



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

St John Of God Health Care Inc T/A St John Of God Health Care
(AG2023/2856)

ST JOHN OF GOD HEALTH CARE MAINTENANCE CAREGIVERS AGREEMENT 2023

Health and welfare services

DEPUTY PRESIDENT O'KEEFFE

PERTH, 4 SEPTEMBER 2023

Application for approval of the St John of God Health Care Maintenance Caregivers Agreement 2023.

[1] An application has been made for approval of an enterprise agreement known as the *St John Of God Health Care Maintenance Caregivers Agreement 2023 (the Agreement)*. The Application was made pursuant to s.185 of the *Fair Work Act 2009 (the Act)*. It has been made by St John Of God Health Care Inc T/A St John Of God Health Care (**the Applicant**). The Agreement is a single enterprise agreement.

[2] The notification time for the Agreement under s.173(2) was 2 February 2023 and the Agreement was made on 7 August 2023. Accordingly, the genuine agreement requirements are assessed under the Act as those applying before 6 June 2023 and the better off overall test is that applying on and from 6 June 2023¹.

[3] The Applicant expressed the view that the Agreement passes the Better Off Overall Test (BOOT) and provided a summary of why it expressed this view. Consistent with s.193A(3) of the Act I have given consideration to this view when determining whether the Agreement passes the BOOT. The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) and the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) who were bargaining agents, did not express a view as to whether the Agreement passes the BOOT.

[4] The Applicant has provided written undertakings. 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.

¹ The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) made a number of changes to enterprise agreement approval processes in Part 2-4 of the Fair Work Act. Those changes broadly commenced operation on 6 June 2023, subject to various transitional arrangements that included those to effect described above.

[5] Subject to the undertakings referred to above, I am satisfied that each requirement of ss186, 187 and 188 as are relevant to this application for approval have been met. The undertakings are taken to be a term of the Agreement.

[6] Noting the undertakings provided, I am satisfied that the more beneficial entitlements of the NES in the Act will prevail where there is an inconsistency between the Agreement and the NES.

[7] The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) and the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) lodged Form F18 statutory declarations giving notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) of the Act, I note the Agreement covers the CEPU and CFMMEU.

[8] The Agreement is approved and will operate in accordance with s.54 of the Act. The nominal expiry date of the Agreement is 31 August 2025.



DEPUTY PRESIDENT

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ST JOHN OF GOD
Health Care

ST JOHN OF GOD HEALTH CARE
MAINTENANCE CAREGIVERS AGREEMENT
2023

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

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INTRODUCTION

St John of God Health Care is committed to the dignity and worth of each person. We believe that work is a major forum in which we express and develop our dignity and grow towards fullness in human living.

We believe that conditions of work must be such that each person has the freedom and resources needed for growth and development towards wholeness.

St John of God Health Care is committed to the development and maintenance of an organisational culture that is person focused, committed to the Christian ministry of healing, and to the processes of Quality Caring.

St John of God Health Care has an organisational culture that promotes, encourages and facilitates individual and organisational growth and development towards quality service provision. It allows for flexibility and mutuality in the arrangements of working conditions.

It is a culture that leads to greater job satisfaction and ever improving quality of patient care and services.

Involvement in this Agreement results in mutual commitment to the following:

St John of God Health Care Inc.:

- The provision of fair employment conditions.
- Maintenance of safe working environments.
- Opportunities for growth and development for each Caregiver.
- Resources to facilitate optimum work processes and quality of services.
- Participation in continual improvement of all work processes.
- Provision of information and training to enable each Caregiver to understand and fulfil his or her obligations under this Agreement and to apply safe work practices.
- Non requirement of Caregivers to perform duties outside their competence.
- Provision of a regular cycle of appraisal and review of performance and developmental needs.
- Involvement of Caregivers as participants in the general functioning of the workplace.

Each Caregiver:

- Provision of an honest day's work in accordance with the relevant Position Description.
- Positive participation in the desired organisational culture of the hospital.
- Involvement in learning that will facilitate personal and professional growth and development.
- Observance of appropriate safety and security regulations.
- Observance of the hospital's policies and procedures.
- Participation in a regular cycle of appraisal and review of performance and development needs.

1. TITLE

This agreement shall be called the *St John of God Health Care Maintenance Caregivers Agreement 2023*.

2. PARTIES

- (1) Subject to compliance with the requirements of sections 185 and 201(2) of the *Fair Work Act 2009* ("the Act"), the parties to this Agreement shall be:
 - (a) St John of God Health Care Inc. ('the Employer').
 - (b) Caregivers employed in the classifications set out in Clause 21 – Wages in the Employer's hospitals located within Western Australia.
 - (c) The Australian Manufacturing Workers' Union (AMWU); Construction, Forestry, Mining and Energy Union (CFMEU); and the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Australia – Electrical Division, Western Australian Branch (CEPU) ('the Unions') will be covered by this Agreement.

3. TERM

- (1) Subject to approval by the Fair Work Commission (FWC) this Agreement shall commence operation seven (7) days after receiving approval from the FWC and shall remain in force until 31 August 2025 and thereafter in accordance with the Act.
- (2) Notwithstanding the provisions of subclause (1) hereof, this Agreement shall continue to operate until it is cancelled, varied or replaced in accordance with the provisions of the Act.

4. REPLACEMENT

This Agreement cancels and replaces the *St John of God Health Care Maintenance Caregivers Agreement 2019*.

5. COMPREHENSIVE AGREEMENT

- (1) It is the intention of the parties that this Agreement be a comprehensive document applying to Caregivers covered by this Agreement to the exclusion of all industrial agreements including as provided for in the Act. It is further intended that each provision of this Agreement is to be interpreted as not containing unlawful content and that each provision only operates in a manner that would not constitute unlawful content.

Relationship to the National Employment Standards

- (2) This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

6. INTERPRETATION

- (1) In this Agreement;
 - (a) **"The Act"** means the *Fair Work Act 2009*.
 - (b) **"Base rate"** means the wage rate referred to in Clause 21 – Wages relevant to the Caregiver.
 - (c) **"Caregiver"** means an employee of St John of God Health Care Inc.
 - (d) **"Casual"** means a Caregiver engaged on an hourly basis with no guarantee of continued or additional employment and as defined by section 15A of the Act.

- (e) **"Child"** includes an adopted child, stepchild, ex-nuptial child or adult child.
- (f) **"Continuous Service"** is defined by section 22 of the Act
- (g) **"Continuous shift Caregiver"** means a Caregiver who is required to work ordinary hours of duty in accordance with a roster where the Caregiver is rostered for duty over seven days of the week, and is required to work and works regularly on every day of the week, including public holidays and Sundays.
- (h) **"Employer"** means St John of God Health Care Inc., the CEO of a SJGHC Hospital or a person delegated by the CEO to exercise power on his/her behalf.
- (i) **"Fixed term contract"** refers to a contract of employment in which a Caregiver is engaged for a specific period of time or for the duration of a specific project.

Nothing in this subclause shall restrict the right of the Employer or the Caregiver to terminate the engagement within the specified term in accordance with the provisions of Clause 9 - Separation of this Agreement.

- (j) **"Immediate family"** means the Caregiver's or their spouse's child, parent, grandparent, grandchild, sibling or their spouse/de facto partner. This also includes a former spouse or former de facto partner.
- (k) **"NES"** means National Employment Standards as defined in the Act.
- (l) **"Ordinary rate"** means the total rate of pay prescribed in Clause 21 - Wages of this Agreement (including tool allowance) and any regular over-award payment.
- (m) **"Ordinary time earnings"** means the ordinary rate (as defined); any regular over award payment and shift and weekend penalties where the shift worked is part of the Caregiver's ordinary hours of work.
- (n) **"Part-time"** means a Caregiver with a guaranteed minimum number of hours (inclusive of holidays and leave) who is regularly employed to work less hours than those prescribed for full time Caregivers;
- (o) **"Public holiday"** means New Year's Day, Australia Day, Labour Day, Good Friday, Easter Monday, Anzac Day, Western Australia Day, Queen's Birthday, Christmas Day, Boxing Day, or the days observed in lieu thereof or any other day declared or prescribed under a law of the State of WA.

7. DUTIES

The Caregiver will be required to work in accordance with his/her position description and the Employer's policies and procedures. The Employer may direct the Caregiver to carry out such duties as are within the limits of the Caregiver's skill, competence or training, provided that such duties are not designed to promote deskilling.

8. PROBATION

- (1) The first three (3) months of employment or any period of extension implemented in accordance with subclause (3) below, will be on a probationary basis during which time and notwithstanding the provision of Clause 9 - Separation, of this Agreement either party may terminate the contract by giving one (1) weeks' notice in writing or payment or forfeiture in lieu thereof.
- (2) The Employer shall provide the Caregiver with an appraisal of his or her performance during the probationary period.
- (3) The period of probation may be extended up to three (3) months if the Caregiver fails to demonstrate the required standard of performance or conduct, or where a fair assessment of the Caregiver's performance cannot be made during this time due to:

- (a) The nature of the work; or
- (b) The circumstances in which it is performed; or
- (c) The absence during the period of either the Caregiver or the Caregiver's supervisor.

9. SEPARATION

Employer Giving Notice

- (1)
 - (a) The contract of service may be terminated by the Employer on any day by giving to the Caregiver the required period of notice in writing and the contract shall expire at the end of that period of notice.
 - (b) The required period of notice shall be:

Caregiver's period of continuous service with the Employer	Period of notice
Not more than 3 years	2 Weeks
More than 3 years but not more than 5 years	3 Weeks
More than 5 years	4 weeks
The required period of notice is increased by one week if the Caregiver is over 45 years old and has completed at least 2	

- (c) Provided that:
 - (i) The contract of service of a probationary Caregiver (other than a casual) may be terminated by the Employer giving the Caregiver one (1) weeks' notice in writing; and
 - (ii) The contract of service of a Caregiver engaged as a casual may be terminated by the Employer giving the Caregiver one (1) hours' notice. Such notice need not be in writing.
- (d) Payment in lieu of the required period of notice may be made by the Employer if the required notice is not given.
- (e) The Employer may terminate the contract of service by providing part of the required notice and payment in lieu of the balance.
- (2) Nothing in this clause affects the Employer's right to dismiss a Caregiver without notice for serious misconduct which justifies instant dismissal.

Caregiver Giving Notice

- (3)
 - (a) The contract of service may be terminated on any day by the Caregiver giving to the Employer two (2) weeks' notice in writing and the contract shall expire at the end of that period of notice.
 - (b) Where there is written agreement between the Employer and the Caregiver a longer period of notice up to and including four (4) weeks may be required.
 - (c) Provided that the contract of service of a Caregiver engaged as a casual may be terminated by the Caregiver giving the Employer one (1) hours' notice. Such notice need not be in writing.
 - (d) If a Caregiver fails to give the required notice or leaves during the notice period, the Employer may, at its discretion, deduct from any monies due to the Caregiver, an amount equal to the ordinary rate for the period of notice not given.
 - (e) A Caregiver shall not be disadvantaged as a result of providing a longer period of notice than

required by this clause.

- (f) The required notice may be dispensed with by agreement in writing between the Employer and Caregiver.

Certificate of Service

- (4) Where a Caregiver whose service terminates requests a certificate of service, a certificate signed by the Employer stating the name of the Caregiver, the period of service, whether the service was full-time or part-time and the classifications in this Agreement in which work has been carried out, shall be provided.

10. TIME NOT WORKED

The Caregiver shall not be entitled to payment for any period of unauthorised absence.

11. RELIEF AT OTHER LOCATIONS

A Caregiver required to relieve away from his/her usual place of work shall be provided with transport, free of charge, from his/her home to work and return, or, be paid the motor vehicle allowance provided in Clause 32 - Fares and Motor Vehicle Allowance of this Agreement.

12. CONFIDENTIALITY

Information relating to the Employer or its facilities, its customers or activities may not be released or divulged by the Caregiver to a third party other than in the proper performance of the Caregiver's obligations under this Agreement or relevant Act and the Caregivers right to seek advice or representation from the union or other representatives.

13. FLEXIBILITY TERM

- (1) The Employer and Caregiver covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

- (a) The arrangement deals with one (1) or more of the following matters:

- (b) Arrangements for when work is performed;

- (i) Overtime rates;
 - (ii) Penalty rates;
 - (iii) Allowances;
 - (iv) Annual leave loading;
 - (v) Parental leave;
 - (vi) Flexible working options.
 - (vii) The arrangement meets the genuine needs of the Employer and Caregiver in relation to one (1) or more of the matters mentioned in subclause (a); and
 - (viii) The arrangement is genuinely agreed to by the Employer and Caregiver.

- (2) The Employer must ensure that the terms of the individual flexibility arrangement:

- (a) Are about permitted matters under s172 of the Act; and
 - (b) Are not unlawful terms under s194 of the Act; and
 - (c) Result in the Caregiver being better off overall than the Caregiver would be if no arrangement

was made; and

- (d) Must be documented in such a manner as to allow inspection under s482 of the Act.
- (3) Where the Employer seeks such agreement with a Caregiver, that Caregiver shall be made aware of his/her rights, and given reasonable opportunity, to contact and seek representation from the Union or other representative.
- (4) Any disagreement arising from the operation of this subclause must be resolved in accordance with Clause 48 - Dispute Settlement Procedures of this Agreement.
- (5) For the avoidance of doubt, providing information concerning the Union under this subclause does not mean that that Union must approve or consent to the individual flexibility arrangement.
- (6) The Employer must ensure that the individual flexibility arrangement:
 - (a) Is in writing; and
 - (b) Includes the name of the Employer and Caregiver; and
 - (c) Is signed by the Employer and Caregiver and if the Caregiver is under 18 years of age, signed by a parent or guardian of the Caregiver; and
 - (d) Includes details of:
 - (i) The terms of the Agreement that will be varied by the arrangement; and
 - (ii) How the arrangement will vary the effect of the terms; and
 - (iii) How the Caregiver will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
 - (iv) States the day on which the arrangement commences.
- (7) The Employer must give the Caregiver a copy of the individual flexibility arrangement at the time it is signed by the Caregiver and Employer.
- (8) The Employer or Caregiver may terminate the individual flexibility arrangement:
 - a) By giving no more than 28 days written notice to the other party to the arrangement; or
 - b) If the Employer and Caregiver agree in writing – at any time.

14. PART-TIME

- (1) A part-time Caregiver shall be guaranteed a minimum number of hours per roster period.
- (2)
 - (a) A part-time Caregiver shall be remunerated at a weekly rate pro rata to the rate prescribed for the class of work on which he/she is engaged only in the proportion which his/her ordinary weekly hours averaged over the qualifying period, bears to 38.
 - (b) A part-time Caregiver shall be allowed annual leave, personal leave and study leave in the same manner as full-time Caregivers. Payment for such leave shall be in the same ratio as his/her ordinary weekly hours, averaged over the qualifying period, bears to 38.
- (3) A part-time Caregiver may by agreement work additional hours at ordinary rates subject to the normal rostering parameters of a full-time Caregiver.
- (4) Where there is no such agreement the Caregiver shall be paid for any additional hours at overtime rates.

15. CASUALS

- (1) A casual shall be engaged on an hourly basis with no guarantee of continued or additional employment. The minimum period of engagement for a casual caregiver is three (3) hours.
- (2) A casual shall be paid 1/38th of the total rate prescribed in Clause 21 - Wages of this Agreement for each hour worked, plus 20% additional loading.
- (3) A casual shall not receive any of the leave entitlements prescribed in this Agreement except Long Service Leave (as per the Long Service Leave Act 1958 (WA)) and where otherwise provided for in legislation (as per the Act).

Casual Conversion

- (4) A casual caregiver is one who is offered employment on the basis that the Employer has made no firm advance commitment to continuing and indefinite work according to an agreed pattern of work and that the casual caregiver has accepted the offer of employment on that basis.
- (5) The Employer will ensure it complies with the provisions contained within the Act relating to offering casual conversion once the caregiver has been employed for a minimum period of 12 months.
- (6) A casual Caregiver may request that their employment be converted to full-time or part-time employment in accordance with the provisions contained within the Act.
- (7) A casual Caregiver may seek conversion if they have worked a regular pattern of hours on an ongoing basis, which, without significant adjustment the Caregiver could continue to perform as a full-time Caregiver or a part-time Caregiver under the provisions of this Agreement.
- (8) Casual conversions will not apply where a casual Caregiver covered absences of permanent staff that are expected to return to work.
- (9) Any request under this casual conversion provision must be in writing and provided to the Employer.
- (10) Where a casual caregiver seeks to convert to permanent employment, the Employer may agree to or refuse the request, but the request may only be refused on reasonable grounds and after there has been consultation with the Caregiver.
- (11) The Caregiver will not be considered to have worked a regular pattern of hours where these shifts are replacing a Caregiver's absence (including but not limited to parental leave, long service leave, workers compensation leave, personal leave) or flexible work arrangement.
- (12) Where the Employer declines a casual Caregiver's request to convert, the Employer must provide the casual Caregiver with the Employer's reasons for refusal in writing within 21 days of the request being made.
- (13) The Employer will provide a casual Caregiver with a copy of the Casual Employment Information Statement at the time of their employment.

16. HOURS

- (1) The ordinary hours of work for a full-time Caregiver shall average 38 per week and shall not exceed 152 hours in twenty-eight consecutive days.

Provided that, where the Employer and the majority of Caregivers concerned agree, a roster system may operate on the basis that the weekly average of 38 ordinary hours is achieved over a period which exceeds 28 consecutive days.

- (2) (a) Day Worker
 - (i) The ordinary hours of work of a day worker may be worked between 6 am and 6 pm

on any day of the week Monday to Friday inclusive.

- (ii) The provisions of this subclause may be departed from by agreement between the Employer and the Caregiver(s) concerned.
- (b) Shift Worker
 - (i) The ordinary hours of work of a shift worker may be worked on any day of the week Monday to Sunday inclusive.
- (3)
 - (a) The 38 hour week shall be worked by each full-time Caregiver working 19 eight (8) hour days and having one rostered day off (RDO) in each four (4) week cycle.
 - (b) RDOs will be taken at a time which is mutually convenient to the employer and the caregiver subject to operational requirements, noting that at least 50% of RDOs will be rostered on a Monday or Friday.
 - (c) RDOs shall be arranged so that they do not fall on a public holiday prescribed in Clause 35 - Public Holidays of this Agreement.
 - (d) RDOs will be rostered six (6) months in advance provided that the roster may be altered by the Employer giving four (4) weeks' notice or by agreement between the Employer and the Caregiver(s) concerned.
 - (e) Ordinary hours shall not exceed ten (10) in any shift, except where a shift of 12 ordinary hours is rostered by agreement between the Caregiver and the Employer.
 - (f) The provisions of this subclause may be departed from by agreement between the Employer and Caregiver(s) concerned.

17. OVERTIME

- (1) All time worked in excess of the ordinary working hours on any day shall be paid for as follows:
 - (a) 150% for the first two (2) hours on any day Monday to 12.00 midday Saturday and 200% thereafter.
 - (b) 200% on a Sunday or after 12.00 midday on a Saturday.
 - (c) 200% for all overtime worked consecutively with a rostered shift on a Saturday.
 - (d) 250% for all overtime worked on a public holiday.
 - (e) Provided that where a Caregiver is called into work, either when on-call or unexpectedly when not on call, shall be paid in accordance with Clause 18 – On-call.
- (2) Where the Employer and the Caregiver agree, time off in lieu of payment for overtime may be allowed proportionate to the payment to which the Caregiver is entitled. Such time-off shall be taken at a time convenient to the Employer provided that the overtime is made up within 28 days from the time when it became due.
- (3) In calculating overtime each day shall stand alone.
- (4) Where a Caregiver who has not been notified the previous day or earlier that he/she is required to work overtime, works such overtime for an hour or more, the Employer shall ensure that he/she is provided with any of the usual meals occurring during such overtime.
- (5) The Employer may require any Caregiver to work reasonable overtime at overtime rates.
- (6)
 - (a) When overtime work is necessary it shall, wherever reasonably practicable, be so arranged that a Caregiver has at least ten (10) consecutive hours off duty between the work of successive

days.

- (b) A Caregiver (other than a casual Caregiver) who works so much overtime between the termination of the Caregiver's ordinary work on one day and the commencement of the Caregiver's ordinary work on the next day that the Caregiver has not had at least ten (10) consecutive hours off duty between those times shall, subject to this subclause, be released after completion of such overtime until the Caregiver has had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (c) If, on the instructions of the Employer, such a Caregiver resumes or continues work without having had such ten (10) consecutive hours off duty, the Caregiver shall be paid at 200% until released from duty and shall then be entitled to be absent for such period of ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.
- (d) The provisions of this subclause shall apply in the case of shift Caregivers who rotate from one shift to another, as if eight (8) hours were substituted for ten (10) hours when overtime is worked:
 - (i) For the purpose of changing shift rosters; or
 - (ii) Where a shift Caregiver does not report for duty; or
 - (iii) Where a shift is worked by arrangement between the Caregivers themselves.

18. ON CALL

- (1) For the purpose of this Agreement a Caregiver is on call when required by the Employer to remain at such a place as will enable the Employer to readily contact him or her during the hours for which he or she has been placed on call. A Caregiver is also on call when required to carry a mobile telephone or beeper and to remain within a reasonable radius of the hospital.
- (2) A Caregiver on call shall be paid an hourly allowance. Provided that payment in accordance with this clause shall not be made with respect to any period for which payment is otherwise made in accordance with the provisions of this Agreement when the Caregiver is recalled to work.
- (3) On call allowance will be paid per hour:

Previous	FFPPOA 01/09/2022	FFPPOA 01/09/2023	FFPPOA 01/09/2024
	3.0%	3.0%	3.0%
\$7.40	\$7.62	\$7.85	\$8.09

Provided that payment of the on-call allowance recognises the need for a caregiver to be phoned for advice whilst on-call from time to time.

- (4) Where a caregiver who is not rostered on-call is telephoned for technical advice they will receive 45 minutes time off in lieu (i.e., the equivalent of thirty minutes at overtime rates) that will include all calls received and made to resolve the issue. Any subsequent issues that arise within this time period will not be subject to additional payments. Any phone calls made to a caregiver who is not on-call must be subject to approval by the Chief Engineer.

Call Out

- (5) A Caregiver who is called out to work when on call shall be paid a minimum of three (3) hours provided that if the Caregiver is called out within three (3) hours of starting work on a previous call he/she shall not be entitled to any further payment for the time worked within that period of three (3) hours. The rate of pay shall be:
 - (a) 200%; or
 - (b) 250% on a public holiday.

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- (6) Where a Caregiver and the Employer so agree, time off in lieu of payment for a call out may be allowed proportionate to the payment to which the Caregiver is entitled.

Provided that such time off shall be taken at a time convenient to the Employer provided that it is taken within 28 days from the time when it became due.

- (7) If a Caregiver is recalled to work he/she shall be provided with transport, free of charge, from his/her home to work and return, or, be paid the motor vehicle allowance provided in Clause 32 - Fares and Motor Vehicle Allowance of this Agreement.
- (8) Where a Caregiver is due to commence their next ordinary duty within ten (10) hours of the cessation of hours actually worked having been recalled to duty, they shall be directed by the Employer to either:
- (a) Delay the start to their next ordinary duty until such time as ten (10) hours have elapsed since the cessation of overtime without loss of pay for that period; or
 - (b) Commence their next ordinary duty and be paid at 200% until released from duty for such period and shall then be entitled to be absent until he/she has had ten (10) consecutive hours off duty without loss of pay for ordinary working time occurring during such absence.

Provided that (a) and (b) above shall not apply where the recall commenced within three (3) hours of the commencement of ordinary duty and the Caregiver has had a break of ten (10) hours immediately prior to the commencement of the recall period.

Additional Annual Leave for On Call

- (9) A Caregiver regularly required to work on call will receive up to either an extra 38 hours annual leave per accrual year where they are not in receipt of accrued time off, or 40 hours annual leave where they are in receipt of accrued time off in accordance with the schedule in subclause (11) below, provided that they are available to be rostered on call Monday to Sunday, including public holidays and are rostered on call to suit operational requirements, in accordance with the following:
- (a) Following a normal rostered shift; or
 - (b) During weekend days or public holidays; or
 - (c) On days that they are not rostered for duty.
- (10) The accrual year shall be 24 January each year for Caregivers who were employed prior to the commencement of the St John of God Health Care Maintenance Caregivers Agreement 2019 agreement ("2019 Agreement) or, for Caregivers not employed at the commencement of the 2019 Agreement, the anniversary of their commencement with the Employer.
- (11) The rate at which a Caregiver regularly placed on call shall accrue additional leave, is as follows:

Number of hours rostered on call per accrual year	Additional Hours for Caregivers not in receipt of accrued time off	Additional Hours for Caregivers in receipt of accrued time off
120 hours to 179 hours	7.6 hours	8 hours
180 hours to 239 hours	15.2 hours	16 hours
240 to 299 hours	30.4 hours	32 hours
300 hours or more	38 hours	40 hours

- (12) For the purpose of calculating additional leave, the period of on-call is not reduced by recalled hours.

19. MEAL AND MEAL HOURS

- (1)
 - (a) Meal breaks shall be a minimum of 30 minutes and a maximum of one (1) hour other than by agreement and shall not be counted as time worked.
 - (b) No Caregiver shall be compelled to work for more than five (5) hours consecutively without a meal break.
 - (c) By agreement between the Employer and the Caregiver or Caregivers concerned, a Caregiver or Caregivers may work in excess of five (5) hours, but not more than six (6) hours, at ordinary rates of pay without a meal break.
 - (d) The time of taking a scheduled meal break or rest break by one (1) or more Caregivers may be altered by the Employer if it is necessary to do so in order to meet a requirement for continuity of operations.
 - (e) The Employer may stagger the time of taking a meal or rest break to meet operational requirements.
- (2) When a Caregiver is required for duty during the Caregivers usual meal interval and the meal interval is thereby postponed for more than half an hour, the Caregiver shall be paid at overtime rates until the Caregiver gets the meal interval.
- (3) One ten (10) minute tea break shall be allowed during each shift and shall be taken when convenient to the Employer without deduction of pay for such time. During each day shift, the break shall be taken during the morning.
- (4) A Caregiver who has not been notified the previous day or earlier that he or she is required to attend work at a time when a meal is usually taken shall be provided with such a meal.

20. SHIFT WORK

- (1)
 - (a) The loading on the ordinary rates of pay for a Caregiver who works an afternoon shift commencing not earlier than 12.00 noon and finishing after 6.00pm on weekdays shall be 15%.
 - (b) The provisions of subclause (a) of this subclause do not apply to a Caregiver who on any weekday commences his/her ordinary hours of work after 12.00 noon and completes those hours at or before 6.00pm on that day.
 - (c) The loading on ordinary rates of pay for a Caregiver who works a shift that commences at or after 6.00pm and finishes at 7.30am or earlier on a weekday shall be 20%.
- (2) A Caregiver rostered to work ordinary hours between midnight Friday and midnight on the following Saturday shall be paid a loading of 50% on actual hours worked during this period.
- (3) A Caregiver rostered to work ordinary hours between midnight Saturday and midnight on the following Sunday shall be paid a loading of 75% on actual hours worked during this period.
- (4) Where a Caregiver works a broken shift each portion of that shift shall be considered a separate shift for the purpose of this clause.
- (5) Where the ordinary hours of work span 12.00 midnight on a Friday or Saturday night the additional payments for shift work and work on Saturday or Sunday shall be made by calculation for each part of the shift according to the rate applicable for additional payment for shift work and work on Saturday or Sunday as the case may be.
- (6) A Caregiver may transfer from being a day worker to being a shift worker and vice versa by agreement with the Employer.

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21. WAGES

- (1) This schedule prescribes the total weekly base rate payable (including allowances not elsewhere mentioned, licence payments and leave loading):

Classification	Level	Wage Increases			
		Previous	FFPPOA 01/09/2022 3.0%*	FFPPOA 01/09/2023 3.0%	FFPPOA 01/09/2024 3.0%
METAL TRADES					
Electrical	Level 1	\$1,299.13	\$1,338.10	\$1,378.25	\$1,419.59
	Level 2	\$1,471.08	\$1,515.21	\$1,560.67	\$1,607.49
	Level 3	\$1,585.13	\$1,632.68	\$1,681.66	\$1,732.11
Mechanical	Level 1	\$1,264.40	\$1,302.33	\$1,341.40	\$1,381.64
	Level 2	\$1,436.13	\$1,479.21	\$1,523.59	\$1,569.30
	Level 3	\$1,550.22	\$1,596.73	\$1,644.63	\$1,693.97
BULDING TRADES					
Carpentry & Joinery		\$1,483.43	\$1,527.93	\$1,573.77	\$1,620.98
Plumber		\$1,578.89	\$1,626.26	\$1,675.04	\$1,725.30
Trades Assistant		\$1,269.65	\$1,307.74	\$1,346.97	\$1,387.38
Trades Assistant - Skilled		\$1,307.73	\$1,346.96	\$1,387.37	\$1,428.99

* NB – the first increase of 3% effective ffpboa 1 September 2022 was paid as an administrative payment of 2% effective ffpboa 1/9/2022. With the implementation of this Agreement, caregivers will receive the additional 1% effective ffpboa 1/9/2022 as a retrospective payment. The same retrospective payment will apply to allowances contained at Clause 18 – On Call; Clause 28 – Nominee Allowance; and the Leading Hand Allowance identified at sub clause (2) (g) below.

- (2) The rates of pay outlined in the subclause (1) apply as follows:

(a) **METAL TRADES - Electrical**

Level 1 means a qualified electrician who holds a Trade Certificate in Electrical Fitting and a current electrical Licence performing duties in line with level C10 (Metal and Engineering Industry Competency Standards),

Level 2 means a qualified electrician who holds a Trade Certificate in Electrical Fitting and a current electrical Licence performing duties in line with level C7 (Metal and Engineering Industry Competency Standards),

Level 3 means a qualified electrician who holds a Trade Certificate in Electrical Fitting and a current electrical Licence performing duties in line with level C6 (Metal and Engineering Industry Competency Standards),

(b) **METAL TRADES - Mechanical**

Level 1 means a Mechanical Fitter holding a Trade Certificate in Mechanical Fitting; or a Refrigeration and Air conditioning Technician holding a Trade Certificate in Refrigeration and Air Conditioning and R.A.C.I.R.B. Certificates; performing duties in line with level C10 (Metal and Engineering Industry Competency Standards).

Level 2 means a Mechanical Fitter holding a Trade Certificate in Mechanical Fitting; or a Refrigeration and Air Conditioning Technician holding a Trade Certificate in Refrigeration and Air Conditioning and R.A.C.I.R.B. Certificates; performing duties in line with level C7 (Metal and Engineering Industry Competency Standards).

Level 3 means a Mechanical Fitter holding a Trade Certificate in Mechanical Fitting; or a Refrigeration and Air Conditioning Technician holding a Trade Certificate in Refrigeration and

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Air Conditioning and R.A.C.I.R.B. Certificates; performing duties in line with level C6 (Metal and Engineering Industry Competency Standards).

- (c) **Carpentry and Joinery** means a qualified carpenter holding a Trade Certificate in Carpentry/Cabinetmaking.
- (d) **Plumber** means a qualified plumber holding a Trade Certificate in Plumbing and a Plumbers contracting license, with endorsements in back flow prevention and gas installations.
- (e) **Trades Assistant** means a non-trade qualified Caregiver who assists trade qualified Caregivers and works under limited supervision.
- (f) **Trades Assistant - Skilled** means a non-trade Caregiver who may or may not hold relevant qualifications who works individually or in a team environment and assists other trades as required.
- (g) **Leading Hand**

In addition to the total rate prescribed in subclause (1) a leading hand shall be paid per week.

Leading Hand Allowance				
	Previous	FFPPOA 01/09/2022 3.0%	FFPPOA 01/09/2023 3.0%	FFPPOA 01/09/2024 3.0%
If placed in charge of not less than three (3) and not more than ten (10) other workers	\$25.66	\$26.43	\$27.22	\$28.04
If placed in charge of more than ten (10) and not more than 20 other workers	\$39.30	\$40.48	\$41.69	\$42.94
If placed in charge of more than 20 other workers	\$50.82	\$52.34	\$53.91	\$55.53

- (h) **Special Provisions**
 - (i) The rates of pay prescribed above incorporate tool allowances and all tradespersons shall be required to provide tools required by their respective trades.
 - (ii) The rates of pay prescribed above incorporate a commuted allowance in substitution of any disability allowances that might otherwise be payable.
 - (iii) The Employer shall provide for the use of tradespersons all necessary power tools, special purpose tools and precision measuring instruments.
 - (iv) A tradesperson shall replace or pay for any tools supplied by the Employer if lost through the Caregiver's negligence.

22. PAYMENT OF WAGES

- (1) Wages shall be paid fortnightly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.

Provided that a Caregiver who is absent from duty (other than on annual leave, long service leave, holidays prescribed under this Agreement, paid personal leave, workers' compensation or compassionate leave) shall not be paid for the period of absence and shall have his/her fortnightly pay reduced accordingly.

- (2) Wages shall be paid fortnightly by electronic funds transfer into an account/s nominated by the Caregiver.

Any costs associated with the establishment by the Caregiver of such an account and of the operation of it shall be borne by the Caregiver.

- (3) Each Caregiver shall be provided with a pay advice slip on each occasion that wages are paid, which will contain details in accordance with the *Fair Work Regulations 2009*.

Termination of Employment

- (4) A Caregiver who lawfully leaves the employment or is dismissed for reasons other than misconduct shall be paid all monies due at the termination of service with the Employer. Upon termination of employment, the Employer shall pay to the Caregiver all monies earned by or payable to the Caregiver within seven (7) days of termination of employment through the normal payroll system or via an electronic funds transfer into the Caregiver's account(s). Provided that any outstanding debts or overpayments accrued by the Caregiver may be recovered from the final payment payable to the Caregiver on termination, if authorised by the Caregiver.

Overpayments

- (5) Where a Caregiver is overpaid in any manner, and as set out in subclauses (6) to (9) inclusive, the employer is entitled to make adjustment to the subsequent salary of the Caregiver with written authorisation.

One-off Overpayments

- (6) One-off overpayments may be recovered by the employer in the pay period immediately following, or subject to subclauses (8) and (9) of this clause, in the period immediately following the pay period in which it was discovered that overpayment has occurred.

Cumulative Overpayments

- (7) Subject to subclauses (8) and (9) of this clause, cumulative overpayments may be recovered by the employer at a rate agreed between the Employer and the Caregiver.
- (8) Other arrangements for the recovery of overpayments may be agreed between the Employer and the Caregiver provided that the Employer may not deduct or require a Caregiver to repay an amount exceeding 10% of the Caregiver's net pay in any one pay period without the Caregiver's agreement.
- (9) The Employer shall notify the Caregiver of their intention to recoup an overpayment and consult with the Caregiver as to an appropriate recovery rate.

Underpayments

- (10) Where a Caregiver is underpaid in any manner, the employer will act expeditiously to rectify the error as soon as practicable.
- (11) Notwithstanding subclause (10), an error shall be rectified no later than in the pay immediately following the date on which the Employer discovers, or is advised, that the error occurred.
- (12) Notwithstanding the provisions of subclause (11), a Caregiver shall be paid any underpayment immediately by way of a special payment where the underpayment of salary will cause financial hardship.

23. TIME AND WAGES RECORD

Records concerning a Caregivers employment with the Employer will be kept and maintained in accordance with the Act and associated regulations.

24. SALARIES AND SALARY PACKAGING

In lieu of the weekly rates of pay provided in this clause, the Employer and the Caregiver may agree to implement salary packaging arrangements. Such arrangements must be in accordance

with the Employer's salary packaging policy as amended and varied from time to time provided there is no reduction in benefits, unless required as a result of a change or variation to an existing law, the enactment of a new law, or a decision of a court, the Australian Tax Office, or tribunal, which requires compliance by the Employer. The administrative arrangements for salary packaging will be entirely at the discretion of the Employer. Salary packaging arrangements entered into will be cost neutral in relation to the total employment cost of the Caregiver for the Employer.

25. SUPERANNUATION

- (1) The Employer shall contribute on behalf of the Caregiver in accordance with the requirements of the *Superannuation Guarantee (Administration) Act 1992 (Cth)*.
- (2) Contributions shall at the option of the Caregiver be paid into any complying superannuation fund or scheme as nominated by the Caregiver.
- (3) If, after commencement of employment, an election is not made by a Caregiver, contributions will be paid into:
 - (a) The Caregiver's stapled super fund; or
 - (b) Health Employees' Superannuation Trust Australia (HESTA). HESTA provides a "MySuper product" and is the Employer's nominated fund.
- (4) Contributions into the nominated fund shall be paid on a monthly basis.
- (5) Contributions shall continue to be paid on behalf of a Caregiver in receipt of payments under the *Workers Compensation and Injury Management Act 1981 (WA)* for a period of three (3) months.
- (6)
 - (a) A Caregiver may elect in writing to receive a superannuation benefit in lieu of part of the salary to which he or she is otherwise entitled under this Agreement in accordance with the St John of God Health Care salary packaging policy.
 - (b) This arrangement shall remain in force until terminated by mutual agreement or by either the Employer or the Caregiver providing one (1) months' notice.

26. HIGHER DUTIES

- (1) A Caregiver who is capable of performing and does perform all duties of a position which attracts a higher rate of pay than that which he or she usually performs shall be entitled to the higher rate whilst so engaged.
- (2) When a Caregiver performs some, but not all, of the duties of the position a rate of pay less than the rate the position normally attracts can be paid by agreement between the Employer and Caregiver.
- (3) Provided that payment for higher duties shall not apply to a Caregiver required to act in another position while the incumbent is taking a rostered day off in accordance with Clause 16 - Hours of this Agreement.

27. JOB SHARING ARRANGEMENT

- (1) Where the Employer and Caregiver agree, a job sharing arrangement can be implemented in which the Caregiver is engaged to work less than full-time hours, with the remainder of the full-time hours to be undertaken by a colleague, collectively satisfying a full-time engagement.
- (2) A job sharing arrangement may be entered into for the following reasons:
 - (a) Transition to retirement;
 - (b) To undertake study;
 - (c) Convenience or preference;

- (d) Secondary employment;
 - (e) Any other agreed reason.
- (3) Approval of a job sharing arrangement request under this clause is at the discretion of the Employer, giving consideration to:
- (a) Operational requirements of the Employer;
 - (b) The skills, experience and qualifications of the job sharing participants.
- (4) Job sharing arrangements entered into under this clause are not impacted by the flexibility provisions conferred by the NES.

28. NOMINEE ALLOWANCE

- (1) Where the Employer requires a Caregiver to accept responsibility to Statutory Authorities and be the nominated holder of a licence on behalf of the Employer, in relation to Electrical or Plumbing trades, the Caregiver shall be paid an allowance of per week:

Nominee Allowance			
Previous	FFPPOA 01/09/2022	FFPPOA 01/09/2023	FFPPOA 01/09/2024
	3.0%	3.0%	3.0%
\$32.04	\$33.00	\$33.99	\$35.01

- (2) The Caregiver shall be allowed sufficient time during ordinary hours to complete paperwork required as the Nominee.
- (3) The allowance prescribed in subclause (1) reflects increases in line with general percentage salary increases.

29. PROTECTIVE EQUIPMENT

- (1) The Employer shall have available a sufficient supply of protective equipment, for example, goggles (including anti-flash goggles), glasses, gloves, mitts, aprons, sleeves, leggings, gumboots, ear protectors, helmets, or other efficient substitutes thereof, for use by Caregivers when engaged on work for which some protective equipment is reasonably necessary.
- (2) A Caregiver shall sign an acknowledgment when issued with any article of protective equipment and shall return that article to the Employer when finished using it or on leaving employment.
- (3) A Caregiver to whom an article of protective equipment has been issued shall not lend that article to another Caregiver and if the Caregiver does both Caregivers shall be deemed guilty of wilful misconduct.
- (4) An article of protective equipment which has been used by a Caregiver shall not be issued by the Employer to another Caregiver until it has been effectively sterilised but this subclause only applies where sterilisation of the article is practicable and is reasonably necessary.

30. CALCULATION OF PENALTIES

- (1) Where the Caregiver works hours which would entitle him or her to payment of more than one of the penalties payable in accordance with the overtime, shift and weekend penalties, or public holiday provisions of this Agreement, only the highest of any such penalty shall be payable.
- (2) In the case of casuals any such penalty shall be in addition to the casual loading.

31. LAUNDRY AND UNIFORMS

- (1)
 - (a) Where the Employer requires a uniform to be worn, an adequate supply of such uniforms shall be provided free of cost to the Caregiver on engagement.
 - (b) Thereafter uniforms will be replaced on an 'as required' basis provided that the Caregiver when a new uniform is issued shall be required to return the replaced uniform.
 - (c) Uniforms provided by the Employer shall at all times remain the property of the Employer and must be returned to the Employer on termination.
 - (d) Uniforms shall not be worn other than in the course of, and in travelling to and from, employment.
- (2) The cost of laundering uniforms shall be met by the Caregiver, as a laundry allowance has been absorbed into the rates of pay.
- (3) The Employer shall provide Caregivers with safety footwear as appropriate.
- (4) Nothing in this clause shall prevent the Employer and the Caregiver making other arrangements as to laundry and uniforms not less favourable to the Caregiver.
- (5) The provisions of this clause shall not detract from the Employer's obligation pursuant to s19 of the *Occupational Health Safety and Welfare Act 1984* to provide Caregivers with adequate personal protective clothing and equipment where it is not practicable to avoid the presence of hazards at the workplace.

32. FARES AND MOTOR VEHICLE ALLOWANCE

- (1) A Caregiver required to work outside the hospital during his or her normal working hours shall be paid any reasonable travelling and accommodation expenses incurred provided that travelling expenses shall not be paid where an allowance is paid in accordance with subclause (2) hereof.
- (2) A Caregiver required and authorised to use his or her own motor vehicle in the course of his duties shall be paid an allowance of not less than 85 cents per kilometre.
- (3) The rate prescribed in subclause (2) shall be reviewed whenever this Agreement is renewed or replaced.
- (4) Nothing in this clause shall prevent the Employer and the Caregiver making other arrangements as to car allowance not less favourable to the Caregiver.

33. ANNUAL LEAVE

Entitlement

- (1) Each Caregiver shall be entitled to four (4) weeks annual leave at ordinary rates of pay in respect of each year of service. The entitlement accrues on a progressive basis in respect of each ordinary hour worked and accumulates from year to year.

For the purposes of this clause, "service" shall not include any period of unpaid leave other than the first three (3) months of unpaid personal leave and the first month of workers' compensation leave.
- (2) A continuous shift Caregiver shall be granted additional leave at the rate of 1.5 hours for each Sunday worked to a maximum of 38 hours per year of service.
- (3) Caregivers who participate in the on call roster will receive up to an additional 38 hours annual leave per annum in accordance with subclause 18(9).
- (4) Provided that where a Caregiver qualifies for additional annual leave under subclauses 33(2) and

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33(3), no more than 38 or 40 hours additional annual leave shall accrue in any accrual year.

Rate of Pay

- (5) A Caregiver shall be paid for any period of annual leave prescribed in this clause at the ordinary rate of wage the Caregiver would have received as his or her payment at the time of taking the leave.

The base wages prescribed in this Agreement incorporate a commuted allowance which is in substitution for leave loading, unless otherwise agreed by the Employer and Caregiver. Leave entitlements utilised during the life of this Agreement, including credits accrued prior to the commencement of this Agreement, shall not otherwise attract leave loading.

Timing of Payment

- (6) The Caregiver is to be paid for a period of annual leave at the time payment is made in the normal course of employment, unless the Caregiver requests in writing that he or she be paid before the period of leave commences in which case the Caregiver is to be so paid.

Termination

- (7) If a Caregiver's employment terminates, the Caregiver shall be paid their accrued leave including any additional leave accrued under subclause (2) and (3) hereof.

Taking Annual Leave

- (8)
- (a) The Caregiver may, with the approval of the Employer, be allowed to take the annual leave prescribed by this clause before the completion of 12 months continuous service.
 - (b) The annual leave prescribed in this clause may be split into portions by agreement between the Employer and the Caregiver.
 - (c) When the Caregiver requests that the annual leave be split into portions the Employer shall make every reasonable endeavour to accommodate the wishes of the Caregiver.
 - (d) Where the Employer and Caregiver have not agreed when the Caregiver is to take annual leave either party may give the other notice of the period of time when (subject to subclause hereof) the leave is to be taken.

The minimum period of notice shall be as follows:

Period of Leave to be Taken	Notice Required
1 day	2 weeks
2 days	3 weeks
3-5 days	4 weeks
6-10 days	5 weeks
11-15 days	7 weeks
16-20 days	8 weeks
> 20 days	10 weeks

- (e) Notwithstanding the provisions of subclause (d) the taking of annual leave shall be arranged so as to ensure adequate cover at all times.
- (f) Provided that leave shall be taken within 18 months following the date of accrual.

Closedown

- (9) Where the Employer temporarily closes a ward, unit or department over the Christmas/New Year

period, a Caregiver may be directed to take paid annual leave during part or all of this period provided such direction is reasonable.

- (10) The period of the closedown may be up to two (2) weeks and will encompass both Christmas and New Year.
- (11) Caregivers will be provided with a minimum three (3) months' notice of the intention to close the area and the dates on which it will be closed.
- (12) A Caregiver will access their accrued leave to cover the period of closedown, provided that a Caregiver may request as an alternative:
 - (a) To continue working during the period, in which case the Employer will use its best endeavours to identify and offer alternative work in another area of the Hospital or at another SJGHC Hospital or facility within the same geographic area subject to operational considerations;
 - (b) To take another form of paid leave, or leave without pay;
 - (c) To take annual leave in advance where they have no other form of paid leave available to them.

Cashing out Annual Leave

- (13) A Caregiver may elect to cash out portions of annual leave provided that:
 - (a) Remaining accrued entitlement of annual leave is not less than four (4) weeks; and
 - (b) Agreement between the employer and Caregiver is in writing; and
 - (c) The amount payable will be based on ordinary rates, inclusive of leave loading if applicable, at the time the request is granted.

34. FLEXIBLE WORK/PURCHASED LEAVE OPTIONS

- (1) Caregivers may elect in writing to participate in flexible working arrangements where these are offered by the Employer. These arrangements may include the facility for the Caregiver to 'purchase' additional leave, by electing to forego part of their salary in order to accrue an additional commensurate amount of leave. Such arrangements will be subject to the Employer's policy, and stated clearly in written agreement between the Employer and Caregiver.
- (2) It will remain the responsibility of the Caregiver wishing to avail themselves of the flexibility to seek advice concerning potential implications for taxation, superannuation, salary packaging and other benefits.

35. PUBLIC HOLIDAYS

- (1) A Caregiver not required to work on a day solely because that day is a public holiday or day observed in lieu thereof, shall be entitled to leave for the number of hours which he or she would otherwise be rostered to work on that day without deduction of pay.
- (2) Where the Caregiver is rostered to work ordinary hours on a public holiday, he or she shall elect to receive one of the following;
 - (a) Ordinary rates of pay and a loading of 150% for the actual time worked on the holiday; or
 - (b) Ordinary rates of pay and a loading of 50% for the actual time worked together with an equivalent period of time off, paid at the ordinary rate, to be taken at a time mutually acceptable to the Employer and Caregiver.
- (3) The Caregiver shall be entitled to a day's leave in lieu of a public holiday, without deduction of pay, in respect of a public holiday which occurs during the Caregivers' annual leave.

- (4)
- (a) Where a public holiday falls on a day on which a continuous shift Caregiver is rostered off duty the Caregiver shall be entitled to an additional day's pay at ordinary rates.
 - (b) Where a public holiday falls on a day on which a full time Caregiver is rostered off duty the Caregiver shall be entitled to an additional day's pay at ordinary rates. This subclause shall not apply to part-time Caregivers.
 - (c) Provided that by agreement between the Employer and Caregiver, the Caregiver may observe that public holiday, paid at the ordinary rate, on a day mutually acceptable to the Employer and Caregiver.
- (5) The provisions of this clause shall not apply to casual Caregivers.

36. PERSONAL LEAVE

- (1) A Caregiver shall accrue ten (10) days paid leave per annum to attend to:
- (a) Sick leave – a personal illness, or injury, of the Caregiver; or
 - (b) Carer's leave – the care or support of a member of the Caregiver's immediate family, or a member of their household, who requires care or support because of:
 - (i) A personal illness, or injury, of the member; or
 - (ii) An unexpected emergency affecting the member.
- (2) The entitlement shall accrue on a progressive basis in respect of each ordinary hour worked.
- (3) Unused portions of personal leave entitlement shall accumulate from year to year and may be taken in any subsequent year.
- (4) Where an application for payment exceeds the Caregiver's accrued entitlement, the excess may be offset against any future accrual or against monies otherwise payable to the Caregiver at the point of separation.
- (5) A Caregiver shall advise the Employer as soon as reasonably practicable and if possible prior to the commencement of the shift of the inability to attend work, the nature of illness or injury and the estimated duration of absence.
- (6) A Caregiver is allowed a maximum of five (5) days absence without a certificate from a registered health practitioner in any one (1) accruing year provided that:
- (a) A certificate must be provided for any absence of more than two (2) consecutive days.
 - (b) If it is not reasonably practicable to provide a certificate a Caregiver may provide a statutory declaration. Before agreeing to pay, the Employer may require evidence that it was not reasonably practicable for the Caregiver to obtain a medical certificate.
- (7) A Caregiver who would ordinarily be eligible for personal leave had they not have been on annual leave shall be paid personal leave in lieu of annual leave subject to:
- (a) Providing a certificate from a registered health practitioner confirming illness, injury or unexpected emergency during the period the Caregiver would have been taken to be on annual leave;
 - (b) The portion of annual leave coinciding with the paid personal leave is to be taken at a time agreed by Employer and Caregiver or shall be added to the next period of annual leave, and
 - (c) Payment for replaced annual leave shall be at the rate of wage applicable at the time the leave is subsequently taken.

- (8) Where a Caregiver receives payment under this clause and subsequently receives payments in respect of the same period under the *Workers Compensation and Injury Management Act 1981*, the Caregiver shall reimburse to the Employer the payments made under this clause and the Employer shall reinstate the Caregiver's personal leave or other entitlements accordingly.
- (9)
- (a) Caregivers (including casual Caregivers) are also entitled to up to two (2) days unpaid Carer's Leave for each occasion a member of the Caregiver's immediate family or household requires care or support because of the illness, injury or unexpected emergency of the member.
- (b) Caregivers entitled to a period of unpaid Carer's Leave are entitled, for any particular occasion, to take the leave as:
- (i) A single, unbroken period of up to two (2) days; or
- (ii) Any separate periods to which the Caregiver and the Employer agree.

37. LONG SERVICE LEAVE

- (1) Save as hereinafter provided, Caregivers shall be entitled to long service leave (LSL) in accordance with the provisions of the *Long Service Leave Act 1958 (WA)* as amended from time to time.
- (2) LSL shall accrue at a rate of 0.8667 weeks for each year of continuous service, provided that a Caregiver shall be able to access accrued LSL any time after the completion of seven (7) years continuous service.
- (3) LSL shall not accrue on workers' compensation leave in excess of one (1) month.
- (4) On the termination of the Caregiver's employment:
- (a) By his/her death;
- (b) In any circumstances otherwise than by the Employer for serious misconduct;
- the Caregiver shall be entitled to their accrued LSL provided that they have completed no less than seven (7) years of continuous service with the Employer.
- (5) LSL may be taken in single day periods.
- (6) LSL shall be granted and taken as soon as reasonably practicable after the right thereto accrues due or at such time or times as may be agreed between the Employer and the Caregiver.
- (7) By agreement between the Employer and Caregiver, a part-time Caregiver or a Caregiver whose hours have changed from part-time to full-time may take his or her LSL entitlement as a reduced period of full-time equivalent time off. Such agreement shall not be unreasonably withheld by the Employer.
- (8) LSL may be taken at half pay for double the period accrued.
- (9) Excess LSL is any amount of leave that has accrued in the first ten (10) years of continuous service and remains unused at 13 years continuous service; and any amount of leave that remains unused within three (3) years of each subsequent five (5) years of continuous service.
- (10) A Caregiver may be directed to take excess LSL provided that:
- (a) No less than four (4) weeks' notice must be provided;
- (b) The Caregiver can only be directed to take up to four (4) weeks in any 12 months period; and
- (c) The Caregiver cannot be directed to take LSL in periods of less than one (1) week, but may agree to requests to do so up to a maximum of five (5) single days in any 12 month period.
- (11) A Caregiver may elect to cash out up to four (4) weeks of their LSL within any 12 month period, to

be paid at ordinary rates provided that such election is to be made in writing by the Caregiver and approved by the Employer.

38. PARENTAL LEAVE

- (1) Except as hereinafter provided, Caregivers shall be entitled to parental leave in accordance with the provisions of the Act. A summary of the entitlement is provided below.

Interpretation

- (2) In this Clause:

- (a) 'Adoption', in relation to a child, is a reference to a child who:
 - (i) Is not the natural child or the step-child of the Caregiver or the Caregiver's spouse;
 - (ii) Is less than 16 years of age; and
 - (iii) Has not lived continuously with the Caregiver for six (6) months or longer.
- (b) 'Continuous service' means service under an unbroken contract of employment and includes:
 - (i) Any period of parental leave; and
 - (ii) Any period of authorised leave or absence.
- (c) 'Expected date of birth' means the day certified by a medical practitioner to be the day on which the medical practitioner expects the Caregiver or the Caregiver's spouse, as the case may be, to give birth to a child;
- (d) 'Parental leave' means leave provided for by subclause (13) of this clause;
- (e) 'Spouse' includes a de facto spouse.

Entitlement to parental leave

- (3)
- (a) Subject to this subclause and to subclauses (4) and (5) hereof, a Caregiver is entitled to 12 consecutive months of unpaid leave in respect of:
 - (i) The birth of a child to the Caregiver or the Caregiver's spouse; or
 - (ii) The placement of a child with the Caregiver with a view to the adoption of the child by the Caregiver.
 - (b) A Caregiver is not entitled to take parental leave unless he or she:
 - (i) Has, before the expected date of birth or placement, completed at least 12 months' continuous service with the Employer; and
 - (ii) Has given the Employer at least ten (10) weeks' written notice of his or her intention to take the leave;
 - (iii) Has notified the Employer of the dates on which he or she wishes to start and finish the leave.
 - (c) A Caregiver shall not be in breach of this Clause as a consequence of failure to give the required notice if such failure is occasioned by the confinement or adoption placement occurring earlier than the expected date.
 - (d) A Caregiver is not entitled to take parental leave at the same time as the Caregiver's spouse, except to the extent of concurrent leave of up to eight (8) weeks authorised under the Act.

- (e) The entitlement to parental leave is reduced by any period of parental leave taken by the Caregiver's spouse in relation to the same child.

Certification

- (4)
 - (a) A Caregiver who has given notice of his or her intention to take parental leave, other than for adoption, is to provide to the Employer a certificate from a medical practitioner stating that the Caregiver or the Caregiver's spouse, as the case may be, is pregnant and the expected date of birth.
 - (b) A Caregiver who has given notice of his or her intention to take parental leave for adoption, is to provide to the Employer:
 - (i) A statement from an adoption agency or other appropriate body of the presumed date of placement of the child with the Caregiver for adoption purposes; or
 - (ii) A statement from the appropriate government authority confirming that the Caregiver is to have custody of the child pending an application for an adoption order.

Notice of spouse's parental leave

- (5)
 - (a) A Caregiver who has given notice of his or her intention to take parental leave or who is actually taking parental leave is to notify the Employer of particulars of any period of parental leave taken or to be taken by the Caregiver's spouse in relation to the same child.
 - (b) Any notice given is to be supported by a statutory declaration by the Caregiver as to the particulars notified.

Transfer to a safe job

- (6)
 - (a) Where in the opinion of a duly qualified medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the Caregiver make it inadvisable for the Caregiver to continue at her present work, the Caregiver shall, if the Employer deems it practicable, be transferred to a safe job with no other change to the Caregiver's terms and conditions of employment, and the Caregiver shall be paid for the safe job at the Caregiver's full rate of pay (for the position she was in before the transfer) for the hours that she works in the risk period.
 - (b) If the transfer to a safe job is not practicable, the Caregiver shall be entitled to "no safe job leave" for the period it is inadvisable for her to continue in the present position or until the day before the date of birth of the child, whichever occurs first. The Employer shall pay the Caregiver at the Caregiver's base rate of pay for the Caregiver's ordinary hours of work during the risk period, but the Employer may require further medical certificates to be provided in accordance with the provisions of the Act.

Maternity leave to start six (6) weeks before birth

- (7) A female Caregiver who has given notice of her intention to take parental leave, other than for an adoption, is to start the leave six (6) weeks before the expected date of birth unless in respect of any period closer to the expected date of birth a medical practitioner has certified that the Caregiver is fit to work.

Right to Request Variation of Period of Parental Leave

- (8)
 - (a) Provided the aggregate of any leave does not exceed the period to which the Caregiver is entitled under subclause (3) hereof:

- (i) The period of parental leave may be lengthened once only by the Caregiver giving the Employer written notice of the proposed extension at least four (4) weeks before the end date of the original leave period;
- (ii) The period may be further lengthened only by agreement between the Caregiver and the Employer.
- (b) The period of parental leave may, with the consent of the Employer, be shortened by the Caregiver giving not less than 14 days' notice in writing stating the period by which the leave is to be shortened.
- (c) Notwithstanding provisions in subclause (3), a Caregiver may seek an extension of parental leave from 12 months to 24 months, provided that the total leave of a Caregiver couple shall not exceed 24 months. Such a request shall be in writing and may not be unreasonably refused.
- (d) Notwithstanding the provisions in subclause (3), a Caregiver may request to take concurrent leave simultaneous with his or her spouse for a maximum of eight (8) weeks. Such a request may not be unreasonably refused.

Special Maternity Leave and Personal Leave

- (9)
 - (a) A female Caregiver is entitled to a period of unpaid special maternity leave if she is not fit for work during that period because:
 - (i) She has a pregnancy-related illness; or
 - (ii) She has been pregnant, and the pregnancy ends within 28 weeks of the expected date of birth of the child otherwise than by the birth of a living child.
 - (b) If a Caregiver has an entitlement to paid personal leave she may take that leave instead of taking unpaid special maternity leave under this subclause.
 - (c) The Employer may require that the above period of leave shall be supported by a certificate from a duly qualified medical practitioner.
 - (d) Special Maternity Leave (including paid personal leave accessed in accordance with this subclause) does not reduce the amount of unpaid parental leave available to a Caregiver.
 - (e) A Caregiver returning to work after the completion of a period of leave taken pursuant to this subclause shall be entitled to the position which she held immediately before proceeding on such leave or, in the case of a Caregiver who was transferred to a safe job pursuant to subclause (6) to the position she held immediately before such transfer.
 - (f) Where such position no longer exists but there are other positions available, for which the Caregiver is qualified and the duties of which she is capable of performing, she shall be entitled to a position as nearly comparable in status and salary or wage to that of her former position.

Special Parental Leave for Adoption Purposes

- (10) A Caregiver seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The Caregiver and the Employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the Caregiver is entitled to take up to two (2) days unpaid leave. Where paid leave is available to the Caregiver, the Employer may require the Caregiver to take such leave instead.

Parental Leave and Other Leave Entitlements

- (11) Provided the aggregate of any leave does not exceed the period to which the Caregiver is entitled

under subclause (3) hereof:

- (a) A Caregiver may, in lieu of or in conjunction with parental leave, take any annual leave, long service leave or any part thereof, accrued time off or time off in lieu to which he or she is then entitled.
- (b) Paid personal leave or other paid authorised absences, other than those referred to in sub clause (12)(a) above, shall not be available to a Caregiver during his or her absence on parental leave.

Paid Parental Leave

- (12) A Caregiver (other than a casual) shall be entitled to paid parental leave in accordance with this clause subject to:
- (a) Meeting the requirements for parental leave as specified in subclause (3) of this clause.
 - (b) Other than the leave referred to in subclause (13)(c)(ii), the period of paid parental leave shall coincide with a period of parental leave.
 - (c) The entitlement to paid parental leave shall be:
 - (i) 14 weeks paid parental leave for the primary carer, which may be taken at half pay over 28 weeks; or
 - (ii) One (1) weeks paid leave in the case of leave taken by the spouse as concurrent leave.
 - (d) The rate of pay for parental leave shall be based on the Caregiver's ordinary rate of pay prior to proceeding on leave.
 - (e) The period of paid parental leave is reduced by any period of paid parental leave taken by the Caregiver's spouse in relation to the same child, except the period of one week's leave referred to in subclause (13)(c)(ii) hereof.
 - (f) Paid parental leave must be taken at the time of the birth or placement of the child; or consecutive with any period of paid parental leave taken by the caregiver's spouse.

Return to work after parental leave

- (13)
- (a) A Caregiver shall confirm his or her intention of returning to work by notice in writing to the Employer given not less than four (4) weeks prior to the expiration of the period of parental leave.
 - (b) On finishing parental leave, a Caregiver is entitled to the position he or she held immediately before starting parental leave.
 - (c) If the position referred to in subclause (14)(b) is not available, the Caregiver is entitled to an available position:
 - (i) For which the Caregiver is qualified; and
 - (ii) That the Caregiver is capable of performing, most comparable in status and pay to that of his or her former position.
 - (d) Where, immediately before starting parental leave, a Caregiver was acting in, or performing on a temporary basis the duties of, the position referred to in subclause (14)(b), that subsection applies only in respect of the position held by the Caregiver immediately before taking the acting or temporary position.
 - (e) Notwithstanding the provisions of this clause, a Caregiver may request to return to work on a part-time basis (or reduced part-time basis in the case of an existing part-time Caregiver) until the child reaches school age. Such a request may not be unreasonably refused.

Effect of parental leave on employment

(14) Absence on parental leave:

- (a) Does not break the continuity of service of a Caregiver; and
- (b) Is not to be taken into account when calculating the period of service for a purpose of this Agreement or a relevant contract of employment.

Termination of Employment

(15)

- (a) A Caregiver on parental leave may terminate his or her employment at any time during the period of leave by notice given in accordance with this Agreement.
- (b) The Employer shall not terminate the employment of a Caregiver on the grounds of pregnancy or absence on parental leave, but otherwise the rights of the Employer in relation to termination of employment are not hereby affected.

Replacements

(16)

- (a) A replacement is a person specifically engaged as a result of a Caregiver proceeding on parental leave.
- (b) The Employer shall, before engaging a replacement under this subclause, inform that person of the temporary nature of the employment and of the rights of the Caregiver who is being replaced.
- (c) The Employer shall, before engaging a person to replace a Caregiver temporarily promoted or transferred in order to replace a Caregiver exercising his or her rights under this clause, inform that person of the temporary nature of the promotion or transfer and of the rights of the Caregiver who is being replaced.
- (d) Provided that nothing in this subclause shall be construed as requiring the Employer to engage a replacement.

Casual Employment

- (17) A Caregiver may elect to cease parental and adoption leave, subject to any mandatory period of absence, in order to return to employment with the hospital as a casual Caregiver for the duration of the period of absence that would otherwise have applied.

Provided that it is the Caregiver's responsibility to determine if working as a casual Caregiver during this period may affect other parental leave statutory entitlements.

Keeping in Touch Days

- (18) A Caregiver may access, subject to agreement by the Employer, up to ten (10) keeping in touch days during the period of parental leave in accordance with the provisions of s79A of the Act (as amended).

39. COMPASSIONATE LEAVE

- (1) A Caregiver is entitled to up to two (2) days of paid Compassionate Leave:

- (a) For the purpose of spending time with a person who:
 - (i) Is a family member; and
 - (ii) Has a personal illness, or injury, that poses a serious threat to their life; or

- (b) On the death of a family member or any other person who immediately before that person's death lived with the Caregiver as a family member.
- (2) For the purposes of this clause, "family member" means a member of the Caregiver's immediate family or a member of the Caregiver's household as defined in the Act as amended from time to time.
- (3) Caregivers entitled to a period of Compassionate Leave are entitled, for any particular occasion, to take the leave as:
 - (a) A single, unbroken period of up to two (2) days; or
 - (b) Two (2) separate periods of one (1) day each; or
 - (c) Any separate periods to which the Caregiver and the Employer agree.
- (4) Caregivers are entitled to Compassionate Leave without loss of ordinary time earnings.
- (5) Payment for such leave shall be subject to the Caregiver providing evidence of the illness, injury or death.
- (6) The Employer shall make every endeavour to grant a Caregiver's request for paid accrued leave or unpaid leave of absence resulting from the Caregiver's need to take additional time off in conjunction with Compassionate Leave.

40. FAMILY AND DOMESTIC VIOLENCE

- (1) The Employer will exercise compassion, flexibility and confidentiality in considering requests from Caregivers who are seeking support during a situation of family and/or domestic violence.

Definitions

- (2) For the purposes of this clause, family and domestic violence leave means violent, threatening or other abusive behaviour by a close relative of a Caregiver, a member of a Caregiver's household, or a current or former intimate partner of a Caregiver that seeks to coerce or control the Caregiver and that causes them harm or to be fearful.
- (3) For the purposes of this clause, a family member/close relative is a person who is a member of the Caregiver's immediate family; or is related to the employee according to Aboriginal or Torres Strait Islander kinship rules.

Access to Leave

- (4) Caregivers in this situation will be able to apply to access their accrued leave, including personal leave, and other forms of paid leave, or leave without pay as necessary.
- (5) Caregivers will be able to access free independent counselling assistance, and may apply for additional financial assistance through the St John of God Health Care Caregivers Facing Hardship Policy.
- (6) All Caregivers, including casuals, will be able to access up to 10 days paid family and domestic violence leave per annum. This paid leave entitlement is available in full at the start of each twelve (12) month period of the Caregiver's employment, is non-cumulative and paid at the Caregiver's full rate of pay for the hours they would have worked had they not taken the leave. The full rate of pay, for the purposes of this clause, is the caregiver's base rate plus any relevant loadings, monetary allowances, overtime or penalty rates. For casual caregivers their full rate of pay is worked out as if the caregiver had worked the hours in the period for which the caregiver was rostered.
- (7) All Caregivers, including casuals, will also be able access up to 5 days of unpaid family and domestic violence leave per annum. This unpaid leave entitlement is available in full at the start of each twelve (12) month period of the Caregiver's employment and does not accumulate from year to year.

- (8) Family and domestic violence leave can be taken in periods of single or multiple days, or any separate periods to which the Employer and Caregiver agree, including periods of less than one day.
- (9) Unpaid family and domestic violence leave does not break a Caregiver's period of continuous service but does not count as service when calculating accumulated entitlements such as paid leave.
- (10) A Caregiver may take family and domestic violence leave if the Caregiver is experiencing family and domestic violence; and the Caregiver needs to do something to deal with the impact of the family and domestic violence; and it is impractical for the caregiver to do that thing outside the caregiver's ordinary hours of work, which could include:
 - (a) Making arrangements for their safety, or safety of a close relative (including relocation);
 - (b) Attending to legal proceedings or court hearings;
 - (c) Accessing police services; or
 - (d) Attend counselling or appointments with medical practitioners or a social worker.

Confidentiality

- (11) The Employer must take steps to ensure information concerning any notice a Caregiver has given under this clause is treated confidentially, as far as it is reasonably practicable to do so. Noting that nothing in this clause prevents the Employer from disclosing information provided by a Caregiver if the disclosure is required by an Australian law or is necessary to protect the life, health or safety of the Caregiver or another person.

Notice and Evidence Requirements

- (12) A Caregiver must give the Employer notice of the taking of leave, under this clause, as soon as practicable (which may be a time after the leave has started) and advise the period, or expected period of the leave.
- (13) Where a Caregiver wishes to access an entitlement under this clause, evidence may be required by the Employer and can be provided in the form of an agreed document issued by the Police Service, A Court, a registered health practitioner, a Family Violence Support Service, a district nurse, maternal and health care nurse or Lawyer. A signed Western Australian or Commonwealth statutory declaration can also be offered as evidence.

Flexible Work Practices

- (14) Caregivers can also make a request to the Employer for flexible work practices. Flexible work practices may include but are not limited to:
 - (a) changes to the Caregiver's span of hours or pattern or hours and/or shift patterns;
 - (b) job redesign or changes to duties;
 - (c) relocation to suitable employment within the organisation;
 - (d) a change to their telephone number or email address to avoid harassing contact;
 - (e) any other appropriate measure including those available under existing provisions for family friendly and flexible work.

41. STUDY LEAVE

- (1) The Employer is committed to a skilled workforce and all Caregivers have access to training in order to meet the needs of the enterprise. Applications for paid leave to attend training courses during ordinary working hours will be considered on a case by case basis where the course is relevant to the Caregiver's work and the needs of the hospital.
- (2) Reimbursement of costs associated with fees and textbooks will be considered in a similar manner.
- (3) Where possible and appropriate, approved training shall be accredited.

42. JURY AND WITNESS SERVICE

- (1) Caregivers summoned for jury service will be granted paid leave subject to the procedures set out

herein.

- (2) Caregivers summoned as a witness in relation to their official capacity will be granted paid leave subject to the procedures set out herein.
- (3) Caregivers requesting time off for jury or witness service must notify their manager on receipt of notice to attend.
- (4) Application for leave of absence for jury or witness service must be made on the standard Application for Leave form with a copy of the notice to attend attached.
- (5) On presentation of proof of appearance payment of salary will be made at the ordinary time through the pay roll system.
- (6) The Employer will claim reimbursement from the Court.

43. CULTURAL/CEREMONIAL OBLIGATIONS

- (1) A Caregiver is entitled to access accrued paid leave for tribal/ceremonial/cultural obligations providing he/she has sufficient leave available.
- (2) Leave under this provision may be approved to meet the Caregiver's customs, traditional law and/or to participate in ceremonial and cultural activities.
- (3) Time off without pay may be granted by Agreement between the Employer and Caregiver.
- (4) The Employer may request reasonable evidence of the legitimate need for time off.

44. DEFERRED SALARY SCHEME

- (1) Permanent Caregivers will have access to the 4/5 pay option, whereby they work for four (4) years at 80% pay and then take one (1) year off at 80% pay in accordance with the following:
 - (a) By written agreement between the Employer and Caregiver, a Caregiver may be paid 80% of her/his normal salary under this Agreement, and any other relevant agreement upon the expiry of this Agreement, over a (5) five-year period. The fifth year will then be taken as leave with pay with the accrued salary annualised over the year. The fifth year will be treated as continuous service.
 - (b) The leave may not be accrued unless the Employer agrees to accrual. In deciding whether to support a particular request for this arrangement, the Employer will take into account factors such as operational requirements. To satisfy operational requirements, the number of Caregivers allowed to work under this arrangement may be restricted at any one time and/or the timing of the arrangements may need to be staggered. The Employer has the absolute discretion to determine the operational needs in this regard.
 - (c) Where a Caregiver is approved to participate in this arrangement, the 80% of salary shall then become the applicable salary for all purposes included overtime, shift penalties, superannuation, salary packaging etc.
 - (d) A Caregiver may withdraw from this arrangement by giving notice in writing at any time. She/he would then receive a lump sum equal to the accrued credit, paid at a time agreed between the Employer and the Caregiver but not more than three (3) months from the time of the Caregiver's withdrawal from the arrangement.
 - (e) A Caregiver who terminates his or her employment prior to the completion of the fourth year will be paid the accrued credit in their final payment.
 - (f) Any paid leave taken during the first four (4) years of the arrangements will be paid at 80% of the Caregiver's normal salary, plus any applicable leave loading.
 - (g) It is the responsibility of the Caregiver to investigate the impact of entering into this

arrangement on her/his superannuation, taxation, salary packaging and other benefits.

45. TIME OFF WITHOUT PAY

Time off without pay for whatever purpose may be granted by agreement between the Employer and the Caregiver.

46. INTRODUCTION OF CHANGE AND REDUNDANCY

Interpretation

(1) In this clause:

"Caregiver" does not include a Caregiver engaged on a casual or temporary basis or on a fixed term contract for the purposes of subclause (5) onwards;

"Redundant" means the position is no longer required by the Employer to be undertaken because the Employer has decided that the job will not be done by any Caregiver.

For the purposes of this clause, an action of the Employer has a "significant effect" on a Caregiver if:

- (a) There is to be a major change in the composition, operation or size of, or skills required in, the Employer's workforce that will affect the Caregiver; or
- (b) There is to be elimination or reduction of a job opportunity, promotion opportunity or job tenure for the Caregiver; or
- (c) The guaranteed hours of the Caregiver's work are to significantly increase or decrease; or
- (d) The Caregiver is required to be retrained; or
- (e) The Caregiver is to be required to transfer to another job or work location; or
- (f) The Caregiver's job is to be restructured.

Caregiver to be informed

(2) Where the Employer has decided to:

- (a) Take action that is likely to have a significant effect on a Caregiver; or
- (b) Make a Caregiver's position redundant,

The Caregiver is entitled to be informed by the Employer, as soon as reasonably practicable after the decision has been made, of the action or the redundancy, as the case may be.

Discussions to occur

(3) The Employer shall thereafter hold discussions with the Caregiver affected as to:

- (a) The likely effects of the action or the redundancy in respect of the Caregiver; and
- (b) Measures that may be taken by the Caregiver or Employer to avoid or minimise a significant effect.
- (c) For the purposes of the discussion, provide, in writing, to the Caregiver:
 - (i) All relevant information about the change including the nature of the change proposed; and
 - (ii) Information about the expected effects of the change on the Caregiver; and

- (iii) Any other matters likely to affect the Caregiver.
- (4) Provided that the Employer shall not be required to disclose confidential information the disclosure of which may seriously harm the Employer's interests.
- (5) The Employer must give prompt and genuine consideration to matters raised about the major change by the Caregiver or their representative, if one has been appointed in accordance with sub clause (6)(b) below.

Other Parties to be informed

- (6) Where the Employer has made a definite decision to introduce major changes that are likely to have significant effects on Caregivers, the Employer shall notify and hold discussions with other interested parties, including the Union(s), in regard to the general nature of the changes.
- (7) If a Caregiver appoints a representative and notifies the Employer of the identity of the representative, the Employer will recognise the representative for the purposes of consultation.

Severance Pay

- (8)
 - (a) In addition to the period of notice prescribed in Clause 9 - Separation of this Agreement, for ordinary termination, a Caregiver whose employment is terminated on the grounds of redundancy shall be entitled to the following amount of severance pay in respect of a continuous period of service.

Period of Continuous Service	Redundancy Payment
Less than 1 year	Nil
1 year but less than 2 years	4 weeks
2 years but less than 3 years	6 weeks
3 years but less than 4 years	7 weeks
4 years but less than 5 years	8 weeks
5 years but less than 6 years	10 weeks
6 years but less than 7 years	12 weeks
7 years but less than 8 years	14 weeks
8 years but less than 9 years	16 weeks
9 years but less than 10 years	18 weeks
10 years but less than 11 years	20 weeks
11 years but less than 12 years	22 weeks
12 years but less than 13 years	24 weeks
13 years but less than 14 years	26 weeks
14 years but less than 15 years	28 weeks
15 years and over	30 weeks

"Weeks' Pay" means the ordinary weekly rate of wage for the Caregiver concerned.

- (b) For the purpose of this clause continuity of service shall not be broken on account of:
 - (i) Any absence from work on account of personal sickness or accident for which a Caregiver is entitled to claim personal leave as prescribed by this agreement or on account of leave lawfully granted by the Employer; or

- (ii) Any absence with reasonable cause, proof whereof shall be upon the Caregiver; or
- (iii) Any absence on approved leave without pay.

Provided that in the calculation of continuous service under this subclause any time in respect of which a Caregiver is absent from work except time for which a Caregiver is entitled to claim annual leave, personal leave, long service leave and public holidays as prescribed by this agreement shall not count as time worked.

- (c) Service by the Caregiver with a business which has been transmitted from one hospital to another and the Caregiver's service has been deemed continuous in accordance with the relevant State long service leave legislation, as amended from time to time, shall also constitute continuous service for the purpose of this clause.
- (d) Redundancy shall not be payable in the event of a transmission of business where comparable alternative employment is offered and accepted.

Caregiver Leaving During Notice

- (9) A Caregiver whose employment is to be terminated on the grounds of redundancy may terminate employment during the period of notice and, if so, shall be entitled to the same benefits and payments under this clause had the Caregiver remained with the Employer until the expiry of such notice. Provided that in such circumstances the Caregiver shall not be entitled to payment in lieu of notice.

Alternative Employment

- (10) The Employer, in a particular redundancy case, may make application to Fair Work Commission to have the general severance pay prescription varied if the Employer obtains acceptable alternative employment for a Caregiver.

Leave for Job Interviews

- (11)
 - (a) A Caregiver who has been given notice that he or she has been, or will be, made redundant shall during the period of notice of termination be entitled to be absent from work up to a maximum of eight (8) ordinary hours during each week of notice without deduction of pay for the purpose of being interviewed for further employment.
 - (b) A Caregiver who claims to be entitled to paid leave under subclause (a) shall, at the request of the Employer, be required to produce reasonable proof of attendance at an interview or the Caregiver shall not receive payment for the time absent.

Notice to Centrelink

- (12) Where a decision has been made to terminate Caregivers in circumstances of redundancy, the Employer shall notify Centrelink thereof as soon as possible giving relevant information including the number and categories of the Caregivers likely to be affected and the period over which the terminations are intended to be carried out.

47. CONSULTATION ABOUT CHANGES TO ROSTERS OR HOURS OF WORK

- (1) Where the Employer proposes to change a Caregiver's regular roster or ordinary hours of work, the Employer must consult with the Caregiver or Caregivers affected and their representatives, if any.
- (2) The Employer will:
 - (a) Provide to the Caregiver or Caregivers affected and their representatives, if any, information about:
 - (i) The proposed change i.e. information about the nature of the change to the Caregiver's regular roster or ordinary hours of work; and

- (ii) When that change is proposed to commence; and
 - (iii) What the Employer reasonably believes will be the effects of the change on the Caregivers; and
 - (iv) Any other matters that the Employer reasonably believes are likely to affect the Caregivers.
- (b) Invite the Caregiver or Caregivers affected and their representatives, if any, to give their views about the impact of the proposed change, including any impact in relation to their family or caring responsibilities; and
- (c) Give prompt and genuine consideration to any view about the impact of the proposed change that are given by the Caregiver or Caregivers concerned and/or their representatives, if any.
- (3) The requirement to consult under this clause does not apply where a Caregiver has irregular, sporadic or unpredictable working hours.
- (4) These provisions are to be read in conjunction with other Agreement provisions concerning the scheduling of work and notice requirements.
- (5) At any stage during this process a Caregiver may appoint a representative of their choice in writing. The Employer's obligation to consult or provide information to the representative only occurs after written notice is provided to the Employer.

48. DISPUTE SETTLEMENT PROCEDURES

- (1) Where a dispute concerning the operation of this agreement and/or the National Employment Standards arises the following steps shall be taken:

Step 1

- (a) As soon as practicable after the dispute has arisen, it shall be considered jointly by the Chief Engineer, the Caregiver or Caregivers concerned and where the Caregiver or Caregivers so request, the Caregiver/s' Union or other representative.

Step 2

- (b) If the dispute is not resolved it shall be considered jointly by the appropriate senior representative of the Employer, the Caregiver or Caregivers concerned and where a Caregiver so requests, the Caregiver/s' Union or other representative who shall attempt to settle the dispute.

Step 3

- (c) If the dispute is not resolved it shall be considered jointly by the Employer, the Caregiver or Caregivers concerned and where any Caregiver so requests the Caregiver/s' Union or other representative who shall attempt to settle the dispute.

Step 4

- (d) If the dispute is not resolved it may then be referred to an agreed arbitrator for assistance in its resolution by conciliation and / or arbitration. Where the parties involved in the matter cannot agree on an arbitrator they shall request Fair Work Commission to nominate an arbitrator.

- (2) The parties involved in the matter will abide by the decision of the arbitrator.
- (3) On each occasion sensible time limits shall be agreed upon for the completion of each step of the procedure.

Provided, that the Agreement may only be varied by arbitration for the purpose of removing ambiguity or uncertainty.

St John of God Health Care Maintenance Caregivers Agreement 2023

49. SIGNATORIES TO AGREEMENT

I am authorised to sign this Agreement on behalf of St John of God Health Care Inc.



Clare Francis, Group Manager, Employee and Industrial Relations

Signature

Name, Title

Address: Level 1, 556 Wellington Street
PERTH WA 6000

18/8/2023

Date

I am authorised to sign this Agreement on behalf of the Australian Manufacturing Workers' Union.

Signature

Name, Title

Address: 121 Royal Street
EAST PERTH WA 6004

Date

I am authorised to sign this Agreement on behalf of Construction, Forestry, Mining and Energy Union.

Signature

Name, Title

Address: Trades Hall, 80 Beaufort Street
PERTH WA 6000

Date

I am authorised to sign this Agreement on behalf of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Australia - Electrical Division, Western Australia Branch.

Signature

Name, Title

Address: 3 Focal Way
BAYSWATER WA 6053

Date

St John of God Health Care Maintenance Caregivers Agreement 2023

49. SIGNATORIES TO AGREEMENT

I am authorised to sign this Agreement on behalf of St John of God Health Care Inc.

Clare Francis, Group Manager, Employee and Industrial Relations

Signature

Name, Title

Address: Level 1, 556 Wellington Street
PERTH WA 6000

18/8/2023

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Signature

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EAST PERTH WA 6004

Date

I am authorised to sign this Agreement on behalf of Construction, Forestry, Mining and Energy Union.



Signature

Mick Buchan - State Secretary
Name, Title

Address: Trades Hall, 80 Beaufort Street
PERTH WA 6000

Date

I am authorised to sign this Agreement on behalf of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Australia - Electrical Division, Western Australia Branch.



Signature

Peter Carter - State Secretary
Name, Title

Address: 3 Focal Way
BAYSWATER WA 6053

18 August 2023
Date

IN THE FAIR WORK COMMISSION

FWC Matter No.:

AG2023/2856

Applicant:

St John of God Health Care Inc.

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Clare Francis, Group Manager, Employee and Industrial Relations for St John of God Health Care Inc. give the following undertakings with respect to the St John of God Health Care Maintenance Caregivers Agreement 2023 ("the Agreement"):

1. I have the authority given to me by St John of God Health Care Inc. to provide this undertaking in relation to the application before the Fair Work Commission.
2. The Employer undertakes that clause 9(3)(b) will not be used to withhold any entitlements provided for in the National Employment Standards.
3. The Employer undertakes that caregivers will be entitled to compassionate leave as set out in s.104 (1) (b) and (c) of the *Fair Work Act 2009*.
4. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

30 August 2023

Date