

[2022] FWCA 3166

The attached document replaces the document previously issued with the above code on 12 September 2022.

Paragraph numbers have been amended to correct a typographical error

Associate to Commissioner Ryan

Dated 13 September 2022



DECISION

Fair Work Act 2009

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

Medea Park Association Incorporated T/A Medea Park Residential Care (AG2022/3352)

Aged care industry

COMMISSIONER P RYAN

SYDNEY, 12 SEPTEMBER 2022

Application for approval of the Medea Park Association Incorporated General Staff Enterprise Agreement 2021

[1] On 10 August 2022, Medea Park Association Incorporated (**Employer**) made an application for approval of an enterprise agreement known as the *Medea Park Association Incorporated General Staff Enterprise Agreement 2021* (**Agreement**) pursuant to s.185 of the *Fair Work Act 2009* (**FW Act**). The Agreement is a single enterprise agreement.

Late Lodgement

[2] Section 185(3) of the FW Act states that an application for approval of an enterprise agreement must be made ‘within 14 days after the agreement is made’, or if in all the circumstances the Commission considers it fair to extend that period - within such further period as the Commission allows.

[3] The Form F17 Declaration accompanying the application stated that the Agreement was made on 22 July 2022. The application was therefore lodged 5 days outside of the 14-day period.

[4] The Employer submitted the delay was attributable to unexpected periods of personal leave taken by relevant persons within its organisation.

[5] Having regard to all of the circumstances, I consider it fair to exercise my discretion under s.185(3)(b) of the Act to extend the time for the application to be made until 10 August 2022. An order to that effect will be issued with this decision.

Section 190 Undertakings

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

Section 186, 187, 188 and 190

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

Section 183 Bargaining representative

[8] The Health Services Union (**HSU**) being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it.

[9] In accordance with s.201(2) of the FW Act, I note that the Agreement covers the HSU.

Approval

[10] The Agreement is approved and, in accordance with s.54 of the FW Act, will operate from 19 September 2022. The nominal expiry date of the Agreement is 1 August 2024.

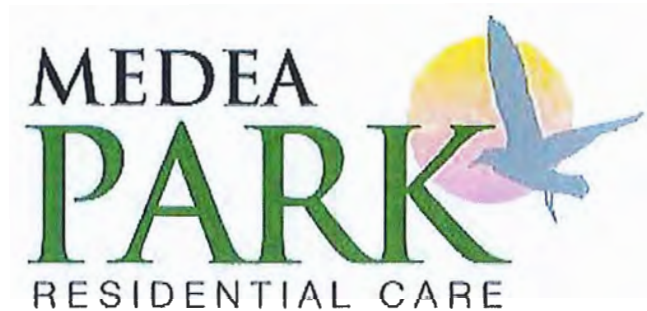


COMMISSIONER

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



Medea Park Association Inc.

MEDEA PARK ASSOCIATION INCORPORATED

GENERAL STAFF

ENTERPRISE AGREEMENT

2021

1. TITLE

This Agreement shall be referred to as the Medea Park Association Incorporated General Staff Enterprise Agreement 2021.

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3. SCOPE OF AGREEMENT

This agreement shall apply to Medea Park Association Incorporated in respect of the employment by the employer of employees other than Registered and Enrolled Nurses as defined by the Australian Health Practitioner Regulation Agency (AHPRA).

4. AGREEMENT PARTIES

The parties to this agreement are as follows:

- (a) Medea Park Association Incorporated ('the employer');
- (b) Employees who are employed by the employer and are engaged in work in classifications contained within this Agreement;
- (c) The Health Services Union, Tasmania Branch (HACSU)
- (d) Australian Nursing & Midwifery Federation (Tasmania branch) (ANMF)

5. DATE AND PERIOD OF OPERATION

This Agreement will be operational on the seventh day after the date specified on the notice from Fair Work Australia.

The Agreement shall expire on 1 August 2024, unless otherwise terminated or varied beforehand by the mutual agreement of the parties or operation of law. The Agreement will continue beyond the nominal expiry date, until replaced, or terminated in accordance with the Fair Work Act 2009.

6. DEFINITIONS

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

Award means the Aged Care Award 2010.

Casual Employee means a casual employee in accordance with section 15A of the *Fair Work Act 2009*.

Day worker means an employee whose weekly ordinary hours of work are performed between the period 6.00am and 6.00pm on the days Monday to Friday inclusive.

Employee means an employee employed by the employer and covered by the scope of this Agreement.

Employer means Medea Park Association Incorporated.

Chief Executive Officer is the highest ranking executive in the organisation.

Full-time employee means a person engaged to work 38 ordinary hours per week.

Home Care Worker means an employee employed to deliver care and related activities in client homes and community settings.

Immediate family of an employee means:

- spouse or former spouse
- de facto partner or former de facto partner
- child
- parent
- grandparent
- grandchild
- sibling, or a
- 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.

Employees will be able to take compassionate leave for other relatives (eg. cousins, aunts and uncles) if they are a member of the employee's household, or if the employer agrees to this request.

Member of employee's household in respect of an employee has the meaning as per the *Fair Work Act 2009* and relates to a family member who usually resides with the employee.

NAPSA means a Notional Agreement Preserving a State Award and has the meaning in the Act.

NES means the National Employment Standards.

Part-time employee means a person, other than casual employee, engaged to work regularly in each pay period for less hours than an equivalently classified full-time employee.

Projected Roster means an employee's normal roster including penalty shifts for the period of leave.

Casual Employee means a person engaged to work for less hours than a full time employee but not engaged to work on a regular cycle of hours necessarily.

Rostered employee means an employee required to work in accordance with the shift work arrangements of this Agreement and is other than a day worker.

Shift Work (Roster) means a work pattern where an employee is regularly rostered to work their ordinary hours outside the ordinary hours of work as set for a day worker, in which overtime does not apply.

Significant Relationship means a relationship that exists outside of the family members previously defined, however it is a person with whom an employee can demonstrate having an important or meaningful relationship that would cause the employee to be placed in a similar situation to a family member on the occasion of their death or diagnosis with a serious illness or injury.

Standard Rate is the minimum wage for an aged care employee expressed as a fulltime weekly wage (that is the hourly rate x 38)

the Act means the *Fair Work Act 2009*.

Unions means the Health Services Union, Tasmania Branch operating as the Health and Community Services Union (HACSU) and the Australian Nursing & Midwifery Federation (Tasmania branch) (ANMF).

Workplace Union Delegate means an employee who has been elected by other employees under the rules of the Union to represent employees in the workplace.

Year of service shall mean 1976 hours of actual service in an approved establishment, including public holidays, paid annual leave, and paid personal leave.

7. RELATIONSHIP TO THE NES

Entitlements in accordance with the NES are provided for under the Act. The NES provides a set of minimum standards which cannot be displaced. Where this Agreement also has provisions regarding matters dealt with under the NES and the provisions in the NES set out in the Act are more favourable to an Employee in a particular respect than those provisions, then the NES will prevail in that respect and the provisions dealing with that matter in this Agreement will have no effect in respect of that Employee. The provisions in this Agreement otherwise apply.

8. SUPERSESION AND SEVERANCE PROVISIONS

- (a) It is the intention of those covered by this Agreement that this Agreement contains only permitted matters under the Act. It is also the intention of those covered by this Agreement that this agreement contains no matters that are unlawful.
- (b) Any term of this Agreement that is, in whole, or in part, not a permitted matter is, to the extent it is not a permitted matter, severed from this Agreement and of no legal effect.
- (c) Any term of this Agreement that is, in whole, or in part, an unlawful term is, to the extent it is an unlawful term, severed from this Agreement and of no legal effect.
- (d) To the extent it is possible, all terms in this Agreement should be interpreted in a manner that would make them permitted matters.

9. PURPOSE OF AGREEMENT

The key purpose of the Agreement is to improve employees' wages and conditions of employment to reward staff for the valued contribution they make within the organisation.

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

The Agreement aims to continually improve communication and cooperation at the workplace level between management and staff.

Medea Park Association Incorporated recognises the important contribution of all aged care staff in ensuring the organisation's future.

10. DISPUTE RESOLUTION PROCEDURE

- (a) If a dispute arises about a matter under this Agreement, a dispute in relation to the NES, a dispute about any matter that relates to the Employment relationship, or a dispute in relation to an employee's workplace rights, the parties to the dispute will attempt to resolve the dispute at the workplace level in a timely manner, by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.

- (b) If the matter cannot be resolved and all appropriate steps under clause 10(a) have been taken, a party may refer the dispute to Fair Work Australia for resolution using any of its powers (including powers under section 739(4) of the Act).
- (b) A party to a dispute may appoint a person, organisation or association to support or represent them during the dispute. The employer must recognise the representative for all purposes involved with the resolution of the dispute.
- (c) While the dispute is being resolved the employer may direct an employee to perform different work or work at a different location, on full pay, if it is reasonable to do so to protect the safety, health or welfare of care recipients.
- (d) The parties to the dispute agree to be bound by a decision made by Fair Work Australia in accordance with this term, subject to normal appeal rights.

11. ADDITIONAL AVAILABLE HOURS

Medea Park Association Incorporated understands that Part Time employees may want to work additional hours from time to time. Medea Park Association Incorporated where safe, practicable and reasonable, will give priority to permanent part time staff to increase additional hours when other staff are on any form of leave or any other reasonable workplace reason.

12. ANNUAL LEAVE

(a) Period of Leave

(i) Full-Time Employees

A full-time employee will be allowed the following annual leave for each year of continuous service with the employer (less the period of annual leave):

Administrative Employees - 4 weeks

this leave is to be available annually in a period of 28 consecutive days. Annual leave is cumulative and will accrue on a pro rata basis throughout the year.

(ii) Part-Time Employees

Part-time employees will be entitled to annual leave based on the number of ordinary hours worked in the leave year.

The leave entitlement will be calculated on a pro-rata basis as follows:

152 (full-time equivalent entitlement) divided by 1976 = 0.076923 hours annual leave entitlement for each hour worked.

(b) Additional Leave

(i) Shiftworkers

A shiftworker will, in addition to the annual leave in subclause (a) above, be allowed an additional 38 hours leave, to be taken in a period of seven consecutive days including non-working days.

All leave accrued under this clause will be added to the employees annual leave, with entitlement to the applicable annual leave loading of 17.5%.

PROVIDED that to receive this additional leave the employee must:

- (I) Be regularly rostered to work their ordinary hours outside the ordinary hours of work as a day worker as defined; and/or
- (II) be rostered to work on not less than 4 ordinary hours on 10 or more weekend shifts during any one leave year.

(c) Public Holidays

- (i) For employees who do not work on a roster (day work employee), the period of annual leave excludes any Public Holidays to which the employee is entitled. If a Public Holiday falls within an employee's period of annual leave and is on a day that the employee would have been at work, the employee will have added to their annual leave a leave amount equivalent to the ordinary time which the employee would have worked if the day had not been a holiday.
- (ii) For a full-time employee required to work in accordance with a roster (shift work employee), that employee will receive in addition to their period of annual leave, annual leave equivalent to one day for each Public Holiday to which they are entitled, whether or not the holiday is observed on a day which, for that employee, would have been a rostered day off.

A part-time employee, who works on a roster (shift work employee), will receive an additional day of annual leave for each Public Holiday that occurred on a day they were normally rostered to work.

However, this sub-clause will not apply if the holiday falls on a Saturday or Sunday or whereby agreement between the employer and employee, an employee has been paid at the appropriate public holiday rate as per clause 35.

(d) Broken Leave

Unless otherwise agreed, the entitlement to Annual Leave will be taken in not more than two separate periods. Except as provided for in subclause (j).

(e) Time of Taking Leave

The taking of Annual leave shall be at a time or times agreed between the employer and employee. The employer must not unreasonably delay or refuse to agree to a request by the employee to take annual leave.

(f) Excessive Annual Leave Accruals

This subclause contains provisions additional to the NES about taking paid annual leave to deal with excessive paid annual leave accruals.

i. Definitions

- a. An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker).
- b. (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.

ii. Excessive leave accruals: Direction by employer that leave be taken

- a. If an employer has genuinely tried to reach agreement with an employee 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.
- b. However, a direction by the employer under paragraph (a):
 - (i) 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 6 weeks when any other paid annual leave arrangements (whether made under clause 28.6, 28.7 or 28.8 or otherwise agreed by the employer and employee) are taken into account; and
 - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
 - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
 - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- c. The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.
- d. 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.

Note 1:

Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect.

Note 2:

Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

iii. Excessive leave accruals: Request by employee for leave

- a. If an employee has genuinely tried to reach agreement with an employer but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- b. However, an employee may only give a notice to the employer under paragraph (a) if:

- (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
 - (ii) the employee has not been given a direction under clause 12 (f) (ii) that, when any other paid annual leave arrangements are taken into account, would eliminate the employee's excessive leave accrual.
- c. A notice given by an employee under paragraph (a) must not:
 - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid annual leave arrangements are taken into account; or
 - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
 - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
 - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- iv. An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined within this agreement).
- v. The employer must grant paid annual leave requested by a notice under paragraph (a).
- vi. Employee may require that leave be granted
 - (i) This subclause applies if an employee has had an excessive leave accrual for more than six months and the employer has not given a direction under subclause (b) above that will eliminate the employee's excessive leave accrual.
- vii. The Employee may direct that leave be taken if:
 - (ii) The employee has excessive leave accrual; and
 - (iii) Agreement has been attempted pursuant to subclause (b)(i); and
 - (iv) The direction does not result in the employee's remaining accrued entitlement to paid annual leave at any time being less than six weeks (taking into account all other paid annual leave that has been agreed; and
 - (v) The direction does not require the employee to take any period of leave less than one week; and
 - (vi) The direction does not require the employee to take any period of leave commencing less than eight weeks after the day the direction is given to the employee; and
 - (vii) The direction does not require the employee to take any period of leave commencing more than 12 months after the day the direction is given to the employee; and
 - (viii) The direction is not inconsistent with any leave arrangement agreed between the employer and employee.
- viii. The maximum amount of leave that an employee can give notice of under this subclause is four weeks leave in any 12 month period if the employee is not a shiftworker, and 5 weeks leave in any 12 month period if the employee is a shiftworker.

- ix. The employer must grant the employee paid annual leave in accordance with a notice complying with this subclause.

(g) Cashing out of Annual Leave

An employee is entitled to cash out an amount of their accrued Annual Leave entitlement, as agreed in writing between the Employer and individual employee. Provided that cashing out of Annual Leave must not result in an employee's accrued entitlement being less than 152 hours or pro rata for part time employees. Leave cannot be cashed out in advance of it being accrued.

(h) Payment for Period of Leave

- (i) An employee, before going on annual leave or additional leave provided for in subclause (b) above will be paid the amount of ordinary time wages they would have received had they not been on leave.
- (ii) Payment will be made either in advance on request (at the next schedule pay date) or in the normal pay cycle if that's the option of the employee.

(i) Proportionate Leave on Ending Service

After one month of continuous service in any qualifying 12 monthly period, if an employee lawfully leaves the employment or the employment is terminated by the employer through no fault of the employee, the employee will be paid at their ordinary rate of pay as follows:

(i) Full-Time Employees

12.50 hours for each completed month of continuous service for administrative employees (pro-rata for an incomplete month).

12.67 hours for each completed month of continuous service for all other employees (pro rata for an incomplete month) .

(ii) Rostered Employees who meet the conditions of paragraph b (i) above

15.83 hours for each completed month of continuous service for all other employees (pro rata for an incomplete month).

(iii) Part-Time Employees

A part time employee is entitled to a pro-rata entitlement of a fulltime employee based on the part time employee's ordinary hours of work.

(j) Annual Leave Loading

During a period of annual leave (excluding leave provided for in subclause (c)) an employee will be paid a loading, additional to their wages, calculated on the relevant wages for their classification as follows:

- (i) For an employee not working on a roster, 17.5 per cent of their classification rate immediately prior to going on annual leave.

- (ii) For an employee working on a roster, the wages equivalent to that which they would have received in accordance with their projected roster. However, if an allowance of 17.5 per cent in addition to the relevant rate of pay is greater than the projected roster, then the employee will be entitled to the provisions of paragraph (i) above and not the projected roster.

(k) **Single Day Annual Leave**

Notwithstanding provisions elsewhere in this agreement, an employee may elect to take single day annual leave absences, provided that approval must be obtained by the Employer, and provided that:

- (i) Where agreed an employee may take annual leave in single day periods or part of a single day.
- (ii) An employee may be granted a single day annual leave absence by the employer subject to workplace requirements and the employee having a suitable approved entitlement subject to application by the employee and approval by the employer.

13. ORIENTATION SHIFT ALLOWANCE

Employees who are appointed by the employer to act in a mentoring role to assist in the orientation of new employees or students/trainees will be paid an allowance of \$1.00 per hour, for a maximum of five shifts. This allowance will increase to \$2.00 per hour for staff acting in the mentoring role who have successfully completed a Certificate IV in Training and Assessment.

PROVIDED that you are a permanent employee and prior agreement to completion of such a course is reached with the employer, the employer will meet the costs of the course.

14. HOME CARE EMPLOYEES

Where an employee is required to provide community and home based care for a client and that care is cancelled for whatever reason, the employee will be paid, without reduction, for the shift involved and will be required to work within the Aged Care facility with duties similar or less to the duties in CACPS or allocated duties within the facility bearing in mind the employees range of skills.

- (i) **Travel Allowance**
 - a. A home care worker who is required to use their own motor vehicle in the course of work will be reimbursed at the rate of \$0.80 per kilometer.
 - b. The travel allowance is not payable from the Employee's home to the first client and from the last client to the Employee's home on any particular day. However, if the distance the employee travels from their home to the first call is greater than the distance the employee would normally travel to their designated workplace, the employee is entitled to claim travel allowance for the additional distance travelled.

- c. An employee who is paid travel allowance for use of their own motor vehicle shall maintain such vehicle to a reasonable standard of cleanliness and road worthiness at all times.

(ii) Soiled vehicle reimbursement

- a. The employer recognises that home care workers should not be disadvantaged by having their personal vehicle soiled or made foul as a result of involuntary actions of a client of the employer while transporting that client as part of a care plan activity.
- b. Whereas a result of a client's involuntary actions, primarily unintentional bodily functions, the employee's vehicle is soiled or made foul the employee is to file an incident report of the details.
- c. The employee will provide to the employer all receipts showing the costs associated with cleaning the incident soiling.
- d. The employer will reimburse to the employee the receipted costs of cleaning the car to a maximum value of \$250.
- e. The reimbursement is to occur in the pay period immediately following provision of cleaning receipts.
- f. To avoid any doubt, this clause is not intended to cover panel damages, windscreen chips or any other damage beyond interior vehicle cleaning.

(iii) Travel Time Between Clients

- a. Time travelled between clients shall be deemed to be travel in the course of the employee's work and shall be paid at the ordinary rate of pay.
- b. If the scheduled break between clients (a scheduled break being the time between leaving a client (e.g. Client 1) and arriving at the next client (eg Client 2)) is more than the time it takes to travel between clients, then only the time it would have taken to travel from client 1 and to client 2 is payable.
- c. Where an employee is not working a Broken Shift, travel time between clients is only payable where clients are scheduled in succession.
(FBC)
- d. Should the employee deviate travel between clients for reasons other than work related purposes time travelled shall not be considered to be time worked and shall not be payable.

(iv) Client cancellation

- (i) Where a client cancels or changes the rostered home care service, an employee will be provided with notice of such change in roster by 5.00pm the day prior and in such circumstances no

payment will be made to the employee. If an employee does not receive such notice, the employee will be entitled to receive payment for their minimum specified hours on that day.

- (ii) The Employer may direct the employee to make-up time equivalent to the cancelled time in that fortnightly period. This time may be made up working with other clients or in other areas of the Employer's business providing the employee has the skill and competence to perform the work.

15. COMMUNITY SERVICE and JURY LEAVE

- (a) Community Service Leave will be in accordance with the provisions contained in the National Employment Standards (NES):
(<https://www.fairwork.gov.au/leave/community-service-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 who engages in an eligible community service activity is entitled to be absent from his or her employment for a period if:
 - (i) The period consists of one or more of the following:
 - (I) Time when the employee engages in the activity;
 - (II) Reasonable travelling time associated with activity;
 - (III) Reasonable rest time immediately following the activity; and
 - (ii) Unless the activity is jury service – the employee's absence is reasonable in all the circumstances
- (c) Each of the following is an eligible community services activity:
 - (i) Jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; or
 - (ii) A voluntary emergency management activity.
- (d) An employee who engages in a *voluntary emergency management activity* (or such other community services activity as may be prescribed by the Fair Work Regulations 2009), is entitled to take unpaid community service leave in accordance with this clause.
- (e) An employee engages in a voluntary emergency management activity if, and only if:
 - (i) the employee engages in an activity that involves dealing with an emergency or natural disaster; and
 - (ii) the employee engages in the activity on a voluntary basis (whether or not the employee directly or indirectly takes or agrees to take an honorarium, gratuity or similar payment wholly or partly for engaging in the activity); and
 - (iii) the employee is a member of, or has a member-like association with, a recognised emergency management body; and
 - (iv) either:
 - i. the employee was requested by or on behalf of the body to engage in the activity; or

- ii. no such request was made, but it would be reasonable to expect that, if the circumstances had permitted the making of such a request, it is likely that such a request would have been made.
- (f) A recognised emergency management body is:
 - I. a body, or part of a body, that has a role or function under a plan that:
 - 1) is for coping with emergencies and/or disasters; and
 - 2) is prepared by the Commonwealth, a State or a Territory;
 - or
 - II. a fire-fighting, civil defence or rescue body, or part of such a body; or
 - III. any other body, or part of a body, a substantial purpose of which involves:
 - 1) securing the safety of persons or animals in an emergency or natural disaster; or
 - 2) protecting property in an emergency or natural disaster; or
 - IV. otherwise responding to an emergency or natural disaster; or
 - V. a body, or part of a body, prescribed by the regulations; but does not include a body that was established, or is continued in existence, for the purpose, or for purposes that include the purpose, of entitling one or more employees to be absent from their employment under this Division.
- (g) The employee must provide reasonable notice of the employee's intention to participate in a community services emergency. Evidence supporting the employee's absence or continuing absence may be required by the employer at any time.
- (h) Eligible employees are entitled to receive their applicable ordinary hourly rate of pay for attending Jury Service (limited to 10 days maximum under the NES).
- (i) 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.
- (j) The employee may access their accrued annual leave where they are attending Jury Service in excess of 10 days.
- (k) Upon notification to attend for Jury Service, the employee is required to submit a Leave Application Form with the proposed dates for attendance at Jury Service. Notwithstanding this, the employer acknowledges that an employees Jury attendance will not be deducted from her/his annual leave entitlement.

16. COMPASSIONATE/BEREAVEMENT LEAVE

- (a) All eligible full-time and part-time employees are entitled to compassionate and bereavement leave.
- (b) Compassionate and bereavement leave will include miscarriage.
- (c) "Compassionate leave" is provided to enable the employee to spend time with the member of the employee's immediate family or household who has contracted or developed the personal illness, or sustained the personal injury, which poses a serious threat to his or her life.
- (d) "Bereavement leave" is provided for the purpose of the employee attending the funeral of the member of the employee's immediate family or household and to deal with personal business associated with the death of a member of the employee's immediate family or household.

- (e) The entitlement to Compassionate and Bereavement leave is as follows:

For the purpose of this clause the words "partner" may include a partner from whom the employee is separated (where a significant relationship can be established) and shall include a person who lives with the employee as a de facto partner.

- (ii) An employee (other than a casual employee) is entitled on the death, or serious illness or injury of such a nature that death is a probable outcome, of a brother, sister, mother in law, father in law, stepmother, stepfather, grandfather, grandmother and grandchild, to a combination of paid compassionate leave and paid bereavement leave to a maximum amount of 5 days in combination. Provided, however, a maximum of 2 days may be taken as compassionate leave and a maximum of 3 days may be taken as bereavement leave.

The employer may approve full time / part time employees for paid compassionate and/or bereavement leave relative to 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 dies, where it can be established that a significant relationship exists.

- (f) The employer shall have the discretion to grant paid leave in addition to that described in sub-clause (e) above.
- (g) Casual employees will be entitled to take the same leave periods as detailed in clause (e) above as unpaid leave.
- (h) This sub-clause will not apply where the period of entitlement to leave coincides with any other period of entitlement to leave, including on a rostered day off.
- (i) An employee may take unpaid compassionate and/or bereavement leave by agreement with the employer.
- (j) Proof of the death or serious illness, in the form of a medical certificate, death notice or other appropriate documentation, must be provided by the employee to the employer if requested to do so.

17. CONSULTATION

- (a) Where an employer is considering a decision to introduce major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must notify the employees who may be affected by the proposed changes and their representatives, if any.
- (b) As soon as practicable the employer must discuss with the employees affected and their representatives, if any, the introduction of the changes referred to in sub-clause (a), the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees and must give prompt consideration to matters raised by the employees and/or their representatives in relation to the changes.

- (c) For the purposes of the discussion the employer will provide to the employees, and their representatives, if any, in writing:
- (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 employee(s); and
 - (iii) any other matters likely to affect the employee(s).
- (d) The employer shall give prompt and genuine consideration to matters raised about the major change by the relevant employee(s).
- (e) For the purpose of this clause, significant effects include:
- the termination of the employment of an employee(s); or
 - major change to the composition, operation or size of the employer's workforce or to the skills required of employee(s); or
 - the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - the alteration of hours of work; or
 - the need to retrain employee(s); or
 - the need to relocate employee(s) to another workplace; or
 - the restructuring of jobs; or
 - changes to the legal or operational structure of the employer or business.

Provided that where this agreement makes provision for alteration of any of these matters such alteration is deemed not to have significant effect.

- (f) Consultation about changes to rosters or hours of work
Where an employer proposes to change an employee's regular roster or ordinary hours of work, the employer must consult with the employee or employees affected and their representatives, if any, about the proposed change.

The employer must:

- (A) provide to the employee or employees affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the employee's regular roster or ordinary hours of work and when that change is proposed to commence);
 - (B) invite the employee or employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and
 - (C) give consideration to any views about the impact of the proposed change that are given by the employee or employees concerned and/or their representatives.
- (g) The requirement to consult under this clause does not apply where an employee has irregular, sporadic or unpredictable working hours.
- (h) These provisions are to be read in conjunction with other agreement provisions concerning the scheduling of work and notice requirements.

18. HEALTH AND WELLBEING LEAVE

- (k) The Employer is committed to ensuring that employees have appropriate support in relation to any issues which are affecting their ability to work. Employee assistance may be required in various situations including, but not limited to: domestic violence or any issues that arise which are outside normal leave entitlements.
- (l) The parties to this agreement recognise that employees sometimes face situations in their personal life that may affect their attendance or performance at work. Therefore the Employer is committed to providing support to staff that experience these impacts and agrees to consult with an Employee experiencing impacts referred to in this clause.
- (m) Employees will be able to access five (5) days special leave per annum for situations relating to domestic violence or family crisis by providing a leave form to the Manager.
- (n) The five days special leave will not accrue from one year till the next and it will become available to employees from the 1st July each year.
- (o) An Employee experiencing family violence may after their consultation and agreement, be referred to organisation specialists in counselling and support.
- (p) At the discretion of the Chief Executive Officer, leave pursuant to this clause may be granted without an Employee's personal leave entitlements first being exhausted.

19. FIRST AID CERTIFICATES

Employees required as part of their employment to have a current Senior First Aid certificate will be provided with paid time at ordinary hours to attend a suitable first aid course. All other costs associated with this course would also be paid for by the employer. The employer also agrees to pay the costs of a Senior First Aid course, where appropriate to employment, on the basis that it is a St John's Senior First Aid certificate, or equivalent.

PROVIDED that the employee remains employed for a period of not less than twelve months after the completion of such a course, otherwise a pro rata refund of the course costs is to be repaid by the employee upon invoice provided by the employer.

20. FLEXIBILITY

- 1. The employer and employee must genuinely agree, without duress or coercion to any variation of an Award provided for by a flexibility agreement.
- 2. An employer and employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
 - (a) the agreement deals with 1 or more of the following matters:
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and

- (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- 3. The employer must ensure that the terms of the individual flexibility arrangement:
 - (a) are about permitted matters under section 172 of the Fair Work Act 2009; and
 - (b) are not unlawful terms under section 194 of the Fair Work Act 2009; and
 - (c) result in the employee being better off overall than the employee would be if no arrangement was made.
- 4. The employer must ensure that the individual flexibility arrangement:
 - (a) is in writing; and
 - (b) includes the name of the employer and employee; and
 - (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
 - (d) includes details of:
 - (i) the terms of the enterprise agreement that will be varied by the arrangement; and
 - (ii) how the arrangement will vary the effect of the terms; and
 - (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (e) states the day on which the arrangement commences.
- 5. The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- 6. The employer or employee may terminate the individual flexibility arrangement:
 - (a) by giving no more than 28 days written notice to the other party to the arrangement; or
 - (b) if the employer and employee agree in writing — at any time.

21. FOUL AND NAUSEOUS LINEN

- (a) An allowance of 0.05% of the standard rate per hour or part thereof 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 a minimum sum of 0.36% of the standard rate for work performed in any week.

22. HIGHER DUTIES

- (a) An employee, other than an administrative employee, engaged continuously for two 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 hours, they will be paid the higher rate for the time worked.

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

- (c) An employee engaged as an administrative employee who, for a period of five consecutive working days or more, performs the duties of an employee with a higher classification, then that employee will be paid the rate applicable to the higher paid classification for the time worked.

23. HOURS OF WORK

- (a) The ordinary hours of work for full-time employees are between the hours of 6:00am and 6:00pm, Monday to Friday and:
- (i) for fulltime administrative employees, 37.5 hours each week to be worked in five days in continuous periods of 7.5 hours each day, except for a meal break of thirty minutes duration.
 - (ii) for all other fulltime employees, 38 hours per week to be worked over 19 days per four week period in continuous periods of eight hours each day, except for a meal break of thirty minutes duration.

Provided that the spread of hours or daily hours may be altered for all or a section of employees by mutual agreement between the employer and the employee(s) in the area concerned

- (b) Work performed, other than by agreement, prior to 6:00am and after 6:00pm will be paid at the relevant overtime rates but will be, for the purposes of this subclause, part of the employee's ordinary hours of work where the ordinary hours of work within the period 6:00am to 6:00pm in any week, have been less than 37.5 or 38 whichever is applicable.
- (c) 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 the employee or the employer giving the other 14 days written notice. An arrangement in writing under this subclause must be signed by the employer and the employee with one copy provided to the employee and one copy kept on the employees employment file. An employee who wishes to enter into an arrangement under this subclause must be provided with a copy of this subclause by the employer prior to the arrangement being effective. In the event of the arrangements contemplated by this subclause being discontinued, the employee/s will be returned to pre-existing conditions and must not suffer any loss or prejudice in employment whatsoever.
- (d) Part-time employees (other than a rostered employee) employed to work outside the spread of hours specified in this clause will receive penalty rates equivalent to that of a full-time employee.
- (e) Employees may be required to work to a roster, subject to the shift work (rostered employees) arrangements in this Agreement. Where an employee is required to regularly work ordinary hours outside the span of hours of 6:00am to 6:00pm, Monday to Friday that work must be in accordance with a roster.
- (f) Ordinary Hours – Rostered Employees
- (i) Where an employee is required to work in accordance with a roster, the ordinary hours of work for that employee must not exceed:
 - 8 hours in any one day; nor
 - 38 hours in any one week; nor
 - 76 hours in any 14 consecutive days; nor
 - 152 hours in any 28 day accounting period.

- (ii) 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 (one fortnight) written notice. An arrangement in writing under this subclause 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.
 - (iii) An employee who proposes to agree to enter into an arrangement under this subclause must be provided with a copy of this subclause by the employer prior to such arrangement being effective.
 - (iv) In the event of the arrangements contemplated by this subclause being discontinued, the employee/s will be returned to pre-existing conditions and must not suffer any loss or prejudice in employment whatsoever.
- (g) Accrued Days Off – (full time employees only).
- (i) Employers will where possible structure the 38-hour week in the form of one paid Accrued day off in every two consecutive fortnightly pay periods (i.e. the 19 day month).
 - (iii) Accrued days off will be rostered to fall on a day of the week other than a Saturday or Sunday. The employer will endeavour to ensure that the accrued day off is rostered to fall either on the day immediately before or immediately after a day off within the employees normal roster.
 - (iv) Where an employee is absent on leave without pay 24 minutes (0.4 hours) for each day of absence shall be deducted from the accrued day off.
 - (iv) Days of paid absence on holidays with pay and other paid leave will count toward the accrued day off on full pay.
 - (v) Where an accrued day off falls on a holiday with pay as listed in the Holidays with Pay Clause in this Agreement, a substituted accrued day off should be taken as soon as possible.
 - (vi) Holidays with pay as provided for in the Holidays with Pay Clause in this Agreement which are taken accrue towards an accrued day off.
 - (vii) The employer must keep accurate records of accrued days off arrangements in the wages records.
- (h) Daylight Savings
- (i) Where an employee does not work the start of daylight saving but works the end of daylight saving shift, they will be paid for hours actually worked.

24. INFLUENZA AND PANDEMIC VACCINATIONS

- (a) Vaccinations are free however if there is a necessity to pay or travel to receive a vaccination then written pre-approval must be obtained from the Chief Executive Officer.
- (b) The employer will provide influenza vaccinations at no cost to employees annually.
- (c) 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) 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.

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.

(d) Schedule Y—Industry Specific Measures During the COVID-19 Pandemic

Y.1 Schedule Y applies to employees engaged in the aged care industry.

Y.2 For the purposes of Schedule Y, the aged care industry means the provision of accommodation and care services for aged persons in a hostel, nursing home, aged care independent living units, aged care serviced apartments, garden settlement, retirement village or any other residential accommodation facility.

Y.3 Paid pandemic leave

Y.3.1 Subject to clauses Y.4 to Y.4.9, an employee engaged in the aged care industry is entitled to take up to 2 weeks' paid pandemic leave on each occasion the employee is prevented from working (including working from home):

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

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

(c) 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;

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

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

Y.3.2 Except where clause Y.4.1(b) applies, the employee must give their employer notice of the taking of leave under clause Y.4.1 and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

Y.3.3 An employee required on the advice of a medical practitioner to self isolate who has given their employer notice of taking leave under clause Y.4.2 must, if required by the employer, produce a medical certificate.

Y.3.4 Except where clauses Y.4.1(b) or Y.4.3 apply, an employee who has given their employer notice of taking leave under clause Y.4.2 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 Y.4.1.

Y.3.6 An employee cannot take paid pandemic leave under clause Y.4.1 if the employee could instead take paid personal/carer's leave.

NOTE:

Personal/carer's leave is provided for in the NES. Section 97 of the Act sets out the circumstances in which an employee may take personal/carer's leave. An employee who is prevented from working for one of the reasons set out in Y.4.1 may not be entitled to take personal/carer's leave if they are not unfit for work because of a personal illness or injury.

Y.3.7 An employee cannot take paid pandemic leave under clause Y.4.1 if the employee becomes entitled to workers compensation benefits as a result of contracting COVID-19.

Y.3.8 An employee will not be entitled to paid pandemic leave unless the employee

- (a) has undertaken a COVID-19 test in connection with the applicable circumstance in clause Y.4.1; or
- (b) undertakes a COVID-19 test at the earliest opportunity.

Y.3.9 A casual employee is not entitled to leave under clause Y.4.1 unless engaged on a regular and systematic basis.

Y.3.10 Leave taken under clause Y.4.1 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.

Y.3.11 For a full-time employee, leave taken under clause Y.4.1 shall be paid at the employee's base rate of pay for the employee's ordinary hours of work in the period of the leave.

NOTE:

The base rate of pay has the meaning given in section 16 of the Act.

Y.3.12 For a part-time employee, pay for leave taken under clause Y.4.1 will be the greater of:

- (a) their agreed ordinary hours of work under clause 10.3(b); or
- (b) the average of their weekly ordinary hours of work for the previous 6 weeks.

Y.3.13 For a casual employee, pay for leave taken under clause Y.4.1 shall be calculated on the average weekly pay received by the employee in the previous 6 weeks, or where the employee has been employed for less than 6 weeks, for the duration of their employment.

NOTE 1:

An employee covered by this Enterprise Agreement who is entitled to the benefit of Schedule Y 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.

25. LONG SERVICE LEAVE

Long Service Leave entitlements shall be in accordance with the Long Service Leave Act 1976. This means an employee will be entitled to access 8.6667 weeks leave after 10 years' service.

This will also apply to payment of a pro-rata leave entitlement to any employee who resigns after 10 years of continuous service.

26. MEAL ALLOWANCE

(a) Meal Allowance –

Where an employee is required to travel away from their usual place of employment, and are away during meal times and purchase a meal at any commercial outlet, then they will be paid a meal allowance as per Schedule B.

27. MEAL BREAKS

(a) Meal Breaks – day workers

- (i)** Day work employees who work in excess of five (5) hours on any day shall be entitled to a paid meal break of 30 minutes duration.
- (i)** The duration of the meal break may be altered by written agreement between the Employer and an individual employee.

(b) Meal Breaks – shift workers (rostered employees)

Shiftwork employees who work in excess of five (5) hours on any day shall receive a paid meal break of 30 minutes. The meal break counts as time worked.

- (c) Employees shall be entitled to two separate paid 10 minute rest break (in addition to the paid meal break) during each ordinary shift of 7.6 hours or more.
- (b) Subject to mutual agreement, such rest breaks may alternatively be taken as one 20 minute rest break.
- (c) Where less than 7.6 ordinary hours are worked, employees will be allowed one paid 10 minute rest break in each four hour period worked.

Any employee who due to operational reasons or at the direction of management does not achieve a meal break after 6 hours of work shall be paid 150% of their normal hourly rate until such time as a meal break is achieved or the employee completes their *rostered* shift.

28. MODES OF EMPLOYMENT

- (a) Employees under this Agreement will be employed in one of the following categories:
 - (i) full-time;
 - (ii) part-time; or
 - (iii) casual.

At the time of engagement the employer will inform each employee whether they are employed on a full-time, part-time or casual basis. The employer will provide the employee with a Position Description detailing the duties that are within the limits of the employee's skill, competence and training, consistent with the respective classification.

- (b) Full-time employees
A full-time employee is one who is engaged to work 38 hours per week.
- (c) Part-time employees
 - (i) A part-time employee is an employee who is engaged to work less than 38 hours per week and has predictable hours of work each week.
 - (i) Before commencing part-time employment, the employer and 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.
 - (iii) Any agreed variation to the hours of work will be in writing.
 - (iv) The terms of this agreement will apply on a pro rata basis to part-time employees on the basis that the ordinary weekly hours for full-time employees are 38.
 - (v) The minimum engagement for a part time employee is two hours.
- (d) Casual employees
 - (i) A casual employee is an employee engaged as such on an hourly basis, other than as a part-time, full-time or fixed term employee, to work up

to and including 38 ordinary hours per week. The work pattern will be irregular and unpredictable.

- (ii) A casual employee will be paid per hour worked at the rate of 1/38th of the weekly rate appropriate to the employee's classification. In addition, a loading of 25% of that rate will be paid instead of the paid leave entitlements accrued by permanent employees.
 - (iii) A casual employee shall be entitled to the penalty rates provided for under this agreement as applied to a full time employee.
 - (iv) The minimum engagement for a casual employee is two hours.
 - (v) A casual employee who has been rostered on a regular and systematic basis over a period of 26 weeks has the right to request conversion to permanent employment. An employee, who does not make a request within four weeks of the right to request falling due, is deemed not to have elected to convert.
 - (vi) The permanent employment contract would generally be on the basis of the same number of hours as previously worked: however, the hours must be capable of fitting within the existing shift and rostering arrangements. Other arrangements may be implemented by agreement between the employer and the employee.
 - (vii) The employer may consent to or refuse the request but shall not unreasonably withhold agreement to such a request and must provide in writing the reasons for refusal upon request.
- (d) Where a casual works overtime they must be paid the relevant overtime rate in clause 29(f).

29. OVERTIME

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

For the purposes of this clause overtime means:

- (i) Work in excess of eight hours per day except where ordinary hours are extended in accordance with the hours of work clause in this Agreement, in which case it is hours in excess of 10 hours per day.
 - (ii) Work in excess of 38 hours per week except where an employee receives an accrued day off in accordance with the hours of work clause in this Agreement, in which case it is hours in excess of 40 hours per week.
 - (iii) Work outside the span or ordinary hours 6:00am to 6:00pm except where agreement is reached in accordance with the hours of work clause in this Agreement.
- (b) For a part-time employee, all time worked in excess of their rostered ordinary hours on any one day or outside the agreed hours specified in Clause 27 will be paid at overtime rates. Except when a part time employee agrees in writing (pursuant to Cl. 27(c)(iii) to work extra shifts on the understanding those shifts

will be paid at the normal hourly rate. Any time worked in excess of fulltime hours will be paid at the relevant overtime rate.

- (c) For all time worked in accordance with subclause (a) 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 of the applicable hourly rate (including loadings) for the first two hours and double time thereafter.
 - (ii) For all authorised overtime on a Saturday or Sunday, payment will be made at the rate of double time.
 - (iii) For all authorised overtime on a public holiday, payment will be made at the rate of double time and a half.
 - (iv) The overtime penalty rates provided in this clause shall not apply to an employee where arrangements have been made between two or more employees at their own instigation, to swap hours or their rostered shift. In this situation, the employee shall not be deemed to have worked overtime provided that they have swapped the equivalent hours with another employee.
 - (v) Each day's overtime will stand alone.
- (d) Unless the period of overtime is one and a half hours or less, an employee before starting overtime will be allowed a paid meal break of 20 minutes paid at ordinary rates. An employer and an employee may agree to any variation of this provision to meet the circumstances of the work. No employee will be required to work more than five hours without a meal break.
- (e) An employee required to work for more than one hour overtime without being notified on the previous day or earlier that they will be required to work overtime, will be supplied with a meal.

When such overtime work exceeds four hours a further meal will be supplied or an allowance of \$11.98 will be paid.
- (f) The calculation of the overtime payments provided for in this clause for a casual employee will be calculated by adding the casual loading to the hourly rate (plus any all-purpose allowance payable) before applying the overtime rates stated for fulltime or part time employees.
- (g) Eight Hour Break between Shifts
 - (i) 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 consecutive hours off duty between those time, will, subject to this clause, be released after completion of such overtime until they have had eight consecutive hours off duty without loss of pay for ordinary working time occurring during hours off duty.
 - (ii) If on the instructions of the employer the employee resumes or continues work without having had eight consecutive hours off duty they will be paid at double time rates until released from duty for such period, and will then be entitled to be absent until they have eight

consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

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

30. PARENTAL LEAVE AND RELATED ENTITLEMENTS

Employees will be eligible for parental leave entitlements as per the requirement of the National Employment Standards (NES) and any other form of legislated entitlements.

Paternity Leave –

Two (2) weeks ordinary pay is to be paid at the time of this being taken prior to the birth of the child.

Parental Leave –

Four (4) weeks of ordinary pay is to be paid at the time of this being taken prior to the birth plus;

An additional three (3) weeks ordinary pay is to be paid during the first full payroll period following the employee's return to work.

Employees will be required to provide the Employer with information necessary to finalise their entitlements and must provide the Employer with this requested information.

Employees on paid parental leave will receive payment of the relevant superannuation guarantee which will be paid at the rate which is applicable at the time when the employee is on paid parental leave.

31. PAYMENT OF WAGES

- (a) Wages will be paid fortnightly. Once a pay day is established, that pay day shall not be changed without consultation with employees and the giving of at least one months' notice.
- (b) Wages will be paid by electronic funds transfer into the bank or financial institution account nominated by the employee.

32. PAY SLIPS

That in addition to the requirements under the Fair Work Act 2009 the employer will include the amount of Annual Leave and Personal Leave accrued on employees' payslips.

33. PERSONAL LEAVE

This clause applies to employees, other than Casual employees.

- (a) Paid Personal Leave

- (i) Entitlement to paid personal leave:

(1) Subject to subclause (b) below, for each year of service with the employer the employee is entitled to 10 days of paid personal leave.

(2) An employee's entitlement to paid personal leave accrues progressively during a year of service according to the employee's ordinary hours of work.

(ii) Taking paid personal leave

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

(1) because the employee is unfit for work because of a personal illness, or personal injury, affecting the employee; or

(2) 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:

- a personal illness, or injury, affecting the member; or
- an unexpected emergency affecting the member.

(iii) The notice and evidence requirements of clause (c) below must be complied with.

(iv) An employee is taken *not* to be on paid personal leave on public holiday. If the period during which an employee takes paid personal leave includes a day or part-day that is a public holiday in the place where the employee is based for work purposes, the employee is taken not to be on paid personal leave on that public holiday.

(v) Payment for paid personal leave

If, in accordance with this clause, an employee takes a period of paid personal/carer's leave, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work in the period.

(b) "Additional Carer's" leave

(i) In addition to 10 days paid personal leave, each employee is entitled to an additional 10 days per annum (pro-rata for part time employees) that is not cumulative from year to year, that can be used for the purpose of carer's leave as specified in (a) (ii) (2) above.

(ii) Each year commencing from the day of commencement of this agreement and then on each anniversary during the life of this agreement, every employee (excluding casuals) will accrue separate to personal leave an additional 10 days for the following period of 12 months only. To avoid doubt at the end of the 12 month period any unused additional carer's leave that has not been used will expire, to be replaced with a new accrual which commences from day one of the anniversary date of the commencement of this agreement.

- (iii) Accrued additional carer's leave may be used before the cumulative personal, as provided in subclause (a). Provided that the additional carer's leave cannot be used for personal leave as specified in (a) (ii) (1) above.
 - (iv) An employee claiming additional carer's leave is required to provide evidence of such claim when requested by the employer. Evidence can include by supplying medical certificate, statutory declaration or other such evidence with which the employer is satisfied.
- (c) Notice and Evidence Requirements
 - (i) Notice
 - (1) An employee must give to his or her employer notice of the taking of leave under this Clause by the employee.
 - (2) The notice:
 - must be given to the employer as soon as reasonably practicable, preferably with a minimum of 2 hours before the staff member is rostered. and
 - must advise the employer of the period, or expected period, of the leave.
- (d) Evidence Requirements:
 - (i) Employees are required to provide evidence that would satisfy a reasonable person for each period in which they claim personal/carer's leave or "additional carer's" leave, that would satisfy a reasonable person that:
 - (1) If it is paid personal/carer's leave or "additional carer's" leave, the leave is taken for a reason specified in subclause (a)(i) above; or
 - (2) If it is unpaid carer's leave – the leave is taken for a permissible occasion in a circumstance specified in subclause (g) or (h) below.
 - (ii) An employee is not entitled to take leave under this clause unless the employee complies with subclause (d)(i) above. PROVIDED THAT each employee shall be entitled to four single days of personal carer's leave/"additional carer's" leave each year of employment without the required evidence. The four days are not cumulative.
 - (iii) In the event of an outbreak of an infectious nature at the facility, where staff are directed to not attend the workplace, staff will not be required to produce evidence.
 - (iv) Acceptance of medical certificates from other professional health practitioners shall be accepted, e.g. physio, osteopath, chiropractor, dentist etc.

(e) Personal Leave during Annual Leave

An employee, who is certified as unfit for duty because of personal illness by a medical practitioner during a period of annual leave, will be given credit for the time so certified and the paid annual leave will be extended by the number of days that the employee has been so certified as unfit for duty.

(f) Personal Leave Year

A year for the purposes of this clause means 365 days' employment including rostered days off, holidays with pay, paid annual leave and paid personal leave.

(g) Unpaid Personal Leave

Where an employee has exhausted all paid personal leave entitlements, they are entitled to take unpaid personal leave to care for members of their immediate family or household who are sick and require care and support or who require care due to an unexpected emergency. The employer and the employee will agree on the period. In the absence of agreement, the employee is entitled to take up to two days (up to a maximum of 16 hours) per occasion, provided the requirements of subclauses (c) and (d) above are met.

(h) Employees in Receipt of a Loading in lieu of Paid Leave

- (i) Subject to the evidentiary and notice requirements in subclauses (b) and (c) above, casual employees are entitled to take unpaid leave if they need to care for members of their immediate family or household who are ill or injured and require care or support, or who require care or support due to an unexpected emergency, or the birth of a child.
- (ii) The employer and the employee will agree on the period for which the employee will be entitled unpaid leave.
- (iii) 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.

34. POLICE CHECKS

Where the employer requires the employee, whether as a result of a legislative requirement or not, to have or renew a Police Check, the employer will cover the cost. This provision will also apply to the requirement for a pre-employment Police Check.

Where the employer is in the possession of an employee Police Check, that Police Check will not be provided to any third party without the employees express and written permission, unless as required by law.

35. PUBLIC HOLIDAYS

- (a) All employees (other than casuals) are entitled to the following holidays with pay:

Christmas Day, Boxing Day, New Year's Day, Australia Day, Eight Hours' Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Royal Launceston Show Day, and Recreation Day and any day prescribed, in lieu of or made additional to, these public holidays by the Statutory Holidays Act 2000 (Tasmania).

Arrangements for the above public holidays shall be as per the Statutory Holidays Act 2000 (Tasmania).

Payment for working on a public holiday

(b) Full-time day workers

A full-time day work employee shall, in addition to their ordinary pay for work performed on a public holiday, may elect to receive one of the following:

- (i) An additional loading of 150%; or
- (ii) Have the same number of hours worked added to their annual leave accrual.
- (iii) The election in clause 0 and (ii) above will be made on the commencement of employment and then on the anniversary date each year. The employer may not alter such election during the year except with the agreement of the employer.

A full-time employee this is not required to work on a public holiday will be paid for their rostered ordinary hours at their ordinary pay for that day.

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.

(c) Part-time day workers

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

A part-time employee will, in addition to their ordinary pay for work performed on a public holiday, elect to receive one of the following:

- (i) An additional loading of
 - a) , 150%; or,
- (ii) have the same number of hours worked added to their annual leave accrual. The 17.5% annual leave loading shall not apply to leave credited under this clause.

The election in clauses above will be made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer.

A part-time employee who is not required to work on a public holiday will be paid for their rostered ordinary hours at their ordinary pay for that day.

- (iii) 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.

(d) Shift Workers

Rostered employees (shift workers) are compensated for public holidays as per clause 12(c)(ii). For those employees that opt to receive payment of a penalty rate for public holidays worked, rather than additional annual leave, shall be entitled to receive, in addition to their ordinary pay for work performed on a public holiday, the applicable penalty rate below:

- a) 150%

The election of a rostered employee (shift worker) to either receive additional annual leave as per clause 12(c)(ii) or the applicable penalty rate above will be

made on the commencement of employment and then on the anniversary date each year. The employee may not alter such election during the year except with the agreement of the employer.

A rostered employee (shift worker) will only be entitled to the above penalty payment for those public holidays that they are required to work.

Payments under this sub-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

(e) **Casual employees**

- (i) A casual employee will be paid only for those public holidays they work at 275% of the ordinary hourly rate for hours worked.
- (ii) The rates prescribed will be in substitution for and not cumulative upon the casual loading prescribed and weekend rates prescribed.
- (iii) 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.

36. REDUNDANCY PROVISIONS

- (a) The parties agree that it is not desirable to lose the services of staff members through redundancy. It is the parties preferred option to seek redeployment and retraining opportunities within the organisation should the occasion arise.
- (b) **Commitment to consult**

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.

Where the employer believes that it may be necessary to make one or more positions within the enterprise redundant, or reduce or alter hours that causes a loss of employee's income, the employer agrees to notify relevant employees and their representatives, if any, and to commence a process of ongoing consultation in accordance with the Consultation Term of this Agreement.

- (c) **Redeployment and Retraining**

In the event of a position being made redundant, or an employee's hours are reduced or altered which causes a loss of an employee's income, the following shall apply:

- (i) The employer will actively explore all internal redeployment opportunities for staff surplus to requirements.
- (ii) A staff member seeking redeployment may be retrained for an available position on condition that the staff member can demonstrate that he or she possesses the necessary capacity for that position.

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

(iv) All reasonable attempts will be made to ensure that a staff member's area of choice, hours of work, previous employment classification and previous roster patterns are met.

(d) Notice of Redundancy

The employer undertakes to provide the maximum possible notice of the need to make a position(s) redundant or reduce or alter hours which causes a loss of employee's income. In all cases however, the minimum period of notice for employee's subject to termination or reduction or alteration of hours which causes a loss of employee's income, will be as per the National Employment Standards.

(e) Redundancy

In the event that it is necessary for the employer to make a position(s) redundant, or reduce or alter hours which causes a loss of employees income, the employer will, in the first instance, seek expressions of interest from all staff, in volunteering for a redundancy package.

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

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, either as a result of a position(s) being redundant or through the reduction or alteration of a position(s) hours which causes a loss of an employee's income, the employer will be entitled to take into account the operational requirements of the business.

(f) Redundancy Package

(i) Where redeployment or retraining opportunities are not available, the separation package to be paid to redundant staff is as follows:

- (1) Period of notice in accordance with the NES based on an employee's period of continuous employment;
- (2) Redundancy pay in accordance with the NES based on an employee's period of continuous employment;
- (3) Full payment of all accrued annual leave entitlements;
- (4) Payment of pro rata long service leave after seven (7) years of continuous service.

(ii) Where an employee is not offered similar hours or hours are altered (other than by a normal change of roster in accordance with the Award) which

causes a loss of income the employer will pay a partial redundancy to such employees as are adversely affected as follows:

Redundancy payment = existing weekly rate – new weekly rate x redundancy pay entitlement under the NES based of period of continuous service.

- (iii) A weeks pay shall mean the ordinary hours worked per week as averaged over the previous three months, excluding any period of leave or other extraordinary absence such as leave without pay, paid at the employee's ordinary base rate of pay for their classification.
- (g) Time off to seek other Employment
 - (i) All employees who are made redundant shall be given assistance by the employer in seeking suitable alternative employment. Such employees will be granted a minimum of one day's time off without loss of pay during each week of notice for the purpose of seeking other employment or to make arrangements for training or re-training.
 - (ii) If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee must, at the request of the employer, produce proof of attendance at an interview or they will not be entitled to payment for the time absent.

37. ROSTERING

- (a) 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. The roster will be based on a 28 day cycle and will be displayed at least two weeks prior to the commencing date of the first working period in any roster, provided it is not obligatory for the employer to display any roster of the ordinary hours of work of casual or relieving staff.
- (b) Rostered employees, other than a casual employee, will be entitled to eight full days free from work in each 28 day cycle. Where practicable, 2 days off in each 7 day cycle, and those days off will be consecutive.
- (c) There will be at least 9 hours between the completion of a shift and the commencement of another shift for any employee, unless by mutual agreement between the employer and employee this time is agreed to be a minimum of 8 hours.
- (d) Broken shifts may be worked by mutual agreement between the employer and the employee. The span of hours to include the broken shifts is not to be more than 12 hours. Payment is for the time worked only, as if the shift were not broken, however, work outside the span of 12 hours is to be paid at double time. Payment for a broken shift will be at ordinary pay rates and shift allowances, with shift allowances being determined by the finishing time of the broken shift.
- (e) Unless mutually agreed, 14 days' notice will be given by the employer of a change in a roster. Mutually agreed includes where a part time employee accepts more hours to cover shift requirements.

- (f) Where occasion arises that due to illness or in an emergency or for any other reason beyond the employer's control an employee is absent and no replacement employee has volunteered to accept additional hours or change roster times, then the roster may be altered at any time to enable the service of the organisation to be carried out.

38. SALARY PACKAGING

- (a) The rate of pay specified in this Agreement may be packaged in accordance with the employer's salary packaging program.
- (b) The employer agrees to permit all employees covered by this Agreement who elect in writing to do so, to convert a proportion of their base salary, up to the amount allowed in the relevant legislation, to packaged benefits.
- (c) The Employer agrees that the terms and conditions of such a package must be subject to the following provisions:
 - (i) overtime and shift penalties must be calculated on the salary level which would have applied to the employee in the absence of the employee participating in salary packaging under the terms of this Agreement;
 - (ii) non salary packaged benefits must be paid for any period in respect of which the employee is paid wages or the equivalent, including but not limited to worker's annual or other leave with pay;
 - (iii) 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 be advised that they may immediately cease the salary packaging agreement subject to fees and conditions applied by the Salary Packaging Provider until such time as the employee is no longer entitled to such workers compensation payments. Any outstanding benefit still due under this Agreement will be paid as salary less PAYG withholding tax;
 - (iv) in the event that the employee ceases to be employed by the employer this Agreement will cease to apply as at the date of termination and all entitlements due on termination will be paid at the wage rate provided for in this Agreement. Any outstanding benefit still due under this Agreement upon termination will be paid as salary less PAYG withholding tax;
 - (v) superannuation payments required to be paid under the 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) as amended from time to time must be calculated on the Agreement rate of pay as if no salary packaging agreement was in place;
 - (vi) annual leave loading entitlements must be calculated on the Agreement rate of pay as if no salary packaging agreement was in place;

- (vii) employees who have entered into a salary packaging agreement must be given the opportunity to review such agreements annually, and to amend or withdraw from such an agreement;
- (d) No employee, as a result of entering into a salary packaging agreement, shall receive less, in wages and benefit, than currently provided for in this Agreement.
- (e) The employer further agrees that in the promotion and implementation of salary packaging to employees it will advise each employee in writing:
 - (i) that there is no compulsion for any employee to participate in salary packaging;
 - (ii) that all employment conditions, other than salary packaging as provided for in this Agreement, will continue to apply;
 - (iii) that the structure of any agreed package complies with taxation and other relevant laws;
 - (iv) that they should consult with a financial adviser prior to signing any salary sacrifice agreement. To facilitate this, the employee must be provided with a copy of any proposed agreement prior to being required to sign such an agreement;
 - (v) that the payment of union dues may form part of salary sacrifice packages;
 - (vi) of the right of the employee to inspect details of the payments and transactions made under the terms of this agreement and for this purpose, where such details are maintained electronically, the employee must be provided with a printout of the relevant information;
 - (viii) 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 the employee must give one months' notice in writing and the employer must give three months' notice in writing, except in circumstances in which an employee ceases to be employed by the employer.

39. SATURDAY AND SUNDAY WORK - ROSTERED EMPLOYEES

- (a) Employees whose ordinary working hours include work on a Saturday and/or Sunday, will be paid for ordinary hours worked between midnight on Friday and midnight on Saturday at the rate of time and a half and for ordinary hours worked between midnight on Saturday and midnight on Sunday at the rate of double time. These extra rates will be in substitution for and not cumulative upon the shift premiums prescribed.
- (b) 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 –225% of the ordinary hourly rate.

- iii. The rates prescribed in clause 39 will be in substitution for and not cumulative upon the casual loading prescribed.

40. SCOPE OF WORK PERFORMED

An employer may only direct an employee to carry out such duties as are within the limits of those duties outlined in classifications described in Schedule B and that are consistent with the position description for each of those classifications.

41. SHIFT LOADING – ROSTERED EMPLOYEE

- (a) A Rostered Employee who works an afternoon shift (meaning the rostered employee works some or all of their hours between 3:00pm and 11:00pm) shall be paid a loading of 15% of the ordinary hourly rate.
- (c) A Rostered Employee who works a night shift (meaning the rostered employee works some or all of their shift between 11:00 pm and 7:00am) shall be paid a loading of 17.5% of the ordinary hourly rate.

42. SUPERANNUATION

- (a) Superannuation legislation
 - (i) 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, any superannuation fund nominated in this Agreement covering the employee applies.
 - (ii) The rights and obligations in this clause supplement those in superannuation legislation.
- (d) The employer must pay to the relevant superannuation fund a superannuation amount no later than 28 days after the end of each month
- (c) Voluntary employee contributions
 - (i) Subject to the governing rules of the relevant superannuation fund, an employee may, in writing, authorise their employer to pay on behalf of the employee a specified amount from the post-taxation wages of the employee into the same superannuation fund as the employer makes the superannuation contributions provided for in subclause (b).
 - (ii) An employee may adjust the amount they have authorised their employer to pay from their wages from the first of the month following the giving of one month's written notice to their employer.

- (iii) The employer must pay to the relevant superannuation fund the amount authorised under paragraphs (i) or (ii) of this subclause no later than 28 days after the end of the month in which the authorised deduction was made.

(d) Superannuation fund

Unless, to comply with superannuation legislation, the employer is required to make the superannuation contributions provided for in subclause (b) to another superannuation fund that is chosen by the employee, the employer must make the superannuation contributions provided for in subclause (b) and pay the amount authorised under subclauses (d)(i) or (d)(ii) to Hesta Super Fund (Health Employees Superannuation Trust Australia) or any other action required to comply with Superannuation legislation.

43. TERMINATION OF EMPLOYMENT

- (a) Notice of termination is provided for in the National Employment Standards (NES).
- (b) The notice of termination required to be given by an employee is the same as that required of an employer except that there is no requirement on the employee to give additional notice based on the age of the employee concerned.
- (c) If an employee does not give the period of notice specified in clause 43 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 actual period of notice actually given.
- (d) Upon termination, the employee must without any further demand deliver to the Employer.
 - (i) Documents in their possession or control relating in any way to any trade secret and/or intellectual property and/or confidential information, or the business or affairs of the Employer or any member of the Employer's related entity; AND
 - (ii) Any Employer property including but not limited to unused uniforms, keys, swipe cards.

44. TRAVEL ALLOWANCE

- (a) Where an employee is required to travel to clients the travel time will count as time worked.
- (b) An employee required and authorised to use their own motor vehicle in the course of their duties will be paid an allowance equivalent to the higher of \$0.80 per kilometre or prevailing Australian Tax Office rate.
- (c) When an employee is involved in travelling on duty, if the employer cannot provide the appropriate transport, all reasonably incurred expenses in respect to fares, meals and accommodation will be met by the employer on production of receipted account(s) or other evidence acceptable to the employer.

45. UNIFORMS

- (a) Employees, other than Executive Staff, shall be provided free of cost, by the employer, suitable and serviceable uniforms as detailed in clause 44(b).

- (b) The Employer will supply on appointment, to all employees under this agreement, an approved Medea Park uniform, incorporating the official logo, of two tops and one bottom. Yearly thereafter in October, to all employees under this agreement, an approved Medea Park uniform, incorporating the official logo, of two pieces, usually one top and one bottom.

Replacement of uniforms will be annually or through normal 'wear and tear'.

- (c) An employee, on leaving the service of the employer, shall return any uniform or part thereof provided by that employer immediately prior to leaving.
- (c) Employees can utilise workplace facilities for the laundering of their uniforms.

46. UNION DELEGATES RIGHTS

- (a) It is recognised that union delegates or elected workplace representatives, with approval of the Union will participate in the following duties free from any discrimination in their employment when it is required to do so:
- represent the interests of members to the employer;
 - consult with union members and other employees for whom the delegate is a bargaining representative;
 - participate in the operation of the Union which includes representing members on workplace issues;
 - represent members on any relevant consultative committee at the workplace.
 - attend union education;
 - address new employees about the benefits of union membership at the time that they enter employment;
 - attend courses conducted by an approved training provider, that are designed to provide skills and competencies that will assist the delegate or workplace representative contribute to the prompt resolution of disputes and or grievances in the workplace;
 - attend union annual Delegates Conference
- (b) It is recognised that union training leave is in most instances unpaid, however an employee can make application to the employer for paid union training leave. Paid union training leave will be only granted by the discretion of the employer. The application to the employer must be in writing, include the nature, content and duration of the course to be attended, and normally be provided with 14 days' notice of the proposed training.
- (c) An employee can also make application for non-paid training leave. This leave is subject to the employer agreeing to release the delegate from their normal roster if the delegate was rostered to work during the time of leave. Normally, 14 days' notice of the proposed training is required.
- (d) The granting of any leave pursuant to this clause shall be subject to the employer being able to make adequate staffing arrangements amongst current employees during the period of such leave. The employer shall not use this subclause to avoid an obligation under this clause.

- (e) Leave of absence granted pursuant to this clause, shall count as service for all purposes of this Agreement. Subject to such leave of absence not exceeding three days at any one time and or five days annually.
- (f) Each employee on paid leave approved in accordance with this clause, shall be paid at ordinary time earnings. For the purpose of this subclause "ordinary time earnings" for an employee means the classification rate, over-award payment, superannuation and shift loading, which otherwise would have been payable.
- (g) All expenses (such as travel, accommodation and meals) associated with or incurred by the employee attending a training course as provided in this clause shall be the responsibility of the employee or the Union.
- (h) An employee may be required to satisfy the employer of attendance at the course to qualify for leave.
- (i) An employee granted leave pursuant to this clause shall, upon request, inform the employer and employees generally of the nature of the course attended and their observations on it.

47. WAGE INCREASES

- Refer to Schedule A.

48. WORKLOADS

The Employer is committed to ensuring that staffing levels are appropriate to deliver the level of care required by the accreditation principles.

Where staff feel that workloads are excessive or lacking on a consistent basis, then they should report this in writing to their direct Manager.

If no appropriate action is taken, staff should raise the issue with the Chief Executive Officer.

Minutes must be taken by the Manager or Chief Executive Officer of any workload complaints and a written response provided to the employee(s) within 14 business days.

Should further investigation be required the Manager or Chief Executive Officer must provide a timeline to the employee and update them on a fortnightly basis in relation to the matter.

49. FUTURE NEGOTIATIONS

- (a) The employer agrees to commence bargaining for a new enterprise agreement to succeed this agreement at least 3 months before the nominal expiry date of this agreement with the intention of concluding these negotiations prior to the nominal expiry date.
- (b) Should negotiations for a new enterprise agreement not be finalised prior to the nominal expiry date of this agreement, existing rates of pay and conditions will continue to be observed in terms of this agreement for all relevant employees.

SIGNATORIES

FOR MEDEA PARK ASSOCIATION INCORPORATED:

This agreement is signed by Deborah Austen in her capacity as the Chief Executive Officer of Medea Park Association Incorporated.

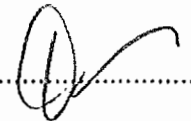
Ms D Austen work address is:

17 Circassion Street
ST HELENS TAS 7216

As the Chief Executive Officer of Medea Park Association Incorporated, Ms D Austen has the authority to sign the Agreement on behalf of the employer.

Deborah Austen
Chief Executive Officer
Medea Park Association Incorporated

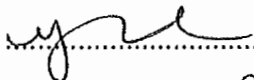
Signature


.....

Date

8.8.2022
.....

Witnessed by (signature)


.....

Witness name in full

Yvette Castles
.....

Witness address

158 Ansons Bay Road
St Helens 7216

FOR THE HEALTH AND COMMUNITY SERVICES UNION (Tasmania):

This agreement is signed by T Jacobson in his capacity as the Secretary of the Health and Community Services Union.

Mr Jacobson's work address is: 11 Clare Street, New Town, Tasmania, 7008

As the Secretary of the Health and Community Services Union (Tasmania), Mr Jacobson has the authority to sign the Agreement on behalf of employees who are members of the Health and Community Services Union and are employed pursuant to this Agreement.

Mr Timothy Jacobson
Secretary
Health and Community Services Union (Tasmania)

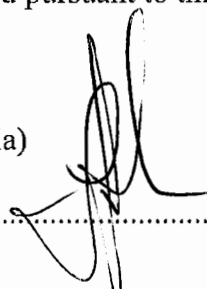

Signature

Date

Witnessed by (signature)

Witness name in full

Witness address


.....
8/8/22 :
.....
 James Milligan
.....
11 Clare St New Town
.....
Tas 7008
.....

FOR AUSTRALIAN NURSING & MIDWIFERY FEDERATION (Tasmanian Branch)

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

Mr Shepherd's work address is: 182 Macquarie Street, Hobart, Tasmania, 7000

As the Secretary of the Australian Nursing and Midwifery Federation, Ms Shepherd 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.

Emily Shepherd
Secretary
Australian Nursing & Midwifery Federation (Tasmanian Branch)

Signature

Date

Witnessed by (signature)

Witness name in full

Witness address

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Schedule A – Wage Rates

Wage rates will be as paid as per Schedule A – Wage Rates, however where the relevant Award rate does increase to a rate above the stated wages in Schedule A, then the higher ordinary wage rate will be paid.

First full pay period on or after 1 July 2022			
	Jul-20	Jul-21	Jul-22
Aged Care Employee Level 1	21.248	21.779	22.628
Aged Care Employee Level 2	21.120	22.672	23.556
Aged Care Employee Level 3	22.991	23.566	24.485
Aged Care Employee Level 4	23.268	23.849	24.779
Aged Care Employee Level 5	24.057	24.658	25.620
Aged Care Employee Level 6	25.348	25.982	26.995
Aged Care Employee Level 7	25.180	26.455	27.487

Schedule B – Classifications

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 tasks performed at this level are:

Service and Administrative Duties	Catering services
General Clerk or Administrative Assistant Laundry Assistant Cleaner Assistant Gardener	Catering 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 tasks performed at this level are:

Service and Administrative Duties	Catering services	Personal care
General clerk/ Administrative Assistant (between 3 months' and less than 1 year's service) Laundry Cleaner Gardener (non-trade) Maintenance/Handyperson (unqualified) Driver (less than 3 ton)	Catering Assistant	Personal Care Worker Grade 1 (Currently named Extended Care Assistant)

Aged care employee—level 3

An employee at this level:

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

Indicative tasks performed at this level are:

Service and Administrative Duties	Catering services	Personal care
General clerk/Typist (second and subsequent years of service) Receptionist Pay clerk Driver (less than 3 ton) who is required to hold a St John Ambulance first aid certificate	Catering Officer	Personal Care Worker Grade 2 (Currently named Extended Care Assistant)

Aged care employee—level 4

An employee at this level:

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

Indicative tasks performed at this level are:

Service and Administrative Duties	Catering services	Personal care
Senior clerk Senior receptionist Maintenance/Handyperson (qualified) Driver (3 ton and over) Gardener (trade or TAFE Certificate III or above)	Catering Officer (trade)	Personal Care Worker Grade 3 (Currently named Extended Care Assistant) Recreational/Lifestyle/Activities officer (unqualified)

Service and Administrative Duties	Catering services	Personal care
		Community and Home Based Care Employees.

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, and/or relevant skills training or experience. Must hold a relevant qualification (Certificate IV or higher) in an Aged Care specific course and/or holds current Medication Endorsement.

Indicative tasks performed at this level are:

Service and Administrative Duties	Catering services	Personal care
Secretary interpreter (unqualified)	Catering Supervisor	Personal Care Worker Grade 4 (Currently named Extended Care Assistant) – participates in medication endorsement Recreational/Lifestyle/Activities officer (qualified)

Aged care employee—level 6

An employee at this level:

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

- may require formal qualifications at post-trade or Advanced Certificate or Associate Diploma level and/or relevant skills training or experience.

Indicative tasks performed at this level are:

Service and Administrative Duties	Catering services
Senior Maintenance tradesperson Senior Gardener	Senior Chef

Aged care employee—level 7

An employee at this level:

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

Indicative tasks performed at this level are:

Service and Administrative Duties	Catering services	Personal care
Clerical Supervisor General Services Supervisor	Chef /Catering Services Supervisor	

IN THE FAIR WORK COMMISSION

ANNEXURE A

FWC Matter No.:
AG2022/3352

Applicant:
Medea Park Association Incorporated

Section 185 – Application for approval of a single enterprise agreement

Undertaking – Section 190

I, Deborah Austen, Chief Executive Officer, have the authority given to me by Medea Park Association Incorporated to give the following undertakings with respect to the Medea Park Association Incorporated General Staff Enterprise Agreement 2021 ("the Agreement"):

1. Shift Worker definition – Clause 12(b)

Clause 12(b) should note that for the purposes of the National Employment Standards (NES), a shift worker will, in addition to the annual leave in subclause (a) above, be allowed an additional 38 hours leave, to be taken in a period of seven consecutive days including non-working days.

2. Aged Care Employees Level 1 and Level 2 – Schedule A

As of the First Full Pay Period after 1 July 2022 Level 1 and Level 2 employees will receive wage rates as follows:

Level 1 - \$22.68 per hour

Level 2 - \$23.58 per hour

3. Wage Rates – Schedule A

Where the relevant Award wage rate is above the Medea Park General Enterprise Agreement 2021 wage rate, the employer will ensure that employees within the classifications will be paid at least 0.01c above the Award wage rate.

4. Casual Overtime – Clause 29(c)

Medea Park note that casual employees who work overtime as defined in clause 29(c) will be paid the following which is inclusive of the 25% casual loading:

(a) Monday to Friday 187.5% (first 2 hours) and 250% (thereafter)

(b) Saturday or Sunday 250%

(c) Public Holiday 312.5%.

5. Shift Definition – Clause 41

Clause 41 should include the following:

Afternoon shift employees commencing at 10.00 am and before 1.00 pm will be paid 10% of the ordinary hourly rate.

6. Standard Rate – Clause 6

The standard rate for the purposes of the General Enterprise Agreement from 1 July 2022 will be Level 6.

7. Travel Allowance – Clause 44

The travel allowance from the first full pay period after 1 July 2022 as \$0.92c per kilometre.

These undertakings are provided to be read in relation to the relevant clauses as stated.

Deborah Austen

Deborah Austen
Chief Executive Officer

11th September 2022