



## DECISION

*Fair Work Act 2009*  
s.185—Enterprise agreement

**Eastern Palliative Care Association Incorporated T/A Eastern Palliative Care**  
(AG2020/2903)

### **EASTERN PALLIATIVE CARE ASSOCIATION INC. AND THE AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NURSES ENTERPRISE AGREEMENT 2020**

Health and welfare services

DEPUTY PRESIDENT MASSON

MELBOURNE, 22 OCTOBER 2020

*Application for approval of the Eastern Palliative Care Association Inc. and the Australian Nursing and Midwifery Federation Nurses Enterprise Agreement 2020.*

[1] An application has been made for approval of an enterprise agreement known as the *Eastern Palliative Care Association Inc. and the Australian Nursing and Midwifery Federation Nurses Enterprise Agreement 2020* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Eastern Palliative Care Association Incorporated T/A Eastern Palliative Care. The Agreement is a single enterprise agreement.

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

[3] 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.

[4] The Australian Nursing and Midwifery Federation being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) I note that the Agreement covers the organisation.

**[5]** The Agreement is approved and, in accordance with s.54 of the Act, will operate from 29 October 2020. The nominal expiry date of the Agreement is 30 June 2024.



DEPUTY PRESIDENT

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<AE509302 PR723733>

## Annexure A



### IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2020/2903

Applicant: Eastern Palliative Care Association Incorporated T/A Eastern Palliative Care

Section 185 – Application for approval of a single enterprise agreement

## Undertaking – Section 190

I, Jeanette Moody, Chief Executive Officer, have the authority given to me by Eastern Palliative Care Association Inc. (EPC) to give the following undertakings with respect to the Eastern Palliative Care Association Inc. and the Australian Nursing and Midwifery Federation Nurses Agreement 2020 ("the Agreement"):

1. EPC will require an employee taking personal/carer's leave to notify EPC as soon as practicable (which may be a time after the leave has started), rather than 2 hours prior to the start of their shift as stated in clause 24(e)(iii).
2. Employees who are absent on personal leave for personal injury or sickness either side of a public holiday shall be required to provide a medical certificate from a registered health practitioner, statutory declaration or other evidence to the satisfaction of a reasonable person, rather than to the satisfaction of EPC as stated in clause 24(e)(viii).
3. EPC will not permit an employee to take half leave at double pay under clause 27(h)(i) of this Agreement.
4. EPC will not substitute public holidays as per Clause 23(d)(i) of this Agreement.
5. Regarding Sunday Penalty Rates and Shift Penalties for Grade 2 Registered Nurses, EPC undertakes it will not utilise pay points 1 to 4 for the life of the Agreement. Instead, all Grade 2 Registered Nurse employees will receive the applicable pay rate from pay point 5 or greater as appropriate.
6. EPC will ensure that casual employees receive the applicable overtime penalties under clause 20 of the Agreement, where they work more than:
  - a. 8 hours per day;
  - b. 38 hours per week;
  - c. 76 hours per fortnight; and/or
  - d. 152 hours per four-week period.
7. Consistent with the Fair Work Commission's decision in *Opal*, casual employees working on weekends will receive the penalties outlined in Clause 18 of the Agreement – these will be calculated on the casual employee's casually loaded pay rate.
8. In addition to the existing provisions in Clause 20(b)(v) of the Agreement, the following will also apply concerning accumulated Time In Lieu (TIL):
  - a. Employees may have their TIL paid out upon request, at the rate equivalent to the overtime penalty incurred, rather than waiting the 28 days;



- b. Employees whose employment is terminated will have any accumulated TIL paid out at the rate equivalent to the overtime penalty incurred; and
- c. EPC will not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.

9. Clause 33 Meal Allowances will be paid as follows:

- a. Meal Allowance A - \$13.56; and
- b. Meal Allowance B - \$12.23

10. In addition to the existing provisions in Clause 20 of the Agreement, on completion of 4 hours of overtime, employees are entitled to a paid 20-minute rest break if they are required to continue work after the 20-minute break.

These undertakings are provided based on issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signature \_\_\_\_\_  
Date 22/10/2020 \_\_\_\_\_



Palliative care. Living well every day.

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

***Eastern Palliative Care  
Association Inc.***

***and***

***Australian Nursing and  
Midwifery Federation Nurses  
Enterprise Agreement***

**2020**

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## 1. NAME OF THE AGREEMENT

This Agreement shall be called the Eastern Palliative Care Association Inc. and the Australian Nursing and Midwifery Federation Nurses Enterprise Agreement 2020 ('the Agreement').

## 2. COVERAGE

The Agreement shall cover:

- (a) Eastern Palliative Care Association Inc. (ABN: 62 982 157 121); and
- (b) Nursingstaff employed by Eastern Palliative Care Association Inc. as classified in Schedule 1 of this Agreement.
- (c) This Agreement is made under section 172 of the *Fair Work Act 2009*. The employer will take the necessary steps to seek approval of this Agreement under section 186 of the Act.
- (d) The employer will formally advise the Australian Nursing and Midwifery Federation ('ANMF') that the Agreement is made in order for the ANMF to apply under section 183 of the *Fair Work Act 2009* to be covered by the Agreement.
- (e) It is the intention of this Agreement that the ANMF will be covered by this Agreement.

## 3. DATE AND PERIOD OF OPERATION

This Agreement shall commence operation from the 7<sup>th</sup> day after the agreement is approved by the Fair Work Commission (FWC) and shall remain in force until June 2024 and thereafter in accordance with the *Fair Work Act 2009*.

## 4. POSTING OF THE AGREEMENT

A copy of this Agreement shall be on the staff intranet and EPC website so as to be easily accessed and read by all employees.

## 5. SCOPE OF THE AGREEMENT

This Agreement contains all the terms and conditions of employment for employees covered by the agreement and shall apply to all employees employed pursuant to the classifications listed in Schedule 1 employed by the Employer.

## 6. RELATIONSHIP TO NATIONAL EMPLOYMENT STANDARDS

Entitlements in accordance with the National Employment Standards ("NES") are provided for under the *Fair Work Act 2009*. Where this Agreement also has provisions regarding matters dealt with under 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.

## 7. DEFINITIONS

For the purposes of this Agreement:

- (a) **Registered Nurse** means a person registered in Division 1 on the Register of Nurses of the Nursing and Midwifery Board of Australia established under the *Health Practitioners Regulation National Law Act 2009*.
- (b) **Nurse Practitioner** means a registered nurse who has satisfactorily completed a course of study and undertaken clinical experience that, in the opinion of the Nursing and Midwifery Board of Australia, qualifies the nurse to use the protected title of Nurse Practitioner.
- (b) **Base rate** for the purposes of calculating allowances provided for Registered Nurses in this Agreement, the expression base rate shall mean the ordinary weekly rate of pay for a Registered Nurses Grade 2 Year 3 classification, calculated by reference to the rates of pay set out in Appendix 1 of this Agreement. For convenience, relevant allowances calculated by applying the Base Rate are set out in Appendix 1 of this Agreement.
- (c) **Experience** means service and experience following registration in a grade or sub-grade at least equal to that in which the Employee is employed (or to be employed). Where an Employee has previously been employed in a higher grade or sub-grade, service and experience in that higher grade or sub-grade will count as service and experience in the lower grade or sub-grade for the purposes of determining an Employee's Experience. Provided that an employee shall, prior to commencing employment with the Employer or within 3 months of commencing employment, provide suitable documentary evidence to the Employer of their experience. Where an employee fails to provide such evidence to the Employer, until such time as the employee provides such evidence to the Employer, the employee shall be paid at the level for which documentary evidence was provided. No back payment will be made based on documentary evidence provided after the first 3 months from commencement of employment.
- (d) **A Year of Experience** means experience gained from working an average of three shifts or more per week in a year. If the Employee averages less than three shifts per week or 48 hours per fortnight (whichever is the lesser), the Employee will need to complete an additional year to advance. Where in this Agreement there is a reference to a number of Years of Experience greater than one, then each such Year of Experience must be calculated by reference to the definition of one Year of Experience in order to determine whether an Employee has attained the requisite number of Years of Experience. Where an employee has not been regularly employed as a Registered Nurse, or has not actively nursed for a period of five years or more, such employee's prior service and experience shall not be taken into account.
- (e) **"the Act"** shall mean the *Fair Work Act 2009*, as amended.
- (f) **Hospital Certificate** does not include an Employee's base qualification.
- (g) **NES** means the National Employment Standards as contained in sections 59 to 131 of the *Fair Work Act 2009* {Cth}.
- (h) **Australian Health Practitioner Regulation Agency** (or AHPRA) includes its predecessor

bodies.

(i) **Shiftworker** is an Employee who is required to work and who works ordinary hours on week days and on weekends throughout the qualifying twelve months period of service.

(j) **Immediate family** of an employee means;

An immediate family member is a:

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

A household member is any person who lives with the employee.

## 8. CONSULTATION REGARDING CHANGE

(a) This term applies if the Employer has proposed:

(i) to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise or any other change that may result in the termination of employment of Employees or financial detriment to the Employees; and the change is likely to have a significant effect on employees of the Employer;

(ii) a change to employees regular roster or ordinary hours of work.

(b) If the Employer determines on a preliminary basis, but prior to a final decision being made, that there is a need for major change the Employer will as soon as practicable thereafter consult with Employees who may be affected by that workplace change, and the Union. This initial consultation will address the issues which have arisen, the need for workplace change, and any approaches preferred by the Employer to address these issues, with this information to be provided in writing to Employees and the Union.

(c) Where the Employer then makes a definite decision to introduce major change, the Employer must notify the relevant employees and the Union of the proposed introduction of major change

(d) If:

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

(ii) the employee or employees advise the employer of the identity of the representative; the employer must recognise the representative.

(e) As soon as practicable after making its decision, the employer must

(i) discuss with the relevant employees and their Union:

- (1) the introduction of the change; and
  - (2) the effect the change is likely to have on the employees; and
  - (3) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and
- (ii) for the purposes of the discussion — provide, in writing, to the relevant employees and their Union:
- (1) all relevant information about the change including the nature of the change proposed; and
  - (2) information about the expected effects of the change on the employees; and
  - (3) any other matters likely to affect the employees.
- (iii) Subject to (e)(i) and (ii), for a change to the employees' regular roster or ordinary hours of work, the employer is required to:
- (1) to provide information to the employees about the change; and
  - (2) to invite the employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
  - (3) to consider any views given by the employees about the impact of the change.
- (f) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.
- (g) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees and the Union.
- (h) If a term in the enterprise agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in subclauses (b), (c) and (e) are taken not to apply.
- (i) In this term, a major change is likely to have a significant effect on employees if it results in the termination of the employment of employees; or major change to the composition, operation or size of the employer's workforce or to the skills required of employees; 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 employees; or the need to relocate employees to another workplace; or the restructuring of jobs.
- (j) In this term, relevant employees means the employees who may be affected by the major change.

## 9. DISPUTE RESOLUTION PROCEDURE

- (a) In the event of a dispute in relation to a matter arising under this agreement or the National Employment Standards ("NES"), including but not limited to section 65 or 76 of the Act, or matters pertaining to the employment relationship, in the first instance the parties will attempt to resolve the matter at the workplace by discussions between the employee or employees concerned and the relevant supervisor and, if such discussions do not resolve the dispute, by discussions between the employee or employees concerned and more senior levels of management as appropriate.
- (b) A party to the dispute may appoint another person, organisation or association, which may include an ANMF representative, to accompany or represent them in relation to the dispute.
- (c) If a dispute in relation to a matter arising under the agreement or the NES is unable to be

resolved at the workplace, and all agreed steps for resolving it have been taken, a party to the dispute may refer the matter to the Fair Work Commission ("FWC").

- (d) FWC may deal with the dispute in 2 stages:
- (i) FWC will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  - (ii) if FWC is unable to resolve the dispute at the first stage, FWC may then:
    - (1) arbitrate the dispute; and
    - (2) make a determination that is binding on the parties.

If FWC arbitrates the dispute, it may also use the powers that are available to it under the Act. A decision that FWC makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

- (e) While the dispute resolution procedure is being conducted, work shall continue normally according to the normal custom or practice existing before the change or omission that gave rise to the dispute, until the dispute is resolved. No party shall be prejudiced as to the final settlement of the dispute by the continuance of work in accordance with this sub-clause (e). Health and safety matters are exempted from this clause.
- (f) The parties to the dispute agree to be bound by a decision made by FWC in accordance with this term.

## 10. WAGES

- (a) Wages will be determined as follows:-

Column 1	Column 2	Column 3	Column 4
3%	3%	3%	3%

- (b) The wage increases in subclause (a) hereof shall be payable as follows:-

- (i) The amount shown in Column 1 shall be payable from the beginning of the first full pay period to commence on or after 1 October 2020
  - (ii) The amount shown in Column 2 shall be payable from the beginning of the first full pay period to commence on or after 1 October 2021
  - (iii) The amount shown in Column 3 shall be payable from the beginning of the first full pay period to commence on or after 1 October 2022
  - (iv) The amount shown in Column 4 shall be payable from the beginning of the first full pay period to commence on or after 1 October 2023.
- (c) The wage increases referred to in subclause (a) of this Clause shall be absorbed into any payment made to the Employee beyond the minimum rates contained within this Agreement.
- (d) Any further wage increase shall be at the discretion of the Employer, unless the rate of pay falls below the Modern Award rate (with reference to the transitional provisions), in

such circumstances the rate of pay shall default to the minimum rate prescribed in accordance with the relevant Modern Award rate (with reference to the transitional provisions).

- (e) Rates of pay as increased by this Agreement are set out in Appendix 1.
- (f) The loadings for casual employees as specified in clause 17(b) shall be calculated and paid in accordance with Appendix 1 of the Agreement.

## 11. PAYMENT OF WAGES

- (a) Wages must be paid fortnightly unless otherwise mutually agreed up to a monthly maximum period.
- (b) Employees will be paid by electronic funds transfer into the bank or financial institution account nominated by the employee.
- (c) When notice of termination of employment has been given by an employee or an employee's services have been terminated by the employer, payment of all wages and other monies owing to an employee will be made to the employee on the next usual pay day.

## 12. SUPERANNUATION

- (a) The subject of superannuation is dealt with extensively by legislation including the Superannuation Guarantee (Administration) Act 1992, the Superannuation Guarantee Charge Act 1992, the Superannuation Industry (Supervision) Act 1993 and the Superannuation (Resolution of Complaints) Act 1993. This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.
- (b) Within 28 days upon commencement of employment, the employee will provide to the employer their choice of fund documentation, otherwise the employer shall forward contributions and employee details to First State Super.
- (c) In addition to the Organisation's statutory contributions to the Fund an employee may make additional contribution from their salary, and on receiving written authorisation from the employee the Organisation must commence making contributions to the Fund in accordance with the Superannuation Guarantee Charge Act 1992.
- (d) Superannuation fund payments will be made in accordance with trust fund deeds.
- (e) Where an Employee salary packages their wages in accordance with this Agreement, superannuation shall be paid on the pre-packaged wages.

## 13. HOURS OF WORK

- (a) Hours for an Ordinary Weeks Work
  - (i) The hours for an ordinary week's work shall be 38, or be an average 38 per week in a fortnight or in a four week period (or by mutual agreement a five week period in the case of an employee working 10 hour shifts) and shall be paid either:
  - (ii) in a week of five days in shifts of not more than eight hours each; or

(iii) by mutual agreement, provided that the length of any ordinary shift shall not exceed 10 hours.

(iv) For the purposes of this clause the working week shall commence at midnight on a Sunday.

(b) Full-Time Employees – ADOs

One day off in each four or five week roster cycle will accrue for all full time Employee. A full-time Employee rostered to work on shifts of eight hours duration will work 152 hours in each four week roster cycle to be worked as 19 days each of eight hours with an accrued day off in each four week roster cycle.

(c) Span of Hours

Ordinary hours of work will be carried out between 8.30 am and 5.00 pm Monday to Sunday. An employee may request that their ordinary hours of work be worked between 8.00am and 6.00pm Monday to Sunday, in order to accommodate family, carer and/or other responsibilities. The employer will not unreasonably refuse to agree to such a request. Any such request by an employee and the response from the employer shall be in writing. An employee wishing to revert to the default span of ordinary hours (8.30am – 5.00pm) shall be entitled to do so;

- By providing 4 weeks' notice to the employer; or
- At any time by written mutual agreement with the employer.

#### 14. FULL-TIME EMPLOYMENT

- (a) A full-time employee is one who is employed and who is ready, willing and available to work a full week of 38 hours at the times and during the hours as may be mutually agreed upon or in the absence of such agreement as prescribed by the employer.
- (b) Such employee shall be paid the weekly salary appropriate to the employee's classification, irrespective of the number of hours worked not exceeding 38, or an average of 38 hours per week.

#### 15. PART-TIME EMPLOYMENT

- (a) A part-time employee is one who is employed and who is ready, willing and available to work on a regular basis any number of hours up to but not exceeding an average 38 hours in any one week. Where the Employee is employed on a part-time basis he or she shall be paid the ordinary appropriate hourly rate prescribed for the classification in which they are employed.
- (b) The provisions of this Agreement in respect to annual leave and personal leave shall apply on a pro rata basis to part-time employees.

#### 16. CASUAL EMPLOYMENT

- (a) A casual employee is one who is engaged in relieving work or work of a casual nature and whose engagement is terminable by an employer in accordance with the employer's requirements without the requirement of prior notice by either party, but does not include

an employee who could properly be classified as a full-time or part-time employee under this Agreement.

- (b) A casual employee shall be paid per hour worked an amount equal to one 1/38th of the weekly salary appropriate to the class of work performed plus 25%.
- (c) In addition, a casual employee shall be entitled to receive the allowances prescribed herein.
- (d) The clauses of this Agreement pertaining to Annual Leave, paid Personal Leave, Overtime, and Termination of employment, shall not apply in the case of a casual employee.
- (e) A casual employee will be paid a minimum of three hours pay for each engagement.

#### **17. ROSTER OF HOURS**

- (a) The ordinary hours of duty of full-time and part-time employees shall be worked according to a roster or rosters which shall be exhibited at some reasonably convenient place accessible to employees to whom it applies, where it may be seen by such employees.
- (b) A roster of at least fourteen days duration, setting out employees' daily ordinary working hours, commencing and finishing times shall be posted at least fourteen days before it comes into operation in each work location.
- (c) Except as in emergency situations seven days' notice shall be given of a change of roster.
- (d) The roster or rosters shall be drawn up so as to provide at least eight hours off duty between successive ordinary shifts.
- (e) Where an employer requires an employee without seven days' notice and outside the excepted circumstances prescribed in (c), to perform ordinary duty at other times than those previously rostered, the employee shall be paid in accordance with the hours worked, with the addition of a daily allowance as set out in Appendix 1.
- (f) Provided that a part-time employee who agrees to work shift(s) in addition to those already rostered will not be entitled to the above specified allowance for the additional shift(s) worked.
- (g) Notwithstanding any other provision of this part, this clause shall not apply to casual employees and Clinical Nurse Consultants.
- (h) The parties agree that current part-time employees, who are available to work, will be offered additional hours, where available, in relation to filling planned or unplanned vacancies in preference to casual/ bank staff wherever possible.

#### **18. SATURDAY AND SUNDAY WORK**

- (a) All rostered time of ordinary duty performed between midnight on Friday and midnight on Sunday shall be paid for at the rate of time and a half.
- (b) Provided that the following rate of payment shall be made where the Saturday or Sunday duty involves:
  - (i) Work in excess of the prescribed rostered hours - double time for the excess period.

#### **19. MEAL AND REST BREAKS**

- (a) Employees for shifts greater than five hours, shall be granted an unpaid meal interval of 30 minutes. The meal interval is to be taken no earlier than two hours and no later than six hours after commencing the day's shift.

- (b) Where an employee is unable to take their meal break due to not being relieved of their responsibility for that period of a meal break, the mealtime is to be paid at the employee's ordinary rate of pay in accordance with this Agreement.
- (c) Employees shall be entitled to one paid ten minute rest interval per four hours worked.
- (d) An Employee who is unable to take a meal break shall be paid for the meal break as time worked at the ordinary rate plus 50%.

## 20. OVERTIME

- (a) Where the employee is required to work in excess of the number of ordinary hours, up to a maximum of 8 hours in a day, 38 hours in a week, 76 hours in a fortnight or 152 hours per four week period - time and a half for the first two hours and double time thereafter.
- (b) Rest periods - affected by overtime (including Saturdays and Sundays):
  - (i) When overtime work (including recall to duty) is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least ten hours continuously off duty between the work of successive shifts.
  - (ii) An employee (other than a casual employee) who works so much overtime between the termination of her/his last previously rostered ordinary hours of duty and the commencement of her/his next succeeding rostered period of duty that she/he would not have had at least ten hours continuously off duty between those times, shall subject to this subclause, be released after completion of such overtime worked until she/he had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.
  - (iii) If on the instructions of her/his employer such an employee resumes or continues work without having had such ten hours continuously off duty she/he shall be paid at the rate of double time until she/he is released from duty for such rest period and she/he shall be entitled to be absent until she/he has had ten hours continuously off duty without loss of pay for rostered ordinary hours occurring during such an absence.
  - (iv) In the event of any employee finishing any period of overtime or recall at a time when reasonable means of transport are not available for the employee to return to her/his place of residence the employer shall provide adequate transport free of cost to the employee.
  - (v) In lieu of receiving payment for over time worked in accordance with this Clause, employees may, with the consent of the employer, be allowed to take time off, for a period of time equivalent to the period worked in excess of ordinary rostered hours of duty, plus a period of time equivalent to the overtime penalty incurred. Such time in lieu shall be taken as mutually agreed between the employer and the employee, provided that accrual of such leave shall not extend beyond a 28 day period.
- (c) Where such accrued time has not been taken within the 28 day period, such time shall be paid in accordance with this Clause at the rate of pay which applied on the day the overtime was worked.
- (d) For the purposes of this Clause, in accruing or calculating payment of overtime, each period of overtime shall stand alone.

## 21. PARENTAL LEAVE

- (a) Employees are entitled to parental leave in accordance with the provisions of the *Fair Work Act 2009*, as amended from time to time.
- (b) Permanent employees eligible for parental leave in accordance with subclause (a) shall be entitled to the following paid parental leave:
- (i) The parties agree that twelve weeks paid maternity, adoption leave and one week paid partner leave shall be given to any permanent employee who qualifies for maternity and adoption leave and partner leave under the provisions of the Agreement.
  - (ii) A second or subsequent period of paid parental leave, as per subclause (b)(i), shall only be payable where such employee has:
    - (1) returned to work after their prior period of parental leave; and
    - (2) has subsequently undertaken a further period of 12 months continuous service as at the date they propose to proceed on the second or subsequent period of parental leave.
  - (iii) The payment provided in this Agreement shall not be reduced in terms of its monetary value by the Commonwealth Government's scheme of publicly funded paid parental leave (however titled or styled).
  - (iv) Paid Parental Leave may be taken at half pay for double the amount of time within 12 months.
- (c) In accordance with the provisions of s.73 of the *Fair Work Act 2009*, a female employee shall be entitled to work during the 6 week period before the estimated date of birth of the child, provided that if requested by the CEO or his/her nominee, the employee shall provide a statement from her medical practitioner or midwife to the effect that continuing employment until the date of birth is not a risk to the employee or the unborn child.
- In addition, the employee may take all accrued annual leave prior to a return to work from maternity and adoption leave and paternity leave.
- (d) Right to request
- (i) An employee entitled to parental leave pursuant to the provisions of clause 22 may request the employer to allow the employee:
    - (1) to extend the one week of simultaneous unpaid parental leave up to a maximum of eight weeks;
    - (2) to extend the 52 weeks of unpaid parental leave by a further continuous period of leave not exceeding 12 months;
    - (3) to return from a period of parental leave on a part-time basis until the child reaches school age;
    - (4) to assist the employee in reconciling work and parental responsibilities.
  - (ii) The employer shall consider the request having regard to the employee's circumstances and, provided the request is genuinely based on the employee's parental responsibilities, may only refuse the request on reasonable grounds related to the effect of the workplace or the employer's business. Such grounds

might include cost, lack of adequate replacement staff, loss of efficiency and the impact on **customer service**.

- (iii) The employee's request and the employer's decision made under (i) and (ii) must be recorded in writing
  - (iv) Where an employee wishes to make a request under (d)(i)(3), such a request must be made as soon as possible but no less than seven weeks prior to the date upon which the employee is due to return to work from parental leave.
- (e) An Employee who gives birth to a stillborn child (at or after 20 weeks gestation) or who gives birth to a live baby who subsequently dies, during or before the period of intended leave, will be entitled to the full amount of paid parental leave. In either of these circumstances, paid partner leave/primary carer leave will also apply.

The Employee must as soon as practicable give notice to the Employer of the taking of leave advising the Employer of the period, or expected period, of the leave in accordance with the following:

- (i) where the pregnancy terminates during the first 20 weeks, during the notified period/s the Employee is entitled to access any paid and/or unpaid personal illness leave entitlements in accordance with the relevant personal leave provisions;
- (ii) An employee who returns to work prior to the full utilisation of any paid or unpaid period in this clause is entitled to access the remainder of the leave within 6 months of returning to work should the employee require further leave for the purpose of recovery.
- (iii) where the pregnancy terminates at or after the completion of 20 weeks, during the notified period/s the Employee is entitled to paid special maternity leave not exceeding the amount of paid maternity leave available under 22(b), and thereafter, to unpaid special maternity leave

If an Employee takes leave for a reason outlined in (e)(i) and (iii), the Employer may require the Employee to provide evidence that would satisfy a reasonable person or a certificate from a registered medical practitioner.

Where an Employee not then on maternity leave suffers illness related to her pregnancy, she may take such paid sick leave as to which she is then entitled and such further unpaid leave (to be known as special maternity leave) as a registered practitioner or registered midwife certifies as necessary before her return to work, provided that the aggregate of paid sick leave, special maternity leave and maternity leave shall not exceed the period to which the Employee is entitled under clause 22(b).

For all purposes of this Agreement, maternity leave shall include special maternity leave.

## 22. ANNUAL LEAVE

- (a) Employee's entitlement to leave
  - (i) Employees shall be entitled to 5 weeks annual leave in respect of any 12 months service.
  - (ii) Such annual leave accrues progressively during a year of service according to the employee's ordinary hours of work and accumulates from year to year.

- (b) Employee taken to not be on paid annual leave at certain times
- (i) If the period during which an employee takes paid annual 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 annual leave on that public holiday and shall be paid for the public holiday.
  - (ii) Where other periods of leave occurs (other than unpaid parental leave), or a period of absence from employment for community service leave, the employee is taken not to be on paid annual leave for the period of that other leave of absence.
- (c) Effect of termination on annual leave
- (i) An employee who leaves or is dismissed before completing a full qualifying twelve-month period shall, in-lieu of annual leave, receive a pro rata payment based on the amount payable for the leave prescribed herein for a full twelve months continuous service, and the period actually served, and shall include leave loading.
- (d) Taking of leave
- (i) Four weeks' notice of the date from which an employee shall commence his or her annual leave shall be given unless otherwise mutually agreed upon between the parties concerned.
  - (ii) An Employee may elect, with the consent of the Employer, to accrue and carry forward any amount of annual leave for a maximum of 18 months from the date of entitlement.
  - (iii) An Employee is entitled to apply to take annual leave at any time and the Employer shall not unreasonably refuse such an application
  - (iv) Where the Employee has leave that has accrued for 12 months after the date upon which the right to such leave has accrued, the Employer may direct the Employee to take some or all of that accrued annual leave.
- (e) Payment for leave
- (i) Employees shall receive their ordinary pay during all periods of annual leave. Employees may request that before going on leave, such leave be paid in advance, otherwise the leave will be paid in the normal pay fortnights for the period of such leave.
    - (1) Ordinary pay means remuneration for the employees normal weekly number of hours of work calculated at the ordinary time rate of pay.
  - (ii) In addition to the ordinary pay as prescribed in (e)(i) all employees shall receive either:
    - (1) A loading of 17 ½% calculated on the prescribed rate of salary:
      - 1 provided that such loading shall be on a maximum of 152 hours (4 weeks) in respect of any year of employment; or
      - 2 in respect of each week of leave granted an amount comprising the following:
        - all payments for ordinary hours of work;
        - shift work premiums according to roster or projected roster;
        - Saturday, Sunday premiums according to roster or projected roster;
        - in-charge allowances;
        - Allowances prescribed in the uniform and laundry allowance clause of this Agreement, whichever is the higher.

- (f) Pay in lieu (cashing out) of an amount of annual leave
- (i) Upon receipt of a written request by an Employee, the Employer may, in writing, authorise the Employee to receive pay in lieu of an amount of annual leave.
  - (ii) Paid annual leave must not be cashed out if the cashing out would result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks; and
  - (iii) Where an Employee forgoes an entitlement to take an amount of annual leave, the employee must be paid at least the full amount that would have been payable to the employee had the employee taken the leave that the employee has forgone.
- (g) Weekend work
- For the purposes of the additional weeks' annual leave provided by the NES for shift workers, the following shall apply:
- (i) A full-time Employee who is required to work and worked ordinary hours (as prescribed under Clause 14. Hours of Work) on week days and on weekends throughout the qualifying twelve months period of service shall be allowed an additional seven consecutive days leave including non-working days.
  - (ii) A full-time Employee with twelve months continuous service so engaged for part of the qualifying twelve months period shall have the leave prescribed in subclause (a) increased by half a day for each month during which engaged as aforesaid.
- (h) Purchased Leave
- (i) Purchased Leave enables Employees, by mutual agreement with their Employer, to access up to 20 working days unpaid additional leave in a twelve month period, with salary deductions for the nominated period(s) averaged over the whole year rather than at the time the leave is taken.
  - (ii) Purchased Leave may be taken in conjunction with other types of leave. Purchased Leave may not be used to break a period of Long Service Leave.
  - (iii) Purchased Leave must be used in the twelve month period in which it is purchased.
  - (iv) Purchased Leave and associated salary deductions will be based on the Employee's average daily hours (7 hours 36 minutes for full time Employees) and the Employee's substantive salary at the appropriate classification at the relevant increment point contained in Appendix 1.
  - (v) The Employer may grant Purchased Leave, subject to operational requirements. Once approval has been granted, the arrangement may only be varied or cancelled in extraordinary circumstances.
  - (vi) Where the arrangement, because of extraordinary circumstances, has been varied or cancelled and requires a refund of salary deductions, the refund will be made as a lump sum no later than two pay periods following notification of the variation or cancellation.
  - (vii) Where the Employee's employment terminates, deductions made for Purchased Leave not yet taken will be repaid.
  - (viii) Where the Employee's employment terminates and there are outstanding deductions for Purchased Leave, the Employee may elect to have the amount

treated as overpayment of salary or offset against annual leave credits.

### 23. PUBLIC HOLIDAYS

- (a) An Employee shall be entitled to paid time off (or penalty payments for time worked) in respect of public holidays in accordance with this clause.
- (b) Subject to (c), the public holidays to which this clause applies are the days determined under Victorian law as public holidays in respect of the following occasions:
  - (i) New Year's Day, Australia Day, Christmas Day and Boxing Day; and
  - (ii) Good Friday, the Saturday immediately before Easter Sunday, Easter Monday, Anzac Day, Queen's Birthday and Labour Day; and
  - (iii) Melbourne Cup Day, or in lieu of Melbourne Cup Day, some other day as determined under Victorian law for a particular locality; and
  - (iv) Any additional public holiday declared or prescribed in Victoria or a locality in respect of occasions other than those set out in (b)(i).
  - (v) If a day or days are not determined in respect of any of the occasions (b)(i), (ii) or (iii) under Victorian law in any year, the public holiday for that occasion will be the day or date upon which the public holiday was observed in the previous year.
- (c) Applicability of penalty payments for some public holidays falling on a weekend. When Christmas Day, Australia Day, Boxing Day, or New Year's Day (Actual Day) is a Saturday or a Sunday, and a substitute or additional holiday is determined under Victorian law on another day in respect of any of those occasions (Other Day):
  - (i) Weekend Workers and casual Employees shall receive penalty payments pursuant to clause (e) for time worked on the Actual Day or on the Other Day if the employee does not work ordinary hours on the Actual Day; and
  - (ii) all other Employees will receive penalty payments pursuant to clause (e) for time worked on the Other Day.
- (d) Substitution of one public holiday for another

An Employer, with the agreement of employees, may substitute another day for any prescribed in this clause other than Christmas Day, Boxing Day, New Year's Day and Australia Day:

  - (i) An Employer and its Employees may agree to substitute another day for any prescribed in this clause (other than Christmas Day, Boxing Day, New Year's Day and Australia Day). For this purpose, the consent of the majority of affected Employees shall constitute agreement.
  - (ii) An agreement pursuant to paragraph (i) shall be recorded in writing and be available to every affected Employee.

(e) Penalty Payments in respect of public holidays

(i) An Employee, other than a casual, who performs work (including overtime work) on a public holiday (or where Christmas Day, Boxing Day, New Year's Day or Australia Day fall on a weekend, the day to which penalty rates apply pursuant to clause (c)) shall be entitled to be paid;

(1) 200% (based on 1/38th of the weekly salary set out in Appendix 1) for the time worked on a public holiday Monday to Friday; or

(2) 250% (based on 1/38th of the weekly salary set out in Appendix 1) for the time worked on a public holiday on a Saturday or Sunday (which is inclusive of the rates in clause 19 – Saturday and Sunday Work.

(ii) A casual Employee who performs work (including overtime work) on a public holiday (or where Christmas Day, Boxing Day, New Year's Day or Australia Day fall on a weekend, the day to which penalty rates apply pursuant to clause (c)) shall be entitled to be paid inclusive of the casual loading;

(1) 250% (based on 1/38th of the weekly salary set out in Appendix 1) for time worked on a public holiday Monday to Friday; or

(2) 312.5% (based on 1/38th of the weekly salary set out in Appendix 1) for time worked on a public holiday on a Saturday or Sunday (which is inclusive of the rates in clause 19).

(f) Public holidays occurring on rostered days off

(i) Subject to (f)(ii) and (iii), a full-time Employee shall receive a sum equal to a day's ordinary pay for public holidays that occur on their rostered day off.

(ii) Subject to clause (f)(iii), if a public holiday falls on Saturday or Sunday then (f)(i) will only apply to Weekend Workers.

(iii) Where on each occasion that Christmas Day, Boxing Day, New Year's Day or Australia Day falls on a weekend, and under Victorian law an additional day or substitute day (Other Day) applies as a public holiday in respect of that occasion, and:

(1) the Employee is rostered off for both the actual day and the Other Day, then only one day's payment will be made under (f)(i); or

(2) the Employee works only on one of either the actual day or the Other Day, and receives penalty rates for the day worked, the Employee will not receive a payment under (f)(i) in respect of the day not worked.

(g) Part-time employees

A part-time employee who is ordinarily not required to work on the day of the week on which a particular holiday is observed shall not be entitled to any benefit for any such public holiday unless he/she is required to work on the public holiday, notwithstanding the following:

Where a public holiday occurs on a day a part time employee who works a variable roster is not rostered to work, the part time employee's entitlement will be determined by the following formula;

- (i) Average weekly hours work by the part-time employee over the previous six months; and
- (ii) A pro rata payment made, regardless of whether the Employee would ever work on that day of the week.

EXAMPLE: Nurse working part-time variable roster 4 days/week on a 7 day rotating roster. Applies for 1 week of annual leave which includes one public holiday.

Payment: 32 hours annual leave paid plus pro rata payment for public holiday as per Clause (g) = approx. 32 hours paid plus 17.5% annual leave loading on all 4 days. 4 days of annual leave are deducted. If a staff member has minimal annual leave owing, they may discuss an alternative with the Manager of Human Resources.

- (h) For the purpose of this clause only, a Weekend Worker is an employee who works ordinary hours on a Saturday or Sunday.

## 24. PERSONAL/CARERS LEAVE

The provisions of this clause apply to full-time and part-time employees (on a pro rata basis) but do not apply to casual employees, excepting unpaid carers leave.

### (a) Definitions

The term **immediate family** is as defined in Clause 8 – Definitions of this Agreement.

### (b) Access to paid personal leave

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

- due to personal illness or injury; or
- for the purposes of caring for an immediate family or household member who is ill or injured and requires the employee's care or support or who requires care due to an unexpected emergency.

### (c) Amount of paid personal leave

(i) The amount of personal leave to which a full-time employee is entitled depends on how long they have worked for the employer and accrues as follows:

- (1) up to 7 hours and 36 minutes, for each month of service in the first year of service;
- (2) up to 106 hours and 24 minutes, in each year in the second, third and fourth years of service;
- (3) up to 159 hours and 36 minutes, in the fifth and following years of service.

(ii) In respect of part-time employees, the entitlement shall be on a pro rata basis of time worked.

### (d) Accrual of Personal Leave

(i) In accordance with the NES, such untaken leave accumulates from year to year.

### (e) Personal leave for personal injury or sickness

(i) An employee is entitled to use the full amount of their personal leave entitlement

including accrued leave for the purposes of personal illness or injury, subject to the conditions set out in this clause.

- (ii) In the event of an employee becoming unfit for duty due to personal injury or sickness and such personal injury or sickness is not due to misconduct (a certificate of a legally qualified health practitioner or a Statutory Declaration signed by the employee shall be satisfactory evidence of personal injury or sickness), the employee shall be entitled to personal leave for personal injury or sickness on full pay.
- (iii) Provided that an employee may be absent through personal injury or sickness for one day without furnishing evidence of such sickness as provided in clause (e)(ii) hereof on not more than three occasions in any one year of service. An employee must notify the employer two hours before the time rostered to commence duty on the day of such absence. Provided that employees rostered for duty prior to 11.00am on the day of such absence shall not be required to give such notice before 7.00am.
- (iv) Provided further that an employee's entitlement to payment for personal leave for personal injury or sickness upon production of a Statutory Declaration shall be limited to not more than three occasions in each year in respect to absences not exceeding three consecutive working days duration.
- (v) No employer shall terminate the service of an employee during the currency of any period of personal leave with the object of avoiding his or her obligations under this subclause.
- (vi) Provided that in respect of any period of absence from employment between engagement with one employer and another re-engagement with the same employer, continuity of employment shall be deemed to be unbroken provided such period of absence does not exceed five weeks in addition to the total period of annual leave, long service leave and or personal leave which the employee actually receives on termination or for which he or she is paid in lieu.
- (vii) Provided further that where any employee for the sole purpose of undertaking a course of study related to his or her employment is, with the written approval of his or her employer, absent without pay for up to but not exceeding 52 weeks, such absences shall not be deemed to have broken continuity of service but shall not be counted in aggregating service for the purpose of establishing entitlement to personal leave portability.
- (viii) Employees who are absent on personal leave for personal injury or sickness either side of a public holiday shall be required to provide a medical certificate from a registered health practitioner, Statutory Declaration or other evidence satisfactory to the employer within ten working days after their return to work.

**(f) Carers Leave**

- (i) Employees shall be entitled to use, in accordance with this subclause, any paid personal leave entitlement where required to provide care or support to a member of their

Immediate family, or a member of their household, who requires care or support because of a personal illness, or personal injury, affecting the member; or an unexpected emergency affecting the member

- (ii) Employees (Including casuals) are also entitled to a period of up to two days unpaid carer's leave for each occasion. The Employer may require production of a medical certificate or statutory declaration establishing the need for the Employee to care for them during that time and the estimated length of absence. An employee cannot take unpaid carer's leave during a particular period if the employee could instead take paid personal/carer's leave.

## 25. COMPASSIONATE LEAVE

- (a) An employee is entitled to 4 days of compassionate leave for each occasion (a *permissible occasion*) when a member of the employee's immediate family, or a member of the employee's household:
- (i) contracts or develops a personal illness that poses a serious threat to his or her life;
  - (ii) sustains a personal injury that poses a serious threat to his or her life; or
  - (iii) dies.
- (b) An employee may take compassionate leave for a particular permissible occasion if the leave is taken:
- (i) 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, referred to in subclause (a); or
  - (ii) after the death of the member of the employee's immediate family or household referred to in subclause (a).
- (c) An employee may take compassionate leave for a particular permissible occasion as a single continuous 4 day period; or 2 separate periods of 2 days each; or any separate periods to which the employee and the employer agree.
- (d) If the permissible occasion is the contraction or development of a personal illness, or the sustaining of a personal injury, the employee may take the compassionate leave for that occasion at any time while the illness or injury persists.
- (e) If, in accordance with this Clause, an employee, other than a casual employee, takes a period of compassionate 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. For casual employees, compassionate leave is unpaid leave.
- (f) The employee, if required by the employer, shall supply relevant evidence of the requirement for such leave. Such evidence may include a requirement to supply a medical certificate.

## 26. FAMILY VIOLENCE LEAVE

The Employer recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. The Employer seeks to develop a supportive workplace in which victims of family violence can come forward for help and support.

### (a) Definition of Family Violence

The employer accepts the definition of Family violence as stipulated in the *Family Violence Protection Act 2008 (Vic)*. The definition of family violence includes physical, sexual, financial, verbal or emotional abuse by a family member.

### (b) General Measures

- (i) Proof of family violence may be required and can be in the form of an agreed document issued by the Police Service, a Court, a Doctor, district nurse, maternal and health care nurse or a Family Violence Support Service or Lawyer.
- (ii) All personal information concerning family violence will be kept confidential in line with the Employer's Privacy Policy and relevant legislation.
- (iii) Contact officer/s in EPC will be trained in family violence and privacy issues. Employees will be made aware of the contact officer/s.
- (iv) An Employee experiencing family violence may raise the issue with their immediate supervisor/manager and/or the contact person. The supervisor/manager may also seek advice from Human Resources if the employee chooses not to see the contact person.
- (v) Where requested by an Employee, the contact officer will liaise with the Employee's supervisor/manager on the Employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with sub Clauses (c) and (d).

### (c) Individual Support

- (i) In order to provide support to an Employee experiencing family violence and to provide a safe work environment to all Employees, the employer will approve a request from an Employee experiencing family violence for the following, providing the request is reasonable, and a viable option in all circumstances:
  1. changes to their span of hours or pattern or hours and/or shift patterns;
  2. job redesign or changes to duties within their skills and capabilities;
  3. relocation to suitable employment within the workplace;
  4. a change to their telephone number or email address to avoid harassing contact;
  5. any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.
- (ii) An Employee experiencing family violence will be offered a referral to the Employee Assistance Program (EAP) and/or other local resources.
- (iii) The Employer will make available a pack of resource information in regard to family violence and support services available. An Employee that discloses to Human Resources or their supervisor that they are experiencing family violence will be given a resource pack of information regarding support services.

### (d) Leave

- (i) The employer will provide employees who are victims of family violence and need time off work for medical or legal assistance, court appearances, counselling, relocation, or to make other safety arrangements with flexibility to use their personal/carers leave for such purposes.

- (ii) In addition, the employer will provide up to ten paid days' exceptional circumstances leave per annum. This leave may be taken as consecutive or single days or as a fraction of a day. This leave will not be accrued. An employee may apply for further paid leave under exceptional circumstances and this will not be unreasonably refused. There is no requirement for an employee to have exhausted their accrued personal leave prior to being able to access Family Violence Leave.
- (iii) The Employee will apply in advance for this leave wherever possible.
- (iv) An Employee who supports a person experiencing family violence may make an application to take their accrued carer's leave to support the person.

## 27. LONG SERVICE LEAVE

### (a) Entitlement

- (i) All employees, including casual, part-time and full time employees shall be entitled to long service leave as hereinafter provided.
- (ii) An employee shall be entitled to long service leave with pay, in respect of continuous service with the Employer in accordance with the provisions of this Clause.
- (iii) An employee shall have the following entitlement to long service leave:
  - (1) On the completion by the employee of fifteen years continuous service six months long service leave and thereafter an additional two months long service leave on the completion of each additional five years' service.
  - (2) In addition, in the case of an employee who has completed more than fifteen years' service and whose employment is terminated otherwise than by the death of the employee, an amount of long service leave equal to 1/30th of the period of their service since the last accrual of entitlement to long service leave under (a)(iii)(1)
  - (3) In the case of an employee who has completed at least ten years' service, but less than fifteen years' service and whose employment is terminated for any cause such amount of long service leave as equals 1/30th the period of service.

### (b) Service entitling to leave

- (i) Subject to this subclause service shall also include all periods during which an employee was serving in Her Majesty's Forces or was made available by the employer for National Duty.
- (ii) Where a business is transferred from one employer (the **old employer**) to another employer (the **new employer**) an employee who worked with the old employer and who continues in the service of the new employer shall be entitled to count her/his service with the old employer as service with the new employer for the purposes of this clause.
- (iii) Notwithstanding the provisions of s.22 of the Fair Work Act 2009, for the purposes of this Clause service shall be deemed to be continuous notwithstanding:
  - (1) the taking of any annual leave or long service leave; or other paid leave approved in

writing by the employer and not covered by subclause (b)(iii)(2) to (b)(iii)(4).

- (2) any absence from work of not more than fourteen days in any one year on account of illness or injury or if applicable such longer period as provided in the Personal Leave clause of this Agreement;
  - (3) any interruption or ending of the employment by the employer if the interruption or ending is made with the intention of avoiding obligations in respect of long service leave or annual leave;
  - (4) any absence on account of injury arising out of or in the course of the employment of the employee for a period during which payment is made under the Accident pay clause of this Agreement.
  - (5) any leave of absence of the employee where the absence is authorised in advance in writing by the employer to be counted as service;
  - (6) any interruption arising directly or indirectly from an industrial dispute;
  - (7) the dismissal of an employee, but only if the employee is re-employed within a period not exceeding two months after the dismissal;
  - (8) any absence from work of an employee from work for a period not exceeding twelve months or longer as agreed under the parental leave clause of this Agreement in respect of any pregnancy or adoption;
  - (9) in the case of a Registered Nurse, any unpaid absence of not more than 24 months for the sole purpose of undertaking a course of study related to nursing where the written approval of the employer is given;
  - (10) any other absence of an employee by leave of the employer, or on account of injury arising out of or in the course of his or her employment not covered by (b)(iii)(4) of this subclause.
- (iv) In calculating the period of continuous service of any employee, any interruption or absence of a kind mentioned in (b)(iii)(1) to (b)(iii)(5) shall be counted as part of the period of their service, but any interruption or absence of a kind mentioned in (b)(iii)(6) to (b)(iii)(10) shall not be counted as part of the period of service unless it is so authorised in writing by the employer.
- (v) The employer shall keep or cause to be kept a long service record for each employee, containing particulars of service, leave taken and payments made.
- (c) Payment in lieu of long service leave on the death of an employee  
Where an employee who has completed at least ten years' service dies while still in the employment of the employer, the employer shall pay to such employee's personal representative a sum equal to the pay of such employee for 1/30th of the period of the employee's continuous service in respect of which leave has not been allowed or payment made immediately prior to the death of the employee.
- (d) Payment for period of leave
- (i) Payment to an employee in respect of long service leave shall be made in one of the following ways:
    - (1) in full in advance when the employee commences his or her leave; or

- Ⓞ at the same time as payment would have been made if the employee had remained on duty; in which case payment shall, if the employee in writing so requires, be made by cheque posted to a specified address; or
    - Ⓞ in any other way agreed between the employer and the employee.
  - (ii) Where the employment of an employee is for any reason terminated before the employee takes any long service leave to which he or she is entitled or where any long service leave accrues to an employee pursuant to (a)(iii)(2) hereof the employee shall subject to the provisions of (d)(iii) be entitled to pay in respect of such leave as at the date of termination of employment.
  - (iii) Where any long service leave accrues to an employee pursuant (a)(i) hereof the employee shall be entitled to pay in respect of such leave as at the date of termination of employment.
  - (iv) Where an increase occurs in the ordinary time rate of pay during any period of long service leave taken by the employee, the employee shall be entitled to receive payment of the amount of any increase in pay at the completion of such leave.
- (e) Taking of leave
- (i) When an employee becomes entitled to long service leave such leave shall be granted by the employer within six months from the date of the entitlement, but the taking of such leave may be postponed to such a date as is mutually agreed.
  - (ii) Any long service leave shall be inclusive of any public holiday or accrued day off occurring during the period when leave is taken.
  - (iii) If the employer and an employee so agree:
    - Ⓞ the first six months long service leave to which an employee becomes entitled under this Agreement may be taken in two or three separate periods; and
    - Ⓞ any subsequent period of long service leave to which the employee becomes entitled may be taken in two separate periods, but save as aforesaid long service leave shall be taken in one period.
- (f) Leave allowed before due date
- (i) An employer may by agreement with an employee grant long service leave to the employee before the entitlement to that leave has accrued, provided that such leave shall not be granted before the employee has completed ten years' service.
  - (ii) Where the employee of an employer who has taken long service leave in advance is subsequently terminated for serious and wilful misconduct before entitlement to long service leave has accrued, the employer may, from whatever remuneration is payable to the worker upon termination, deduct and withhold an amount equivalent to the amount paid to the employee in respect of the leave in advance.
- (g) Definitions
- (i) For the purposes of this Clause the following definitions apply:
    - "Pay" means remuneration for an employee's normal weekly hours of work calculated at the employee's ordinary time rate of pay provided in Appendix

hereof at the time the leave is taken or (if the employee dies before the completion of leave so taken) as at the time of his or her death; and shall include the amount of any increase to the employee's ordinary time rate of pay which occurred during the period of leave as from the date such increase operates.

(ii) "Month" shall mean a calendar month.

(h) Requests for alterations to payment and quantum of leave

(i) At the request in writing of the employee, and then by agreement of the Employer, Long Service Leave entitlements may be taken as double the quantum of leave at half pay or half the quantum of leave at double pay.

(ii) Where the employee is considering making such a request, the employer recommends that the employee seek independent financial advice as to the relevant taxation implications, if any, prior to making such a request.

(iii) The Employer will provide to the employee in writing an indication of the payment and the tax payable as a result of the employee choosing either double the leave at half pay, or double the pay for half the leave option prior to the request by the employee being finalised.

## 28. DISCIPLINARY PROCEDURE

(a) Where disciplinary action may be necessary, the management representative shall notify the Employee of the issues in writing and the Employee will be given an opportunity to respond to these issues. In the event that the Employee's response is unsatisfactory, a first warning in writing may be issued. This warning will be recorded on the Employee's personnel file.

(b) If there are further performance or conduct issues, the Employee will again be notified in writing of the matter and a response requested from the Employee. If appropriate, a second warning in writing will be given to the Employee and recorded on the Employee's personnel file.

(c) In the event that there are further performance or conduct issues, the Employee will again be notified in writing of the matter and a response requested. If appropriate, a final written warning will be issued to the Employee and recorded on the Employee's personnel file.

(d) In the event of further performance or conduct issues, then the Employee may be terminated after the matters have been investigated and reasons sought from the Employee.

(e) Notwithstanding the above process, for serious matters pertaining to conduct or performance the Employer may also issue a "final warning" in the first instance. A "final warning" shall be such that the employee is notified that in the event that there are further performance or conduct issues the employee may be terminated. Further, termination or summary dismissal of an Employee may still occur for acts of serious misconduct.

(f) During all steps in the Disciplinary Procedure, the Employee has the right to

representation of his or her choice, including the ANMF. The Employer may be represented by the representative of their choice.

- (g) Records relating to disciplinary procedures will be disregarded where a continuous period of 12 months elapses without further warning/s.
- (h) This clause shall not apply until the Employee has completed a period of employment with the Employer of at least the minimum employment period as prescribed in the Fair Work Act 2009.

## 29. TERMINATION OF EMPLOYMENT

### (a) Notice of termination by the employer

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

<u>Period of continuous service</u>	<u>Period of notice</u>
1 year or less	1 week
Over 1 year and up to the completion of 3 years	2 weeks
Over 3 years and up to the completion of 5 years	3 weeks
Over 5 years	4 weeks

- (ii) In addition to the notice in (a)(i) hereof, employees over 45 years of age at the time of the giving of the notice with not less than two years' continuous service, shall be entitled to an additional week's notice.

- (iii) Payment in lieu of the notice prescribed in (a)(i) hereof shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

- (iv) The required amount of payment in lieu of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. That total must be calculated on the basis of:

- (i) the employee's ordinary hours of work (even if not standard hours); and
- (ii) the amounts ordinarily payable to the employee in respect of those hours, including (for example) allowances, loading and penalties; and
- (iii) any other amounts payable under the employee's contract of employment.

- (v) The period of notice in this clause does not apply:

1. in the case of dismissal for serious misconduct;
2. to employees engaged for a specific period of time or for a specific task or tasks;
3. to trainees whose employment under a traineeship agreement or an approved traineeship is for a specified period or is, for any other reason, limited to the duration of the agreement; or
4. to casual employees.

- (vi) For the purposes of this clause, continuity of service shall be calculated in the manner prescribed in the Long Service Leave clause of this Agreement

(b) Notice of termination by the employee

- (i) The notice of termination required to be given by an employee shall be the same as that required of an employer, save and except that there shall be no additional notice based on the age of the employee concerned.
- (ii) Subject to financial obligations imposed on the employer by an Act, if an employee fails to give notice the employer shall have the right to withhold monies due to the employee with a maximum amount equal to the ordinary time rate of pay for the period of notice, in accordance with the requirements of s. 324(1)(b) of the Fair Work Act 2009.

(c) Time off work during notice period

Where an employer has given notice of termination to an employee, an employee shall be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. The time off shall be taken at times that are convenient to the employee after consultation with the employer.

### 30. PROFESSIONAL DEVELOPMENT AND ASSOCIATED ENTITLEMENTS

All absences resulting from approved professional development leave, conference/seminar, study leave or examination/assessment leave will be back-filled in clinical areas where that Employee would ordinarily have a patient allocation.

Professional Development and Conference/Seminar Leave

- (a) Professional Development is the means by which members of the profession maintain knowledge in their current area of practice, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required through their professional lives. The CPD cycle involves:
  - (i) Reviewing practice; and
  - (ii) Identifying learning needs; and
  - (iii) Planning and participating in relevant learning activities; and
  - (iv) Reflecting on the value of those activities.
- (b) All Employees are entitled to five days' paid professional development leave (as defined in clause (a) and which includes conference/seminar leave per year) (in addition to other leave entitlements). Part-time Employees will be paid on a pro rata basis.
- (c) Professional development leave may also be utilised for activities including research or home study.
- (d) An Employee wishing to take professional development leave must apply in writing to the Employer at least six weeks' prior to the proposed leave date. If the Employee is wishing to take professional development leave to undertake home study the Employee's request will include details of the relevance of the study to the Employee's employment.

- (e) The application for professional development leave shall be approved by the Employer unless there are exceptional circumstances that justify non-approval.
- (f) Except for the conditions in paragraphs (b) to (e) no other conditions attach to the granting of professional development leave and the Employer will not unreasonably withhold approval of the leave.
- (g) The Employer must, within seven days, notify the Employee in writing that the leave request is being considered. If the leave is not granted, the reasons will be included in the notification to the applicant.
- (h) If a valid application is made for the five days or any portion thereof but no leave is granted during the calendar year, one day's leave shall be added to the Employee's accrued annual leave, or taken in another manner as mutually agreed between the Employer and the Employee.
- (i) Otherwise than in accordance with paragraph (h), accrued professional development leave will not accumulate from year to year.

### 31. QUALIFICATION ALLOWANCE

- (a) A Registered Nurse will be entitled to a qualification allowance set out below, subject to the following:
  - (i) a Registered Nurse holding more than one qualification is only entitled to one qualification allowance, being the allowance for the highest qualification held having regard to sub-clause (a)(ii)
  - (ii) it must be demonstrated that at least one component of the qualification is applicable to the relevant Employee's current area of practice. In situations where a component of a postgraduate qualification is relevant to that Employee's current area of practice an allowance is payable. In considering whether a component of the qualification is relevant, the nature of the qualification and the current area of practice of the qualification holder are the main criteria. Other considerations may include:
    - (1) the clinical or other area of work of the Registered Nurse;
    - (2) the classification and position description of the Registered Nurse;
    - (3) whether the qualification would assist the Registered Nurse in performing her or his role and/or assist in maintaining quality patient care and/or assist in the administration of the area in which the Registered Nurse is employed.
  - (iii) a Registered Nurse claiming entitlement to a qualification allowance must provide to the Employer evidence of that Registered Nurse holding the qualification for which the entitlement is claimed. The relevant form applying for the qualification must be completed by the employee and submitted with the evidence in order to start payment of the allowance.

- (iv) for the avoidance of doubt, a qualification allowance cannot be claimed by a Registered Nurse in respect of that Employee's base qualification leading to registration as a Registered Nurse.
- (v) certificates obtained from training or education facilities (eg. infection control certificates from the Mayfield Centre) shall be recognised provided that the programmes are equivalent to a University/Graduation certificate and the training/education facility verifies that in writing.
- (b) A Registered Nurse who holds a Hospital Certificate or Graduate Certificate (or equivalent) shall be paid, in addition to their salary, 4.0% of "base rate".
- (c) A Registered Nurse who holds a Post-Graduate Diploma or a Degree (or equivalent) (other than a nursing undergraduate degree), or a double degree, shall be paid, in addition to her or his salary, 6.5% of "base rate".
- (d) A Registered Nurse who holds a Masters shall be paid, in addition to their salary, 7.5% of "base rate".
- (e) A Registered Nurse who holds a Doctorate, shall be paid, in addition to their salary, 8.5% of "base rate".
- (f) The above allowances are to be paid during all periods of leave except sick leave beyond 21 days and long service leave.
- (g) The allowance is to be paid on a pro-rata basis for non-full-time Employees.
- (h) Payment of the allowance shall be payable on the first full pay period on or after the date that the form and the evidence of such qualification is provided by the employee to the Employer. The employee shall not be back-paid to the date the qualification was achieved.

### **32. HIGHER DUTIES**

An employee engaged in any one day or shift for more than two hours on duties carrying a higher rate than the classification in which she/he is ordinarily employed, shall be paid for the full day or shift at the minimum rate for that higher classification but if so engaged for two hours or less, only the time so worked shall be paid for at that higher rate.

### **33. MEAL ALLOWANCE**

- (a) An employee shall be supplied with a meal where the Employer has cooking and dining facilities. In exceptional circumstances, where a meal cannot be provided, a meal allowance shall be paid in addition to any overtime payment as follows:
  - (i) When required to work after the usual finishing hour of work beyond one hour (Monday to Friday inclusive) or in the case of shift workers when the overtime work on any shift exceeds one hour (Meal Allowance A). Provided that where such overtime work exceeds 4 hours a further meal allowance shall be paid (Meal Allowance B). Amounts are set out in Appendix 1.
  - (ii) When required to work more than 5 hours overtime on a Saturday or a Sunday or more

than 5 hours by a shift worker on his/her rostered day off (Meal Allowance A) and when required to work more than 9 hours on such day (Meal Allowance B). Amounts are set out in Appendix 1.

(iii) These foregoing provisions shall not apply when an employee could reasonably return home for a meal within the period allowed.

### 34. JURY SERVICE

- (a) An employee other than a casual employee, required to attend for jury service during his or her ordinary working hours shall be reimbursed by the employer an amount equal to the difference between the amount paid in respect of his or her attendance for such Jury service and the amount of ordinary salary he or she would have received in respect of the ordinary time he or she would have worked had he or she not been on jury service.
- (b) An employee shall notify his or her employer as soon as possible of the date upon which he or she is required to attend for jury service. Further the employee shall give his or her employer proof of his or her attendance at the court, the duration of such attendance and the amount received in respect of such jury service.

### 35. REDUNDANCY

- (a) Where the Employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and the change is likely to have a significant effect on employees of the Employer, the Employer shall consult with affected employees in accordance with the consultation regarding change provision of this Agreement.
- (b) Where an employee is transferred to lower paid duties by reason of redundancy, the same period of notice must be given as the employee would have been entitled to if the employment had been terminated and the employer may, at the employer's option, make payment instead of an amount equal to the difference between the former ordinary time rate of pay and the ordinary time rate of pay for the number of weeks of notice still owing.
- (c) In addition to the period of notice prescribed for termination, an employee whose employment is terminated for reasons set out in paragraph (a) shall be paid the following amount of severance pay in respect of a period of continuous service.

<u>Period of continuous service</u>	<u>Severance pay (week's pay)</u>
Less than 1 year	NIL
1 year and less than 2 years	4
2 years and less than 3 years	6
3 years and less than 4 years	7
4 years and less than 5 years	8
5 years and less than 6 years	10
6 years and less than 7 years	11
7 years and less than 8 years	13
8 years and less than 9 years	14
9 years and less than 10 years	16
10 years and over	16

- (d) "Week's pay" means the ordinary time rate of pay for the employee concerned.
- (e) An employee given notice of termination in circumstances of redundancy may terminate their employment during the period of notice. The employee is entitled to receive the benefits and payments they would have received under this clause had they remained in employment until the expiry of the notice, but is not entitled to payment instead of notice.
- (f) Where the Employer offers the Employee acceptable alternative employment and the employee refuses such an offer, no severance payment is payable, subject to an order of the FWC.
- (g) An employee given notice of termination in circumstances of redundancy must be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.
- (h) 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. For this purpose a statutory declaration is sufficient.
- (i) This entitlement applies instead of clause 29(c).
- (j) This clause does not apply to employees with less than one year's continuous service.
- (k) This clause shall not apply where employment has been terminated because the conduct of an employee justifies instant dismissal *or* in the case of casual employees, or employees engaged for a specific period of time or for a specified task or tasks, or in accordance with any exemption provisions of the *Fair Work Act 2009*.

### **36. DAYLIGHT SAVING**

If an employee works on a shift during which time changes because of the introduction of, or cessation to, daylight saving, that employee shall be paid for the actual hours worked at the ordinary time rate of pay (including any shift penalties or allowances ordinarily payable in respect of this shift).

No overtime is payable for the "additional hour" worked because of daylight saving.

### **37. SALARY PACKAGING PROCEDURE**

- (a) Permanent employees may be able to make voluntary pre-tax contributions or payments through a written salary packaging agreement between the employer and the employee. The employer will pay the salary package amount in accordance with the salary package agreement.
- (b) An employee may apply to have their ordinary time earnings reduced by an amount nominated by them as a salary package contribution for their benefit.
- (c) The total value of the reduced salary and the agreed value of the benefits provided will not be less than the amount that would otherwise be paid if the salary package

arrangement was not in place.

- (d) The Employer recognises the need for employees to consider independent financial and taxation advice and recommend that employees consider such advice prior to entering into salary package arrangements.
- (e) In the event that the law governing superannuation and/or taxation make the objective of this clause ineffective, unattainable or illegal, the employer will advise the employee concerned. The salary sacrifice contribution arrangement will be terminated or amended to comply with such laws.
- (f) Unless otherwise agreed by the employer, an employee may revoke or vary their salary package contribution/payment by giving not less than one month's written notice, provided the terms of any other agreement relating to the salary sacrifice benefit are met.

### **38. ON CALL ALLOWANCE**

- (a) Employees shall be paid an on-call allowance per twelve-hour period or part thereof. Amounts are set out in Appendix 1. This amount applies to all permanent and casual staff. For clarification purposes, all hours worked as stated in this Clause, casual staff will be paid their casual rate of pay plus overtime on their casual rate.
- (b) In the event of an employee being recalled to duty during an off-duty period, where the recall work is not continuous with the next succeeding rostered period of duty, that employee shall be paid a minimum of three hours pay at the appropriate overtime rate set out in clause 21 of this Agreement.
- (c) Where an employee on is on call and is recalled for the purposes of returning the on call vehicle, such employee shall be paid for the time spent returning the said vehicle from home to the workplace and return, with a minimum payment of one hour at the appropriate rate.
- (d) An Employee is entitled to four clear days in each fortnight of a four week roster cycle free of duty, including on-call/recall work.
- (e) If a recall to duty occurs at 6.00am then it will be considered the start of shift. This would mean the nurse would complete the call out, have the time to prepare for work, attend the workplace and complete the shift at 2.30pm. Payment would be for 3 hours for recall to duty, plus the normal days shift payment of 8 hours.
- (f) Recall-Telephone Allowance  
Where recall to duty can be managed without the Employee having to return to their workplace, such as by telephone, such Employee will be paid a minimum of one hour's overtime, provided that multiple recalls within a discrete hour will not attract additional payment.

### **39. STAFFING LEVELS**

Eastern Palliative Care is committed to ensuring that staffing levels are appropriate in order to ensure the delivery of high quality client care.

#### 40. LETTER OF APPOINTMENT

Eastern Palliative Care agrees to the adoption of a standard employment letter (Appendix B).

#### 41. ACCIDENT PAY

Any reference to the *Accident Compensation Act 1985* in this clause shall be deemed to include a reference to the *Workers Compensation Act 1958*.

(a) Definitions - The words hereunder shall bear the respective definitions set out herein.

##### (i) Total Incapacity

Total incapacity in the case of an employee who is or deemed to be totally incapacitated within the meaning of the *Accident Compensation Act 1985* (hereinafter referred to as the Act) and arising from an injury covered by this Clause means a weekly payment of an amount representing the difference between the total amount of compensation paid under the Act for the week in question and the total 38 hour weekly rate and weekly over Agreement payment for a day employee which would have been payable under this part for the employee's normal classification of work for the week in question if she/he had been performing her/his normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

##### (ii) Partial incapacity

In the case of an employee who is or deemed to be partially incapacitated within the meaning of the *Accident Compensation Act 1985* and arising from an injury covered by this Clause means a weekly payment of an amount representing the difference between the total amount of compensation paid under the Act for the period in question together with the average weekly amount the employee is earning or is able to earn in some suitable employment or business (as determined expressly or by implication by the Accident Compensation Conciliation Service (as it is currently known) or as agreed between the parties) and the total 38 hour weekly rate and weekly over-agreement payment for a day employee which would have been payable under this part for the employee's normal classification of work for the week in question if he had been performing his normal duties provided that such latter rate shall exclude additional remuneration by way of shift premiums, overtime payments, special rates or other similar payments.

- (b) The total 38 hour weekly agreement rate and weekly over- agreement payment abovementioned shall be the same as that applying for a total Incapacity provided that where an employee receives a weekly payment under this section and subsequently such payment is reduced pursuant to the Act such reduction will not increase the liability of the employer to increase the amount of accident pay in respect of that injury.
- (c) For the purposes of the calculation of the total 38 hour weekly agreement rate and weekly over-agreement payment in (a)(i) and (a)(ii) payments made to an employee arising from a production incentive earnings scheme (whether arising from a payment by results, task or bonus scheme or however titled) shall not be taken into account.

#### ¶ Payment for part of a week

Where an employee receives accident pay and such pay is payable for incapacity for part of the week the amount shall be direct pro rata.

#### ¶ Injury

Injury shall be given the same meaning and application as applying under the *Accident Compensation Act 1985*, as amended from time to time and no injury shall result in the application of accident pay unless an entitlement exists under the Act.

#### (b) Qualification for payment

Always subject to the terms of this clause, an employee covered by this part shall upon receiving payment of compensation and continuing to receive such payment in respect of a weekly incapacity within the meaning of the Act be paid accident pay by her/his employer who is liable to pay compensation under the Act, which said liability by the employer for accident pay may be discharged by another person on his behalf, provided that:

- (i) Accident pay shall only be payable to an employee whilst such employee remains in the employment of the employer by whom she/he was employed at the time of the incapacity and then only for such period as she/he receives a weekly payment under the Act. Provided that if an employee on partial incapacity cannot obtain suitable employment from hers/his employer but such alternative employment is available with another employer than the relevant amount of accident pay shall be payable.
- (ii) Provided further that in the case of the termination of employment by an employer of an employee who is incapacitated and who except for such termination would be entitled to accident pay, accident pay shall continue to apply subject to the provisions of this clause except in those cases where the termination is due to serious and/or wilful misconduct on the part of the employee.
- (iii) In order to qualify for the continuance of accident pay on termination an employee shall if required provide evidence to his/her employer of the continuing payment of weekly employees compensation payments.

(c) Accident pay shall not apply to any incapacity occurring during the first two weeks of employment unless such incapacity continues beyond the first two weeks and then subject to (d) and to the maximum period of payment prescribed elsewhere herein, accident pay shall apply only to the period of incapacity after the first two weeks.

- (i) Provided that as to industrial diseases contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration as provided in the Act such injuries or diseases shall not be subject to accident pay unless the employee has been employed with the employer at the time of the incapacity for a minimum period of one month.

(d) Accident pay shall not apply in respect of any injury during the first five normal working days of incapacity.

- (i) Provided however that in the case of an employee who contracts an infectious

disease in the course of duty and is entitled to receive workers compensation therefore shall receive accident pay from the first day of the incapacity.

(e) Maximum period of payment

The maximum period or aggregate of periods of accident pay to be made by an employer shall be a total of 39 weeks for any one injury as defined in (a)(iv)

(f) Absences on other paid leave

An employee shall not be entitled to payment of accident pay in respect of any period of other paid leave of absence.

(g) Notice of injury

An employee upon receiving an injury for which she/he claims to be entitled to receive accident pay shall give notice in writing of the said injury to her/his employer as soon as reasonably practicable after the occurrence thereof provided that such notice may be given by a representative of the employee.

(h) Medical examination

(i) In order to receive entitlement to accident pay an employee shall conform to the requirements of the Act as to medical examination.

(ii) Where in accordance with the Act a medical referee gives a certificate as to the condition of the employee and her/his fitness for work or specifies work for which the employee is fit and such work is made available by the employer and refused by the employee or the employee fails to commence the work, accident pay shall cease from the date of such refusal or failure to commence the work.

(i) Cessation of weekly payments

Where there is a cessation or redemption of weekly compensation payments under the Act the employer's liability to pay accident pay shall cease as from the date of such cessation or redemption.

(j) Civil damage claims

(i) An employee receiving or who has received accident pay shall advise her/his employer of any action she/he may institute or any claim she/he may make for damages. Further the employee shall, if requested, provide an authority to the employer entitling the employer to a charge upon any money payable pursuant to any judgement or settlement on that injury.

(ii) Where an employee obtains a judgement or settlement for damages in respect of an injury for which she/he has received accident pay the employer's liability to pay accident pay shall cease from the date of such judgement or settlement provided that if the judgement or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer the employee shall pay to her/his employer any amount of accident pay already received in respect of that injury by which

the judgement or settlement has not been so reduced.

(iii) Where an employee obtains a judgement or settlement for damages against a person other than the employer in respect of an injury for which she/he has received accident pay the employer's liability to pay accident pay shall cease from the date of such judgement or settlement provided that if the judgement or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer the employee shall pay to her/his employer any amount of accident pay already received in respect of that injury by which the judgement or settlement has not been so reduced.

(k) Insurance against liability

Nothing in this part shall require an employer to insure against her/his liability for accident pay.

(l) Variations in compensation rates

Any changes in compensation rates under the Act shall not increase the amount of accident pay above the amount that would have been payable had the rates of compensation remained unchanged.

(m) Death of an employee

All rights to accident pay shall cease on the death of an employee.

(n) Commencement

This clause shall only apply in respect of incapacity arising from an injury occurring or recurring on or after August 1975.

## **42. VEHICLE ALLOWANCE**

Where an employee is required to provide her/his own mode of conveyance in connection with her/his duties, she/he shall be paid an allowance as detailed in Appendix 1.

## **43. FLEXIBILITY ARRANGEMENTS**

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

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

- (1) arrangements about when work is performed;
- (2) overtime rates;
- (3) penalty rates;
- (4) allowances;
- (5) leave loading; and

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

- (iii) The employer and the Individual employee must have genuinely made the agreement without coercion or duress.
- (b) The employer must ensure that the terms of the individual flexibility arrangement:
  - (i) are about permitted matters under section 172 of the Fair Work Act 2009; and
  - (ii) are not unlawful terms under section 194 of the Fair Work Act 2009; and
  - (iii) result in the employee being better off overall than the employee would be if no arrangement was made.
- (c) The employer must ensure that the individual flexibility arrangement:
  - (i) is in writing; and
  - (ii) includes the name of the employer and employee; and
  - (iii) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and includes details of:
    - Ⓛ the terms of the enterprise agreement that will be varied by the arrangement; and
    - Ⓜ how the arrangement will vary the effect of the terms; and
    - Ⓨ 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
    - Ⓩ states the day on which the arrangement commences.
- (d) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.  
The employer or employee may terminate the individual flexibility arrangement:
  - 1. by giving no more than 28 days written notice to the other party to the arrangement; or
  - 2. if the employer and employee agree in writing — at any time.
- (e) The right to request an individual flexibility arrangement under this clause is in addition to the right contained in the NES at the commencement of the agreement of an Employee to request a change in working arrangements in accordance with s.65 of the Fair Work Act in circumstances where the Employee is:
  - i. the parent or has the responsibility for the care of a child who is of school age or younger;
  - ii. a carer (*within the meaning of the Carer Recognition Act 2010*);
  - iii. has a disability;
  - iv. is 55 or older;
  - v. is experiencing violence from a member of the Employee's family; or
  - vi. provides care or support to a member of the Employee's immediate family, or a member of the Employee's immediate household, who requires care or support because the member is experiencing violence from the member's family.

- (f) A request made pursuant to Clause 43(e) of this Agreement must be in writing and set out the detailed reasons for the change.
- (g) An employee who takes unpaid parental leave for his or her available parental leave period may request his or her employer to agree to an extension of unpaid parental leave for the employee for a further period of up to 12 months immediately following the end of the available parental leave period in accordance with s.76 of the Fair Work Act. The request must be in writing and must be given to the employer at least 4 weeks before the end of the available parental leave period.
- (h) The Employer must respond in writing to a request made pursuant to Clause 43(e) or Clause 43(g) within 21 days stating whether the request has been granted or refused. If refused the response must include details of the reasons of the refusal. The Employer may only refuse the request on reasonable business grounds (as defined in s. 65(5A) of the Fair Work Act). Should the NES be amended during the life of this Agreement the amended NES will apply.
- (i) To avoid doubt, and without limiting Clauses 43(e) and Clause 43(g), an Employee who:
  - i. is a parent, or has responsibility for the care, of a child; and
  - ii. is returning to work after taking leave in relation to the birth or adoption of the child;may request to work part-time to assist the Employee to care for the child.
- (j) The Employee is not entitled to make a request pursuant to Clause 43(e) unless:
  - i. for an Employee other than a casual employee – the Employee has completed at least 12 months of continuous service with the Employer immediately before making the request; or
  - ii. for a casual employee – the Employee:
    - Ⓛ is a long term casual Employee of the Employer immediately before making the request; and
    - Ⓜ has a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.
- (k) A dispute concerning the rejection by the employer, on the basis of reasonable business grounds, of an application for flexible work arrangements made pursuant to clause 43(e) or Clause 43(g), is subject to the dispute resolution procedure, including both conciliation and arbitration, as set out in Clause 9.

#### 44. REPRESENTATIVE LEAVE

- (a) Leave to attend trade union and union delegate courses/ seminars shall be as follows:
  - (i) To a maximum of three (3) days per year (1 January to 31 December) for the totality of all applications of paid trade union, union delegate training leave, attendance at association conferences, meetings and courses provided that:-

- 1 The scope, content and level of the courses are directed to the enhancement of the operation of the settlement of dispute procedures;
- 2 That two (2) weeks' notice is provided to the employer;
- 3 The approval of leave must have regard to the operational requirements of the employer;
- 4 This leave shall be paid at the ordinary time rate of pay.

(b) Leave of absence granted pursuant to this clause shall count as service for all purposes of this Agreement.

#### **45. TRANSITION TO RETIREMENT**

1. An Employee may advise their Employer in writing of their intention to retire within the next five years and participate in a retirement transition arrangement.
2. Transition to retirement arrangements may be proposed and, where agreed, implemented as:
  - (a) A flexible working arrangement (see clause 43. Flexibility Arrangements),
  - (b) An agreement in writing between the parties, or
  - (c) A combination of the above.
3. A transition to retirement arrangement may include but is not limited to:
  - (a) A reduction in their EFT;
  - (b) A job share arrangement;
  - (c) Working in a position at a lower classification or rate of pay
4. The Employer will consider, and not unreasonably refuse, a request by an Employee who wishes to transition to retirement:
  - (a) to use accrued Long Service Leave (LSL) or Annual Leave for the purpose of reducing the number of days worked per week while retaining their previous employment status; or
  - (b) be appointed to a role which that has a lower hourly rate of pay or hours (post transition role), in which case:
    - (i) the Employer will preserve the accrual of LSL at the time of reduction in salary or hours; and
    - (ii) where LSL is taken or paid out in lieu on termination, the Employee will be paid LSL hours at the applicable classification and grade, and at the preserved hours, prior to the post transition role until the preserved LSL hours are exhausted.
5. The request to enter into a Transition to Retirement will be by choice of the employee and only on initiation of the employee.

## **SCHEDULE 1: EMPLOYMENT CLASSIFICATIONS**

### **Registered Nurse-Grade 2**

An employee at this level performs their duties:

- (i) according to their level of competence; and
- (ii) under the general guidance of, or with general access to a Grade 3 Nurse or a Clinical Nurse Consultant who provides work related support and direction.

An employee at this level is required to perform duties in the client's home which may include, but are not confined to:

- delivering direct and comprehensive nursing care to clients in their home;
- symptom assessment; and
- following standard procedures in practices such as wound care.

### **Registered Nurse - Grade 3A**

An employee at this level performs their duties:

- (i) according to their level of competence; and
- (ii) under the general guidance of the Clinical Nurse Consultant who provides work related support and direction.

An employee at this level is required to perform duties which may include, but are not confined to:

- delivering direct and comprehensive nursing care to individual clients within the palliative care service;
- provision of the after-hours on-call support service as directed; and
- providing support, direction, orientation and education to RN Grade 2's as required.

### **Registered Nurse (Office Nurse Monday to Friday) Grade 3B**

An employee at this level is a registered nurse who provides high quality palliative nursing care and who additionally:

1. Is rostered to work Monday to Friday; and
2. Predominantly performs activities relating to daily client co-ordination including but not limited to:
  - I. Communicating regularly with staff to maintain a comprehensive understanding of the health status and palliative care needs of clients to inform decision making regarding staffing requirements
  - II. Allocating staff across each team to ensure staffing levels are adequate and utilised appropriately to meet the palliative care needs of clients
  - III. Reviewing after hours calls managed by triage and scheduling follow up phone calls and visits
  - IV. Making arrangements for clinical review of clients
  - V. Making referrals to service providers and interdisciplinary team members
  - VI. Leading the daily client handover meeting facilitating participation of all team members

- VII. Prioritising all referrals received by the Intake Team to ensure the referred client is seen within expected timeframe
- VIII. Providing timely assessment, intervention, clinical symptom management, advice and education to clients and their families to meet the complex palliative care needs of clients
- IX. Providing timely assessment and intervention in responding to requests for advice which are sought via the paging system
  - I. Maintaining current client records and meeting statistical reporting requirements of the organisation (for all contacts). Completion of documentation in accordance with policy and procedure
- X. Facilitating hospice/ hospital admissions and discharge planning

### **Registered Nurse (Weekend) Grade 3B**

An employee at this level is a registered nurse who provides high quality palliative nursing care and who additionally:

1. Is rostered to work weekends; and,
2. Performs activities relating to daily client co-ordination including but not limited to:
  - I. Collaborating with Grade 3B registered nurses rostered on the weekend within each team to ensure the 'float nurse' is utilised appropriately in order to meet the palliative care needs of clients.
  - II. Practicing independently whilst also communicating and collaborating effectively with external service providers to meet the palliative care needs of clients
  - III. Reviewing after hours calls managed by triage and scheduling follow up phone contact and/or face to face consultations /visits with clients
  - IV. Providing timely assessment and intervention, clinical symptom management, advice and education to clients and their families) to meet the complex palliative care needs of clients
  - V. Providing timely assessment, intervention in responding to requests for advice which are sought via the paging system
  - VI. Maintaining current client records and completing documentation in accordance with policy and procedure
  - VII. Facilitating hospice and hospital admissions
  - VIII. Accepting responsibility for the provision of the after-hours support service
  - IX. Escalating relevant matters to the on-call physician or EPC Management as required
3. EPC is committed to maintaining 3 Grade 3B nurses on each day of each weekend and one additional "floater" nurse for weekend work

### **Registered Nurse (Evening Shift Nurse) - Grade 3A**

An employee at this level is a registered nurse who provides high quality palliative nursing care and who:

1. Commences duty at 1430hrs and finishes at 2300hrs; and
2. Is responsible for responding to 'triage call outs' between the hours of 1430 and 2200 and therefore:
  - I. Providing timely assessment, intervention, clinical symptom management, advice and education to clients and their families to meet the complex palliative care needs of clients who have been identified by day staff as being in the unstable or terminal phase of their illness.
  - II. Referring, escalating and arranging admission to hospice or hospital if appropriate
3. Will ordinarily be scheduled up to 3 visits or one assessment per shift
4. Will have an entitlement to receive an evening shift allowance

### **Clinical Nurse Specialist**

Means a Registered Nurse appointed to the grade with either specific post basic qualifications and 12 month's experience working in the clinical area of her/his specified post basic qualification, and is responsible for clinical nursing duties, or minimum of four years post registration Experience, including three years' Experience in the relevant specialist field; and who meets the criteria set out herein.

Applicants must meet the above definition, be employed either full time or part time and demonstrate at least one of the criteria in each of Points 1, 2 and 3 below.

1. Clinical Skill
  - Higher level of skill demonstrated in clinical decision making - in particular in problem identification and solution, and analysis and interpretation of clinical data;
  - Maintenance and improvement of clinical standards.
2. Professional Behaviour
  - Positive role model;
  - Act as a mentor or preceptor to less experienced nurses, including graduate nurses;
  - Support of, and contribution to, quality improvement and research projects within the area of practice and ward/unit/department;
  - Acting as a Resource person to others in relation to clinical practice.
3. Professional Development
  - Membership of relevant professional body, and ability to demonstrate and document:
    - i. learning from a journal article, or attendance at a conference or seminar, or reflection on seminar or conference papers; or
    - ii. participation in effective learning activities relevant to their learning needs; or
    - iii. membership of a sub-grouping of the professional association relevant to their area of practice;

- Contribution to the education of other professionals, for example, being willing to provide at least one in-service education program each year;
- Undertaking own planned professional development and competence through various forms of continuing education, for example, conferences, study days, formal study, reading.

### **Registered Nurse - Grade 5 (Clinical Nurse Consultant)**

A Registered Nurse appointed as a Clinical Nurse Consultant and paid as such. The first year rate of pay for this classification shall be the Grade 5 (51-200 beds). Thereafter the rate of pay for this classification shall be the Grade 5 (201-400 beds).

(a) An employee at this level:

holds any other additional qualification required for working in the palliative care service such as a Post-Graduate Qualification in Palliative Care Nursing.

Duties of a Clinical nurse consultant will substantially include, but are not confined to:

- providing leadership, role modelling and mentoring to the staff in clinical palliative care;
- providing internal nursing education with the assistance of the HR department;
- ability to collaborate and achieve quality processes; and
- coordinating, and ensuring the maintenance of standards of the nursing care of the palliative care clients.

### **Nurse Practitioner**

A Registered Nurse has satisfactorily completed a course of study and undertaken clinical experience that, in the opinion of the **Australian Health Practitioner Regulation Agency**, qualifies the nurse to use the title Nurse Practitioner. A Nurse Practitioner possesses additional preparation and skills in physical diagnosis, psychosocial assessment and management of health-illness needs.

The nurse practitioner is able to assess and manage the care of clients/residents using nursing knowledge and skills. It is dynamic practice that incorporates application of high level knowledge and skills, beyond that required of a registered nurse /midwife in extended practice across stable, unpredictable and complex situations.

The nurse practitioner role is grounded in the nursing profession's values, knowledge, theories and practice and provides innovative and flexible health care delivery that complements other health care providers.

The Nurse practitioner is authorised to directly refer clients/residents to other health professionals, prescribe medications and order diagnostic investigations including pathology and plain screen x-rays.

Nurse practitioners exhibit clinical leadership that influences and progresses clinical care, policy and collaboration through all levels of health service.

## APPENDIX 1 - WAGE RATE SCHEDULE

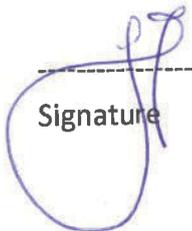
CLASSIFICATION	Code	EPC Current Weekly		1.10.20	1.10.20	1.10.21	1.10.21	1.10.22	1.10.22	1.10.23	1.10.23
		Rate Oct 2019	Hourly	3%	Hourly	3%	Hourly	3%	Hourly	3%	Hourly
<b>Nursing EBA 2020-2024</b>											
<b>RN Grade 2 - Div 1</b>											
1st year	ZU3	\$ 1,188.40	\$ 31.27	\$ 1,224.05	\$ 32.21	\$ 1,260.77	\$ 33.18	\$ 1,298.60	\$ 34.17	\$ 1,337.55	\$ 35.20
2nd year	ZU4	\$ 1,255.30	\$ 33.03	\$ 1,292.96	\$ 34.03	\$ 1,331.75	\$ 35.05	\$ 1,371.70	\$ 36.10	\$ 1,412.85	\$ 37.18
3rd year	ZU5	\$ 1,322.20	\$ 34.79	\$ 1,361.87	\$ 35.84	\$ 1,402.72	\$ 36.91	\$ 1,444.80	\$ 38.02	\$ 1,488.15	\$ 39.16
4th year	ZU6	\$ 1,394.00	\$ 36.68	\$ 1,435.82	\$ 37.78	\$ 1,478.89	\$ 38.92	\$ 1,523.26	\$ 40.09	\$ 1,568.96	\$ 41.29
5th year	ZU7	\$ 1,465.30	\$ 38.56	\$ 1,509.26	\$ 39.72	\$ 1,554.54	\$ 40.91	\$ 1,601.17	\$ 42.14	\$ 1,649.21	\$ 43.40
6th year	ZU8	\$ 1,534.80	\$ 40.39	\$ 1,580.84	\$ 41.60	\$ 1,628.27	\$ 42.85	\$ 1,677.12	\$ 44.13	\$ 1,727.43	\$ 45.46
7th year	ZU10	\$ 1,613.20	\$ 42.45	\$ 1,661.60	\$ 43.73	\$ 1,711.44	\$ 45.04	\$ 1,762.79	\$ 46.39	\$ 1,815.67	\$ 47.78
8th year	ZU11	\$ 1,678.50	\$ 44.17	\$ 1,728.86	\$ 45.50	\$ 1,780.72	\$ 46.86	\$ 1,834.14	\$ 48.27	\$ 1,889.17	\$ 49.71
<b>RN Grade 3A/Evening shift</b>											
1st year	YT11	\$ 1,750.00	\$ 46.05	\$ 1,802.50	\$ 47.43	\$ 1,856.58	\$ 48.86	\$ 1,912.27	\$ 50.32	\$ 1,969.64	\$ 51.83
2nd year	YT12	\$ 1,775.00	\$ 46.71	\$ 1,828.25	\$ 48.11	\$ 1,883.10	\$ 49.56	\$ 1,939.59	\$ 51.04	\$ 1,997.78	\$ 52.57
<b>RN Grade 3B/Intake/Office Nurse/Weekend shifts</b>											
1st year	YU11	\$ 1,800.00	\$ 47.37	\$ 1,854.00	\$ 48.79	\$ 1,909.62	\$ 50.25	\$ 1,966.91	\$ 51.76	\$ 2,025.92	\$ 53.31
2nd year	YU12	\$ 1,825.00	\$ 48.03	\$ 1,879.75	\$ 49.47	\$ 1,936.14	\$ 50.95	\$ 1,994.23	\$ 52.48	\$ 2,054.05	\$ 54.05
<b>CNC Grade 5 &amp; Nurse Practitioner Candidate</b>											
1st year	ZA7	\$ 2,100.00	\$ 55.26	\$ 2,163.00	\$ 56.92	\$ 2,227.89	\$ 58.63	\$ 2,294.73	\$ 60.39	\$ 2,363.57	\$ 62.20
2nd year	ZA8	\$ 2,150.00	\$ 56.58	\$ 2,214.50	\$ 58.28	\$ 2,280.94	\$ 60.02	\$ 2,349.36	\$ 61.83	\$ 2,419.84	\$ 63.68
<b>Nurse Practitioner</b>											
1st year	ZV1	\$ 2,330.40	\$ 61.33	\$ 2,400.31	\$ 63.17	\$ 2,472.32	\$ 65.06	\$ 2,546.49	\$ 67.01	\$ 2,622.89	\$ 69.02
2nd year	ZV2	\$ 2,374.70	\$ 62.49	\$ 2,445.94	\$ 64.37	\$ 2,519.32	\$ 66.30	\$ 2,594.90	\$ 68.29	\$ 2,672.75	\$ 70.34
<b>Allowances</b>											
On Call		\$ 55.70		\$ 65.00		\$ 66.95		\$ 68.96		\$ 71.03	
Evening Shift		\$ 29.70		\$ 30.59		\$ 31.51		\$ 32.45		\$ 33.43	
Night Shift		\$ 82.30		\$ 84.77		\$ 87.31		\$ 89.93		\$ 92.63	
RN hospital/Grad cert		\$ 52.89	\$ 1.39	\$ 54.47	\$ 1.43	\$ 56.11	\$ 1.48	\$ 57.79	\$ 1.52	\$ 59.53	\$ 1.57
RN Post grad Dip or Degree		\$ 85.94	\$ 2.26	\$ 88.52	\$ 2.33	\$ 91.18	\$ 2.40	\$ 93.91	\$ 2.47	\$ 96.73	\$ 2.55
RN Masters		\$ 99.17	\$ 2.61	\$ 102.14	\$ 2.69	\$ 105.20	\$ 2.77	\$ 108.36	\$ 2.85	\$ 111.61	\$ 2.94
RN PHD		\$ 112.39	\$ 2.96	\$ 115.76	\$ 3.05	\$ 119.23	\$ 3.14	\$ 122.81	\$ 3.23	\$ 126.50	\$ 3.33
Meal Allowance A		\$ 11.06		\$ 11.39		\$ 11.73		\$ 12.09		\$ 12.45	
Meal Allowance B		\$ 9.96		\$ 10.26		\$ 10.57		\$ 10.88		\$ 11.21	
Change of Roster		\$ 33.06		\$ 34.05		\$ 35.07		\$ 36.13		\$ 37.21	
<b>Car Allowance</b>											
35 PMU & over		\$ 1.26		\$ 1.30		\$ 1.34		\$ 1.38		\$ 1.42	
Under 35 PMU		\$ 0.97		\$ 1.00		\$ 1.03		\$ 1.06		\$ 1.09	

## **APPENDIX 2: LETTER OF APPOINTMENT**

The letter of appointment will contain the following information:

- 1 Name of employer
- 2 Employee's classification (eg: Grade 2 Year 4)
- 3 The workplace/location where the person is to be situated
- 4 The name of the Agreement which contains their terms and conditions of employment
- 5 Their mode of employment, ie: whether full-time/part-time or casual
- 6 Fortnightly hours will be ..... and for part-time (by mutual agreement) additional shifts may be added. Shifts will be worked in accordance with roster. Payment of additional shifts will not be at casual rates. If you agree to work regular additional shifts your letter of appointment will be varied accordingly
- 7 Specified employment is ongoing unless a valid fixed term appointment is proposed
- 8 Date of commencement
- 9 Acknowledgment (where applicable) of prior service/entitlements to sick leave, long service, etc.
- 10 Other Information as required depending on the nature of the position
- 11 Relevant qualifications and allowances payable.

I am authorised to sign this Agreement on behalf of EASTERN PALLIATIVE CARE ASSOCIATION INC.

  
Signature

Janette Foley CEO  
Print name and title

Address: 630 Mulden Road Mulden

Date: 23/9/2020

I am authorised to sign this Agreement as the nominated employee representative on behalf of ANMF

  
Signature

Lisa Fitzpatrick - Secretary  
Print name and title

Address: 535 Elizabeth Street, Melbourne Vic 3000

Date: 24 September 2020

## IN THE FAIR WORK COMMISSION

FWC Matter No.: AG2020/2903

Applicant: Eastern Palliative Care Association Incorporated T/A Eastern Palliative Care

Section 185 – Application for approval of a single enterprise agreement

### Undertaking – Section 190

I, Jeanette Moody, Chief Executive Officer, have the authority given to me by Eastern Palliative Care Association Inc. (EPC) to give the following undertakings with respect to the Eastern Palliative Care Association Inc. and the Australian Nursing and Midwifery Federation Nurses Agreement 2020 ("the Agreement"):

1. EPC will require an employee taking personal/carer's leave to notify EPC as soon as practicable (which may be a time after the leave has started), rather than 2 hours prior to the start of their shift as stated in clause 24(e)(iii).
2. Employees who are absent on personal leave for personal injury or sickness either side of a public holiday shall be required to provide a medical certificate from a registered health practitioner, statutory declaration or other evidence to the satisfaction of a reasonable person, rather than to the satisfaction of EPC as stated in clause 24(e)(viii).
3. EPC will not permit an employee to take half leave at double pay under clause 27(h)(i) of this Agreement.
4. EPC will not substitute public holidays as per Clause 23(d)(i) of this Agreement.
5. Regarding Sunday Penalty Rates and Shift Penalties for Grade 2 Registered Nurses, EPC undertakes it will not utilise pay points 1 to 4 for the life of the Agreement. Instead, all Grade 2 Registered Nurse employees will receive the applicable pay rate from pay point 5 or greater as appropriate.
6. EPC will ensure that casual employees receive the applicable overtime penalties under clause 20 of the Agreement, where they work more than:
  - a. 8 hours per day;
  - b. 38 hours per week;
  - c. 76 hours per fortnight; and/or
  - d. 152 hours per four-week period.
7. Consistent with the Fair Work Commission's decision in *Opal*, casual employees working on weekends will receive the penalties outlined in Clause 18 of the Agreement – these will be calculated on the casual employee's casually loaded pay rate.
8. In addition to the existing provisions in Clause 20(b)(v) of the Agreement, the following will also apply concerning accumulated Time In Lieu (TIL):
  - a. Employees may have their TIL paid out upon request, at the rate equivalent to the overtime penalty incurred, rather than waiting the 28 days;

- b. Employees whose employment is terminated will have any accumulated TIL paid out at the rate equivalent to the overtime penalty incurred; and
- c. EPC will not exert undue influence or undue pressure on an employee in relation to a decision by the employee to make, or not make, an agreement to take time off instead of payment for overtime.

9. Clause 33 Meal Allowances will be paid as follows:

- a. Meal Allowance A - \$13.56; and
- b. Meal Allowance B - \$12.23

10. In addition to the existing provisions in Clause 20 of the Agreement, on completion of 4 hours of overtime, employees are entitled to a paid 20-minute rest break if they are required to continue work after the 20-minute break.

These undertakings are provided based on issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Signature \_\_\_\_\_  


Date \_\_\_\_\_  
22/10/2020