

[4] The employer has provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement.

[5] On the basis of the material contained in the application and accompanying declaration, I am satisfied that each of the requirements of ss 186, 187 and 188 as are relevant to this application for approval have been met.

[6] The Australian Nursing and Midwifery Federation and the Health Services Union, being bargaining representatives for the Agreement, have given notice under s.183 of the Act that each wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers these organisations

[7] I observe that clause 26.7 is likely to be inconsistent with the National Employment Standards (**NES**). However, noting the undertakings provided by the Applicant, I am satisfied that the beneficial entitlements of the NES will prevail where there is an inconsistency between the Agreement and the NES.

[8] The Agreement was approved on 23 March 2021 and, in accordance with s.54, will operate from 30 March 2021. The nominal expiry date of the Agreement is 30 June 2023.

COMMISSIONER

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ANNEXURE A-

Corumbene Care

Corumbene Nursing Home for the Aged Inc. General Enterprise Agreement 2020

We have reviewed this information and provide the following undertakings in relation to Corumbene Nursing Home for the Aged Inc. General Enterprise Agreement 2020:

A. Corumbene Care undertakes that Clause 6 – Definitions relating to a shiftworker should be read to include:

"This Agreement will be read and interpreted that the definition of a Shift Worker is for the purposes of the National Employment Standards (NES).

B. Corumbene Care undertakes that Clause 6 – Definitions, relating to an afternoon shift, should be removed from reading the General Enterprise Agreement to ensure that there is no inconsistency relating to clause 20.2.

C. Corumbene Care undertakes that Clause 12.2 should be read to include:

"This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, the NES will apply."

D. Corumbene Care undertakes that Clause 19.2 should be read as follows:

19.2 Hours of work – Rostered employees

(a) Employees may be required to work to a roster, subject to the requirements of the Roster (Clause 20) of this Agreement.

(b) Where an employee is required to work in accordance with a roster, the ordinary hours of work for that employee shall be as per the agreed hours up to 38 hours per week for a part time employee or an average of 38 hours per week for fulltime employees and must not exceed:

(i) 8 hours in any one day; or

(ii) 48 hours in any one week; or

(iii) 88 hours in any 14 consecutive days for full-time employees or 80 hours in 14 consecutive days for part-time or casual-rostered employees; or

(iv) 152 hours in any 28 day accounting period.

E. Corumbene Care undertakes that Clause 19.3 will include point (g) which will be as follows:

Part-time shiftworkers are employees engaged to work less than full-time hours of an average of 38 hours per week and has reasonably predictable hours of work.

F. Corumbene Care undertakes that Clause 21.2(c) will allow the provision of a meal allowance to employees without the restriction of application when undertaking overtime. To be clear a payment of $11.50 applies where the shift exceeds one hour or a payment of $12.25 applies where the shift exceeds four hours. The applicable meal rates will change in line with variations to future Aged Care Awards.

G. Corumbene Care undertakes that Clause 22.2(c) should read that the calculation for casuals' overtime is based on their casual loaded rate.

H. Corumbene Care undertakes that Clause 26.7 should be read to include:

"This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, the NES will apply."

I. Corumbene Care undertakes that Clause 27 will allow for the application of pandemic leave as follows:

Schedule X—Additional Measures During the COVID-19 Pandemic

X.1 Subject to clauses X.2.1(d) and X.2.2(c),Schedule X operates from 8 April 2020 until further or other order of the Commission in matter number AM2020/13. The period of operation can be extended on application.

X.2 During the operation of Schedule X, the following provisions apply:

X.2.1 Unpaid pandemic leave

(a) Subject to clauses X.2.1(b),(c) and (d),any employee is entitled to take up to 2 weeks' unpaid leave if the employee is required by government or medical authorities or on the advice of a medical practitioner to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.

(b) The employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

(c) An employee who has given their employer notice of taking leave under clause X.2.1(a) must ,if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a).

(d) A period of leave under clause X.2.1(a) must start before 29 March 2021,but may end after that date.

(e) Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this Enterprise Agreement and the NES.

NOTE:

The employer and employee may agree that the employee may take more than 2 weeks' unpaid pandemic leave.

X.2.2 Annual leave at half pay

(a) Instead of an employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay.

(b) Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.

(c) A period of leave under clause X.2.2(a) must start before 29 March 2021, but may end after that date.

EXAMPLE: Instead of an employee taking one week's annual leave on full pay, the employee and their employer may agree to the employee taking 2 weeks' annual leave on half pay.

In this example:

•the employee's pay for the 2 weeks' leave is the same as the pay the employee would have been entitled to for one week's leave on full pay (where one week's full pay includes leave loading under the Annual Leave clause of this Enterprise Agreement);and

•one week of leave is deducted from the employee's annual leave accrual.

NOTE 1:

A employee covered by this Enterprise Agreement who is entitled to the benefit of clause X.2.1 or X.2.2 has a workplace right under section 341(1)(a) of the Act.

NOTE 2:
Under section 340(1) of the Act, an employer must not take adverse action against an employee because the employee has a workplace right, has or has not exercised a workplace right, or proposes or does not propose to exercise a workplace right, or to prevent the employee exercising a workplace right. Under section 342(1) of the Act, an employer takes adverse action against an employee if the employer dismisses the employee, injures the employee in his or her employment, alters the position of the employee to the employee's prejudice, or discriminates between the employee and other employees of the employer.

NOTE 3:
Under section 343(1) of the Act, a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.

Clause 27 incorporates Schedule Y of the Award.

Noting that any paid pandemic leave will be offset against the additional three (3) days accrued personal leave provided for each year.

J. Corumbene Care undertakes that Clause 39(c) - Training, of the Corumbene Nursing Home for the Aged Inc. General Enterprise Agreement 2020 should be read as follows:

Clause 39(c) – Where the employer agrees to a variation outside of clause 39(a) and (b), this must be agreed in writing between the employer and employee.

K. Corumbene Care undertakes that Schedule 1 relating to Trainees should be read to include:

Trainees will be paid 10 cents per week above the relevant Miscellaneous Award wage rate and this should be read as referring to the Aged Care Award 2010.

These undertakings are made by Damien Jacobs, Chief Executive Officer of Corumbene Care Inc.

Damien Jacobs
CHIEF EXECUTIVE OFFICER

Dated 9th March 2021

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

CORUMBENE NURSING HOME FOR THE AGED INC.

GENERAL ENTERPRISE AGREEMENT

2020

TABLE OF CONTENTS

PART 1 - GENERAL

1. TITLE

This Agreement shall be known as the Corumbene Nursing Home for the Aged Inc. General Agreement 2020.

2. PARTIES

The parties to this Agreement are:

Corumbene Nursing Home for the Aged Inc. (ABN 98 544 704 858) ('**the employer'** or **'Corumbene'**);

The Health Services Union, Tasmania Branch;

The Australian Nursing and Midwifery Federation, Tasmanian Branch; and

Employees of the employer referred to in clause 3 (Coverage) of this Agreement (**'employees'**).

3. COVERAGE

(a) This Agreement is made in accordance with Part 2-4 of the FW Act and applies to Corumbene and its employees who are employed in the classifications that appear in this Agreement.

(b) This Agreement does not cover or apply to Home Care employees or Nurses.

4. COMPLETE AGREEMENT

(a) 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.

(b) No terms of previous agreements will carry over and all previous agreements are expressly rescinded, superseded and replaced by the General Employees Enterprise Agreement 2020.

(c) For the purposes of this clause, the terms "award" or "awards" include any applicable award or collective agreement and includes those howsoever described in the Act as an award, federal award, a 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.

(d) For the avoidance of doubt, this Agreement supersedes and replaces in their entirety all provisions of the Aged Care Award 2010.

5. DATE AND PERIOD OF OPERATION

(a) This Agreement will come into operation seven (7) days after the Fair Work Commission approves the Agreement.

(b) The nominal expiry date of this Agreement is 30 June 2023.

(c) This Agreement will continue to apply after the nominal expiry date until it is replaced or terminated in accordance with the requirements of the FW Act.

(d) The parties to this Agreement agree to commence discussions for the subsequent agreement six (6) months prior to the nominal expiry date. If the parties determine to vary this Agreement in accordance with Part 2-4, Division 7, Subdivision A (Variation of enterprise agreements by employers and employees) of the FW Act (or any successor to that Act), the good faith bargaining requirements prescribed by at section 228 of the FW Act will apply.

6. DEFINITIONS

Unless otherwise indicated, the following words and terms used in this Agreement have the meaning indicated:

"afternoon shift" means a shift that concludes between 7.00pm and midnight.

"Agreement" means this Agreement, the Corumbene Nursing Home for the Aged Inc. General Agreement 2020.

"casual employee" means an employee engaged on an irregular, variable or unpredictable basis or on an as and when required basis.

"day shift" means a shift worked between 7.00am and 7.00pm.

"day worker" means an employee whose ordinary hours are worked between 7.00am and 7.00pm Monday to Friday.

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

"employee" means an employee employed by the employer and covered by this Agreement.

"employer" means Corumbene Nursing Home for the Aged Inc.

"fixed term" means an employee engaged for a fixed term for a project or where specified work is only required for a specified period.

"full-time employee" means an employee engaged to work for the full weekly ordinary hours prescribed in the Hours clause (clause 19) in this Agreement.

(a) **"immediate family"** of an employee means: spouse or former spouse

(b) de facto partner or former de facto partner

(c) child

(d) parent

(e) grandparent

(f) grandchild

(g) sibling, or a

(h) child, parent, grandparent, grandchild or sibling of the employee's spouse or de facto partner (or former spouse or de facto partner).

This definition includes step-relations (eg. step-parents and step-children) as well as adoptive relations and other relatives who are members of the employees

"member of employee's household" in respect of an employee means any person or persons who usually reside with the employee.

"modern award" means the Aged Care Award 2010 (MA000018).

"NES" means the National Employment Standards.

"night shift" means a shift finishing after midnight and before 8.00am.

"ordinary rate" means the wage for an employee's classification as specified in Schedule 2 (Wage Rates) of this Agreement.

"ordinary hourly rate" means the wage for an employee's classification as specified in Schedule 2 (Wage Rates) of this Agreement (the ordinary rate) divided by 38.

"part-time employee" means 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.

"notifiable outbreak" means a notifiable outbreak as defined by the public health unit (Dept Health)**"**

"projected roster" means an employee's normal roster for the period of leave.

"shift worker" means an employee other than a day worker who is required to work rotating shifts and who works for more than four (4) ordinary hours on ten (10) or more weekends; and/or an employee who is regularly rostered to work outside of the ordinary hours of a "day worker" as defined above.

"trainee" means an employee undertaking a traineeship/apprenticeship in accordance with Skills Tasmania

"the FW Act" means the *Fair Work Act* 2009 *(Cth)*.

"Unions" means each of the following unions:

(a) The Australian Nursing and Midwifery Federation, Tasmanian Branch ("ANMF"); and

(b) The Health Services Union, Tasmania Branch ("Health and Community Services Union" or "HACSU").

7. PURPOSE OF AGREEMENT

(a) The key purpose of the Agreement is to achieve a stable industrial relations framework at the enterprise level of Corumbene Nursing Home for the Aged Inc. in order to assist individuals to improve their efficiency, quality of services and business performance.

(b) The Agreement seeks to create an environment where there can be further investment in the future growth and development of aged care services.

(c) The Agreement aims to continually improve communication and cooperation at the workplace level between management and staff. The Agreement recognises the important contribution of all aged care staff in ensuring the organisation's future.

8. SUPERSESSION AND SEVERANCE

This Agreement wholly replaces the Aged Care Award 2010 (MA000018) (other than where there is a specific reference to an award term within this Agreement), the Corumbene

Nursing Home for the Aged Inc. Non-Nursing Enterprise Agreement 2017 and any other modern award, registered industrial instrument (however named or described) and/or unregistered industrial agreement that applies to employees covered by this Agreement.

PART 2 – CONSULTATION AND FLEXIBILITY

9. FLEXIBILITY CLAUSE

An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:

(a) the agreement deals with 1 or more of the following matters:

(b) arrangements about when work is performed;

(c) overtime rates;

(d) penalty rates;

(e) allowances;

(f) leave loading; and

(i) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and

(ii) the arrangement is genuinely agreed to by the employer and employee.

(g) The employer must ensure that the terms of the individual flexibility arrangement:

(i) are about permitted matters under section 172 of the Fair Work Act 2009; and

(ii) are not unlawful terms under section 194 of the Fair Work Act 2009; and

(iii) result in the employee being better off overall than the employee would be if no arrangement was made.

(h) The employer must ensure that the individual flexibility arrangement:

(i) is in writing; and

(ii) includes the name of the employer and employee; and

(iii) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and

(iv) includes details of:

i. the terms of the enterprise agreement that will be varied by the arrangement; and

ii. how the arrangement will vary the effect of the terms; and

iii. how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and

iv. states the day on which the arrangement commences.

(i) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

(j) The employee may consult with their industrial representative (or any other representative of their choice) prior to agreeing to an individual flexibility arrangement

(k) The employer or employee may terminate the individual flexibility arrangement:

(i) by giving no more than 28 days written notice to the other party to the arrangement; or

(ii) if the employer and employee agree in writing — at any time.

10. CONSULTATION CLAUSE

10.1 This term applies if the employer:

(a) has developed and is planning to implement a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or

(b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

10.2 For a major change referred to in paragraph (1)(a) and (b):

a) The employer, prior to implementation, must notify the relevant employees of the decision to introduce the major change; and

b) subclauses (10.3) to (10.8) apply.

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

If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the employer of the identity of the representative;

(c) the employer must recognise the representative.

10.4 As soon as practicable prior to implementation, the employer must:

(a) discuss with the relevant employees:

(i) the introduction of the change; and

(ii) the effect the change is likely to have on the employees; and

(iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

(b) for the purposes of the discussion—provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and

(ii) information about the expected effects of the change on the employees; and

(iii) any other matters likely to affect the employees.

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

10.6 The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

10.7 If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph 10.2(a) and subclauses (10.3) and (10.4) are taken not to apply.

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

(a) the termination of the employment of employees; or

(b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or

(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

(d) the alteration of hours of work; or

(e) the need to retrain employees; or

(f) the need to relocate employees to another workplace; or

(g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

10.9 For a change referred to in paragraph (10.1)(b):

(a) the employer must notify the relevant employees of the proposed change; and

(b) subclause (10.11) will apply.

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

If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the employer of the identity of the representative;

(c) the employer must recognise the representative.

10.11 As soon as practicable after proposing to introduce the change, the employer must:

(a) discuss with the relevant employees the introduction of the change; and

(b) for the purposes of the discussion—provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and

(ii) information about what the employer reasonably believes will be the effects of the change on the employees; and

(iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and

(c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

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

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

10.12 In this term, relevant employees means the employees who may be affected by a change referred to in clause 10.1.

PART 3 – EMPLOYMENT CONDITIONS

11. CONTRACT OF EMPLOYMENT

11.1 Terms of Employment

(a) All employees shall have a written contract of employment.

(b) All employees not employed as a casual employee will be employed by the fortnight.

(c) An employee's position, at the time of appointment, will be classified according to the classification definitions in this Agreement.

(d) An employee (other than a casual employee) is entitled to be paid, including any overtime and other penalty rates, if:

(i) as a result of an action by the employer, the employee does not work for the maximum number of ordinary working hours specified in this Agreement (in the case of a full-time employee) and the maximum number of ordinary working hours which the employee is contracted to work (in the case of part-time employee); and

(ii) the employee is ready and willing to work during those ordinary working hours.

(e) An employer may direct an employee to carry out such duties which are within the limits of an employee's skill, competence and training consistent with the classification structure in this Agreement.

(f) Except as otherwise provided in this Agreement, the employer is not permitted to pay an employee at a rate lower than their classification for performing work of a lower classification nor does it prevent the employee receiving any entitlement for performing work at a higher classification.

11.2 Types of Employment

(a) An employee may be engaged by the employer as a:

(i) full-time employee;

(ii) part-time employee;

(iii) fixed term; or

(iv) casual employee.

11.3 Part-Time Employees

(a) Part time employees are employed on a pro rata basis with hours less than 38 per week.

(b) Part-time employees shall be entitled to pro rata paid leave as prescribed in the applicable clauses of this Agreement.

(c) Part-time employees will receive a minimum payment of two (2) hours for each rostered shift. For other engagements, in exceptional circumstances (for example, irregular or infrequent training) where it is inappropriate to have a minimum two (2) hour engagement, such conditions may be varied by mutual agreement in writing between an employee and the employer.

(d) Before commencing part-time employment, the employer and the part-time employee will agree in writing on a regular pattern of work including the number of hours to be worked each week, the days of the week the employee will work and the starting and finishing times each day. Any agreed variation to the hours of work will be in writing.

(e) Subject to the requirements of clause 19 (Hours of Work – Rostered Employees) and clause 22 (Overtime) of this Agreement, additional ordinary hours above those agreed in accordance with clause 11.3(a) above may be worked where mutually agreed in writing between the employer and the employee.

11.4 Casual Employees

(a) A casual employee is engaged by the hour.

(b) Notwithstanding clause 11.4(a) above, if required to attend for work a casual employee must be provided with a minimum of two (2) hours' work for each shift or be paid for a minimum of two (2) hours for each shift. For other engagements, in exceptional circumstances (for example, irregular or infrequent training) where it is

inappropriate to apply the conditions of this clause, such conditions may be varied by mutual agreement between an employee and the employer.

(c) The rate of pay for ordinary hours of work is the ordinary hourly rate, plus a loading in lieu of annual leave, personal leave and public holiday entitlements (a "casual loading").

(d) The applicable casual loading shall be 25%.

(e) In addition to the casual loading that applies in clause 11.4(c) above, a casual employee will be paid shift penalties.

(f) Casual employees must not be placed on a roster for a period in excess of six (6) weeks unless engaged to temporarily cover the absence of a full time or part-time employee or where agreed by both parties that there are exceptional circumstances.

Casual Conversion

(a) A person engaged by a particular employer as a regular casual employee may request that their employment be converted to full-time or part-time employment.

(b) A regular casual employee is a casual employee who has in the preceding period of 12 months worked a pattern of hours on an ongoing basis which, without significant adjustment, the employee could continue to perform as a full-time employee or part-time employee under the provisions of this award.

(c) A regular casual employee who has worked equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to full-time employment.

(d) A regular casual employee who has worked less than equivalent full-time hours over the preceding period of 12 months' casual employment may request to have their employment converted to part-time employment consistent with the pattern of hours previously worked.

(e) Any request under this subclause must be in writing and provided to the employer.

(f) Where a regular casual employee seeks to convert to full-time or part-time employment, the employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the employee.

(g) Reasonable grounds for refusal include that:

(i) it would require a significant adjustment to the casual employee's hours of work in order for the employee to be engaged as a full-time or part-time employee in accordance with the provisions of this award –that is, the casual employee is not truly a regular casual employee as defined in paragraph (b);

(ii) it is known or reasonably foreseeable that the regular casual employee's position will cease to exist within the next 12 months;

(iii) it is known or reasonably foreseeable that the hours of work which the regular casual employee is required to perform will be significantly reduced in the next 12 months; or

(iv) it is known or reasonably foreseeable that there will be a significant change in the days and/or times at which the employee's hours of work are required to be performed in the next 12 months which cannot be accommodated within the days and/or hours during which the employee is available to work.

(h) For any ground of refusal to be reasonable, it must be based on facts which are known or reasonably foreseeable.

(i) Where the employer refuses a regular casual employee's request to convert, the employer must provide the casual employee with the employer's reasons for refusal in writing within 21 days of the request being made. If the employee does not accept the employer's refusal, this will constitute a dispute that will be dealt with under the dispute resolution procedure in clause 35. Under that procedure, the employee or the employer may refer the matter to the Fair Work Commission if the dispute cannot be resolved at the workplace level.

(j) Where it is agreed that a casual employee will have their employment converted to full-time or part-time employment as provided for in this clause, the employer and employee must discuss and record in writing:

i. the form of employment to which the employee will convert –that is, full-time or part-time employment; and

ii. if it is agreed that the employee will become a part-time employee, the matters referred to in clause 11.3(b).

(k) The conversion will take effect from the start of the next pay cycle following such agreement being reached unless otherwise agreed.

(l) Once a casual employee has converted to full-time or part-time employment, the employee may only revert to casual employment with the written agreement of the employer.

(m) A casual employee must not be engaged and re-engaged (which includes a refusal to re-engage), or have their hours reduced or varied, in order to avoid any right or obligation under this clause.

(n) Nothing in this clause obliges a regular casual employee to convert to full-time or part-time employment, nor permits an employer to require a regular casual employee to so convert.

(o) Nothing in this clause requires an employer to increase the hours of a regular casual employee seeking conversion to full-time or part-time employment.

(p) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of this subclause within the first 12 months of the employee's first engagement to perform work.

(q) A casual employee's right to request to convert is not affected if the employer fails to comply with the notice requirements in paragraph (p).

12. NOTICE OF TERMINATION

12.1 Notice of Termination by the employer

(a) Except in circumstances of misconduct justifying summary dismissal, an employee whose employment is terminated at the initiative of the employer shall be given notice of termination of employment, or payment in lieu of notice, by the employer as follows:

Period of Continuous Service	Period of Notice
3 years or less	2 weeks

Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years of completed service	4 weeks

(b) If the employee is aged over 45 at the time of notice being given, and has been employed for two (2) years or more with the employer, the employee is entitled to a further weeks' notice in addition to the relevant notice prescribed in clause 12.1(a) above.

(c) Payment in lieu of notice may be made if all or part of the notice period is not required to be worked.

(d) In calculating any payment in lieu of notice, the wages the employee would have received in respect of the ordinary time that would have been worked during the period of notice, will be used.

(e) The period of notice in clause 12.1(a) above shall not apply in the case of dismissal for serious misconduct, or in the case of casual employees or employees engaged for a specific period of time or for a specific task or tasks.

(f) Notwithstanding the foregoing provisions, in the event an employee who has left the organisation after completing their engagement as a trainee and who is reengaged within 6 months after completion of the traineeship, the period of traineeship shall be counted as continuous service in determining any future termination.

12.2 Notice of termination by the employee

(a) An employee must give a minimum of two (2) weeks' notice of intention to terminate their employment ('the period of notice') to the employer, unless some other arrangement is mutually agreed between the employee and the employer.

(b) If an employee does not give the period of notice specified in clause 12.2(a) above, or does not work out the period of notice, the employee will only be paid, and entitlements calculated to, the last day of work performed or, if on leave, at the end of the period of notice actually given.

12.3 Discussions prior to decision to terminate employment

(a) In circumstances where termination of employment at the initiative of the employer may result, the employer is to notify the employee concerned of the issues in writing and the employee will be given an opportunity to respond to these issues.

(b) The employee has a right to be represented by a union official and/or any other person of the employee's choice.

12.4 Summary termination

(a) Without limiting Corumbenes rights, an employee may be summarily dismissed from their employment for actions amounting to serious misconduct as defined by the FW Act and *Fair Work Regulations* 2009.

(b) Corumbene is not required to provide notice of termination, or any other notice, if an employee is summarily dismissed from their employment.

13. REDUNDANCY PROVISIONS

Redundancy Entitlements is a matter provided for in the NES (Division 11 – Notice of Termination and Redundancy Pay). Where there is an inconsistency between this clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

The parties agree that it is not desirable to lose the services of an employee through redundancy. It is the parties preferred option to seek redeployment and retraining opportunities within the organisation should the occasion arise.

13.1 Commitment to Consult

(a) The parties to this Agreement recognise that redundancy, when it occurs, is both sensitive and traumatic and needs to be handled in a delicate manner.

(b) Where the employer has made a preliminary decision that it may be necessary to make one or more positions within the enterprise redundant, or introduce a change to the structure or operation of the employer's enterprise that has a significant adverse impact on an employee's position or income, the employer will consult with affected employees and their representatives (including the unions covered by this Agreement) in accordance with clause 10 (Consultation) of this Agreement.

13.2 Redeployment and Retraining

In the event of a position being made redundant, the following shall apply:

(a) The employer will actively explore all internal redeployment opportunities for staff surplus to requirements.

(b) An employee seeking redeployment may be retrained for an available position on condition that the employee can demonstrate to the employer that they possess the necessary skills and competencies for that position. In assessing the employee's skills and competencies for the position, the employer will determine whether the employee has demonstrated that they have the skills and competencies for the position.

(c) Where retraining is required, the employer will provide and pay for any training which the employer deems necessary for the employee to perform the duties of the position to which the employee is being redeployed. The employee will be entitled to undertake this training during work time.

(d) All reasonable attempts should be made to ensure that an employee's work area of choice, hours of work, previous employment classification and previous roster patterns are met.

13.3 Redundancy

(a) In the event that it is necessary for the employer to make a position(s) redundant, the employer will, in the first instance, seek expressions of interest from all staff, in volunteering for a redundancy package.

(b) In assessing applications for voluntary redundancy, the parties acknowledge that the employer will take into account the skill and operational requirements of the enterprise.

(c) In normal circumstances involuntary redundancies will only be considered where there are no, or insufficient volunteers from existing staff. However, the parties accept that in assessing applications for voluntary redundancy, as a result of a position(s) being redundant the employer will be entitled to take into account the operational requirements of the business. The employer shall consult with affected employees and their representatives where the employer rejects an application for voluntary redundancy in favour of an involuntary redundancy.

13.4 Redundancy Package

(a) Where redeployment or retraining opportunities are not available, the separation package to be paid to each redundant employee is:

(i) Redundancy Pay detailed in the NES;

(ii) Full payment of all accrued annual leave entitlements including leave loading.

(b) For the purposes of calculating a redundancy payment to an employee, a weeks' pay shall mean:

(i) the hours worked per week as averaged over the preceding three (3) months, excluding any period of leave or other extraordinary absence such as leave without pay, paid at the ordinary hourly rate for the classification; and

(ii) any shift penalty as averaged over the previous three (3) months, excluding any period of leave or other extraordinary absence; and

(iii) any all-purpose work-related allowances.

13.5 Time off to seek other Employment

(a) An employee who is made redundant shall be granted a minimum of one (1) days' time off without loss of pay for the purpose of seeking other employment or to make arrangements for training or re-training.

PART 4 – WAGES AND RELATED MATTERS

14. WAGE INCREASES

The wage rates are set out in Schedule 2 (Wage Rates) of this Agreement.

15. PAYMENT OF WAGES

For the purpose of this clause, 'wages' means the ordinary rate for ordinary working hours worked to which an employee is entitled and includes any other payment to which an employee is entitled under the provisions of this Agreement including allowances, leave payments, loadings, shift penalties and overtime.

15.1 Time and interval of payment

(a) Wages are to be paid fortnightly and not later than the close of business on Thursday ('the ordinary scheduled pay day').

(b) When a pay day falls on a public holiday, wages shall be paid on the last working day before the public holiday.

(c) The pay day shall not be varied, except after consultation with employees and an agreed phasing-in period.

15.2 Method of payment of wages

(a) Payment of wages shall be by direct bank deposit or some other method determined by the employer, provided that employees shall nominate into which bank or financial institution their wage is to be paid.

(b) The method of payment shall not be varied, except after consultation with employees and an agreed phasing-in period.

15.3 Statement of salaries

(a) Within one (1) day of the ordinary scheduled pay day the employer is to provide to each employee full written details of the wage being paid in that pay period, complying with reg 3.46 of the Fair Work Act (or replacement).

15.4 Deduction of moneys

(a) Where authorised by an employee in writing, the employer is to make deductions from the employee's wage in respect of and including medical benefits, union subscriptions, employee superannuation contributions and salary packaging.

15.5 Overpayment of wages

(a) Where an employee or the employer discovers an overpayment in relation to the payment of wages or entitlements to an employee, the party discovering the error must notify the other party of the error at the earliest opportunity.

(b) Once an overpayment has been notified, the employer and the employee will meet to negotiate a reasonable repayment schedule (and having regard to the period in which the overpayment occurred). Should an employee wish, they may bring a representative to any such meeting. The employee will not unreasonably refuse to repay the overpayment amount.

(c) If agreement is unable to be reached in accordance with clause (b) above, the dispute resolution process detailed at clause 35 (Dispute Resolution Procedure) of this Agreement shall apply.

15.6 Late payment of wages

(a) Except in circumstances beyond the control of the employer, if the employer is unable to pay employee wages in accordance with clause 15.1 (a) the employer must notify employees at the earliest opportunity. The employer must pay the wages to employees by the normal method or by another agreed method within 24 hours of the ordinary scheduled pay day.

(b) Where the employer is responsible for a delay in payment of wages beyond the timeframe set out in clause 15.1(a), and that delay results in an employee being charged fees or penalties by their nominated bank or financial institution, the employer will reimburse the employee for any fees or penalties so charged. The onus will be on the employee to provide evidence of such charges or fees having been incurred as a result of the delay.

15.7 Payment of wages on termination

(a) Where an employee's employment is terminated at the initiative of either the employer or employee, all wages owing shall, where practicable, be paid within 2 days after the date of termination.

(b) If payment in accordance with clause 15.7(a) above is not practicable, the employer shall arrange for all of the employee's outstanding pay and entitlements to be paid into the employee's nominated bank or other financial institution account within 7 days of the date of termination.

16. SUPERANNUATION

16.1 Superannuation legislation

(a) Superannuation legislation, including the Superannuation Guarantee (Administration) Act 1992 (Cth), the Superannuation Guarantee Charge Act 1992 (Cth), the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation (Resolution of Complaints) Act 1993 (Cth), deals with the superannuation rights and obligations of employers and employees. Under superannuation legislation individual employees generally have the opportunity to choose their own superannuation fund. If an employee does not choose a superannuation fund, the default superannuation fund identified at clause 16.4 below shall apply.

(b) The rights and obligations in this clause supplement those in superannuation legislation.

16.2 Employer contributions

(a) The employer must make such superannuation contributions to a compliant superannuation fund for the benefit of an employee in accordance with the Superannuation Guarantee Charge applicable at the relevant time.

(b) The employer must pay to the relevant superannuation fund the amount specified in clause 16.2(a) no later than 28 days after the end of each month.

16.3 Voluntary employee contributions

(a) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise the employer to pay on behalf of the employee a specified amount or percentage from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in clause 16.2(a) above.

(b) An employee may adjust the amount the employee has authorised the employer to pay from the wages of the employee from the first of the month following the giving of one month's written notice to the employer.

(c) The employer must pay to the relevant superannuation fund the amount authorised under clause 16.3 (a) or (b) above no later than 28 days after the end of the month in which the authorised deduction was made.

16.4 Superannuation fund

(a) Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in clause 16.2 to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in clause 16.2 and pay the amount authorised under clauses 16.1(a) or (b) to Hesta Super Fund (Health Employees Superannuation Trust Australia), or any successor to that fund. Hesta is a complying fund that provides a MySuper product.

17. SALARY PACKAGING AND SACRIFICE

(a) An employee's wages may be packaged in accordance with the employer's salary packaging program. Salary packaging for all employees covered by this Agreement will only be entered into as provided for by this clause.

(b) By agreement with the employer, an employee who elects in writing to do so, may convert a component of their weekly ordinary time wage to packaged benefits.

(c) Overtime and shift penalties must be calculated on the wage level which would have applied to the employee in the absence of the employee being able to participate in salary packaging under the terms of this clause.

(d) Non salary packaged benefits must be paid for any period for which the employee is paid wages or the equivalent, including but not limited to annual or other leave with pay including long service leave.

(e) If during the life of a salary packaging agreement between the employer and the employee, the employee becomes entitled to workers' compensation payments, the employee will not receive less than the entitlements due if no salary packaging arrangements had been entered into with the employer.

(f) In the event that the employee ceases to be employed by the employer (including through redundancy) this agreement will cease to apply as at the date of termination and all entitlements due on termination will be paid at the rate provided for in this Agreement. Any outstanding benefit still due under a Salary Packaging Agreement upon termination will be paid as cash wage benefit.

(g) Superannuation payments required under the Superannuation Guarantee (Administration) Act 1992 as amended from time to time must be calculated on the wage rate contained in this Agreement as if no salary packaging agreement was in place.

(h) Annual leave loading entitlements must be calculated on the rate of pay contained in this Agreement as if no salary packaging agreement was in place.

(i) Employees who have entered into a salary packaging agreement will be given the opportunity to review such agreements annually, and to amend or withdraw from such an agreement.

(j) Any wage increases under this Agreement, or under any other mechanism that apply to employees covered by this Agreement, are payable to employees covered by a salary packaging agreement. Such increases must be applied to the ordinary rate before salary packaging.

(k) No employee, as a result of entering into a salary packaging agreement, will receive less, in wage and benefit, than currently provided for in this Agreement.

(l) In the promotion and implementation of salary packaging to employees the employer will advise each employee in writing:

    (i) that there is no compulsion for any employee to participate in salary packaging;

    (ii) that all conditions contained in this Agreement, other than salary packaging, will continue to apply;

    (iii) of the classification level and the current ordinary rate payable as applicable under this Agreement;

    (iv) that it is recommended that the employee seek financial advice prior to signing any salary sacrifice agreement. The employee must be provided with a copy of any proposed salary packaging agreement prior to the signing of the agreement;

    (v) of the right of the employee to inspect details of the payments and transactions made under the terms of any agreement and for this purpose, where such details are maintained electronically, the employee must be provided with a print-out of the relevant information;

    (vi) that where at the end of the agreed period the full amount allocated to a specific benefit has not been expended the unused amount will be carried forward to the next period;

    (vii) that where changes are proposed to all salary packaging arrangements, or salary packaging arrangements are to be cancelled for reasons other than legislative requirements then both the employer and the employee must give two (2) months' notice, except in circumstances in which an employee ceases to be employed by the employer.

(m) In the event that the employer ceases to attract exemption from payment of Fringe Benefits Tax, all salary packaging arrangements will be terminated and the individual employee's wages will revert to those specified in this Agreement.

18. ALLOWANCES

18.1 Higher duties

(a) An employee, engaged continuously for two (2) hours or more on duties carrying a higher rate than their ordinary classification will be paid the higher rate for the day. If the work is for less than two (2) hours, they will be paid the higher rate for the time worked.

(b) This will apply whether or not an employee works in accordance with a roster.

18.2 Mentor allowance

(a) An employee directed to act as a mentor for a new employee will receive an allowance as per Schedule 3 while acting as a mentor subject to the following requirements:

(i) The employee must be endorsed by the employer as a mentor; and

(ii) Where the employer requires an employee to act as a mentor the employer will pay all course fees and provide for time off on full pay to attend mentor training approved by the employer.

18.3 Foul and nauseous linen

(a) An allowance (as provided at Schedule 3) will be paid to an employee in any classification if they are engaged in handling linen of a nauseous nature other than linen sealed in airtight containers and/or for work which is of an unusually dirty or offensive nature having regard to the duty normally performed by such employee in such classification. Any employee who is entitled to be paid an allowance will be paid the sum stated in Schedule 3 for work performed in any week.

(b) Part time and casual employees shall be paid 1/38th of the weekly allowance for each hour worked when so engaged.

(c) For the purposes of this clause, foul and nauseous linen means linen that contains body excrement of a nature or quantity which makes it offensive to a reasonable person.

(d) An example of work of an unusually dirty or offensive nature would be work undertaken by relevant employees during notifiable outbreak.

18.4 Driver's licence

(a) An employee who is required as part of their employment to drive vehicles requiring a licence will be reimbursed the cost of the driver's annual licence fee.

18.5 Allowances not to be taken into account

(a) Allowances specified in this Agreement, other than higher duties allowance, shall not be taken into account in calculating overtime and shift penalties and loadings specified in this Agreement.

18.6 Increases to allowances

(a) Increases to allowances are detailed in Schedule 3 (Allowances).

PART 5 – HOURS OF WORK

19. HOURS

19.1 Hours of work – Day Workers

(a) The ordinary hours of work are 38 hours per week to be worked between 7.00am and 7.00pm, Monday to Friday (**'span of hours'**) in five (5) days in continuous periods of eight (8) hours each day, except for an unpaid meal break of not more than one (1) hours duration.

(b) Work performed prior to 7.00am and after 7.00pm must be approved and will then be paid at the relevant overtime rates but will be, for the purposes of this clause, part of the employee's ordinary hours of work where the ordinary hours of work within the period 7.00am to 7.00pm in any week, have been less than 38.

(c) Where a Day Work employee is required to work ordinary hours outside the span of hours specified in clause 19.1 (a) and (b) above, the employee will work in accordance with a roster established in accordance with clause 20 (Roster).

19.2 Hours of work – Fulltime Rostered Employees

(a) Employees may be required to work to a roster, subject to the requirements of the Roster (Clause 20) of this Agreement.

(b) Where an employee is required to work in accordance with a roster, the ordinary hours of work for that employee shall be an average of 38 hours per week and must not exceed:

(i) 8 hours in any one day; or

(ii) 48 hours in any one week; or

(iii) 88 hours in any 14 consecutive days for full-time employees or 80 hours in 14 consecutive days for part-time or casual rostered employees; or

(iv) 152 hours in any 28 day accounting period.

19.3 Amended hours of work – all employees

(a) By agreement in writing between an employee and the employer, an employee's ordinary hours may be extended to a maximum of 10 ordinary hours per day. Where such an arrangement is made, it may be discontinued by either the employee or the employer by giving the other 14 days' written notice.

(b) An arrangement in writing under this clause must be signed by the employer and the employee with one copy provided to the employee and one copy kept on the employee's employment file.

(c) The employer will not use this clause to reduce the number of full-time equivalent (FTE) staff employed.

(d) An employee who proposes to agree to enter into an arrangement under this clause (clause 19.3) must be provided with a copy of this clause by the employer prior to the commencement of the arrangement.

(e) In the event of the arrangements contemplated by this clause being discontinued, the employee will be returned to their pre-existing employment conditions and must not suffer any loss or prejudice in employment whatsoever.

(f) No employee (or prospective employee) will be required by the employer to work under the terms of clause 19.2 as a condition of employment or engagement unless by agreement.

20. ROSTER

20.1 Roster - General

(a) Where a roster is established, the roster will be documented setting out clearly the names of the employees required to work on that roster, the days, dates and hours during which each employee is required to work.

(b) A roster established under clause 20.1 will be a rotating roster unless the employer and a majority of employees to be affected agree to a non-rotating roster.

(c) In circumstances where a non-rotating roster has been established in accordance with clause 20.1(b) above, the non-rotating roster will not be changed to a rotating roster unless the employer and the majority of employees affected agree.

(d) A roster established in accordance with this clause (clause 20.1), whether rotating or non-rotating, will:

(i) not require an employee to work more than eight (8) hours each day subject to agreement being reached or in accordance with clause 19.3 (Amended hours of work) above;

(ii) provide for not more than eight (8) days to be worked in any nine (9) consecutive days;

(iii) not be changed until after four (4) weeks' notice or in the case of an individual employee will not be changed except on one (1) weeks' notice of such change or the payment of two (2) weeks' pay in lieu of notice in accordance with the employee's previous roster;

(iv) provide that an employee, other than a casual employee, will be free from duty for not less than two (2) full days in each week or four (4) full days in each fortnight or eight (8) full days in each 28 day cycle - where practicable, days off will be consecutive;

(v) clearly stipulate a 28 day accounting period which will include an accrued day off in addition to eight rostered days off.

(e) Employees engaged to provide relief on accrued days off will, when providing relief, be regarded as rostered employees for all purposes of this Agreement (except additional annual leave). Rosters covering relief employees will not be required to rotate.

(f) By agreement between the employer and the employee(s) concerned, changes to rosters may occur without the stated notice within 20.1(d).

20.2 Afternoon and night shift allowances

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

(i) Afternoon shift commencing at 10.00 am and before 1.00 pm—10% of the ordinary hourly rate.

(ii) Afternoon shift commencing at 1.00 pm and before 4.00 pm—12.5% of the ordinary hourly rate.

(iii) Night shift commencing at 4.00 pm and before 4.00 am—15% of the ordinary hourly rate.

(iv) Night shift commencing at 4.00 am and before 6.00 am—10% of the ordinary hourly rate.

(v) An employee entitled to a shift allowance will be paid the shift allowance for the entire shift.

(b) Afternoon shift – where the shift concludes after 7:00pm and up to or at midnight then the employee will be paid 15% of the ordinary hourly rate instead of the rate stated in 20.2 (a).

20.3 Broken Shifts

With respect to broken shifts:

(a) Broken shift for the purposes of this clause means a shift worked by a casual or permanent part-time employee that includes breaks (other than a meal break) totalling not more than four hours and where the span of hours is not more than 12 hours.

(b) Broken shifts may be worked by mutual agreement between the employer and the employee(s) concerned and the work performed will be paid at the employee's ordinary hourly rate plus the relevant shift allowance calculated in accordance with clause 20.2 (Afternoon and night shift allowances) for the entire shift.

(c) Payment for a broken shift will be at ordinary pay with penalty rates and shift allowances in accordance with overtime penalty rates and shiftwork, with shift allowances being determined by the finishing time of the broken shift.

(d) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time. An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

20.4 Part-time and Casual Rostered Employees

(a) Part-time and casual employees engaged as a rostered employee, for work outside the roster, documented in accordance with clause 20.1(a) above, will be entitled to the provisions of this clause with the following exceptions:

(i) Where an employee works by written agreement with the employer, they will not attract a penalty (other than roster loading, Saturday, Sunday or Public Holiday penalty, whichever is applicable) except that any time worked in excess of eight (8) hours per day will be paid at double time (200%) except as provided in clause 19.3 (Amended hours of work – all employees) above: or

(ii) Where an employee is instructed to work, they are entitled to overtime payments in accordance with clause 22 (Overtime) of this Agreement.

20.5 Saturday and Sunday Work

(a) Employees, whose ordinary hours include work on a Saturday and/or Sunday, will be paid for ordinary hours worked:

(i) between midnight on Friday and midnight on Saturday at the rate of time and a half (150%),

(ii) and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of double time (200%).

(b) These rates will be in substitution for and not cumulative upon the roster loading provided at clause 20.2 - (Afternoon and night shift allowances).

(c) A Casual employee who works on a weekend will be paid the following rates:

(i) between midnight Friday and midnight Saturday –175% of the ordinary hourly rate; and

(ii) between midnight Saturday and midnight Sunday –200% of the ordinary hourly rate.

21. MEALS & TEA BREAKS

21.1 General Requirements

(a) Employees who work in excess of five (5) hours on any day shall, subject to clause 21.1(b) below, receive a meal break of not more than one (1) hour and not less than 30 minutes duration which shall be unpaid provided that the duration of the meal break may be altered by agreement between the employer and the employee but is not to be less than 30 minutes.

(b) Notwithstanding the provisions of clause 21.1(a) above, Shiftworkers required to work in accordance with a roster (not day worker Monday to Friday) shall receive a meal break of 25 minutes which shall be counted as time worked provided that subject to mutual agreement between the employer and the employee, employees may agree to extend their paid 25 minute meal break by not more than 35 minutes each day, which excess shall be exclusive of time worked and unpaid.

(c) An employee receiving an unpaid meal break and who is directed to work during their meal break shall, for all work performed during such period and thereafter until a meal break is allowed, be paid at the rate of time and a half (150%) of the employee's ordinary hourly rate.

21.2 Meal break when required to work overtime

(a) Unless the period of overtime is one and a half hours or less, an employee before starting overtime shall be allowed a meal break of 20 minutes which shall be paid for at the employee's ordinary hourly rate.

(b) The employer and an employee may agree to a variation of this clause to meet the circumstances of the work in hand provided that no employee shall be required to work more than five (5) hours without a break for a meal.

(c) An employee required to work overtime for more than one hour without being notified the previous day or earlier of the requirement to work overtime will be supplied with a meal by the employer.

21.3 Charges for meal provided by employer

(a) The maximum amount that shall be charged or deducted where an employee receives a meal from the employer shall be as specified at Schedule 3 (Allowances) of this Agreement.

(b) Where a meal is provided in accordance with clause 21.3(a) above, no extra charge applies for beverages (i.e. tea or coffee), toast, bread, butter or condiments.

(c) Meal charges will not be charged in the event that the employer supplies a meal due to the employee being required to work overtime as provided for in clause 21.2 (b) above.

21.4 Tea Breaks

(a) An employee who works in excess of four (4) hours will be entitled to a 10 minute paid tea break during their shift at a time to be agreed between the employer and employee.

22. OVERTIME

22.1 Requirement to work reasonable overtime

(a) The employer may require any employee to work reasonable overtime. No overtime may be worked without prior approval of the employer.

(b) For the purposes of this clause "overtime" means:

(i) Work in excess of eight (8) hours per day except where ordinary hours are extended in accordance with clause 19.3 (Amended hours of work – all employees) above, in which case it is hours in excess of 10 hours per day; or

(ii) Work outside the span of hours except where agreement is reached in accordance with clause 19.3 (Amended hours of work – all employees) above;

(iii) For a part-time employee, all time worked in excess of their rostered hours on any one day (unless an agreement has been entered into under clause 11.3(e) (Part-time employee), will be overtime and paid at the rates prescribed by clause 22.2 (Payment for overtime) below.

(iv) Any hours of work in excess of those provided in clause 19.2(b) Hours of Work – Fulltime Rostered Employees, unless clause 19.3 (Amended hours of work – all employees) applies.

(c) Whether any additional hours are unreasonable shall be determined by having regard to:

(i) any risk to the employee's health and safety;

(ii) the employee's personal circumstances including family responsibilities;

(iii) the needs of the employer;

(iv) the notice (if any) given by the employer of the requirement to work overtime and by the employee of their intention to refuse it;

(v) the usual patterns of work applicable to the employee;

(vi) the nature of the employee's role and the employee's level of responsibility; and

(vii) any other relevant matter.

22.2 Payment for Overtime

(a) For all time worked in accordance with clause 22.1 above, the following overtime rates will be paid:

(i) for all authorised overtime on Monday to Friday, payment will be made at the rate of time and a half (150%) for the first two hours and double time (200%) thereafter;

(ii) for all authorised overtime on a Saturday or Sunday, payment will be made at the rate of double time (200%); and

(iii) for all authorised overtime on a public holiday, payment will be made at the rate of double time and a half (250%).

(iv) An employee required to work in accordance with a roster will be paid double time (200%) for all overtime. However, overtime does not apply here arrangements for a swap of hours have been made between two (2) or more employees at their own instigation.

(b) Each day's overtime will stand alone.

(c) The allowances provided for in this Agreement must not be taken into consideration in the calculation of overtime payments.

(d) For a casual employee the calculation of the overtime payments provided for in this clause will be based upon the employee's ordinary hourly rate.

22.3 Eight Hour Break between Shifts

(a) An employee (other than a casual employee) who works so much overtime between the end of their ordinary work on one day and the commencement of their ordinary work on the next day that the employee has not had at least eight (8) consecutive hours off duty between those time, will, subject to this clause, be released after completion of such overtime until they have had eight (8) consecutive hours off duty without loss of pay for ordinary working time occurring during hours off duty.

(b) If on the instructions of the employer the employee resumes or continues work without having had eight (8) consecutive hours off duty they will be paid at double time (200%) until released from duty for such period and will then be entitled to be absent until they have eight (8) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

(c) When overtime work is necessary it will, wherever reasonably practicable, be arranged so that employees have at least eight (8) consecutive hours off duty between the work of successive days.

23. CALL BACK

(a) Except where otherwise specifically provided, an employee recalled to work after leaving their workplace (whether notified before or after leaving the workplace) will be paid at the appropriate overtime rate in accordance with clause 22 (Overtime).

(b) Where an employee is recalled to work and the payment at overtime rates described in clause 23(a) above does not equal or exceed four (4) hours pay, the employee will be paid four (4) hours pay at the appropriate overtime rates.

(c) Where an employee is recalled to work a second time, and the recall is within the hours for which payment is already due under clause 23(a) above, the time worked in the first and second recall will be combined for the purposes of calculating the payment due and will be calculated in accordance with clause 23(b) above.

(d) Where an employee is recalled to work a second time, and the recall is outside the hours for which payment is already due under clause 23(b), the employee will be paid at the appropriate overtime rate in accordance with clause 22.2 (Overtime). However, where the payment does not equal or exceed three (3) hours pay, then the employee will be paid three (3) hours pay.

(e) Where an employee is recalled to work a third and subsequent time, payment will be paid at the appropriate overtime rate in accordance with clause 22 (Overtime). However, where the payment does not equal or exceed three (3) hours pay, then the employee will be paid three (3) hours pay.

(f) Time reasonably spent in getting to and from work will be regarded as time worked.

(g) An employee who is recalled to work within two (2) hours of their normal starting time will be paid at the overtime rate in accordance with clause 22 (Overtime). However, where the payment does not equal or exceed four (4) hours pay, then the employee will be paid four (4) hours pay.

24. CALL - REMOTE

(a) An employee who is required to remain on 'call-remote' (i.e. on call for duty and allowed to leave the workplace) will receive the allowance payment specified at Schedule 3 (Allowances) of this Agreement.

(b) Where an employee on remote call is recalled to work they will be paid in accordance with clause 23 (Call Back). This will be in addition to the payment entitlement described in clause 24(a) above.

PART 6 – LEAVE ENTITLEMENTS & PUBLIC HOLIDAYS

25. ANNUAL LEAVE

(a) Annual Leave is a matter provided for in the NES (Division 6 – Annual Leave). Where there is an inconsistency between this clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

(b) Annual leave accrues progressively throughout the year and is credited fortnightly.

(c) Unless specifically stated, the provisions of this clause apply to an employee other than a casual employee.

(d) Part-time employees accrue and utilise leave entitlements on a pro-rata basis in accordance with clause 11.3 (Part-time employees) of this Agreement.

25.1 Period of Leave

Day Workers

A full-time employee is entitled to four (4) weeks' paid annual leave for each twelve (12) months' continuous service.

Shiftworkers

A shift worker shall accrue, in addition to the four (4) weeks' annual leave prescribed in clause 25.1(a) above, an extra one (1) week of annual leave per year and this will accrue progressively throughout the year.

25.2 Annual leave exclusive of public holidays

(a) Annual leave taken shall be exclusive of public holidays.

(b) However, a shift worker, including a part-time shift worker, shall have added to the entitlement to annual leave one additional day for each public holiday, irrespective of whether or not the public holiday falls on a day which, for that employee, would have been a rostered day off.

(c) Notwithstanding clause 25.2(b) above, a part-time rostered employee whose place on a roster does not rotate, shall have added to the entitlement to annual leave only an additional day for each public holiday that falls on a day the employee is rostered to work.

25.3 Annual leave may be taken in more than one period

Annual leave is to be granted and taken in one consecutive period, or any combination of periods agreed between the employer and employee.

25.4 Time of Taking Leave

(a) An employee is entitled to take annual leave during a particular period if:

(i) at least that amount of annual leave is credited to the employee; and

(ii) prior to the employee being absent from work, the employee has completed a written leave request and the employer has approved that request.

(b) There is no maximum or minimum limit on the amount of annual leave that the employer may authorise an employee to take.

(c) An employee will provide a minimum of four (4) weeks' notice of intention to take annual leave. The employer may waive this requirement at their discretion.

(d) Any authorisation given by the employer permitting an employee to take annual leave during a particular period is subject to the operational requirements of the workplace in respect of which the employee is employed.

(e) The employer must not unreasonably refuse to authorise an employee to take an amount of annual leave that is credited to the employee.

25.5 Payment in lieu of Annual leave

(a) An employee may request in writing a payment in lieu of annual leave provided that the employee's accrued leave following payment is at least four (4) weeks.

(b) Any payment made in lieu of annual leave is to include payment for any applicable leave loading, or projected roster penalties that would have been payable if the leave was taken and not paid in lieu.

(c) Each agreement to cash out a particular amount of paid annual leave must be by agreement in writing between the parties.

(d) When considering a request by an employee for a payment in lieu of annual leave, the employer will not approve a request where the employee has not taken a minimum of ten (10) working days' leave (which may be made up of annual leave, long service leave or a combination thereof) in the twelve (12) months immediately preceding the request. The employer may waive this requirement if the employee can demonstrate that there is a pressing domestic or financial necessity underpinning their request.

25.6 Payment for Period of Leave

(a) When proceeding on annual leave employees are to be paid the amount of wages they would have received in respect of the ordinary hours of work which they would have worked if not for taking leave.

(b) Payment for annual leave shall be made on the applicable pay day that would have applied if it were not for the period of leave.

25.7 Payment on termination

If, when the employment of an employee ends, the employee has a period of untaken paid annual leave, the employer must pay the employee the amount that would have been payable to the employee had the employee taken that period of leave.

25.8 Annual Leave Loading

For any period of annual leave an employee is to be paid leave loading, calculated as follows:

Day worker

(a) In addition to their ordinary pay, a day worker will be paid an annual leave loading of 17.5% of the employee's ordinary hourly rate while on annual leave.

Rostered Employee

(b) An employee who, if not taking annual leave would otherwise have worked on a roster, will be paid a loading of 17.5% of the employee's ordinary hourly rate, plus

any higher duty allowance or other all-purpose payment to which the employee is entitled.

(c) However an employee who would have received shift, weekend and Public Holiday penalties had the employee not been on annual leave during the relevant period, and such payments would have been greater than a loading of 17.5% of the employee's ordinary hourly rate, then the employee's annual leave loading is to be calculated as an amount equivalent to the shift, weekend and public holiday payments the employee would have received in accordance with the employee's projected shift roster.

25.9 Calculation of Continuous Service

For the purpose of this clause 25 (Annual leave), continuous service is defined in accordance with the requirements of the Fair Work Act.

25.10 Employer Instigated Cancellation of Leave

(a) If, as a consequence of an employer instigated cancellation of approved annual leave (whether agreed or otherwise by the employee, and irrespective of when the cancellation notification is given) an employee incurs a monetary loss directly associated with pre-established annual leave holiday arrangements, and the loss is deemed to be unrecoverable, that employee is entitled to recover the costs from the employer.

(b) Any claims must be verified by the production of receipts or other form of documentation indicating the prior expenditure incurred associated with pre-holiday arrangements. This information is to be accompanied by written notification, from the person or organisation to which the payment was made, stating the amount which is not recoverable.

(c) The employer will only be liable to pay that portion of the payment which is unrecoverable and which is not subject to an insurance claim or payment.

(d) An employee who, during a period of annual leave, responds to an employer instigated request to return to work during a period of annual leave is entitled to redeem from the employer any travel and other associated costs incurred in returning to work and the subsequent return to annual leave. The costs are those in excess of costs normally incurred by the employee in travelling daily to and from work.

(e) The reimbursement of costs associated with the returning to annual leave would only apply when the period of leave was deemed to be continuous other than for the interruption to return to work.

(f) Claims for reimbursement of travel and other associated costs must be accompanied by receipts and any other form of documentation which would be appropriate to support the claim.

(g) An employee, on returning to work in response to an employer instigated request, is to be re-credited with one day of annual leave for each day or part day the employee is at work.

(h) The employee will be entitled to use the additional re-credited day or days in addition to the unused portion of approved annual leave (which the employee would have taken except for the interruption by returning to work) immediately upon the

finishing of the period for which the employee was recalled to work unless the employee elects to take the balance of unused leave and re-credited days at a later date.

25.11 Single Day Annual Leave

(a) Where agreed, an employee may take annual leave in single day periods or part of a single day not exceeding a total of five days in any calendar year at a time or times agreed.

(b) When an employee takes a single day of annual leave they will be paid annual leave loading and not the penalty rate that would have applied if the employee had worked the day.

(c) An employee and the employer may agree to defer payment of the annual leave loading on single day absences, until at least five consecutive annual leave days are taken.

25.12 Excessive leave accruals:

(a) An employee has an excessive leave accrual, when they have accrued in excess of 10 weeks or 12 weeks for a shiftworker.

(i) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other party and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.

(iii) The employer may direct an employee who has an excessive leave accrual, to take paid annual leave.

(iii) However, a direction by the employer under (ii) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 8 weeks, this would include the effect of any other already approved periods of leave.

In order to direct an employee as per 25.12(a) the employer:

(i) must have genuinely tried to reach agreement with an employee under clause 25.12(a)(i) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.

(ii) must not require the employee to take any period of paid annual leave of less than one weeks' duration; and

(iii) must not require the employee to take a period of paid annual leave with less than 8 weeks' notice nor more than 12 months' notice, after the direction is given; and

(iv) must not be inconsistent with any leave arrangement already agreed to by the employer.

(d) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.

(e) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

26. PERSONAL LEAVE

(a) Personal leave is a matter provided for in the NES (Division 7 – Personal/Carer's Leave and Compassionate Leave). Where there is an inconsistency between this clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

(b) Unless specifically stated, the provisions of this clause apply to an employee other than a casual employee.

(c) Part-time employees accrue personal leave progressively and utilise leave entitlements on a pro-rata basis in accordance with clause 11.3 of this Agreement.

26.1 Paid Personal Leave

Paid personal leave is available to an employee, when they are absent:

(i) due to personal illness or injury (sick leave); or

(ii) 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 personal illness or injury or who requires care or support due to an unexpected emergency (carer's leave); or

(iii) due to a family violence situation affecting the employee (family violence leave).

26.2 Amount of personal leave

(a) An employee will accrue up to 13 days (a maximum of 98.8 hours) of paid personal/carer's leave per year of continuous service.

(b) An employee's entitlement to paid personal/carer's leave accrues pro-rata based on the employee's ordinary hours of work and accumulates from year to year.

26.3 Sick leave

An employee who is absent from work because of personal illness, or an injury through accident, is entitled to paid personal leave in accordance with the employee's rostered hours of work, at the employee's ordinary hourly rate exclusive of shift or weekend loadings or overtime subject to the following conditions:

(a) an employee is not entitled to paid personal leave for any period of absence in respect of which they are entitled to workers' compensation;

(b) the onus is on the employee to demonstrate to the satisfaction of a reasonable person that they were unable because of illness or injury to attend for duty on the day or days for which personal leave is claimed;

(c) untaken personal leave accumulates from year to year without limitation.

26.4 Carer's leave

(a) An employee is entitled to use accrued personal leave to provide support of a member of the employee's immediate family or household member because of a personal illness, injury or unexpected emergency.

26.5 Family Violence Leave

(a) An employee who is a victim of family violence or is supporting an immediate family member or household member in a family violence situation may access family violence leave.

(b) Family violence includes physical, sexual, financial, verbal or emotional abuse by an immediate family member.

(c) An employee may request up to 2 days (a maximum of 15.2 hours) of non-cumulative paid family violence leave per calendar year and will have access of up to 3 days unpaid family violence leave (a total of 5 days per calendar year), with the provision of evidence.

(d) Casual employees may access 5 days unpaid leave.

(e) This leave does not accumulate from year to year.

(f) The employer and employee may agree that the employee may take more than 5 days unpaid leave to deal with Family violence.

26.6 Evidentiary requirements

(a) An employee may have up to five (5) personal/carer's leave days per financial year without providing the employer with a medical certificate. All other absences shall be supported by medical evidence unless the employer has expressly waived this requirement for a particular employee.

(b) For the purpose of sick leave and carer's leave, where the employer requires an employee to confirm the reason for the absence, the employee will provide requested evidence such as a doctor's medical certificate, or in the case of a dental emergency, a dentist's medical certificate.

(c) In exceptional circumstances where an employee is required to provide evidence in accordance with this Clause, and is unable to meet those requirements, they may provide a Statutory Declaration stating the steps they have taken to obtain the evidence and the reasoning why the circumstances are exceptional. This Statutory Declaration is to be witnessed by an authorised person under Tasmanian legislation and must be witnessed by someone not employed by the Employer.

For clarity, this Clause is not to be relied upon unless circumstances are exceptional; and is included as a means to allow for those exceptional circumstances to be taken into consideration, but not to undermine the evidence Clause 26.6(b) outlined above.

(d) Notwithstanding Clause 26.6 (c) above, medical evidence is required for:

(i) all absences of two or more consecutive work days;

(ii) all absences immediately before or after a period of approved leave;

(iii) all absences that occur during a period of approved paid leave; or

(iv) any absence immediately before or after a weekend or public holiday.

(e) For the purpose of family violence leave, where the employer requires an employee to confirm the reason for the absence, the employee will provide evidence in the form of an agreed document issued by Tasmania Police, a Court, a Registered Medical Practitioner, a Family Violence Support Service or a Lawyer.

26.7 Notification Requirements

(a) For the purposes of sick leave, an employee must inform the employer as soon as reasonably practicable and, where possible, no less than two (2) hours prior to the commencement of their rostered shift that they will be absent from work due to a personal illness or injury. The employee must inform the employer of their inability to attend for duty, and as far as is reasonable, advise the nature of the injury or illness (particularly if the illness has transmission implications for residents, clients or staff) and the estimated duration of the absence.

(b) For the purpose of carer's leave, the employee shall, wherever practicable, give the employer notice prior to the absence or the intention to take carer's leave, the name of the person requiring care and their relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(c) For the purpose of family violence leave, the employee shall, wherever practicable, give the employer notice prior to the absence or the intention to take family violence leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

26.8 Unpaid Personal leave

(a) Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care or support for members of their immediate family or household who require care or support because of personal illness or personal injury or because of an unexpected emergency affecting the employee. In the absence of agreement, an employee is entitled to leave for up to two (2) days on each occasion.

26.9 Casual Employees

(a) Subject to the evidentiary and notice requirements in clauses 26.6 and 26.7 above, casual employees are entitled to take unpaid carer's leave to provide care or support for members of their immediate family or household who require care or support because of personal illness or personal injury or because of an unexpected emergency affecting the member, or the birth of a child.

(b) The employer and the employee will agree on the period for which the employee will be entitled unpaid carer's leave. In the absence of agreement, the employee is entitled to leave for up to two (2) days on each occasion.

(c) An employer must not fail to re-engage a casual employee because the employee accessed the entitlements provided for in this clause. The rights of an employer to engage or not to engage a casual employee are otherwise not affected.

26.10 Notifiable Outbreak Leave

(a) Notifiable outbreak leave is non-cumulative and does not alter the personal leave accrued by the employee.

(b) To be authorised as Notifiable Leave, the outbreak must be defined by the Tasmanian Communicable Diseases Prevention Unit as such and the employee will provide either a doctor's medical certificate or advice from a relevant health professional.

(c) All full-time and part-time employees who have served at least 6 months' continuous employment shall be entitled to a maximum of three (3) days Notifiable outbreak leave per year.

27. PANDEMIC LEAVE

(a) In the circumstances of a pandemic, employees can request payment from their Personal/Carer's Leave and where there is no paid Personal/Carer's Leave available the employee may request any other form of relevant paid leave available to them. Where the employee has no paid leave available, they may provide a written request to the Chief Executive Officer for consideration of paid or unpaid leave.

(b) A fulltime or part time employee is entitled to take up to 2 weeks' of their personal leave entitlement on each occasion the employee is prevented from working:

(i) because the employee is required by government or medical authorities to self-isolate or quarantine;

(ii) because the employee is required by their employer to self-isolate or quarantine;

(iii) because the employee is required on the advice of a medical practitioner to self- isolate or quarantine because they are displaying symptoms of COVID-19 or have come into contact with a person suspected of having contracted COVID-19;

(iv) because the employee is in isolation or quarantine while waiting for the results of a COVID-19 test; or

(v) because of measures taken by government or medical authorities in response to the COVID-19 pandemic.

(vi) A full time or part time employee has exhausted their paid personal leave entitlements, they are able to request a further 5 days of paid personal leave.

(vii) A casual employee who is prevented from working regular shifts due to clause 26.10 is able to request paid leave from the CEO based on the average weekly hours worked in the preceding 4 weeks.

28. COMPASSIONATE LEAVE

(a) Compassionate Leave is a matter provided for in the NES (Division 7 – Personal/Carer's Leave and Compassionate Leave). Where there is an inconsistency between this clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

(b) An employee (other than a casual employee) is entitled to take up to three (3) days of paid compassionate leave for each permissible occasion when a member of the employee's immediate family or household has contracted or developed a personal illness, or sustained a personal injury, which poses a serious threat to his or her life; or dies. The leave may also be taken to spend time with the member of the employee's immediate family or household who has contracted or developed a serious personal illness, or sustained a serious personal injury.

(c) The employer may grant additional paid compassionate leave where the circumstances justify such additional leave.

(d) The employer may approve paid compassionate leave for employees who have a significant relationship with other persons not mentioned above who have contracted or developed a personal illness, or sustained a personal injury, which poses a serious threat to his or her life, or have died, where it can be established that a significant relationship exists.

(e) The employer may require that an employee provide evidence of the illness or injury that would satisfy a reasonable person.

(f) The compassionate leave for a particular permissible occasion may, where the Employer and the employee agree, be taken over broken periods and need not necessarily be taken as one consecutive period of leave.

(g) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.

(h) This clause will have no effect while the period of entitlement to compassionate leave coincides with any other period of entitlement to leave.

(i) A casual employee will be entitled to take the same leave periods as detailed in this clause as unpaid leave.

(j) An employer must not fail to re-engage a casual employee because the employee accessed the entitlement provided for in this clause. The rights of an employer to engage or not engage a casual employee are otherwise not affected.

29. PARENTAL LEAVE AND RELATED ENTITLEMENTS

Parental Leave (birth related leave and adoption related leave) will be in accordance with the provisions contained in the National Employment Standards (NES) (Division 5 – Parental Leave and Related Entitlements) and any Paid Parental Leave scheme paid by the Australia Government.

30. PUBLIC HOLIDAYS

(a) All employees (other than casual employees) are entitled to Public Holidays in accordance with the *Tasmanian Statutory Holidays Act* 2000.

(b) Where an employee is required to work on a public holiday which applies at the employee's usual workplace, but the employee is working away from the usual workplace and at a location where that public holiday does not apply, an additional day is to be added to the employee's annual leave entitlement, or the employee may elect to take another working day in lieu of that public holiday.

30.1 Payment for working on a public holiday

Payments under this clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the shift not been a public holiday.

30.2 Full-time day workers

(a) A full-time employee day worker who works their ordinary hours Monday to Friday and starts between 7.00am and 10.00am will be paid an additional sum equal to time and a half (150%) for hours worked on a public holiday.

(b) Payment for a public holiday which is taken and not worked will be at the employee's ordinary hourly rate which would have applied had the employee been at work.

30.3 Part-time day workers

(a) A part-time employee day worker will only be entitled to payment for those public holidays that fall on days they are normally rostered to work.

(b) A part-time employee day worker will be paid an additional sum equal to time and a half (150%) for hours worked on a public holiday.

(c) Payment for a public holiday which is taken and not worked will be at the employee's ordinary hourly rate which would have applied had the employee been at work.

30.4 Shift workers

(a) If a public holiday is worked by an employee required to work in accordance with a roster they will be paid the rate of double time (200%) of the ordinary hourly rate as a substitute for any penalty rate and not in addition to.

(b) If an entitlement to payment for public holidays not worked exists payment will be at the employee's ordinary hourly rate.

30.5 Casual employees

(a) A casual employee will be paid only for those public holidays they work at 275% of the ordinary hourly rate for hours worked.

(b) The rates prescribed in clause 30.5(a) will be in substitution for and not cumulative upon the casual loading or weekend rates.

(c) Payments under this clause are instead of any additional rate for shift or weekend work which would otherwise be payable had the shift not been a public holiday.

31. COMMUNITY SERVICE LEAVE

(a) Community Service Leave will be in accordance with the provisions contained in the NES. Where there is an inconsistency between this clause and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

(b) Community Service Leave includes jury service, a voluntary emergency service activity (in accordance with s.109 of the FW Act) or an activity prescribed by the Fair Work Regulations 2009 (Cth).

(c) With the exception of Jury Service and Voluntary Emergency Activity, (stated below) all Community Service Leave is unpaid leave.

32. JURY SERVICE

(a) Eligible employees are entitled to receive their applicable ordinary hourly rate for attending Jury Service (limited to 10 days maximum as per the NES).

(b) The employee shall notify the employer as soon as practical of the date on which they are required to attend for Jury Service. The employee will also provide the employer with documentary evidence of attendance, and the duration of such attendance and the amount received in respect of such Jury Service.

(c) Upon notification to attend for Jury Service, the employee is required to submit a Leave Application Form.

33. VOLUNTARY EMERGENCY ACTIVITY

To be eligible for this voluntary emergency activity leave, an employee must be a member of a recognised emergency management body and be engaged in an activity that involves dealing with an emergency or natural disaster. This form of leave is generally unpaid and is subject to the provisions of the NES, however, an employee may utilise two days of their paid personal leave entitlement per annum for the purpose of this clause. Upon notification to attend for emergency management the employee is required to submit a Leave Application Form.

34. LONG SERVICE LEAVE

Long Service Leave is a matter provided for in the NES (Division 9 – Long Service Leave) and the Tasmanian Long Service Leave Act.

PART 7 – DISPUTE RESOLUTION

35. DISPUTE RESOLUTION PROCEDURE

If a dispute relates to:

a matter arising under the agreement; or the National Employment Standards; this term sets out procedures to settle the dispute.

(a) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

(b) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

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

(d) The Fair Work Commission may deal with the dispute in 2 stages:

(i) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and

(ii) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:

1. arbitrate the dispute; and
2. make a determination that is binding on the parties.

Note: If Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

(e) Union members are entitled to be represented by their union. Non-members are entitled to be represented by a person of their choosing (which may include a Union) or by any other person they choose. The employer shall recognise the representative for all purposes involved with the resolution of the dispute.

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

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

(i) an employee must continue to perform their work as they would normally unless they have a reasonable concern about an imminent risk to their health or safety; and

(ii) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:

1. the work is not safe; or
2. applicable work health and safety legislation would not permit the work to be performed; or
3. the work is not appropriate for the employee to perform; or
4. there are other reasonable grounds for the employee to refuse to comply with the direction.

(h) Union members are entitled to be represented by their union. Non-members are entitled to be represented by a person of their choosing (which may include a Union) or by any other person they choose. The employer shall recognise the representative for all purposes involved with the resolution of the dispute.

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

PART 8 – MISCELLANEOUS

36. PROTECTIVE CLOTHING

(a) The employer will provide where necessary, suitable protective clothing for the employees. An employee, who is supplied with protective clothing, will wear the clothing for the purpose for which it is supplied.

(b) The employer will maintain full and sufficient supplies of safety appliances, such as rubber gloves, disinfectants or other materials required to be used in the course of the employee’s duties.

(c) The employer will compensate an employee where, in the course of the work, an employee's clothing is damaged, destroyed by fire or by the use of corrosive substances.

37. UNIFORMS

(a) Employees will be provided, free of cost by the employer, sufficient, suitable and serviceable uniforms.

(b) An employee, on leaving employment, will return any uniform provided by the employer which is still in use by the employee immediately prior to leaving employment.

38. INFLUENZA VACCINATIONS

The employer has a vaccination program which will provide annual influenza vaccinations at the worksite or may obtain employer pre-approval via an agreed pharmacy.

39. TRAINING

(a) Where practical the employer will offer an in-house training program.

(b) Where the employee chooses to undertake training in a manner not assigned by the employer (undertake it later in their own time) then on provision of evidence they will be paid at the ordinary rate of pay however no additional penalties or overtime will be made to the employee.

(c) Where the employer agrees to a variation outside of clause 39(a) and (b), this must be in agreement between the employer and employee.

(d) If the employee is unable to complete the training or activity within the allocated time, for the module then the employee should cease the training or activity, and then bring this to the attention of their manager at the first available opportunity. The manager and the employee will discuss any reasons for the employee's inability to complete the module within the allocated time.

40. UNION DELEGATES TRAINING

(a) The unions that are party to this Agreement will advise the employer in writing of the names of elected union delegates.

(b) The employer will provide up to a maximum of four (4) days of paid union training leave per financial year for the purpose of training union delegates where:

(i) a union has requested the union delegate's participation in union training;

(ii) a union and/or the union delegate(s) has provided at least six (6) weeks' notice; and

(iii) the employer has approved the requested participation. The Employer will not unreasonably refuse approval.

(c) Leave of absence granted pursuant to this clause shall count as service.

41. NOTICE BOARD

The employer is to permit a notice board to be erected in the workplace(s) for the use of the employer, employees and their union representatives.

SIGNATORIES

The undersigned parties accept that this Agreement has been negotiated in good faith and agree to be bound by its terms and conditions for its duration.

This Agreement is signed for and on behalf of the parties:

FOR THE EMPLOYER

This Agreement is signed by Mr Damien Jacobs in his capacity as Chief Executive Officer of Corumbene Nursing Home for the Aged Inc.

Mr Damien Jacobs' work address is:

13 Lower Road
New Norfolk
TASMANIA 7140

As the Chief Executive Officer of Corumbene Nursing Home for the Aged Inc., Mr Damien Jacobs has the authority to sign the Agreement on behalf of the employer.

Mr Damien Jacobs

Chief Executive Officer

Corumbene Nursing Home for the Aged Inc.

Date 19/01/2021

Witnessed by (signature)

Witness name in full

Robyn Michael

Witness address

15 Dewbay Crt Claremont

FOR THE UNIONS

This Agreement is signed by Mr Tim Jacobson in his capacity as the Secretary of The Health Services Union, Tasmania Branch.

Mr Jacobson's work address is:

11 Clare Street

NEW TOWN TAS 7008

As the Secretary of The Health Services Union, Tasmania No.1 Branch, Mr Jacobson has the authority to sign the Agreement on behalf employees who are members of The Health Services Union, Tasmania No.1 Branch and are employed pursuant to this Agreement.

Mr Tim Jacobson

Secretary

Health Services Union, Tasmania Branch

Date 20/01/21

Witnessed by (signature)

Witness name in full James Boonman

Witness address 11 Clare St. New Town TAS 7008

This Agreement is signed by Ms Emily Shepherd in her capacity as the Branch Secretary of the Australian Nursing and Midwifery Federation (Tasmanian Branch).

The work address is:

182 Macquarie Street

HOBART TAS 7000

As the Branch Secretary of the Australian Nursing and Midwifery Federation (Tasmanian Branch), the Branch Secretary has the authority to sign the Agreement on behalf of employees who are members of the Australian Nursing and Midwifery Federation (Tasmanian Branch) and are employed pursuant to this Agreement.

Ms Emily Shepherd

Branch Secretary

Australian Nursing and Midwifery Federation (Tasmanian Branch)

Date 18 March 2021

Witnessed by (signature)

Andrew Berkeley

Witness name in full

182 Macquarie Street.
Hobart, 7000.

Witness address

Schedule 1 – Classifications

Trainee

Traineeship in Cert III Individual Care will be paid according to Schedule E to the *Miscellaneous Award 2020* which sets out minimum wage rates and conditions for employees undertaking traineeships

Traineeship/Apprentice Cook will be paid no less than the rates of the Aged Care Award which sets out the minimum wage rates and conditions for employees undertaking this traineeship.

Aged care employee—level 1

Entry level:

An employee who has less than three months' work experience in the industry and performs basic duties.

An employee at this level:

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

Indicative roles performed at this level are:

General and Administrative services	Food services
Laundry hand Cleaner Assistant gardener	Food services assistant

Aged care employee—level 2

An employee at this level:

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

Indicative roles performed at this level are:

General and Administrative services	Food services	Personal care
Administrative Assistant Laundry hand Cleaner Gardener (non-trade) Maintenance/Handyperson (unqualified) Driver (less than 3 ton)	Food services assistant	Extended Care Assistant – Level 2

Aged care employee—level 3

An employee at this level:

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

Indicative roles performed at this level are:

General and Administrative services	Food services	Personal care
Administrative Officer (unqualified) Driver (less than 3 ton) who is required to hold a St John Ambulance first aid certificate	Cook	Extended Care Assistant – Level 3 Leisure and Lifestyle Assistant (unqualified)

Aged care employee—level 4

An employee at this level:

- is capable of prioritising work within established policies, guidelines and procedures;
- is responsible for work performed with a medium level of accountability or discretion;
- works under limited supervision, either individually or in a team;
- possesses good communication, interpersonal and/or arithmetic skills; and
- requires specific on-the-job training, may require formal qualifications at Certificate Level and/or relevant skills training or experience.
- An Extended Care Assistant Level 4 is required to hold a relevant Certificate III qualification

Indicative roles performed at this level are:

General and Administrative services	Food services	Personal care
Administrative Officer – Cert III Maintenance/Handyperson (qualified Driver (3 ton and over) Gardener (trade or Cert III or above)	Senior cook (trade)	Extended Care Assistant – level 4 Leisure and Lifestyle Assistant (qualified)

Aged care employee—level 5

An employee at this level:

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

- is responsible for work performed with a substantial level of accountability;
- works either individually or in a team;
- may assist with supervision of others;
- requires a comprehensive knowledge of medical terminology and/or a working knowledge of health insurance schemes (admin/clerical);
- may require basic computer knowledge or be required to use a computer on a regular basis;
- possesses administrative skills and problem solving abilities;
- possesses well developed communication, interpersonal and/or arithmetic skills; and
- requires substantial on-the-job training, may require formal qualifications at trade or Diploma level and/or relevant skills training or experience.
- An employee who has completed ACFI training in accordance with the employer's requirements and has been appointed to perform ACFI duties is an Extended Care Assistant Level 5.

Indicative roles performed at this level are:

General and Administrative services	**Food services**	**Personal care**
Administrative Officer –Cert IV /Diploma	Chef qualified	Extended Care Assistant – level 5

Aged care employee—level 6

An employee at this level:

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

Indicative roles performed at this level are:

General and Administrative services	**Food services**	**Personal Care**
Administrative Officer – Cert IV /Diploma Maintenance tradesperson (advanced) Gardener (advanced)	Senior chef - qualified	Extended Care Assistant – level 6

Aged care employee—level 7

An employee at this

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

Indicative roles performed at this level are:

General and Administrative services	**Food services**	**Personal care**
Administrative Supervisor Gardener supervisor General services supervisor	Chef /Food services supervisor	Extended Care Assistant – level 7 Program Supervisor

Schedule 2 – Wage Rates

The wages of employees covered by this Agreement will be increased as prescribed below:

(i) 2.20% from the beginning of the first full pay period on or after 1 July 2020

(ii) 2.50% from the beginning of the first full pay period commencing on or after 1 July 2021;

(iii) 2.25% from the beginning of the first full pay period commencing on or after 1 July 2022.

Schedule 2 - Wage Rates		FFPP on or after 1-Jul-20 2.20%	FFPP on or after 1-Jul-21 2.50%	FFPP on or after 1-Jul-22 2.25%
Classifications		weekly	weekly	weekly
Level 1				
	Services	809.79	830.04	848.71
	Administration	813.16	833.49	852.25
Level 2				
	ECA	836.62	857.53	876.83
	Services	836.62	857.53	876.83
	Administration	846.77	867.94	887.47
Level 3				
	ECA	872.86	894.68	914.81
	Services	869.63	891.37	911.43
	Administration	880.26	902.27	922.57
Level 4				
	ECA	879.77	901.76	922.05
	Services	890.51	912.77	933.31
	Administration	919.82	942.82	964.03
Level 5				
	ECA	910.76	933.52	954.53
	Services	920.48	943.50	964.73
	Administration	934.51	957.87	979.42

		0.00	0.00	0.00
Level 6				
	ECA	960.82	984.84	1007.00
	Services	969.28	993.51	1015.86
	Administration	960.82	984.84	1007.00
Level 7				
	ECA	987.58	1012.27	1035.04
	Services	987.58	1012.27	1035.04
	Administration	987.58	1012.27	1035.04

Schedule 3 – Allowances and Meals

Charges for a meal provided by employer (clause 21.3**)**	
Lunch or evening meal	
two or three courses	$5.83
single hot or cold main course	5.00
other course e.g. soup, sweet	4.50
All breakfasts	4.50
Foul and Nauseous Linen (clause 18.3**) (max per week) where applicable**	$14.00
Mentor Allowance (clause 18.2)	$1.00 per hour on the ordinary wage rate
Call - Remote (clause 24**)** **(per min/hour per 24 hours)**	1.45 per hour 14.25 per day max

Corumbene Care

Corumbene Nursing Home for the Aged Inc. General Enterprise Agreement 2020

We have reviewed this information and provide the following undertakings in relation to Corumbene Nursing Home for the Aged Inc. General Enterprise Agreement 2020:

A. Corumbene Care undertakes that Clause 6 – Definitions relating to a shiftworker should be read to include:

"This Agreement will be read and interpreted that the definition of a Shift Worker is for the purposes of the National Employment Standards (NES).

B. Corumbene Care undertakes that Clause 6 – Definitions, relating to an afternoon shift, should be removed from reading the General Enterprise Agreement to ensure that there is no inconsistency relating to clause 20.2.

C. Corumbene Care undertakes that Clause 12.2 should be read to include:

"This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, the NES will apply."

D. Corumbene Care undertakes that Clause 19.2 should be read as follows:

19.2 Hours of work – Rostered Employees

(a) Employees may be required to work to a roster, subject to the requirements of the Roster (Clause 20) of this Agreement.

(b) Where an employee is required to work in accordance with a roster, the ordinary hours of work for that employee shall be as per the agreed hours up to 38 hours per week for a part time employee or an average of 38 hours per week for fulltime employees and must not exceed:

(i) 8 hours in any one day; or

(ii) 48 hours in any one week; or

(iii) 88 hours in any 14 consecutive days for full-time employees or 80 hours in 14 consecutive days for part-time or casual rostered employees; or

(iv) 152 hours in any 28 day accounting period.

E. Corumbene Care undertakes that Clause 19.3 will include point (g) which will be as follows:

Part-time shiftworkers are employees engaged to work less than full-time hours of an average of 38 hours per week and has reasonably predictable hours of work.

F. Corumbene Care undertakes that Clause 21.2(c) will allow the provision of a meal allowance to employees without the restriction of notification when undertaking overtime. To be clear a payment of $13.56 applies where the shift exceeds one hour or a payment of $12.23 applies where the shift exceeds four hours. The applicable meal rates will change in line with variations to future Aged Care Awards.

G. Corumbene Care undertakes that Clause 22.2(d) should read that the calculation for casuals' overtime is based on their casual loaded rate.

H. Corumbene Care undertakes that Clause 26.7 should be read to include:

"This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, the NES will apply."

I. Corumbene Care undertakes that Clause 27 will allow for the application of pandemic leave as follows:

Schedule X—Additional Measures During the COVID-19 Pandemic

X.1 Subject to clauses X.2.1(d) and X.2.2(c),Schedule X operates from 8 April 2020 until further or other order of the Commission in matter number AM2020/13. The period of operation can be extended on application.

X.2 During the operation of Schedule X, the following provisions apply:

X.2.1 Unpaid pandemic leave

(a) Subject to clauses X.2.1(b),(c) and (d),any employee is entitled to take up to 2 weeks' unpaid leave if the employee is required by government or medical authorities or on the advice of a medical practitioner to self-isolate and is consequently prevented from working, or is otherwise prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.

(b) The employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

(c) An employee who has given their employer notice of taking leave under clause X.2.1(a) must ,if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a).

(d) A period of leave under clause X.2.1(a) must start before 29 March 2021,but may end after that date.

(e) Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this Enterprise Agreement and the NES.

NOTE:

The employer and employee may agree that the employee may take more than 2 weeks' unpaid pandemic leave.

X.2.2 Annual leave at half pay

(a) Instead of an employee taking paid annual leave on full pay, the employee and their employer may agree to the employee taking twice as much leave on half pay.

(b) Any agreement to take twice as much annual leave at half pay must be recorded in writing and retained as an employee record.

(c) A period of leave under clause X.2.2(a) must start before 29 March 2021, but may end after that date.

EXAMPLE: Instead of an employee taking one week's annual leave on full pay, the employee and their employer may agree to the employee taking 2 weeks' annual leave on half pay.

In this example:

- the employee's pay for the 2 weeks' leave is the same as the pay the employee would have been entitled to for one week's leave on full pay (where one week's full pay includes leave loading under the Annual Leave clause of this Enterprise Agreement);and
- one week of leave is deducted from the employee's annual leave accrual.

NOTE 1:

A employee covered by this Enterprise Agreement who is entitled to the benefit of clause X.2.1 or X.2.2 has a workplace right under section 341(1)(a) of the Act.

NOTE 2:
Under section 340(1) of the Act, an employer must not take adverse action against an employee because the employee has a workplace right, has or has not exercised a workplace right, or proposes or does not propose to exercise a workplace right, or to prevent the employee exercising a workplace right. Under section 342(1) of the Act, an employer takes adverse action against an employee if the employer dismisses the employee, injures the employee in his or her employment, alters the position of the employee to the employee's prejudice, or discriminates between the employee and other employees of the employer.

NOTE 3:
Under section 343(1) of the Act, a person must not organise or take, or threaten to organise or take, action against another person with intent to coerce the person to exercise or not exercise, or propose to exercise or not exercise, a workplace right, or to exercise or propose to exercise a workplace right in a particular way.

Clause 27 incorporates Schedule Y of the Award.

Noting that any paid pandemic leave will be offset against the additional three (3) days accrued personal leave provided for each year.

J. Corumbene Care undertakes that Clause 39(c) - Training, of the Corumbene Nursing Home for the Aged Inc. General Enterprise Agreement 2020 should be read as follows:

Clause 39(c) – Where the employer agrees to a variation outside of clause 39(a) and (b), this must be agreed in writing between the employer and employee.

K. Corumbene Care undertakes that Schedule 1 relating to Trainees should be read to include:

Trainees will be paid 10 cents per week above the relevant Miscellaneous Award wage rate and this should be read as referring to the Aged Care Award 2010.

These undertakings are made by Damien Jacobs, Chief Executive Officer of Corumbene Care Inc.

Damien Jacobs
CHIEF EXECUTIVE OFFICER

Dated 9th March 2021