DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Victorian Hospitals' Industrial Association
(AG2024/3661)

VICTORIAN PUBLIC HEALTH SECTOR (GENERAL DENTISTS') (SINGLE INTEREST EMPLOYERS) ENTERPRISE AGREEMENT 2024-2028.

Health and welfare services

DEPUTY PRESIDENT O'NEILL MELBOURNE, 8 NOVEMBER 2024

Application for approval of the Victorian Public Health Sector (General Dentists') (Single Interest Employers) Enterprise Agreement 2024-2028

[1] An application has been made for approval of an enterprise agreement known as the *Victorian Public Health Sector (General Dentists') (Single Interest Employers) Enterprise Agreement 2024-2028* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by the Victorian Hospitals' Industrial Association. The Agreement is a multi-enterprise agreement. I note that a Single Interest Employer Order was issued by Deputy President Wright on 24 November 2023.[1]

[2] The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) (Amending Act) made a number of changes to enterprise agreement approval processes in Part 2-4 of the Fair Work Act, that commenced operation on 6 June 2023.

[3] Under transitional arrangements, amendments made by Part 14 of Schedule 1 to the Amending Act in relation to *genuine agreement* requirements for agreement approval applications apply where the *notification time* for the agreement was on or after 6 June 2023. The genuine agreement provisions in Part 2-4 of the Fair Work Act, as it was just before 6 June 2023, continue to apply in relation to agreement approval applications where the notification time for the agreement was before 6 June 2023. The notification time for the Agreement was before 6 June 2023. The Agreement was *made* after 6 June 2023.

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

[1] *Albury Wodonga Health and Others* [2023] FWC 3099, PR768645; PR768646.

[5] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 15 November 2024. The nominal expiry date of the Agreement is 31 December 2027.

DEPUTY PRESIDENT

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VICTORIAN PUBLIC HEALTH SECTOR (GENERAL DENTISTS') (SINGLE INTEREST EMPLOYERS) ENTERPRISE AGREEMENT 2024 -2028

PART A – PRELIMINARY

1 Title

This Agreement will be known as the *Victorian Public Health Sector (General Dentists') (Single Interest Employers) Enterprise Agreement 2024-2028*.

2 Index

3 Arrangement

4 Definitions

4.1 In this Agreement except where the context requires otherwise:

(a) **ADAVB** means the Australian Dental Association Victoria Branch Inc.

(b) **Agreement** means the *Victorian Public Health Sector (General Dentists)(Single Interest Employers) Enterprise Agreement 2024-2028.*

(c) **Dentist** for the purpose of this Agreement means a person who has current registration as a Dentist with the Australian Health Practitioner Regulation Agency or successor.

(d) **Department** for the purpose of this Agreement means the Department of Health (Victoria).

(e) **Employee** means a Dentist who is employed by an Employer listed in Appendix One of this agreement.

(f) **Employer** means any of the organisations listed in Appendix One of the Agreement.

(g) **FWC** and the **Commission** means Fair Work Commission.

(h) **Hourly rate** means one thirty-eighth of the appropriate weekly rate for the relevant classification.

(i) **IFA** means Individual Flexibility Arrangement.

(j) **Immediate Family** means:

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

(ii) a child or an adult child (including an adopted child, a stepchild, or an ex nuptial child), parent, grandparent, grandchild, or sibling of the Employee or the Employee's spouse.

(iii) This definition includes step-relations as well as adoptive relations.

(k) **NES** means the National Employment Standards.

(l) **VHIA** means the Victorian Hospitals' Industrial Association.

5 Incidence & Coverage

5.1 This agreement covers:

(a) The Employers listed in **Appendix One;**

(b) Employees who are employed in the capacity of Dentist who are employed by the Employers listed in **Appendix One**.

5.2 No term of this Agreement will operate to exclude any entitlement provided by the NES or to provide any entitlement which is detrimental to an Employee's entitlement under the NES. For the avoidance of doubt, if there is any inconsistency between this Agreement and the NES to the detriment of the Employee, the NES will prevail.

6 Operation of Agreement

6.1 This Agreement shall come into effect 7 days from the date of approval by the Fair Work Commission and shall remain in force until 31 December 2027.

7 Copy of Agreement

7.1 Each Employer must make readily available to all Employees a copy of this Agreement and the National Employment Standards.

8 Savings

8.1 Nothing In this Agreement shall affect any condition of employment which is superior to any term or condition pursuant to this agreement which an Employee was entitled to immediately prior to this Agreement coming into effect.

9 No Extra Claims

9.1 The Parties undertake that during the life of this Agreement there shall be no further wage increases sought or granted except as provided for under the terms of this agreement.

9.2 Replacement Agreement

The Employers agree to commence discussions with the ADAVB no later than six months prior to the nominal expiry date of this Agreement. Provided that any claim made by a person covered by this Agreement during this period is not supported by industrial action. Such discussions will be undertaken in good faith for the purpose of concluding a replacement agreement to this Agreement to operate from the nominal expiry date of this Agreement.

10 Relationship to Previous Agreements and Awards

10.1 Subject to clause 5.2, this is a comprehensive agreement that operatives to the exclusion of any award or enterprise agreement which may apply to the Employees covered by this Agreement.

11 Anti-Discrimination

11.1 Those covered by this Agreement respect and value the diversity of the work force and protection against unfair treatment and discrimination on the basis of race, colour, sex, sexual orientation, breastfeeding, gender identity, intersex status, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction, or social origin.

11.2 Accordingly, in fulfilling their obligations under the Dispute Resolution Procedure, those covered by the Agreement must make every reasonable endeavour to ensure that neither the Agreement provisions nor their operation are directly or indirectly unlawfully discriminatory in their effects.

11.3 Nothing in this clause is taken to affect:

(a) any different treatment (or treatment having different effects) which is specifically exempted under Commonwealth or State anti-discrimination legislation;

(a) Employee, Employer, or registered organisation, pursuing matters of discrimination in any State or Federal jurisdiction, including any application to the Australian Human Rights Commission; or

(b) the exemptions in section 351(2) of the Act.

12 Gender Based Discrimination

12.1 The parties agree in conjunction with the Department, to establish a Gender-Based Standing Committee (GBSC) within three months of the commencement of the Agreement.

12.2 The purpose of the GBSC will be to:

(a) review audit results;

(b) promote gender equity initiatives; and

(c) identify and address any gender pay gaps in the public sector organisation.

12.3 The GBSC will schedule a minimum of four meetings per year.

12.4 The GBSC will be comprised of:

(a) representative CEO's or their nominees;

(b) the ADAVB; and

(c) the VHIA.

PART B – CONSULTATION, DISPUTE RESOLUTION AND DISCIPLINE

13 Consultation

Nothing in this clause limits the Employer's obligations to consult with HSRs under the OHS Act.

13.1 Consultation regarding major change

(a) Where an Employer proposes a major workplace change that may have a significant effect on an Employee or Employees, the Employer will consult with the affected Employee/s, the ADAVB, and the Employee's other chosen representative (where relevant) before any proposed change occurs.

(b) Workplace change includes (but is not limited to) technological change.

(c) Consultation will include those who are absent on leave including parental leave.

(d) The Employer will take reasonable steps to ensure Employees, HSRs (where relevant) and the ADAVB can participate effectively in the consultation process.

13.2 Definitions

Under this clause 13:

(a) **Consultation** means a genuine opportunity to influence the decision maker, but not joint decision making. It is not merely an announcement as to what is about to happen.

(b) **Affected employee** means an Employee on whom a major workplace change may have a significant effect.

(c) **Major change** means a change in the Employer's program, production, organisation, physical workplace, workplace arrangements, structure or technology that is likely to have a significant effect on Employees.

(d) **Significant effect** includes but is not limited to:

(i) termination of employment;

(ii) changes in the size, composition, or operation of the Employer's workforce (including from outsourcing) or skills required;

(iii) alteration of the number of hours worked and/or reduction in remuneration;

(iv) changes to an Employee's classification, position description, duties or reporting lines;

(v) the need for retraining or relocation/redeployment/transfer to another site or to other work;

(vi) removal of an existing amenity;

(vii) the removal or reduction of job opportunities, promotion opportunities or job tenure.

(e) **Measures to mitigate or avert** may include but are not limited to:

(i) redeployment;

(ii) retraining;

(iii) salary maintenance;

(iv) job sharing; and / or

(v) maintenance of accruals.

13.3 Consultation Steps and Indicative reasonable timeframes

(a) Consultation includes the steps set out below.

(b) Timeframes for each step must allow a party to consultation (including a representative) to genuinely participate in an informed way having regard for all the circumstances including the complexity of the change proposed, and the need for Employees and their representative to meet with each other and consider and discuss the Employer's proposal.

(c) The following table makes clear the relevant steps and indicative timeframes for the consultation process.

Step	Action	Timeframe
1.	Employer provides change impact statement and other written material required by clause 13.4.	
2.	Written response from Employees and / or ADAVB	14 days of step 1
3.	Consultation meeting/s convened	7-14 days of step 2
4.	Further Employer response (where relevant)	After the conclusion of step 3
5.	Alternative proposal from Employees or ADAVB	14 days of step 4
6.	Employer to consider alternative proposal/s consistent with the obligation to consult and, if applicable, to arrange further meetings with Employees or ADAVB prior to advising outcome of consultation.	14 days of step 5

13.4 Change Impact Statement (Step 1)

Prior to consultation required by this clause, the Employer will provide affected Employee/s and ADAVB with a written Change Impact Statement setting out all relevant information including:

(a) the details of proposed change;

(b) the reasons for the proposed change;

(c) the possible effect on Employees of the proposed change on workload and other occupational health and safety impacts;

(d) where occupational health and safety impacts are identified, a risk assessment of the potential effects of the change on the health and safety of Employees, undertaken in consultation with HSRs, and the proposed mitigating actions to be implemented to prevent such effects;

(e) the expected benefit of the change;

(f) measures the Employer is considering that may mitigate or avert the effects of

the proposed change;

(g) the right of an affected Employee to have a representative including a ADAVB representative at any time during the change process; and

(h) other written material relevant to the reasons for the proposed change (such as consultant reports), excluding material that is commercial in confidence or expose the Employer to unreasonable legal risk or cannot be disclosed under the *Health Services Act 1988* (Vic) or other legislation.

13.5 Employee / ADAVB response (step 2)

Following receipt of the change impact statement, affected Employees and / or the ADAVB may respond in writing to any matter arising from the proposed change.

13.6 Meetings (step 3)

(a) As part of consultation, the Employer will meet with the Employee/s, the ADAVB and other nominated representative/s (if any) to discuss:

(i) the proposed change;

(ii) proposals to mitigate or avert the impact of the proposed change;

(iii) any matter identified in the written response from the affected Employees and / or the ADAVB.

(b) To avoid doubt, the 'first meeting' at step 3 does not limit the number of meetings for consultation.

13.7 Employer response (step 4)

The Employer will give prompt and genuine consideration to matters arising from consultation and will provide a written response to the Employees, ADAVB and (where relevant) other representative/s.

13.8 Alternative proposal (step 5)

The affected Employee/s, the ADAVB and other representative (where relevant) may submit alternative proposal(s) which will take into account the intended objective and benefits of the proposal. Alternative proposals should be submitted in a timely manner so that unreasonable delay may be avoided.

13.9 Outcome of consultation (step 6)

The Employer will give prompt and genuine consideration to matters arising from consultation, including an alternative proposal submitted under clause 13.8 , and will advise the affected Employees, the ADAVB and other nominated representatives (if any) in writing of the outcome of consultation including:

(a) whether the Employer intends to proceed with the change proposal;

(b) any amendment to the change proposal arising from consultation;

(c) details of any measures to mitigate or avert the effect of the changes on affected Employees; and

(d) a summary of how matters that have been raised by Employees, the ADAVB and their representatives, including any alternative proposal, have been taken into account.

13.10 Consultation disputes

Any dispute regarding the obligations under this clause will be dealt under the Dispute Resolution Procedure at clause 16 of this Agreement.

14 Consultation about changes to rosters or hours of work

This clause 14 applies where a change to regular rosters or ordinary hours of work (which may impact upon an employee, particularly in relation to their family and caring responsibilities) does not constitute 'Major Change' in accordance with subclause 13.2(c).

14.1 Where an Employer proposes to change an Employee's regular roster or ordinary hours of work, the Employer must consult with the Employee or Employees affected and their representatives, if any, about the proposed change.

14.2 The Employer must:

(a) consider health and safety impacts including fatigue;

(b) provide to the Employee or Employee affected and their representatives, if any, information about the proposed change (for example, information about the nature of the change to the Employee's regular roster or ordinary hours of work and when that change is proposed to commence);

(c) invite the Employee or Employees affected and their representatives, if any, to give their views about the impact of the proposed change (including any impact in relation to their family or caring responsibilities); and

(d) give consideration to any views about the impact of the proposed change that is given by the Employee or Employees concerned and/or their representatives.

14.3 The requirement to consult under this clause 14 does not apply to an Employee where the change to an Employee's regular roster or ordinary hours of work is as a consequence of that Employee's irregular, sporadic, unpredictable working hours, self-rostering or, where permitted, a rotating roster.

14.4 These provisions of this clause 14 are to be read in conjunction with the terms of the engagement between the Employer and Employee, other Agreement provisions concerning the scheduling of work and notice requirements.

15 Redundancy and Associated Entitlements

15.1 Arrangement

This clause is arranged as follows:

(a) Arrangement (subclause 15.1),

(b) Definitions (subclause 15.2),

(c) Redeployment (subclause 15.3),

(d) Support to Affected Employees (subclause 15.4),

(e) Salary maintenance (subclause 15.5),

(f) Relocation (subclause 15.6),

(g) Employment terminates due to redundancy (subclause 15.7), and

(h) Exception to application of Victorian Government's policy with respect to severance pay (subclause 15.8)

15.2 Definitions

(a) **Affected Employee** for this clause 15 means an Employee whose role will be redundant.

(b) **Comparable Role** means an ongoing role that:

(i) is the same occupation as that of the Affected Employee's redundant position or if not, is in an occupation acceptable to the Affected Employee; and

(ii) is any of the following:

(A) In the same clinical specialty as that of the Affected Employee's former position;

(B) in a clinical specialty acceptable to the Affected Employee; or

(C) a position that with the reasonable support described at subclause 15.3(g) the Affected Employee could undertake; and

(iii) is the same grade as the Affected Employee's redundant position;

(iv) takes into account the number of ordinary hours normally worked by the Affected Employee;

(v) is a Reasonable Distance from the Affected Employee's current work location;

(vi) takes the Affected Employee's personal circumstances, including family responsibilities, into account; and

(vii) takes account of health and safety considerations.

(c) **Consultation** is as defined at clause 13 (Consultation) of this Agreement.

(d) **Continuity of Service** at clause 15.8 means that the service of the Employee is treated as unbroken. However, continuity of service is not broken where an Employer pays out accrued annual leave or long service leave upon termination in accordance with this Agreement.

(e) **Reasonable Distance** means a distance that has regard to the Employee's original work location, current home address, capacity of the Employee to travel, additional travelling time, effects on the personal circumstances of the affected Employee, including family commitments and responsibilities and other matters raised by the Employee, or assistance provided by their Employer.

(f) **Redeployment Period** means a period of 13 weeks from the time the Employer notifies the Affected Employee in writing that consultation under clause 15 is complete and that the redeployment period has begun.

(g) **Redundancy** means the Employer no longer requires the Affected Employee's job to be performed by anyone because of changes in the operational requirements of the Employer's enterprise.

(h) **Relocation** means an Affected Employee is required to move to a different campus as a result of an organisational change on either a temporary or permanent basis.

(i) **Salary Maintenance** means an amount representing the difference between what the Affected Employee was normally paid immediately prior to the Affected Employee's role being made redundant and the amount paid in the Affected Employee's new role following redeployment.

15.3 Redeployment

(a) An Affected Employee whose role will be redundant will be considered for redeployment during the redeployment period.

(b) **Employee to be advised in writing**

The Affected Employee must be advised in writing of:

(i) the date the Affected Employee's role is to be redundant,

(ii) details of the redeployment process,

(iii) the reasonable support that will be provided in accordance with subclause 15.3(g), and

(iv) the Affected Employee's rights and obligations.

(c) **Employer obligations**

The Employer will:

(i) make every effort to redeploy the Affected Employee to a Comparable Role in terms of classification, level, and income, including appointing a case manager to provide the Affected Employee with support and assistance;

(ii) take into account the personal circumstances of the Affected Employee, including family commitments and responsibilities.; and

(iii) where the Employer is creating a new role/s substantially similar to the Affected Employee's redundant role; give priority to the redeployment of an Affected Employee/s to the new position/s before considering applicants that are not Affected Employees.

(d) **Employee obligations**

The Employee must actively participate in the redeployment process including:

(i) identifying appropriate retraining needs;

(ii) developing a resume / CV to assist in securing redeployment; and/or

(iii) actively monitoring and exploring appropriate redeployment opportunities and working with the appointed case manager.

(e) **Rejecting a comparable role**

Where an Affected Employee rejects an offer of redeployment to a Comparable Role (as defined), the Affected Employee may be ineligible for a departure package referred to at subclause 15.7.

(f) **Temporary alternative duties**

An Affected Employee awaiting redeployment may be transferred to temporary alternative duties within the same campus, or where part of the Employee's existing employment conditions (or by agreement) at another campus. Such temporary duties will be in accordance with the Affected Employee's skills, experience, clinical area, and profession.

(g) **Support for redeployment**

For an available role to be considered a Comparable Role, the Employer must provide the reasonable support necessary for the Affected Employee to perform the role which may include:

(i) theory training relevant to the clinical area or environment of the role into which the Affected Employee is to be redeployed;

(ii) a defined period of up to 12 weeks in which the Affected Employee works in a supernumerary capacity;

(iii) support from educational staff in the clinical environment; and/or

(iv) a review at 12 weeks or earlier to determine what, if any, further training is required.

(h) **Where no redeployment available**

If at any time during the redeployment period it is agreed that it is unlikely that the Affected Employee will be successfully redeployed, the Affected Employee may accept a redundancy package. Where this occurs, the Affected Employee will be entitled to an additional payment of the lesser of 13 weeks or the remaining redeployment period.

(i) **Non-Comparable Role**

An Affected Employee may agree to be redeployed to a role that is not a Comparable Role.

15.4 Support to Affected Employees

The Employer will provide Affected Employees whose position has been declared redundant with support and assistance which will include, where relevant:

(a) counselling and support services;

(b) retraining;

(c) preparation of job applications;

(d) interview coaching;

(e) time off to attend job interviews; and

(f) funding of independent financial advice for employees eligible to receive a separation package.

Other assistance may include but is not limited to career planning.

15.5 Salary Maintenance

(a) **Entitlement to salary maintenance**

An Affected Employee who is successfully redeployed will be entitled to salary maintenance where the Affected Employee's pay is reduced because the new role:

(i) is a lower level;

(ii) involves working fewer hours; and/or

(iii) removes eligibility for penalties, loadings, and the like.

(b) **Period of salary maintenance**

Salary maintenance will be for a period of 52 weeks from the date the Affected Employee is redeployed except where the Affected Employee:

(i) accepts another position within the salary maintenance period; and

(ii) is paid in the other position an amount equal to or greater than the role that was made redundant.

(c) **Preservation of accrued leave**

An Affected Employee entitled to salary maintenance will have their long service leave and annual leave accruals preserved before redeployment.

Specifically, the value of the leave immediately prior to redeployment will not be reduced as a result of redeployment; and personal leave preserved in hours.

15.6 Relocation

(a) **Employer to advise in writing of relocation**

As soon as practicable but no less than seven (7) days after a decision is made by the Employer to relocate an Affected Employee temporarily or permanently, the Employer will advise the Affected Employee in writing of the decision, the proposed timing of the relocation and any other alternatives available to the Affected Employee. In addition, the Employer will:

(i) ensure the relocation is a Reasonable Distance, unless otherwise agreed;

(ii) ensure that the Affected Employee is provided with information on the new location's amenities, layout, and local operations prior to the relocation; and

(iii) consult with the ADAVB regarding the content of such information.

(b) **Entitlement to relocation allowance**

An Affected Employee is entitled to relocation allowance where permanent or temporary relocation results in additional cost to the Affected Employee for travel and/or other expenses.

(c) **Employee to provide written estimate**

The Affected Employee must make a written application to the Employer with a written estimate of the additional travelling cost and other expenses for the period of redeployment up to a maximum of 12 months.

(d) **Payment**

(i) The Employer will pay the Affected Employee a relocation allowance up to $1900.00 based on the written estimate of the Affected Employee referred to at (c) where the Employer accepts that estimate represents the additional cost to the Affected Employee. The allowance shall be paid as a lump sum.

(ii) When considering the Affected Employee's estimate, the Employer may have regard to the Reasonable Distance.

(iii) In the event of a dispute about the Affected Employee's estimate it will be resolved under clause 16 – Dispute Resolution Procedure.

(e) **Exceptions**

An Affected Employee is not entitled to the relocation allowance if the site or campus to which the Affected Employee is being relocated is a location to which they can be expected to be deployed as part of their existing employment conditions.

(f) **Fixed term employees not excluded**

An Affected Employee on a fixed term contract who is relocated will be covered by the terms of this clause for the duration of the fixed term contract.

15.7 Employment terminates due to redundancy

The Victorian Government's policy with respect to public sector redundancy and the entitlements upon termination of employment as a result of redundancy are set out in the *Public Sector Industrial Relations Policies 2015*. The policy as at the time this Agreement comes into operation applies to Employees but does not form part of this Agreement.

15.8 Exception to application of Victorian Government's policy with respect to severance pay

(a) Where the Affected Employee's Employer secures a Comparable Role (as defined) with another Employer covered by this Agreement, which:

(i) is within a Reasonable Distance of the work site of the redundant position; and

(ii) provides Continuity of Service; and

(iii) where the Comparable Role results in a loss of income, salary maintenance at subclause 15.5 will apply; and

(iv) where relevant, consistent with the financial and other support provided to an internal redeployee;

the Employee will be considered successfully redeployed as though the employment was with the same Employer and no severance pay will apply.

16 Dispute Resolution Procedure

16.1 Resolution of disputes and grievances

(a) For the purpose of this clause 16, a dispute includes a grievance.

(b) This dispute resolution procedure will apply to any dispute arising in relation to:

(i) this Agreement (for the avoidance of doubt, this includes a request for flexible working arrangements or a request for an additional 12 months' parental leave);

(ii) the NES; or

(c) A **Party** for the purposes of this clause is the Employee/s or the Employer that are subject to the dispute.

(d) A party subject to the dispute may choose to be represented at any stage by a

representative including a ADAVB or employer organisation. A representative, including a ADAVB or employer organisation on behalf of an Employer, may initiate a dispute.

16.2 Obligations

(a) The Parties to the dispute and their representatives must genuinely attempt to resolve the dispute through the processes set out in this clause and must cooperate to ensure that these processes are carried out expeditiously.

(b) While the dispute resolution procedure is being conducted work will continue normally according to the usual practice that existed before the dispute, until the dispute is resolved.

(c) This requirement does not apply where an Employee:

(i) has a reasonable concern about an imminent risk to their health or safety;

(ii) has advised the Employer of the concern; and

(iii) has not unreasonably failed to comply with a direction by the Employer to perform other available work that is safe and appropriate for the Employee to perform.

16.3 No Party to a dispute or person covered by the Agreement will be prejudiced with respect to the resolution of the dispute by continuing work under this clause.

16.4 Dispute settlement facilitation

(a) Where the chosen representative is another Employee of the Employer, that Employee will be released by the Employer from normal duties as is reasonably necessary to enable them to represent the Employee/s including:

(i) investigating the circumstances of the dispute; and

(ii) participating in the processes to resolve the dispute, including conciliation and arbitration.

(b) An Employee who is a Party to the dispute will be released by the Employer from normal duties as is reasonably necessary to enable them to participate in this dispute settling procedure so long as it does not unduly affect the operations of the Employer.

16.5 Discussion of dispute at workplace

(a) The parties will attempt to resolve the dispute at the workplace as follows:

(i) in the first instance by discussions between the Employee/s and the Employee's line manager or other relevant manager; and

(ii) if the dispute is still unresolved, by discussions between the Employee/s and more senior managers.

(b) Nothing in this clause 16.5 prevents the Parties from agreeing, at any time, to conducting their discussions in writing, subject to clause 16.2.

(c) The discussions at subclause 16.5(a) will take place within fourteen days or such longer period as mutually agreed, save that agreement will not be unreasonably withheld.

(d) Where a Party believes the requirements of this clause 16.4 have not been complied with, they will notify the other of their concern in writing as soon as practicable.

(e) If a dispute cannot be resolved at the workplace it may be referred by a Party to the dispute or representative to the Commission.

16.6 Disputes of a collective character

Disputes of a collective character may be dealt with more expeditiously by an early reference to the Commission. However, no dispute of a collective character may be referred to the Commission directly without a genuine attempt to resolve the dispute at

the workplace level.

16.7 Conciliation

(a) Where a dispute is referred for conciliation, the Commission member will do everything the member deems right and proper to assist the parties to settle the dispute.

(b) Conciliation before the Commission is complete when:

(i) the Parties to the dispute agree that it is settled; or

(ii) the Commission member conducting the conciliation, either on their own motion or after an application by a Party, is satisfied there is no likelihood that further conciliation will result in settlement within a reasonable period; or

(iii) the Parties to the dispute inform the Commission member there is no likelihood the dispute will be settled, and the member does not have substantial reason to refuse to regard conciliation as complete.

16.8 Arbitration

(a) If, when conciliation is complete, the dispute is not settled, either Party may request the Commission proceed to determine the dispute by arbitration.

(b) The Commission member that conciliated the dispute will not arbitrate the dispute if a Party objects to the member doing so.

(c) Subject to subclause 16.8(d) below, a decision of the Commission is binding upon the persons covered by this Agreement.

(d) An appeal lies to a Full Bench of the Commission, with the leave of the Full Bench, against a determination of a single member of the Commission made pursuant to this clause.

16.9 Conduct of matters before the Commission

(a) Subject to any agreement between the Parties to the dispute in relation to a particular dispute or grievance and the provisions of this clause, in dealing with a dispute or grievance through conciliation or arbitration, the Commission will conduct the matter in accordance with sections 577, 578 and Subdivision B of Division 3 of Part 5-1 of the Act.

(b) For the avoidance of doubt, nothing in the clause 16 affects the operation of section 596 of the Act.

16.10 Interaction with Independent Disputes Resolution Industry Panel

A party to a dispute being dealt with under clause 17 shall not make an application to the FWC for it to deal with the same dispute, other than an application made under clauses 17.5(k) - 17.5(l). Nothing prevents an application to the FWC where the Panel ceases to deal with a dispute without having made a determination (including situations where an applicant has discontinued or withdrawn their matter).

17 Alternative Dispute Resolution Procedure

17.1 Application

The Independent Disputes Resolution Industry Panel (**Panel**) is empowered to hear and determine disputes under this Agreement in relation to the classification of an employee or the progression between classifications.

17.2 Composition and principles of the Panel

(a) The Panel will comprise three persons being:

(i) a nominee of the ADAVB (on behalf of the Employees);

(ii) a nominee of the VHIA (on behalf of Employers); and

(iii) an independent chairperson (Chair) agreed by the ADAVB and the VHIA or in the absence of agreement, as nominated by the Minister for Health.

Note: A nominee of the ADAVB or VHIA may change at any stage depending on the nature of the matter being determined by the Panel.

(b) The Panel Chair shall act as an independent third party in deliberations of the Panel.

(c) A nominee on the Panel must recuse themselves from being involved in a matter if they are directly and/or personally affected by the outcome.

(d) The Panel will commence to determine an application made under this clause within 21 days of receiving the application and conclude its deliberations as expeditiously as possible.

(e) The Panel shall act independently of the ADAVB and the VHIA.

(f) The parties to an application to the Panel bear their own costs (save for the Chair).

(g) The Panel shall be responsible for determining its own procedure, provided that it applies the rules of natural justice and procedural fairness and be consistent with the requirements of clause 16 Dispute Resolution Procedure.

(h) The Panel shall apply an inquisitorial procedure, rather than an adversarial one.

(i) The Panel may decide to hear a matter in the workplace. In such cases the employer shall provide a suitable meeting room and other relevant facilities for any date requested by the Panel. The employer will allow the Panel to inspect any work site if the Panel believes this will assist it in determining a matter, subject to any health, safety, and privacy considerations. A party to a dispute may request that the Panel hear a matter in a workplace. The Panel will consider such a request and determine for itself the best location for hearing a matter.

(j) In the exercise of its functions, the Panel shall do such things as are necessary to ensure that:

(i) matters are dealt with expeditiously; and

(ii) where possible it does not deal with unnecessarily complex legal arguments in hearing/determining a matter.

(k) Lawyers and paid agents, who are not direct employees of the ADAVB, VHIA, Department or an employer may not be given permission to appear before the Panel.

(l) A party to a dispute that is being dealt with under this clause shall not make an application to the FWC for it to deal with the same dispute, other than an application made under clause 17.5(k) - 17.5(l). Nothing prevents an application to the FWC where the Panel ceases to deal with a dispute without having made a determination (including situations where an applicant has discontinued or withdrawn their matter).

17.3 Functions of the Panel Chair

(a) The Chair shall perform the following functions:

(i) notify all parties to the matter and the Department of the hearing dates;

(ii) chair proceedings of the Panel;

(iii) conciliate matters, by chairing conferences between the employer(s) and/or their representative/s, and the ADAVB; and

(iv) anything else else necessary to give effect to the provisions of this clause.

17.4 Application to Panel to deal with a dispute

(a) Either an Employer or an Employee (or their representatives) may make an application to the Panel regarding a dispute about matters listed at clause 17.1 only where the Parties have attempted to resolve the dispute at the workplace

as described at clause 16.4 of the enterprise agreement.

(b) If the provisions of clause 16.4 (Discussion of dispute at workplace) or Clause 16.2 (Obligations of this Agreement) have not been complied with prior to the application, the Chair will refer the parties back to the workplace to attempt resolution through discussion at the workplace level in the first instance.

(c) Applications to the Panel to deal with a dispute must be in the following form:

To: The Independent Disputes Resolution

RE: Panel Dispute Application

Name of Applicant	
Employer	
ADAVB	
Number of employees involved (if applicable)	
Relevant Enterprise Agreement Provision	
Description of the dispute and relevant issues:	
Current status of matters	
Steps already taken to resolve the dispute	

Signed: ……..... Date: ……

(d) Application by the Employee

(i) The Chair shall notify the ADAVBs, VHIA and the Employer of an application made by an employee directly to the Panel.

(ii) Before referral to the Panel for determination, the Chair in the first instance shall review the employee's application to determine that the nature of the dispute is within the scope of this clause and therefore able to be determined by the Panel.

(iii) The Chair will notify the employee, The ADAVB, VHIA and the Employer of their findings with respect to scope.

(iv) If the chair finds the employee's application is not within the scope of this clause the Chair will notify the employee and that their application is not able to be heard by the Panel.

(v) If the Chair finds the employee's application is within the scope of this

clause the Chair will notify the employee that it will be dealt with under this clause.

17.5 Roles, procedures, and determinations of the Panel

(a) In dealing with an application, the Panel will:

(i) utilise available relevant material;

(ii) apply the provisions of the Agreement; and

(iii) in the case of submissions under clause 17.5(f) below consider any materials submitted by or on behalf of the Department.

(b) Subject to the provisions of this clause, proceedings of the Panel shall be conducted as informally as possible and undertaken with all possible expediency.

(c) The Panel may inform itself in any manner it sees fit including, in the case of a classification application, by seeking the views of an expert advisor (who is not an employee of the health service subject of the application) agreed by the Panel to provide clinical expertise in an area of clinical practice relevant to the classification matter under consideration.

(d) The Panel is not bound by the rules or practices as to evidence and may inform itself on any matter it thinks fit. In any event, an employee providing evidence to the Panel will not be subjected to any form of cross examination by any person without limiting the questions the Panel may ask.

(e) The Employer or VHIA and the Employee/s and/or ADAVB can advocate to the Panel.

(f) At the Panel's discretion, the parties to a matter will present submissions verbally and/or in writing.

(g) The parties to a dispute shall have full, unrestricted access to relevant information, except where the Panel determines that access to material is inappropriate for legal or confidentiality reasons.

(h) An employee, including a ADAVB representative and/or panel nominee, who is involved in a matter being heard by the Panel shall be allowed time off from their normal duties and paid their normal wages for time attending.

(i) The Panel will determine applications by majority, with written reasons to be prepared by the Chair (including any dissenting decision or a summary of any dissenting decision) and provided to the parties.

(j) No decision shall be regarded as a precedent.

(k) A determination of the Panel will be considered binding unless either the Applicant, ADAVB or VHIA make an application to have the determination reviewed by the Commission within 14 days of receiving written determination.

(l) An application to the Commission will include the application, determination, written reasons and supporting material.

(m) An application to the Commission under this clause will include a request that the President of the Commission will appoint a member of the Commission to preside over the matter.

(n) Where applicable, the Commission will be assisted by the Chairperson, who will explain their recommendation, the application and supporting material, and inform the Commission of the position of the ADAVB and the VHIA.

(o) Where applicable, the Commission will adopt an inquisitorial procedure (rather than an adversarial procedure) and will in effect stand in the shoes of the Panel and determine whether the Panel decision under review was properly reached and may substitute or uphold the existing determination. Any determination under this clause will be final and binding upon the parties and will not be subject to an appeal of the Full Bench.

17.6 Additional Role of the Chair in considering matters affecting an Employer's funding

(a) The ADAVB and the VHIA recognise that the Victorian Government, represented by the Department, has a right to have its funding interests heard and considered in decisions of the Panel.

(b) The interests of the Victorian Government represented by the Department include significant funding, policy and service delivery considerations and implications.

17.7 Materials to be provided to the Panel

(a) A Party shall provide all relevant material to the Panel and the other Party as soon as practicable. Relevant material may include the following:

(i) staffing/EFT levels and profiles;

(ii) position descriptions;

(iii) rosters;

(iv) proposed and/or actual professional reporting lines for/to the proposed position/s;

(v) records relating to an application (for example: leave backfill, vacancies, absenteeism and leave accruals); and/or

(vi) organisational structure.

17.8 Notification of Panel determinations

(a) The Chair will notify the ADAVB, Employer and Employee, where applicable, of the Panel's determination with respect to an application in writing within 14 days of the decision.

(b) In the case of an application for a reclassification the determined grade will apply from the date of the application.

(c) Until the determination of the Panel, the existing grade (where relevant) will continue to apply.

(d) In the case of an application for a reclassification, where the Panel or, on review, the Commission determines that a lower classification applies, the Employee will have their current salary maintained.

17.9 Employee Release from normal duty

(a) An Employee who is involved in a dispute before the Panel, including a ADAVB representative and/or panel nominee, will be released by the Employer with pay from normal duties as is reasonably necessary to enable them to participate in this dispute settling procedure so long as it does not unduly affect the operations of the Employer.

(b) For the purposes of this clause 'pay' shall include shift allowances and any other payment the employee or ADAVB representative would have received had they not been released from duty as described above.

17.10 Withdrawal of application

(a) The notifier of a dispute to the Panel may withdraw their application at any time.

(b) Any notice of withdrawal of a matter shall be in writing and the Chair shall cause this to be communicated to other relevant parties.

18 Performance Management

18.1 Application of this clause

(a) An Employer is obligated to provide all reasonably practicable interventions to

an Employee where performance issues are identified.

(b) This clause applies to performance issues that:

(i) occur after the first 6 months of employment;

(ii) do not constitute misconduct or serious misconduct; and

(iii) occur prior to the Employer having been provided all reasonably practicable interventions to correct performance.

(c) Nothing in this clause prevents an Employer from initiating the Managing Conduct and Performance Procedure in clause 19 where the clause is applicable.

18.2 Performance Management Process

An Employer may deal with performance issues described by this clause either informally or formally. Informal processes will generally involve direct discussions whilst a formal process will be more formal in character having regard to the performance management principles listed at clause 19.3 Managing Conduct and Performance, which may include the creation of a performance improvement plan.

18.3 Performance Management Principles

(a) The following principles will apply to a formal performance management process:

(i) Clearly identify and explain the aspects of the Employee's performance that are unsatisfactory and the required level of performance;

(ii) Permitting an Employee to be represented in any formal meeting or process relating to formal performance development;

(iii) Consulting with the with the employee and the employee's representative on the content of any performance improvement plan (however titled) and the provide a copy of the plan;

(iv) Providing any additional reasonably practicable interventions (i.e. training, education and coaching) to support the employee to improve/develop their performance;

(v) Providing the employee with a reasonable opportunity to address any concerns over a reasonable time period;

(vi) Scheduling regular feedback meetings to provide feedback on the employee's performance; and

(vii) Genuinely co-operating to undertake the process contained within this clause.

19 Managing Conduct and Performance

19.1 Application

(a) Except as provided at subclause 19.1(e) where an Employer has concerns about:

(i) the Conduct of an Employee; or

(ii) a performance issue that may constitute Misconduct, the following procedure will apply.

(b) There are two steps in a disciplinary process under this clause as follows:

(i) investigative procedure; and

(ii) disciplinary procedure.

(c) An Employee will be provided a reasonable opportunity to be represented at any time (including by the ADAVB) with respect to all matters set out in this clause.

(d) The Employer will notify the Employee in accordance with subclause 19.3(b) as soon as practicable following the Employer becoming aware of the alleged concerns at subclause 19.1(a).

(e) **Exception – Employees who have not completed a minimum period of employment with their Employer.**

Where an Employee has not completed a period of employment with their Employer of at least the minimum employment period defined at section 383 of the Act, and the Employer is considering the termination of the Employee's employment, the Employer will:

(i) provide the concerns in writing to the Employee as soon as practicable following the Employer becoming aware of the alleged concerns;

(ii) advise the Employee of their right to have a representative, including a ADAVB representative;

other than in the case of Serious Misconduct, provide the Employee with an opportunity to improve their:

(iii) Performance or Conduct;

(iv) meet with the Employee (and, where relevant, their representative); and

(v) consider any explanation by the Employee, including any matters raised in mitigation before making a decision to terminate their employment.

19.2 Definitions

(a) **Conduct** means the manner in which the Employee behaviour impacts on their work.

(b) **Misconduct** means an Employee's intentional or negligent failure to abide by or adhere to the standards of conduct expected by the Employer. A performance issue can be considered misconduct where, despite all reasonably practicable interventions by the Employer, the Employee is unable to fulfil all or part of their job requirements to a satisfactory level.

(c) **Performance** means the manner in which the Employee fulfils their job requirements. The level of performance is determined by an Employee's knowledge, skills, qualifications, abilities, and the requirements of the role.

(d) **Serious Misconduct** is as defined under the Act and is both wilful and deliberate. Currently the Act defines serious misconduct, in part, as:

(i) wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;

(ii) conduct that causes serious and imminent risk to:

(A) the health or safety of a person; or

(B) the reputation, viability, or profitability of the employer's business. Conduct that is serious misconduct includes each of the following:

(iii) the Employee, in the course of the Employee's employment, engaging in:

(A) theft;

(B) fraud;

(C) assault; or

(D) sexual harassment.

(iv) the Employee being intoxicated at work;

(v) the Employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.

Subclauses 19.2(d)(iii) - 19.2(d)(v) do not apply if the Employee is able to show that, in the circumstances, the conduct engaged in by the Employee was not conduct that made employment in the period of notice unreasonable.

19.3 Investigative procedure

(a) The purpose of an investigative procedure is to conclude whether, on balance, concerns regarding Conduct or Performance are well-founded and supported by evidence. An investigation procedure must be fair including proper regard to procedural fairness.

(b) The Employer will:

(i) advise the Employee of the concerns and allegations in writing;

(ii) provide the Employee with any material which forms the basis of the concerns before seeking a response;

(iii) ensure the Employee is provided a reasonable opportunity to answer any concerns including a reasonable time to respond;

(iv) advise the Employee of their right to have a representative, including a ADAVB representative;

(v) ensure that the reason for any interview is explained; and

(vi) take reasonable steps to investigate the Employee's response.

(c) Where the Employer has complied with subclauses 19.3(b)(i) - 19.3(b)(iv) and the Employee does not dispute the concerns, the Employee may opt to decline the opportunity to be interviewed.

(d) Where the Employee opts to decline the opportunity to be interviewed, the Employee may still raise matters and clause 19.4(c) including matters in mitigation if a disciplinary procedure (see clause 19.4) is proposed.

19.4 Procedure to address poor Performance or Misconduct

(a) The procedure applies if, following the investigation, the Employer reasonably considers that the Employee's Conduct or Performance may warrant disciplinary steps being taken.

(b) The Employer will:

(i) notify the Employee in writing of the outcome of the investigation process, including the basis of any conclusion; and

(ii) provide the Employee with a reasonable opportunity to provide information about the matters in clause 19.4(c).

(c) In considering whether to take disciplinary action, the Employer will consider:

(i) whether there is a valid reason related to the Conduct or Performance of the Employee arising from the investigation justifying disciplinary action;

(ii) whether the Employee knew or ought to have known that the Conduct or Performance was below acceptable standards; and

(iii) any explanation by the Employee relating to Conduct including any matters raised in mitigation.

19.5 Possible outcomes

(a) Where it is determined that after following the procedures in this clause 19 that disciplinary action is warranted, the Employer may take any of the following steps depending on the seriousness of the Conduct or Performance, and the steps shall be recorded on the Employee's personal file:

(i) where the Performance or Conduct issue does not constitute Serious Misconduct:

(A) counsel the Employee;

(B) give the Employee a first written warning;

(C) give the Employee a second written warning, in the event that the Employee has previously been given a first written warning within the previous 12 months for that course of Conduct;

(D) give the Employee a final written warning in the event that the Employee has previously been given a second written warning within the preceding 18 month period for that course of Conduct; or

(E) terminate the Employee's employment on notice in the case of an Employee who repeats a course of Conduct for which a final warning was given in the preceding 18 months; or

(ii) where the Performance or Conduct issue does constitute Serious Misconduct:

(A) terminate the Employee's employment without notice; or

(B) alternatively, issue the Employee with a final warning without following the steps in subclause 19.4(a)(i) above.

(b) The Employer's decision and a summary of its reasons will be notified to the Employee in writing.

(c) If after any warning, a period of 12 or 18 months elapses (as relevant) without the Employee repeating a course of Conduct for which the preceding warning or counselling was given, the Employer cannot rely on the preceding warning or counselling for the purpose of using a further warning.

19.6 Disputes

A dispute over the clause (including clause 19.7) is to be dealt with in accordance with the Dispute Resolution Procedure of this Agreement.

19.7 Performance Management

Nothing in this clause 19 will prevent the Employer from undertaking performance management to support Employees in accordance with clause 18 performance management.

20 Individual Flexibility Arrangement

20.1 An Employer and Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:

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

(i) when work is performed;

(ii) overtime rates;

(iii) penalty rates;

(iv) allowances (except for Uniform Allowance); and/or

(v) leave loading;

(b) the arrangement meets the genuine needs of the Employer and Employee in relation to one (1) or more of the matters mentioned in subclause 20.1(a); and

(c) the arrangement is genuinely agreed by the Employer and Employee.

20.2 The Employee may appoint a representative for the purposes of the procedure in this clause 20. Except as provided in subclause 20.5(c), the agreement must not require the approval or consent of a person other than the Employer and the individual Employee.

20.3 The employer must ensure that the terms of the individual flexibility arrangement:

(a) are permitted matters under section 172 of the Act;

(b) are not unlawful terms under section 194 of the Act; and

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

20.4 Where the Employee's understanding of written English is limited, the Employer will take measures, including translation into an appropriate language, to ensure the Employee understands the proposed individual flexibility arrangement.

20.5 The Employer must ensure that the individual flexibility arrangement:

(a) is in writing;

(b) includes the name of the Employer and Employee;

(c) is signed by the Employer and the Employee and, if the Employee is under 18 years of age, the Employee's parent, or guardian;

(d) includes details of:

(i) the terms of the Arrangement that will be varied by the arrangement;

(ii) how the arrangement will vary the effect of the terms; and

(iii) how the Employee will be better off overall in relation to the terms and conditions of their employment as a result of the arrangement; and

(e) states the date the arrangement commences.

20.6 The Employer must give the Employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

20.7 The Employer or Employee may terminate the individual flexibility arrangement:

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

(b) if the Employer and Employee agree in writing – at any time.

21 Flexible Working Arrangements

21.1 The Act entitles specified Employees to request flexible working arrangements in specified circumstances.

21.2 For the purpose of this clause 21, a long term casual Employee means a casual Employee (as defined in clause 28.1) that has been employed by the Employer on a regular and systematic basis.

21.3 A specified Employee is a:

(a) full time or part-time Employee with at least 12 months continuous service; and

(b) long term casual Employees with a reasonable expectation of continuing employment by the Employer on a regular and systematic basis.

21.4 The specified circumstances are if the Employee:

(a) is the parent, or has responsibility for the care, of a child who is of school age or younger;

(b) is a carer within the meaning of the *Carer Recognition Act 2010* (Cth) caring for someone who has a disability, a medical condition (including a terminal or chronic illness), a mental illness or is frail or aged;

(c) has a disability;

(d) is 55 or older;

(e) is experiencing violence from a member of the Employee's family; or

(f) provides care or support to a member of the Employee's immediate family, who requires care or support because the member is experiencing violence or abuse from the member's family.

21.5 A specified Employee may make a request to the Employer for a change in working arrangements relating to the circumstances at subclause 21.4. This change may be permanent or temporary in nature.

21.6 A request for a flexible work arrangement includes (but is not limited to) a request to work part-time) upon return to work after taking leave for the birth or adoption of a child to assist the Employee to take care for the child (which may, for example, include a reduction in existing part-time hours).

21.7 Changes in working arrangements may include, but are not limited to, hours of work, patterns of work, and location of work. Changes in working arrangement may also include not being available on-call for afterhours duty.

21.8 The request by the Employee must be in writing, set out the change sought, and the reasons for the change.

21.9 Before responding to a request, the Employer must discuss the request with the Employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the Employee's circumstances, having regard to:

(a) the needs of the Employee arising from their circumstances;

(b) the consequences for the Employee if changes in working arrangements are not made; and

(c) any reasonable business grounds for refusing the request.

If the Employer and the Employee reach an agreement on change in working arrangements that differs from that initially requested by the Employee, then the Employer must provide the Employee with a written response to their request setting out the agreed change(s) in working arrangements.

21.10 The Employer must give the Employee a written response to the request within 21 days, stating whether the Employer grants or refuses the request. A request may only be refused on reasonable business grounds as described in the NES. Where the Employer refuses the request, the written response must include details of the reasons for the refusal. If the Employer and employee could not agree on a change in working arrangements sought, then the written response must:

(a) state whether or not there are any changes in working arrangements that the employer can offer the Employee so as to better accommodate the employee's circumstances; and

(b) if the Employer can offer the Employee such changes in working arrangements, set out those changes in working arrangements.

(c) If the Employee accepts the offer in subclause (b), a written record of the acceptance must be kept as an Employee Record and a copy provided to the Employee.

21.11 An Employee or Employer may choose to be represented at a meeting by a representative for any meeting relating to this clause.

21.12 The dispute resolution procedure in the Agreement will apply to any grievance/dispute arising in relation to a request for flexible working arrangements.

21.13 Other entitlements relevant to family violence can be found at clause 60 (Family and Domestic Violence Leave).

22 Secure Employment

The Employer acknowledges the positive impact that secure employment has on Employees and the provision of quality services to the Victorian community. The Employer will give preference to ongoing forms of employment over casual and fixed-term arrangements wherever possible.

PART C – TYPES OF EMPLOYMENT, COMMENCEMENT OF EMPLOYMENT AND END OF EMPLOYMENT

23 Conditions of Service

23.1 Employment under this Agreement shall be between the Employer and the Employee.

23.2 When the Employee is full-time, the Employer employs the Employee on the basis that the whole of the Employees duty hours shall be devoted to the duties of the appointment.

23.3 The Employee shall not, without the consent of the patient, divulge any information, which that Employee has acquired in attending the patient, and which was necessary to enable the Employee to prescribe or act for the patient, to any person other than the Employer or other Employees directly involved in the patient's care/treatment (e.g. clinical staff/nursing staff/dental assistants).

23.4 Notwithstanding the provisions of subclause 23.3 above an Employee may be required for a medico-legal purpose to disclose to the Employer any information relating to the mental or physical condition of a person who is or was a patient of the Employer and such Employee shall make such disclosure in accordance with the requirement.

24 Modes of Employment

24.1 The employment of Employees under this Agreement may be full-time, part-time, fixed-term or casual. Prior to engagement the Employer shall inform each Employee in writing of the mode and terms of their employment, their classification, hours, and salary.

24.2 Employment of full-time and part-time Employees shall, subject to this Agreement, be ongoing.

25 Full Time Employment

25.1 A full-time Employee is one who is ready, willing, and available to work, on average, a full week of 38 hours.

26 Regular Part-Time Employee

26.1 A regular part-time Employee is an Employee engaged to work an agreed regular number of hours of less than 38 hours per week who is ready, willing, and available to work those agreed hours at the times and during the hours that are mutually agreed.

27 Part-Time Hour Review

27.1 Where over a period of 26 weeks or more a part-tome Employee regularly and/or systematically works more than their contracted hours, the Employer or the Employee may request in writing a contract reflect that the Employee's hours have increased on a permanent basis. Such a request will not be unreasonably refused by either party.

(a) An Employee will not be considered to be regularly and/or systematically rostered if the shifts the Employee has been working are replacing an absent Employee (for example parental leave, long service leave, or workers' compensation) or a temporary flexible work arrangement.

(b) A written response will be provided no later than 21 days from the date of a request (by either an Employee or Employer). Where the request is refused, the written response will include reasons for the refusal. Where the Employer makes the request under clause 27.1, at the time of making the request the Employer will also notify the Employee in writing of their obligations under this subclause.

(c) Where such conversation occurs, the Employee will be provided with a Letter of Appointment setting out the revised employment arrangements.

28 Casual Employment

28.1 A casual Employee is one who is engaged in relieving work or work of a casual nature.

28.2 A casual Employee is an Employee who:

(a) is made an offer of employment on the basis that the Employer makes no firm advance commitment to continuing and indefinite work according to an agreed pattern of work;

(b) accepts the offer of employment on that basis; and

(c) is an Employee as a result of that acceptance.

28.3 A casual Employee's engagement is terminable by either the Employee or the Employer without the requirement of prior notice by either party.

28.4 A casual Employee shall be paid one-thirty-eighth per hour (1/38th) of the weekly rate of pay appropriate to the classification/year of experience plus 25 per cent.

28.5 A casual Employee will not be entitled to the following provisions of the Agreement:

(a) annual leave (clause 53);

(b) purchased leave (clause 54);

(c) paid personal leave (clause 56);

(d) paid compassionate leave (clause 59);

(e) long service leave (Note – casual Employees are entitled to long service leave in accordance with the *Long Service Leave Act 2018* (Vic)) (clause 65);

(f) professional support allowance (clause 69);

(g) professional development leave (clause 70);

(h) study leave (clause **Error! Reference source not found.**);

(i) notice provisions (clause 31);

(j) any other paid absences from duty, unless provided by the NES (e.g. paid family and domestic violence leave (clause 60)).

28.6 A casual Employee is entitled to all other applicable terms of the Agreement unless expressly excluded by the term.

28.7 If, after discussions and agreement with the relevant Employee, the mode of employment or classification of the Employee is altered, the Employer will provide written confirmation to the Employee.

29 Casual Conversion

29.1 Employee requests

(a) A Casual Employee may make a request of an Employer under this clause if:

(i) the Employee has been employed by the Employer for a period of at

least 6 months beginning the day the employment started;

(ii) the Employee has, in the period of 6 months ending the day the request is given, worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to work as a full-time Employee or part-time Employee (as the case may be); and

(iii) all of the following apply:

(A) the Employee has not, at any time during the period referred to in subclause 29.5(a)(ii), refused an offer made to the Employee under clause 29.5;

(B) the Employer has not, at any time during that period, given the Employee a notice in accordance with subclause 29.5(b);

(C) the Employer has not, at any time during that period, given a response to the Employee under clause 29.2 refusing a previous request made under this clause;

(D) the request is not made during the period of 21 days after the period referred to in subclause 29.5(a)(i).

(b) The request must:

(i) be in writing;

(ii) be a request for the Employee to convert:

(A) for an Employee that has worked the equivalent of full-time hours or shifts on a regular and systematic basis during the period referred to in subclause 29.5(a)(ii)– to full-time employment; or

(B) for an Employee that has worked less than the equivalent of full-time hours or shifts on a regular and systematic basis during the period referred to in subclause 29.1(a)(ii)– to part-time employment that is consistent with the regular pattern of hours or shifts worked during that period; and

(iii) be given to the Employer.

29.2 Employer must give a response

The Employer must give the Employee a written response to the request made under clause 29.1 within 21 days after the request is given to the Employer, stating whether the Employer grants or refuses the request.

29.3 Refusal of requests

(a) The Employer must not refuse the request unless:

(i) the Employer has consulted the Employee;

(ii) there are reasonable grounds to refuse the request; and

(iii) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of refusing the request.

(b) Without limiting subclause 29.3(a), reasonable grounds for refusing a request include the following:

(i) it would require a significant adjustment to the Employee's hours of work in order for the Employee to be employed as a full-time Employee or part-time Employee

(ii) the Employee's position will cease to exist in the period of 12 months after giving the request;

(iii) the hours of work which the Employee is required to perform will be significantly reduced in the period of 12 months after giving the request;

(iv) there will be a significant change in either or both of the following in the

period of 12 months after giving the request:

(A) the days on which the Employee's hours of work are required to be performed;

(B) the times at which the Employee's hours of work are required to be performed;

which cannot be accommodated within the days or times the Employee is available to work during that period;

(v) granting the request would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

(c) If the Employer refuses the request, the written response under clause 29.2 must include details of the reasons for the refusal.

29.4 Grants of requests

(a) If the Employer grants the request, the Employer must, within 21 days after the day the request is given to the Employer, give written notice to the Employee of the following:

(i) whether the Employee is converting to full-time employment or part-time employment;

(ii) the Employee's pattern of hours or shifts after the conversion takes effect;

(iii) the day the Employee's conversion to full-time or part-time employment takes effect.

(b) However the Employer must discuss with the Employee the matters the Employer intends to specific for the purposes of subclauses 29.8(a)(i) - 29.8(a)(iii) before giving the notice.

(c) The day specified for the purposes of subclause 29.8(a)(iii) must be the first day of the Employee's first full pay period that starts after the day the notice is given unless the Employee and Employer agree to another day.

To avoid doubt, the notice may be included in the written response under clause 29.6.

29.5 Employer Offers

(a) Subject to clause 29.6, in accordance with the NES, an Employer must make an offer to a casual Employee under this section if:

(i) the casual Employee has worked shifts for the Employer for a period of 12 months beginning the day the employment started; and

(ii) during at least the last 6 months of that period, the Employee has worked a regular pattern of hours on an ongoing basis which, without significant adjustment, the Employee could continue to work as a full-time employee or a part-time employee (as the case may be).

(b) The Employer's offer under subclause 29.5(a) must:

(i) be in writing; and

(ii) be an offer for the Employer to convert:

(A) for an Employee that has worked the equivalent of full-time hours during the period referred to in subclause 29.5(a)(ii) – to full-time employment; or

(B) for an Employee that has worked less than the equivalent of full-time hours during the period referred to in subclause 29.5(a)(ii) – to part-time employment that is consistent with the regular pattern of hours worked during that period;

(c) be given to the Employee within 21 days after the end of the 12-month period referred to in subclause 29.5(a)(i).

29.6 Where Employer offers not required

(a) An Employer is not required to make an offer under subclause 29.5(a) to a casual Employee if:

(i) there are reasonable grounds not to make that offer; and

(ii) the reasonable grounds are based on facts that are known, or reasonably foreseeable, at the time of deciding not to make the offer;

(b) The Employer must give written notice to a casual Employee in accordance with subclause 29.6(d) if:

(i) the Employer decides under subclause 29.6(a) not to make an offer to the Employee; or

(ii) the Employee has been employed by the Employer for the 12-month period referred to in subclause 29.5(a)(i) but does not meet the requirement referred to in subclause 29.5(a)(ii).

(c) Without limiting subclause 29.6(a), reasonable grounds for deciding not to make an offer include the following:

(i) the Employee's position will cease to exist in the period of 12 months after the time of deciding not to make the offer, such as where a casual Employee works shifts replacing an employee absence;

(ii) the hours of work which the Employee is required to perform will be significantly reduced in that period;

(iii) there will be a significant change in either or both of the following in that period:

(A) the days on which the Employee's hours of work are required to be performed;

(B) the times at which the Employee's hours of work are required to be performed;

which cannot be accommodated within the days or times the Employee is available to work during that period;

(iv) making the offer would not comply with a recruitment or selection process required by or under a law of the Commonwealth or a State or a Territory.

(d) The notice must:

(i) advise the Employee that the Employer is not making an offer under clause 29.5; and

(ii) include the details of the reasons for not making the offer (including any grounds on which the Employer has decided to not make the offer); and

(iii) be given to the Employee within 21 days after the end of the 12-month period referred to in subclause 29.5(a)(i).

29.7 Employee response

(a) The Employee must give the Employer a written response to the offer made under clause 29.5 within 21 days after the offer is given to the Employee; starting whether the Employee accepts or declines the offer.

(b) If the Employee fails to give the Employer a written response in accordance with subclause 29.7(b), the Employee is taken to have declined the offer.

29.8 Acceptance of offers

(a) If the Employee accepts the offer, the Employer must, within 21 days after the day the acceptance is given to the Employer, give written notice to the

Employee of the following:

(i) whether the Employee is converting to the full-time employment or part-time employment;

(ii) the Employee's hours of work after the conversion takes effect; and

(iii) the day the Employee's conversion to full-time or part-time employment takes effect.

(b) However, the Employer must discuss with the Employee the matters the Employer intends to specific for the purposes of subclauses 29.8(a)(i) - 29.8(a)(iii) before giving the notice.

(c) The day specified for the purposes of subclause 29.8(a)(iii) must be the first day of the Employee's first full pay period that starts after the day the notice is given unless the Employee and Employer agree to another day.

29.9 Effect of conversion

(a) An Employee is taken, on and after the day specified in notice, for the purposes of subclauses 29.4(a)(iii) and 29.8(a)(iii), to be a full-time Employee or a part-time Employee of the Employer.

(b) Casual loading will cease, and subject to clause 65.4, any benefits relating to permanent employment will commence on the day specified in a notice for the purposes of subclauses 29.4(a)(iii) and 29.8(a)(iii).

30 Fixed Term Employment

Fixed term contracts entered into after 6 December 2023 are subject to this clause 26 and part 2-9, Division 5 of the Act, Where there is any inconsistency between this clause and the Act, the terms for the Act will prevail.

30.1 General

(a) A fixed term Employee is an Employee who is employed for a specified period of time, which period is known at the commencement of the contract. For example,
(i) parental leave replacement;
(ii) long term WorkCover replacement;
(iii) long service leave replacement;
(iv) special projects;
(v) post-graduate training.

(b) Subject to this clause 26, fixed term employment will not be used to fill an ongoing position, or offered through consecutive fixed term employment contracts for work that is otherwise ongoing.

(c) If the Employer enters into a fixed term contract with an Employee in contravention of subclauses 26.3(a), 26.4(b)(i) and/or 26.5 below

(i) The term of the contract that provides that the contract will terminate at the end of the specified period is taken to have no effect; and

(ii) The contravention is taken not to affect the validity of any other term of the contract

30.2 Exceptions

Subclauses 26.3(a), 26.4 and 26.5 below do not apply to a fixed term contract if:

(a) The employee is engaged:

(i) To perform only a distinct and identifiable task involving specialised skills; or

(ii) To undertake essential work during a peak demand period; or

(iii) To undertake work during emergency circumstances; or

(iv) During a temporary absence of another employee (eg Parental/ Long Service Leave/ Work Cover backfill); or

(b) In the year it's entered into, the amount of the employee's earnings is above the high income threshold for that year or;

(c) It relates to a position for the performance of work that:

(i) Is funded in whole or in part by government funding or funding of a kind prescribed the Fair Work Regulations 2009 (cth) for the purposes of this subclause; and

(ii) The funding is payable for a period of more than 2 years; and

(iii) There is no reasonable prospects that the funding will be renewed after the end of that period.

30.3 Time Limitations

(a) A fixed term contract will be for a maximum of 2 years duration. This time limitation includes any extensions or renewals.

(b) Where one of the exceptions outlined at subclause 26.2(a) or 26.2(c) applies, fixed term appointments to a specific position or consecutive fixed term appointments involving the same or substantially similar work, will be for a maximum of 3 years duration except in relation to:

(i) A training arrangement of longer than 3 years duration; or

(ii) Special projects, or

(iii) Research projects, or

(iv) A parental leave back-fill role, or

(v) Back-fill of an Employee who is posted overseas.

(c) Where subclauses 26.3(b) applies and the Employer wants to continue the role for a duration beyond 3 years, the Employer must follow the process for conversion to ongoing employment as outlined at Appendix 5

30.4 Renewal Limitations

A fixed term contract cannot:

(a) Include an option to extend or renew the contract more than once, or

(b) Extend or renew the contract so that the period of employment is longer than 2 years.

30.5 Consecutive Contract Limitations

An Employee cannot be offered a new fixed term contract if:

(a) Their previous contract was also for a fixed term, and

(b) Their previous contract and the new contract are for the same, or substantially similar, work, and

(c) There is substantial continuity in the employment relationship between the previous and new contracts, and

(d) Any of the following apply

(i) The previous contract contain an option to extent that was used

(ii) The total period of employment for both the previous and new fixed term contract is more than 2 years

(iii) The new fixed term contract contains an option to renew or extend, or

(iv) There was an initial contract in place (before the previous contract):

(A) that was for a fixed term

(B) that was for the same substantially similar work, and

(C) where there was substantial continuity in the employment relationship

30.6 Disputes

In the event of a dispute arising over the provisions of this clause 26, the dispute resolution procedure at clause 17 of this Agreement applies.

31 Notice Provisions

31.1 Subject to this Agreement the Employer or an individual Employee, other than a casual, may terminate employment under this Agreement by mutual agreement or by giving a minimum of four weeks' notice in writing or by payment or forfeiture of four weeks salary. The Employer must provide an additional week of notice to Employees over the age of 45 years with more than 2 years of service.

31.2 Where an Employee wishes to terminate employment, this period may be reduced by mutual agreement. The Employer will not unreasonably withhold consent to a request for reduction of notice by a terminating Employee.

31.3 This shall not affect the ability of the Employer to terminate employment summarily for serious or wilful misconduct. In this event salary will be paid to point of dismissal.

31.4 In the case of a fixed-term Employee either the Employer or the Employee may terminate employment by giving one week's notice in writing or by payment or forfeiture of a week's salary.

31.5 Where an Employee has given or has been given notice they shall continue in their employment until the date of expiration of such notice. Where an Employee gives notice as aforesaid and refuses to work or is absent from work without just cause or excuse the Employee shall be deemed to have abandoned their employment.

31.6 Provided that notice under this clause may be given or received by a combination of time notice or payment or forfeiture (as the case may be) in lieu.

32 Transition to Retirement

32.1 An Employee may advise their Employer in writing of their intention to retire within the next five years and participate in a retirement transition arrangement.

32.2 Transition to retirement arrangements may be proposed and, where agreed, implemented as:

(a) a flexible working arrangement (see clause 21 (Flexible Working Arrangements)),

(b) in writing between the parties, or

(c) any combination of the above.

32.3 A transition to retirement arrangement may include but is not limited to:

(a) a reduction in their EFT;

(b) a job share arrangement;

(c) working in a position at a lower classification or rate of pay

32.4 The Employer will consider, and not unreasonably refuse, a request by an Employee who wishes to transition to retirement:

(a) to use accrued Long Service Leave (LSL) or Annual Leave for the purpose of reducing the number of days worked per week while retaining their previous employment status; or

> ***Examples**:*
> 1. A full-time Employee may work 3 days per week and have 2 days of accrued long service leave per week, retaining their full-time status.
> 2. A part-time Employee employed for 24 hours per week may work 20 hours per week and take 4 hours of accrued annual leave per week, retaining their status as a part-time Employee employed for 24 hours per week.

(b) be appointed to a role which that has a lower hourly rate of pay or hours (post transition role), in which case:

(i) the Employer will preserve the accrual of LSL at the time of reduction in salary or hours; and

(ii) where LSL is taken or paid out in lieu of termination, the Employee will be paid LSL hours at the applicable classification and grade, and at the preserved hours, prior to the post transition role until the preserved LSL hours are exhausted.

> ***Examples**:*
> 1. An Employee's hourly rate of pay is reduced under this subclause (b) from $35 to $30. When the Employee takes LSL, their LSL will be paid at the rate of $35 per hour until the preserved LSL is exhausted.
> 2. An Employee's hours of work are reduced under this subclause (b) from 32 hours per week to 24 hours per week. When the Employee takes LSL, they will be paid for 32 hours of LSL per week until the preserved LSL is exhausted.
> 3. An Employee's hourly rate of pay is reduced under this subclause (b) from $40 to $35 and their hours of work from 38 to 30 hours per week. When the Employee takes LSL, it will be paid at the rate of $40 per hour and they will be paid for 38 hours of LSL per week until the preserved LSL is exhausted.

PART D – WAGES

33 Once-Off Cash Payment

33.1 Payment

(a) All full-time equivalent Employees will receive a once-off cash payment in accordance with clause 33.3 below.

(b) This payment will be made on a pro-rata for part-time and casual Employees.

(c) Employees who do not work a regular number of ordinary hours will receive a pro-rata payment based on the average ordinary hours worked over the past 12 months.

(d) Employees will receive this payment as a lump sum payment in the FFPPOA the Agreement has been in effect for 30 days. For avoidance of doubt, this 30-day period commences 7 days after the Fair Work Commission approves this Agreement.

33.2 Entitlement

(a) The payment is payable to Employees employed by an Employer listed in Appendix One on the date which this Agreement comes into effect, 7 days after approval by the Fair Work Commission.

(b) Where an Employee:

(i) is employed by an Employer listed in Appendix One (**initial employer**) on the date described at subclause 33.2(a) above;

(ii) their employment with the initial employer is terminated for any reason; and

(iii) commences their employment with another Employer listed in Appendix One (**second employer**);

they are entitled to receive the payment outlined in clause 33.3 from the initial employer. Employees are not entitled to receive a second payment from the second employer.

(c) For avoidance of doubt, where an Employee:

(i) is employed by an Employer listed in Appendix One on the date described at subclause 33.2(a) above; and

(ii) their employment with the initial employer is terminated for any reason but is not subsequently employed by another Employer listed in Appendix One;

they are entitled to receive the payment outlined in clause 33.3 from that Employer.

33.3 Payment Amounts

Classification	$ Amount Payable (per EFT)
Level 1	4237.90
Level 2a	4612.00
Level 2b	4911.20
Level 2c	5210.30
Level 3a	5833.40
Level 3b	6104.10
Level 3c	6374.60
Level 3d	6645.30

Level 3e	6962.30
Level 4a	7456.90
Level 4 (hybrid)	8598.80
Level 5a	8687.00
Level 5 (hybrid)	9212.90

34 Remuneration

34.1 Employees under this Agreement shall be paid no less than the appropriate wage set out in **Appendix Two** for the relevant classification.

34.2 Salary progression within salary levels, or from one level to the next, will be based on assessed performance, in accordance with clause 75.1(g).

34.3 This Agreement provides for the following increases to existing salary and allowance rates:

Date of effect (First Full Pay Period On or After)	Percentage increase
1 January 2024	3%
1 January 2025	3%
1 January 2026	3%
1 January 2027	3%

The rates payable to Employees are shown in **Appendix Two.**

34.4 The salary and allowance rates provided in **Appendix Two** are inclusive of annual leave loading. Authorised overtime is compensated separately.

35 Payment

35.1 Salary will be paid fortnightly to the financial institution account of each Employee.

35.2 On or after each payday the Employer shall advise each Employee in writing of gross salary entitlement for the pay period, deductions authorised by law and the Employee and the net amount of payment.

35.3 Recovery of overpayments

In the event of overpayment the Employer may recover this by instalments of up to 10% of gross salary until the overpayment has been rectified. Prior to recovery of an overpayment the Employer will discuss the time period for recovery with the relevant employee.

35.4 Underpayment

(a) Where an underpayment of wages occurs by reason of an error by the Employer involving 2.5% or more of the Employee's net weekly wage, the payment will be corrected within 24 hours at the request of the Employee save that:

(i) except in cases of hardship, amounts less than 2.5% will be processed in the Employee's next pay period; and

(ii) where the Employee notifies the Employer of hardship in respect of an amount owing less than 2.5%, the Employer will make its best endeavors to make the payment owing as soon as possible.

(b) The Employer will notify the Employee of the adjustment being processed and

provide the date of payment and any payment identification details.

(c) This subclause 35.4 will not apply where:

(i) the Employer and Employee are in genuine dispute as to whether the monies are owed to the Employee;

(ii) the underpayment is the result of an Employee error; or

(iii) the reason for the underpayment is an unforeseen event or circumstance outside the control of the Employer, frustrating the Employer's ability to meet the requirements of this clause.

36 Effect of Wage Increases

It is agreed that the terms and conditions of employment (incl. the rates of pay) as set out in this Agreement are the minimum terms for Employees working in the classifications covered by this Agreement. Where pre-existing local arrangements with regard to the wage rates paid to an individual Employee have already been entered into at the local level which result in an Employee receiving a greater benefit than the minimum rates provided in **Appendix Two** of this Agreement, then the above wage increases may be absorbed into those above agreement payments, provided that such absorption does not result in the Employee receiving less than the minimum rate provided in **Appendix Two** of this Agreement.

37 Superannuation

The subject of superannuation is dealt with extensively by federal legislation which prescribes the obligations and entitlements regarding superannuation. This clause is ancillary to and supplements those provisions. This clause does not apply to an Employee who is a member of a Victorian exempt public sector superannuation scheme.

37.1 Definitions

In this clause:

(a) **Default fund** means the First State superannuation fund (or its successor) while it provides a "MySuper product" as defined by the Act.

(b) **Preferred superannuation fund** means a fund that meets the definition of a superannuation fund in the *Superannuation Guarantee (Administration) Act* 1992 (Cth).

37.2 Existing Employees

Where an Employee was employed prior to the commencement of this Agreement, the Employer will continue to make superannuation contributions to the Employee's current superannuation fund. An Employee may elect to have the Employee's contributions made to the Employee's preferred superannuation fund.

37.3 New Employees

The Employer will offer to make superannuation contributions on behalf of an Employee to:

(a) the Employee's preferred superannuation fund;

(b) HESTA (or successor); or

(c) Aware Super (or successor).

37.4 Where new Employee does not nominate fund

If the Employee does not nominate a fund, the Employer will pay the Employee's superannuation contributions to the default fund.

37.5 Calculation of superannuation contributions

Superannuation contributions paid by the Employer will be calculated and paid on:

(a) ordinary time earnings as defined in the *Superannuation Guarantee (Administration) Act 1992* (Cth) calculated on the Employee's pre salary packaging earnings, and

(b) any additional amounts consistent with the trust deed of the superannuation fund.

37.6 Superannuation during parental leave – from 1 January 2024

From 1 January 2024, the Employer will make superannuation contributions throughout any periods of parental leave, paid or unpaid. Contributions made on unpaid periods of parental leave are capped at 52 weeks. Such contributions shall be paid as follows:

(a) The Employee's ordinary time earnings as defined in the *Superannuation Guarantee (Administration) Act 1992* (Cth) calculated on the Employee's pre-salary packaging earnings and any additional amounts consistent with the trust deed of the superannuation fund over 26 full pay periods immediately prior to commencing parental leave and divided by 52 (Weekly Parental Leave Super Contribution).

(b) The Weekly Parental Leave Super Contribution will be paid during each week of Parental Leave (both paid and unpaid [up to 52 weeks]) save that:

(i) the Employee will receive a pro rata payment for a period less than one (1) week; and

(ii) where, during the period of parental leave (either paid or unpaid [up to 52 weeks]), the Employee's rate of pay increases under the rates and of pay set out in Appendix Two, the Employee's pre-salary packaging earnings as calculated above will be increased accordingly from the relevant date and superannuation paid on the increased amount.

38 Salary Packaging

38.1 By agreement with the Employee, the current rate of pay specified in this Agreement may be salary packaged in accordance with the Employer's Salary Packaging policy.

38.2 It is the intention of the Employer, as far as possible, that the Employer maintains a worthwhile salary packaging program for all Employees. However if legislative or other changes have the effect of increasing the cost of packaging to the Employer, the Employee participating in packaging shall either pay these costs or the Employer or the Employee shall cease the arrangement.

39 Accident Make-up Pay

39.1 Entitlement to accident make-up pay

An Employee receiving compensation for incapacity under the WIRC Act will be entitled to accident make-up pay from the Employer who is liable to pay compensation in accordance with this clause (including pro-rata for any part of a week).

39.2 Definitions

(a) **Accident make-up pay** means:

(i) In the case of an Employee with no current work capacity, a payment equal to the ordinary time earnings the Employee would ordinarily receive had the Employee been performing their normal duties and hours of work, less the amount of weekly compensation.

(ii) In the case of an Employee with a current work capacity, a payment equal to the ordinary time earnings the Employee would ordinarily receive, had the Employee been performing their normal duties and hours of worless

the amount of weekly compensation and less the average amount the Employee is earning in suitable employment.

(b) **Injury** under this clause has the same meaning as workers' compensation legislation and includes a disease contracted by an Employee in the course of the Employee's employment.

(c) **Ordinary time earnings** exclude additional remuneration by way of shift premiums, overtime payments, special rates, or other similar payments.

39.3 Maximum payment

The maximum period or aggregate of periods of accident make-up pay to be made by an Employer will be a total of 39 weeks for any one injury.

39.4 Accident Make-Up Pay will not apply in some circumstances

Accident make-up pay in accordance with this clause will not apply:

(a) in respect of any injury during the first five normal working days of incapacity, except where the Employee contracts an infectious disease for which the Employee is entitled to receive workers compensation in which case accident make-up pay will apply from the first day of the incapacity;

(b) to any incapacity occurring during the first two weeks of employment unless that incapacity continues beyond the first two weeks in which case accident make-up pay will apply only to the period of incapacity after the first two weeks;

(c) during any period when the Employee fails to comply with the requirements of the WIRC Act with regard to examination by a medical practitioner;

(d) where the injury for which the Employee is receiving weekly compensation payments is a pre-existing injury that work has contributed to by way of recurrence, aggravation, acceleration, exacerbation or deterioration, and the Employee failed to disclose the injury on engagement:

(i) following a request to do so by the Employer; and

(ii) the Employer providing the Employee details of the requirements of the position; and

(iii) where the Employee knew, or ought to have known, that the nature of the injury, may impact on the ability of the Employee to undertake the work;

(e) where the injury subject to recurrence, aggravation or acceleration as provided under workers' compensation legislation or industrial diseases contracted by a gradual process, unless the Employee has been employed with the Employer at the time of the incapacity for a minimum period of one month;

(f) where in accordance with the WIRC Act a medical practitioner provides information to an Employer of an Employee's fitness for work or specifies work for which an Employee has a capacity, and that work is made available by an Employer but not commenced by an Employee;

(g) when the claim has been ceased or redeemed in accordance with the WIRC Act;

(h) in respect of any paid leave of absence.

39.5 Reduction of compensation

Where an Employee receives a weekly payment under this clause and subsequently that payment is reduced pursuant to the WIRC Act, that reduction will not render the Employer liable to increase the amount of accident pay in respect of that injury.

39.6 Termination of employment

(a) **Termination of Employment by the Employee**

Accident make-up pay ceases where the Employee terminates their employment except:

(i) if an Employee with partial incapacity cannot obtain suitable employment from the Employer but such alternative employment is available with

another Employer; and

(ii) the Employee, if required, provides evidence to the Employer of the continuing payment of weekly compensation payments.

(b) **Termination of Employment by the Employer**

An entitlement to accident make-up pay does not cease on termination where the Employer terminates the Employee's employment, except where the termination is for serious and wilful misconduct.

39.7 Civil damage claims

(a) An Employee receiving or who received accident make-up pay must advise the Employer of any action or claim the Employee may institute for damages. If requested, the Employee will provide an authority to the Employer entitling the Employer to a charge upon any money payable pursuant to any judgment or settlement on that injury.

(b) Where an Employee obtains a judgment or settlement for damages in respect of an injury for which the Employee received accident make-up pay, the Employer's liability to pay accident make-up pay ceases from the date of such judgment or settlement where the damages are not reduced (in whole or part) by the accident make-up pay paid by the Employer. Where damages from a judgment or settlement are not reduced to take into account accident make-up pay paid by the Employer (in whole or part), the Employee must repay the Employer the accident make-up pay to the extent the damages were not reduced.

(c) Where an Employee obtains a judgment or settlement for damages against a person other than the Employer in respect of an injury for which the Employee received accident make-up pay, the Employer's liability to pay accident make-up pay will cease from the date of such judgment or settlement where the damages are not reduced (in whole or part) by the amount of accident pay made by the Employer. The Employee must pay to their Employer any amount of accident pay already received in respect of that injury by which the judgment or settlement has not been so reduced.

PART E – ALLOWANCES AND REIMBURSEMENTS

40 Expenses

Authorised expenses, including radiation use licence fees, incurred by an Employee shall be reimbursed in accordance with the Employer's Expenses Policy.

41 Uniform Laundry Allowance

41.1 Where an Employer requires an Employee to wear a particular type or style of uniform then the Employer will provide this at no cost to the Employee. Payment in lieu of providing the uniform is not permitted.

41.2 Uniforms supplied pursuant to subclause 41.1 above will:

(a) be supplied having regard to the number of hours worked by the employee, and the season; and,

(b) be replaced on a fair wear and tear basis.

41.3 Where a uniform is required but is not provided by the Employer the Employee will be paid a uniform allowance at daily or weekly rate set out in Appendix Two whichever is the lesser amount in total.

41.4 Where laundering of work apparel, by or at the expense of the Employer, is not provided the Employee will be paid a laundry allowance at the daily or weekly rate set out in Appendix Two, whichever is the lesser amount in total.

41.5 The uniform allowances but not the laundry will be paid during all absences on leave, except absence on long service leave and absence on sick leave beyond 21 days. Where, prior to taking leave, an Employee was paid a uniform allowance other than at the weekly rate, the rate to be paid during absence on leave will be the average of the allowance paid during the four weeks immediately preceding the taking of leave.

41.6 Where an Employer provides an Employee with uniforms, all articles so provided remain the property of the Employer.

41.7 For the purposes of this clause 41, Uniform means such specific apparel as may be required by the Employer.

42 Higher Duties

42.1 Employees, who are required to undertake higher duties than the Employee's ordinary classification for a period of five consecutive days or greater will be entitled to the payment of a higher duties allowance.

42.2 The higher duties allowance will be calculated commensurate with the proportion of the higher duties required to be completed.

42.3 The replacement duties may be completed by multiple part time employees each assuming the duties in accordance with a job share arrangement.

43 Time limit on Higher Duties

43.1 Where an Employee has been performing higher duties due to a vacancy (there is no incumbent in the role) for a continuous period of 12 months, they will be permanently appointed to the role unless the Employee requests otherwise in writing.

44 Protective Gowns

44.1 Protective Equipment

(a) The Parties are committed to the observance of safe working practices and the correct use of all Personal Protective Equipment (PPE). Employees required to wear PPE in the course of their duties, will be provided with appropriate guidance and instruction on the use of PPE.

(b) The Employer will provide such gloves, masks, tunics, gowns and such PPE and safety appliances as are required for an Employee to perform their work properly and safely.

44.2 Laundering of Protective Gowns

Protective gowns shall be laundered at the expense of the Employer.

PART F – HOURS OF WORK AND RELATED MATTERS

45 Hours of Work

45.1 The ordinary hours of work will be 38 or an average of 38 hours per week worked:

(a) in one week, period – 38 hours worked as five shifts of not more than eight hours each;

(b) in a two-week period – 76 hours worked as not more than 10 shifts of not more than eight hours each; or

(c) by mutual agreement:

(i) an average of 152 hours per four-week period; or

(ii) any shift length or combination provided that the length of any ordinary shift will not exceed ten hours.

45.2 For the purpose of clause 45.1, the ordinary hours an Employee works in a week are taken to include any hours of authorised leave, or absence, whether paid or unpaid, that the Employee takes in a week.

45.3 An Employee may, with the agreement of the Employer, work make up time under which the Employee takes time off during their ordinary hours and works those hours at ordinary time rate at a later mutually agreed time or times. Any agreement on make-up time shall be in writing and retained on the Employee's personal file.

45.4 For the purpose of this clause, the working week shall commence at midnight on a Sunday.

45.5 Ordinary hours

Ordinary hours may be worked as required:

Monday – Friday	7:00am – 10:00pm
Saturday - Sunday	8:00am – 10:00pm

(a) The hours and days of work for an Employee shall be negotiated and in the event that mutual agreement cannot be obtained, the hours and days of Employees shall be as prescribed by the Employer.

(b) Provided that no Employee shall be:

(i) directed to work more than 8 hours per day, without compensation for overtime; and/or

(ii) scheduled to have less than ten (10) hours between successive periods of ordinary duty.

45.6 Saturday and Sunday Work

(a) All rostered time of ordinary duty performed between midnight on Friday and midnight on Sunday shall be paid for the at rate of time and a half.

(b) Overtime worked on Saturdays and Sundays paid in accordance with subclause 47.4(b)(ii).

45.7 Shift Work

(a) In addition to any other rates prescribed elsewhere in this Agreement, an Employee whose rostered ours of ordinary duty finish between 6:00pm and 8:00am, or commence between 6:00pm and 6:30am, shall be paid an amount equal to 2.5% of the weekly base rate of pay for the Employee Level 3, sub-point

2 (Level 3b) per rostered period of duty.

(b) Provided further that in the case of an Employee who, at the direction of the Employer, changes from working on one shift to working on another shift the time of commencement of which differs by four hours or more than from that of the first shall be paid an amount equal to 4 percent of an Employee Level 3, sub-point 2 (Level 3b) on the occasion of each such change in addition to any amount payable under subclause 45.7(a).

45.8 Shift Swapping

(a) By agreement with the Employer an Employee may swap a rostered shift(s) with another employee. A request for shift swapping shall not be unreasonably refused by the Employer.

46 Meal/Rest Breaks

46.1 Meal Break

(a) An Employee who is rostered to work in excess of 5 hours, will be entitled to an unpaid meal break of 30 to 60 minutes.

(b) The time of taking the meal break will be agreed by the Employee and Employer. In the absence of agreement, the Employer will determine the timing of the meal break.

(c) An Employee who works not more than 6 hours may elect to forgo the meal break, with the consent of the Employer.

46.2 Paid Meal Breaks

(a) An Employee unable to take a meal break will be paid for the meal break as time worked at the rate of pay applicable for that shift, plus a 50% loading.

46.3 Meal Breaks During Overtime

(a) An Employee working overtime will take a paid rest break of 20 minutes after each four hours of overtime worked if required to continue to work after the break.

46.4 Rest Interval

(a) Every Employee will be entitled to a paid 10-minue rest interval in each 4 hours worked at a time to be agreed between the Employer and Employee.

(b) Subject to agreement between the Employer and Employee, such breaks may be taken as one 20-minute rest interval (per 8 hours) or in shorter increments totalling 10-minutes per 4-hours.

(c) Rest intervals will be counted as time worked.

47 Overtime

47.1 Application

(a) An Employer may require an Employee to work ‘reasonable overtime’ at overtime rates and such an Employee will work overtime in accordance with such a requirement.

(b) An Employee may refuse to work overtime hours if they are unreasonable in accordance with clause 47.6 below.

47.2 Payments of overtime performed will only occur with the prior approval of the Employer.

47.3 An authorised Employee of the Employer who has delegated authority to approve such expenditure must give approval for overtime.

47.4 Overtime Penalty Rates

(a) Overtime means work requested or directed by the Employer that is performed:

(i) in addition to the full-time ordinary hours described at clause 45.1;

(ii) in addition to the Employee's rostered shift length;

(iii) where a break of at least ten hours has not been provided between successive shifts – for all work performed until a break of ten hours is provided; or

(iv) as recall to duty, including recall on a public holiday.

(b) Overtime is to be paid as follows:

(i) Monday to Friday time and a half (150%) for the first two hours and double time thereafter (200%); and

(ii) Saturday and Sunday – double time (200%).

(iii) Public Holiday – double time and one half (250%).

47.5 Time off instead of payment for overtime

(a) Alternatively, by mutual agreement, overtime may be compensated by time off in lieu of payment for overtime. Time off in lieu shall be taken at a mutually agreed time or times and shall be based on the overtime rate.

(b) Where the time off is not taken within 28 days, the overtime worked will be paid in the next pay period.

47.6 Reasonable overtime

(a) In determining whether overtime is "reasonable overtime" for the purposes of clause 47.1, the following must be taken into account:

(i) any risk to Employee health and safety from working the additional hours;

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

(iii) the needs of the workplace or enterprise in which the Employee is employed;

(iv) whether the Employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours

(v) any notice given by the Employer of any request or requirement to work the additional hours;

(vi) any notice given by the Employee of their intention to refuse to work the additional hours;

(vii) the unusual patterns of work in the industry, or the part of an industry, in which the Employee works;

(viii) the nature of the Employee's role, and the Employee's level of responsibility; and

(ix) any other relevant matter.

(b) An Employee may refuse to work overtime if the request is unreasonable.

48 On-call/Recall

48.1 Oncall

(a) An Employee who is rostered to be on-call shall be paid an on-call allowance equal to 10% of their ordinary time hourly rate during each hour of the on-call

period.

(b) An Employee may be recalled to duty outside their ordinary hours to attend a serious accident or emergence at the request of the Employer.

48.2 Oncall Notification

Employers will provide Employees with 28 days' notice where required to undertake a reasonably foreseeable on call period. Where requirement is not foreseeable the employer will seek volunteers in the first instance.

The period rostered will be reasonably having regard to the Employer's operational requirements and the Employee's circumstance.

Note: A period of 12-24 hours of on call would ordinarily be considered reasonable.

48.3 Recall – Return to Workplace

(a) An Employee recalled to the workplace during an off-duty period will be paid overtime for a minimum of three hours' pay at the appropriate overtime rate where the work is not continuous with the next succeeding rostered period of duty.

(b) An Employee recalled to the workplace will not be required to work the full three hours if the work to be performed is completed in a shorter period.

(c) Subclause 48.3(b) above will not apply when overtime is continuous with the completion or commencement of that Employee's rostered shift.

(d) The time spent travelling to and from the place of duty will be deemed to be time worked.

48.4 Recall – Without Return to Workplace

(a) Where recall to duty can be managed without the Employee having to return to their workplace, such as by telephone or computer, the Employee will be paid a minimum of 1 hour at the appropriate overtime rate for each occasion, provided that multiple recalls within a discrete hour will not attract additional payment.

(b) In relation to recall without return to workplace, subclause 48.4(a) will not apply where an Employee receives a single on call attendance for the hour of less than 15 minutes and this occurs in no more times than twice in a 12-hour period.

48.5 Payment

An Employee who, pursuant to this clause, attends an on-call or who is recalled to duty shall be compensated by payment at the rate of time and a half their ordinary time rate for the first two hours and double time thereafter or, by mutual agreement, by time off in lieu of such payment. Time off in lieu shall be taken at a mutually agreed time and shall be based on the overtime penalty rates as prescribed by clause 47.4 of this Agreement.

49 Daylight Savings

49.1 Despite the overtime provisions of this Agreement, if an Employee works on a shift during which time changes because of the introduction of, or cessation to, daylight saving, that Employee will be paid for the actual hours worked at the ordinary time rate of pay.

Example:

1. An Employee is rostered to work a ten hour night shift from 9pm through to 7:30am (including a 30 minute meal break). During the course of this shift, the clock is wound forward one hour due to the commencement of daylight saving.
2. The Employee finishes work when the time reads 7:30am and therefore actually works only nine rather than 10 hours. The Employee is paid nine hours at their ordinary time rate of pay (including any shift penalties or allowances ordinarily payable in respect of this shift).

Example:

1. An Employee is rostered in a ten hour night shift from 9pm through to 7.30am (including a 30 minute meal break). During the course of this shift, the clock is wound back one hour due to the cessation of daylight saving.
2. The Employee finishes work when the time reads 7:30am and therefore actually works 11 rather than 10 hours. The Employee is paid 11 hours at their ordinary time rate of pay (including any shift penalties or allowances ordinarily payable in respect of this shift). No overtime is paid for the additional hour worked.

49.2 For the purpose of calculating accrued days off, Employees who work on a shift during which time changes because of the introduction of, or cessation to, daylight saving, will be taken to have worked the standard hours for a night shift in accordance with the roster.

50 Workload

50.1 The Employer acknowledges the benefits to both the organisation and individual employees gained through employees having a balance between both their professional and family life.

50.2 The Employer further recognises that the allocation of work must include consideration of the employee's hours of work, health, safety, and welfare. Work will be allocated so that there is not an allocation that routinely requires work to be undertaken beyond an employee's ordinary hours of work. However, the Employer may require the employee to work reasonable overtime where:

(a) such work is unavoidable because of work demands and reasonable notice of the requirement to work overtime is given by the Employer; or

(b) where, due to an emergency, it has not been possible to provide reasonable notice.

50.3 Where overtime is required the provisions of clause 47 (Overtime) shall apply.

50.4 In the event that particular workload or staffing issues are identified at individual health care facilities or services the Employer agrees to consult with employees and their nominated representatives in relation to such matters.

50.5 Staffing

The employer will ensure that it is sufficiently staffed and resourced so as to enable

each employee to:

(a) perform all aspects of their role/position during their ordinary hours;

(b) take rest intervals and meal breaks provided by this Agreement; and

(c) take leave provided for by this Agreement.

50.6 Allocation of work

The Employer will allocate work to each employee so that they can perform all aspects of their position during their ordinary hours of work, including but not limited to:

(a) clinical duties including peer review;

(b) administrative and clerical duties (completion of case notes etc);

(c) managerial/supervisory duties;

(d) educational duties; and

(e) attending meetings.

50.7 Workload Concerns

(a) Where an Employee is unable to complete the items within clause 50.6 within ordinary hours, they will immediately notify their manager who will determine whether overtime will be approved.

(b) If items within clause 50.6 are regularly not able to be completed within ordinary hours, the Employer will initiate a review of workload in accordance with clause 50.8.

50.8 Review of Workload

(a) An Employee or group of Employees may request a review of their workload if they believe the workload is unreasonable. The request must be made in writing and set out details of the workload of the Employee or group of Employees and the reasons why the workload is considered unreasonable.

(b) On receipt of a request by an Employee or group of Employees under this clause, or on the Employer initiating a review in accordance with subclause 50.7(b), the Employer will schedule a meeting with the Employee(s) to discuss their concerns. This meeting will occur within 14 days of the receipt of the written concerns.

(c) The Employer and Employee will do all that is reasonable to resolve the concern(s). In doing so, the Employer will have regard to the allocation of work requirements of clause 50.6.

(d) Within a reasonable timeframe following the discussions in subclause 50.8(b), the Employer will notify the Employee(s) in writing of the agreed outcomes of the discussion including any steps that will be taken to ensure the workload for the Employee or group of Employees is reasonable.

(e) An Employee can nominate a representative or support person for any process associated with the review.

51 Right of Private Practice

51.1 An Employee may make written application to the Employer to engage in private practice. Approval will be in accordance with the Employer's Private Practice agreement as amended from time to time. Provided that an Employee does not perform work outside their principal employment such that it would result in an overall excessive or unsafe work pattern for the Employee. The Employer confirms its responsibility not to roster or arrange work hours such that an excessive or unsafe work pattern for the Employee exists at the Employer's place of work.

PART G – PUBLIC HOLIDAYS, LEAVE AND RELATED MATTERS

52 Public Holidays

52.1 Application

With the exception of subclause 52.6(b), this clause does not apply to casual Employees.

52.2 Where the nature of the employment of Employees permits the observance of public holidays as they occur, Employees (other than casual Employees) shall be entitled to public holidays as prescribed by this clause without loss of pay.

52.3 The public holidays to which this clause applies are the days determined under Victorian law as public holidays in respect of the following occasions:

(a) New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day, Australia Day, Anzac Day, King's Birthday, Labour Day, and Melbourne Cup Day.

(b) Any additional public holiday declared or prescribed in Victoria or a locality in respect of occasions other than those set out in clause 52.3.

(c) When Christmas Day is a Saturday or a Sunday, a holiday in lieu shall be observed on 27 December;

(d) When Boxing Day is a Saturday or a Sunday, an additional holiday shall be observed on 28 December;

(e) When New Year's Day is a Saturday or a Sunday, an additional holiday shall be observed on the next Monday;

(f) When Australia Day is a Saturday or a Sunday, a holiday in lieu shall be observed on the next Monday;

52.4 Melbourne Cup Day Substitution

Where, outside the Melbourne Metropolitan area, a public holiday is proclaimed in that municipality for the observance of local events, that day will be observed as a public holiday in lieu of Melbourne Cup Day.

52.5 Substitution of Public Holiday

(a) An Employer and an Employee may agree to substitute another day for any prescribed in this clause. Any such arrangement shall be recorded in writing.

52.6 Payment for work on public holiday

(a) **Full Time / Part Time Employee**

(i) Where a full time/part time Employee is required to work on a public holiday, they shall be entitled to be paid for the time so worked on the public holiday at:

(A) the rate of double time (200%); or

(B) by mutual agreement, one day's leave shall be added to the Employee's Annual Leave.

(b) **Casual Employee**

Where a casual Employee is required to work on a public holiday, they shall be entitled to be paid for the time worked so on the public holiday at the rate of double time plus 25% casual loading (225%).

53 Annual Leave

This clause does not apply to casual Employees.

53.1 Entitlement to Annual Leave

(a) **Up to 30 June 2024,** full-time Employees are entitled to four weeks' paid annual leave per annum.

(b) **From 1 July 2024,** full-time Employees will be entitled to five weeks' paid annual leave per annum.

(c) Annual leave accrues progressively during a year of service according to the Employee's ordinary hours of work (excluding overtime) and accumulates from year to year.

(d) Entitlements for part-time Employees will be calculated on a prorated basis in accordance with subclauses 53.1(a) and 53.1(b).

53.2 Taking paid Annual Leave

(a) Paid annual leave may be taken for a period agreed between an Employee and their Employer.

(b) An Employee who has accrued annual leave shall ordinarily give the Employer 4 weeks' notice of their intention of taking annual leave.

(c) The Employer must not unreasonably refuse to agree to a request by the Employee to take paid annual leave.

(d) **High Demand Holiday Periods**

(i) An Employer may develop and publish to affected Employees (which may be a specific Department or work area) requirements for a high demand holiday period. Where this occurs, the requirement must:

(ii) identify the high demand period;

(iii) identify the date by which a written request for annual leave should be submitted; and

(iv) identify the date by which the Employer will notify the Employee in writing that their annual leave request is approved or, if not approve, the reasons for the leave not being approved.

(v) In determining applications for high-demand periods, the Employer will consider all the circumstances including but not limited to:

(A) the Employer's operational needs;

(B) the Employee's family responsibilities;

(C) whether previous leave applications for the same high demand period were or were not successful.

(e) Where an Employer closes one or more of its operations for Christmas/New Year each year and provides not less than 4 weeks written notice to affected Employees, the Employees will have the option of applying for Annual Leave, Long Service Leave, Time in Lieu or in the event of insufficient Annual Leave or Time in Lieu credits, Leave Without Pay for this period.

(f) The Employer will consider a request by an Employer to continue working during the Christmas/New Year period if the Employee wishes to accumulate their leave for a special purpose or has caregiving responsibilities which necessitate the taking of their Annual Leave at another time. Such a request shall not be unreasonably refused.

53.3 Short periods of Annual Leave

Paid annual leave under this clause can be taken in periods less an Employee's ordinary fortnight (short period), including single days or part days.

53.4 Employees not taken to be on paid annual leave at certain times

(a) **Public holidays**

(i) If an Employee takes paid annual leave during a period that includes a public holiday, the Employee is taken not to be on paid annual leave on that day.

(b) **Personal/Carer's Leave**

(i) An Employee may take personal/carer's leave whilst on annual leave. An Employee is taken not to be on paid annual leave whilst on personal/carer's leave and the Employee's paid annual leave accrual will be amended to reflect this.

(ii) An Employee taking personal/carer's leave during annual leave will provide the Employer with evidence in accordance with clause 56 (Personal/Carer's Leave).

53.5 Payment for leave

(a) Employees will receive their ordinary pay during periods of Annual Leave.

(b) A 17.5% annual leave loading (capped to a rate of Employees at Level 3, sub point 2 (Level 3b)) has been built into the salary rates provided for in Appendix Two of this Agreement and is paid progressively during the year.

53.6 Excess annual leave accruals

(a) An Employee has an excessive annual leave accrual if the Employee has accrued more than two years paid annual leave.

(b) If an Employee has an excessive leave accrual, the Employer or the Employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.

(c) ***Excessive leave accruals: direction by Employer that leave be taken***

(i) If the Employer has genuinely tried to reach agreement with an employee to reduce or eliminate the excessive leave accrual but agreement is not reached, the Employer may direct the Employee in writing to take one or more periods of paid annual leave.

(ii) However, a direction by the Employer must not:

(A) have the effect of reducing the leave balance below four weeks;

(B) require the employee to take any period of paid annual leave of less than one week;

(C) require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; or,

(D) be inconsistent with any leave arrangement otherwise agreed by the Employer and the Employee.

(d) ***Excessive leave accruals: request by Employee for leave***

(i) If an Employee has genuinely tried to reach agreement with the Employer to reduce or eliminate the excessive leave but agreement is not reached, the Employee may give written notice to the Employer requesting to take paid annual leave.

(ii) However, an Employee may only give notice to Employer if they have had an excessive accrual for more than six (6) months and has not otherwise agreed or been directed to take annual leave that would reduce their accrual.

(iii) A notice given by an Employee must not:

(A) if granted, result in the Employee's remaining accrued entitlement to paid annual leave being at any time less than 4 weeks;

(B) provide for the Employee to take any period of paid annual leave of less than one week;

(C) provide for the Employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or,

(D) be inconsistent with any leave arrangement agreed by the Employer and Employee.

(e) The Employer will grant paid annual leave requested by a valid notice made in accordance with this clause.

53.7 Effect of termination on annual leave

(a) In the event of termination of employment at the initiative of the Employer, the value of accrued, untaken annual leave (less annual leave taken in advance) shall be paid to the Employee immediately after termination.

(b) In the event of termination of employment at the initiative of the Employee, the value of accrued, untaken annual leave (less annual leave taken in advance) shall be processed no later than the next pay period.

54 Purchased Leave

54.1 An Employee may, by agreement with the Employer, purchase leave and work between 44 weeks and 51 weeks per year.

54.2 Where the Employer and an Employee agree to a reduction in the number of working weeks the Employee will receive additional leave as follows:

44/52 weeks	Additional 8 weeks	12 weeks in
45/52 weeks	Additional 7 weeks	11 weeks in
46/52 weeks	Additional 6 weeks	10 weeks in
47/52 weeks	Additional 5 weeks	9 weeks in
48/52 weeks	Additional 4 weeks	8 weeks in
49/52 weeks	Additional 3 weeks	7 weeks in
50/52 weeks	Additional 2 weeks	6 weeks in
51/52 weeks	Additional 1 weeks	5 weeks in

54.3 The Employee will receive a salary equal to the period worked spread over a 52 week period.

54.4 An Employee may revert to ordinary 52 week employment by giving the Employer no less than four weeks written notice. Where an Employee reverts to 52 week employment, appropriate pro-rata salary adjustments will be made.

55 Unpaid Leave

In addition to any other form of leave under this Enterprise Agreement or the NES, an employee may apply for a period of unpaid leave. A request will not be unreasonably refused, having regard to operational issues. If such leave is agreed, the terms of the leave arrangement will be formalised in writing. Unpaid leave does not count as service for any purpose but does not break an employee's continuity of service.

56 Personal/Carer's Leave

This clause does not apply to casual Employees. The Entitlements of casual Employees are set out in clause 57 (Casual Employment – Caring Responsibility).

56.1 Amount of paid personal leave

(a) An Employee, other than a casual Employee, is entitled 12 days of personal leave per annum.

(b) Paid personal leave accrues progressively during a year of service according to the Employee's ordinary hours of work (excluding overtime) and accumulates from year to year.

56.2 Payment for leave

(a) Payment will be made based on the number of ordinary hours the Employee would have worked on the day or days on which the leave was taken.

(b) An Employee utilising personal leave may take leave for part of a single day. Leave will be deducted on a time for time basis from the Employee's accrued personal leave.

56.3 Access to paid personal leave

(a) Subject to the conditions set out in this clause, an Employee may take paid personal leave if the leave is taken:

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

(ii) to care for or support a member of the Employee's immediate family or household because of:

(A) a personal illness or injury affecting them; or

(B) an unexpected emergency affecting them (**carer's leave**).

(b) In normal circumstances, an Employee must not take carer's leave under this clause where another person has taken leave on the same occasion to care for the same person.

56.4 Sick leave

(a) **General**

An Employee may take personal leave for the reasons described at clause 56.3 above and subclause 56.4(b) below.

(b) **Personal leave to attend appointments**

An Employee may use up to five days' personal leave, in aggregate, in any year of service on account of a disability or where the Employee is required to attend a registered health practitioner.

(c) **Evidence Requirements**

An Employee taking sick leave will give the Employer evidence that would satisfy a reasonable person the Employee is absent due to personal illness or injury, in the case of leave taken to attend an appointment (see subclause 56.4(b)) evidence of attendance. Evidence that would satisfy a reasonable person that the Employee is absent due to personal illness or injury includes:

(i) a medical certificate from a registered health practitioner; or

(ii) a Statutory Declaration signed by the Employee with respect to absences on three occasions in any one year not exceeding three consecutive working days each.

(d) **Exception to evidence requirement – single day absences**

An Employee may be absent for a single day without evidence of personal

illness or injury as required at subclause 56.4(c) above, on not more than three occasions per year of service. However, an Employee will not be entitled to this benefit if the Employee fails to notify the Employer pursuant to health service procedure of the single day absence as set out at subclause 56.4(f) below.

(e) **Single day absences without certificate – additional leave**

Where the one day absences referred to in subclause 56.4(d) are not taken for a period of five years, an additional 38 hours of personal leave will be added to the Employee's accrued entitlement.

(f) **Notice requirements**

(i) An Employee should inform the Employer of their absence no less than 1.5 hours prior to the commencement of the rostered shift or as soon as reasonably practicable to allow the Employer to take necessary steps to backfill the absence. This provision does not apply where an Employee could not comply because of circumstances beyond the Employee's control.

(ii) The Employer will inform Employees of the procedure for notification by Employees of their inability to attend work due to illness or injury. All such notifications will be registered, detailing the time of notification and the name of the Employee.

(g) **Failure to provide notice of absence**

Personal leave will not be withheld by an Employer until all reasonable steps have been taken to investigate the Employee's lack of notice as required by subclause 56.4(f) regarding the absence from duty. Such an investigation must provide the Employee with an opportunity to give reasons as to why notification was not given.

56.5 Carer's leave

(a) **Evidence requirements**

The Employee must, if required by the Employer, establish by production of a statutory declaration or other evidence that would satisfy a reasonable person, that a member of the Employee's immediate family or household has either:

(i) an illness or injury; or

(ii) an unexpected emergency,

that requires their care or support. In the case of an unexpected emergency, the Employee will identify the nature of the emergency. An 'unexpected emergency' includes providing care or support to a member experiencing family violence as described at clause 60.2.

(b) **Notice requirements**

The Employee must, where practicable, give the Employer notice of the intention to take leave prior to the absence, that includes:

(i) the name of the person requiring care or support and their relationship to the Employee;

(ii) the reasons for taking such leave; and

(iii) the estimated length of absence.

If it is not practicable for the Employee to give prior notice of absence, the Employee must notify the Employer of the absence by telephone at the first opportunity on the day of absence.

(c) **Unpaid leave where accruals exhausted**

An Employee who has exhausted paid personal leave entitlements is entitled to take unpaid carer's leave. The Employer and the Employee will agree on the period. In the absence of agreement, the Employee is entitled to take up to two

days (or two full shifts where ordinary shifts exceed 8 hours) per occasion, provided the evidentiary requirements are met.

56.6 Personal leave on a public holiday

See also clause 0 (Public Holidays)

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

56.7 Termination of employment while on personal leave

No Employer will terminate the services of an Employee during the currency of any period of Personal Leave, with the object of avoiding obligations under this clause.

57 Casual Employment – Caring Responsibilities

57.1 Subject to the evidentiary and notice requirements that apply to Carer's Leave under clause 56.5, a casual Employee is entitled to be unavailable to attend work, or to leave work, if they need to provide care or support to a member of the Employee's immediate family or household because of:

(a) a personal illness, or personal injury, affecting them;

(b) an unexpected emergency affecting them;

(c) the birth of a child;

(d) a baby in their immediate family or household is stillborn;

(e) they have a miscarriage; or

(f) their current spouse or defector partner has a miscarriage.

57.2 The Employer and the Employee will agree on the period for which the Employee will be entitled to be unavailable to attend work. In the absence of agreement, the Employee is entitled to not be available to attend work for up to two days per permissible occasion, which may be taken as a single continuous period of up to two days or any separate periods to which the Employer and Employee agree.

57.3 The casual Employee is not entitled to any payment for the period of non-attendance.

57.4 An Employer must not fail to re-engage a casual Employee because the Employee access the entitlements provide for in this clause. The rights of an Employer to engage or not to engage a casual Employee are otherwise not affected.

58 Fitness for Work

58.1 Fit for Work

(a) The Employer is responsible for providing a workplace that is safe and without risk to health for Employees, so far as is reasonably practicable.

(b) Each Employee is responsible for ensuring that they are fit to perform their duties without risk to the safety, health and well-being of themselves and others within the workplace. This responsibility includes compliance with reasonable measures put in place by the Employer and any related occupational health and safety requirements.

58.2 Addressing concerns about Fitness for Work

(a) In the event the Employee's manager forms a reasonable belief (as defined at subclause 58.2(b) below) that an Employee may be unfit to perform their duties, the Employer will act in a timely manner to promote physical, mental, and emotional health so that employees can safely undertake and sustain work.

(b) In this clause **reasonable belief** means a belief based on sufficient evidence that supports a conclusion on the balance of probabilities. Nothing in this clause 58 permits an Employer to act contrary to the *Health Records Act 2001* (Vic).

(c) In this clause treating medical practitioner may, where relevant, also include programs such as the Nursing and Midwifery Health Program Victoria, or a psychologist.

(d) The Employer will:

(i) take all reasonable steps to give the Employee an opportunity to answer any concerns which are the subject of the reasonable belief;

(ii) recognise the Employee's right to have a representative, including a ADAVB representative, at any time when meeting with the Employer;

(iii) genuinely consider the Employee's response with a view to promoting physical, mental, and emotional health so that Employees can safely undertake and sustain work; and

(iv) take these responses into account in considering whether reasonable adjustments can be made in order that the Employee can safely undertake and sustain work.

(e) **Report from Treating Medical Practitioner**

Where, after discussion with the Employee, the Employer continues to have a reasonable belief that the Employee is unfit to perform the duties, the Employer may request the Employee to obtain a report from the Employee's treating medical practitioner regarding the Employee's fitness for work. Where this occurs, the Employer will provide to the Employee, in writing, the concerns and information that form the basis of the reasonable belief to assist the Employee's treating medical practitioner.

The Employee will:

(i) advise the Employer of the Employee's treating medical practitioner;

(ii) provide a copy of the report to the Employer; and

(iii) meet with the Employer to discuss any report.

(f) **Report from IME**

If, on receipt of the report, and (where reasonably practicable) following discussion, the Employer continues to have a reasonable belief that the Employee is unfit for duty, or the Employee does not provide a report from the treating medical practitioner, the Employer may require the Employee to attend an independent medical practitioner (**IME**).

The Employer will:

(i) pay for the cost and expenses of the appointment and report;

(ii) provide a copy of the IME report to the Employee; and

(iii) meet with the Employee to discuss any report.

(g) **Information to Employee before IME**

Before the Employee attends an IME under subclause 58.2(f) above, the Employee will be provided with a copy of:

(i) the name of the proposed IME: and

(ii) any correspondence (including any supporting material) proposed to be sent to the IME.

(h) **Employee consultation and right to supplement information**

Before attending an IME, the Employee may:

(i) supplement the material to be provided to the IME; and/or

(ii) request to meet with the Employer to consult about the material the Employer proposes to provide the IME. The Employee's representative may attend the meeting.

(i) **Relationship to WIRC**

This clause 58.2 does not apply to an injury that is the subject of an active WorkCover claim. Matters regarding an Employee's Fitness for Work regarding an injury that is the subject of a WorkCover claim shall be managed in accordance with the WIRC Act including the Employer's obligation to provide a safe work environment.

(j) **Safe Work Environment is paramount**

Nothing in this clause 58.2 prevents an Employer from taking any reasonable step in the workplace to ensure a safe work environment.

58.3 Reasonable Adjustments

(a) Where Employees have a disability (whether permanent or temporary) the Employer is required to make reasonable adjustments to enable the Employee to continue to perform their duties, subject to subclause 58.3(b) below.

(b) An Employer is not required to make reasonable adjustments if the Employee could not or cannot adequately perform the genuine and reasonable requirements of the employment even after the adjustments are made.

(c) **Definitions**

(i) **Disability** has the same meaning as section 4 of the EO Act and includes:

(A) total or partial loss of a bodily function;

(B) presence in the body of organisms that may cause disease;

(C) total or partial loss of a part of the body; or

(D) malfunction of a part of the body including a mental or psychological disease or disorder or condition or disorder that results in a person learning more slowly than those without the condition or disorder.

(ii) **Reasonable adjustments** has the same meaning as section 20 of the EO Act and requires consideration of all relevant facts and circumstances including:

(A) the employee's circumstances, including the nature of the disability;

(B) the nature of the Employee's role;

(C) the nature of the adjustment required to accommodate the Employee's disability;

(D) the financial circumstances of the Employer;

(E) the size and nature of the workplace and the Employer's business;

(F) the effect on the workplace and the Employer's business of making the adjustment including the financial impact, the number of persons who would benefit or be disadvantaged and the impact of efficiency and productivity;

(G) the consequences for the Employer in making the adjustment; and

(H) the consequences for the Employee in not making the adjustment.

59 Compassionate Leave

59.1 An Employer may use its discretion to grant paid and/or unpaid compassionate leave to relatives not covered by the definition of "immediate family" in clause 4.

59.2 When Compassionate leave is available

(a) Compassionate leave may be available under this clause 59 to an Employee for each occasion (a "permissible occasion") when:

(i) a member of the Employee's immediate family or household:

(A) contracts or develops a personal illness or sustains a personal injury that poses a serious threat to their life;

(B) dies;

(C) has a miscarriage; or

(ii) a Stillborn Child is born, where the Stillborn Child would have been a member of the Employee's immediate family, or a member of the Employee's household, if the Stillborn Child had been born alive.

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

59.4 Employees other than casual Employees

(a) The provisions of subclauses 59.4(a) - 59.4(c) apply to all Employees other than casual Employees. The entitlements of casual Employees are set out in clause 59.4(d).

(b) An Employee is entitled to up to 2 days' paid leave, on each permissible occasion.

(c) An Employee may take compassionate leave for a particular permissible occasion as:

(i) a single continuous 2 day period;

(ii) 2 separate periods of one day each; or

(iii) Any separate periods to which the Employee and Employer agree.

(d) An Employee may take unpaid additional compassionate leave by agreement with the Employer.

59.5 Casual Employees

Subject to the evidence requirements described at clause 59.6, a casual Employee is entitled to two days' unpaid compassionate leave on each permissible occasion. Unpaid compassion leave under this subclause may be taken as:

(a) a single continuous 2 day period;

(b) two separate periods of one day each; or

(c) any separate periods to which the Employee and Employer agree.

59.6 Evidence – all Employees

Proof of the injury, illness or death must be provided that would satisfy a reasonable person, if request.

60 Family and Domestic Violence Leave

NOTE: Family member is defined in section 8 of the Family Violence Protection Act 2008 (Vic) and is broader than the definition of immediate family in clause 4 (Definitions).

60.1 General Principle

(a) Each Employer recognises that Employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, each Employer is committed to providing support to staff that experience family and domestic violence.

(b) Leave for family violence purposes is available to employees who are experiencing family and domestic violence and also to allow them to be absent from the workplace to attend counselling appointments, medical appointments, legal proceedings or appointments with a legal practitioner and other activities related to, and as a consequence of, family and domestic violence.

60.2 Definition of Family and Domestic Violence

(a) For the purposes of this clause, family violence is as defined by the *Family Violence Protection Act 2008* (Vic) which defines family violence at section 5, in part, as follows:

(i) behaviour by a person towards a family member of that person if that behaviour:

(A) is physically or sexually abusive; or

(B) is emotionally or psychologically abusive; or

(C) is economically abusive; or

(D) is threatening; or

(E) is coercive; or

(F) in any other way controls or dominates the family member and causes that family member to feel fear for the safety or wellbeing of that family member or another person; or

(ii) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in subclause (a) above.

(b) **NES Definition of Family and Domestic Violence**

The NES defines Family and Domestic Violence Leave in accordance with the *Fair Work Act 2009* (Cth). The *Family and Domestic Violence Act 2008* (Vic) provides a broader definition of what is considered family and domestic violence. Employers should apply this broader definition of family and domestic violence for all entitlements, including those arising from the NES.

60.3 Eligibility

(a) Paid leave for family and domestic violence purposes is available to all Employees.

(b) Paid leave for family violence purposes is available to Employees under the NES rather than the Agreement to the extent that they are better off.

(c) The entitlement to paid leave for family and domestic violence is dependent on an Employee's EFT.

(i) The entitlement to Family and Domestic Violence Leave under the Agreement applies to:

(A) full-time Employees; and

(B) part-time Employees who work 0.5EFT and above.

(ii) The entitlement to Family and Domestic Violence Leave under the NES applies to:

(A) casual employees; and

(B) part-time Employees who work less than 0.5EFT.

60.4 General Measures

(a) Evidence of family violence may be required and can be in the form an agreed document issued by the Police Service, a Court, a registered health practitioner, a Family Violence Support Service, district nurse, maternal and child health nurse or Lawyer. A signed statutory declaration can also be offered as evidence.

(b) All personal information concerning family violence will be kept confidential in line with the Employer's policies and relevant legislation. No information will be kept on an Employee's personnel file without their express written permission.

(c) For avoidance of doubt, family and domestic violence leave should not be listed on an Employee's payslip. If taken in accordance with clause 60.5, leave should be recorded as ordinary hours or in a way that suggests no leave was taken. If an Employee agrees, it can be labelled on their payslip as a different type of leave, but this should not affect their accrued entitlement to that leave.

(d) No adverse action will be taken against an Employee if their attendance or performance at work suffers as a result of experiencing family violence.

(e) The Employer will identify contact/s within the workplace who will be trained in family violence and associated privacy issues. The Employer will advertise the name of any Family Violence contacts within the workplace.

(f) An Employee experiencing family and domestic violence may raise the issue with their immediate supervisor, Family Violence contacts, ADAVB delegate or nominated Human Resources contact. The immediate supervisor may seek advice from Human Resources if the Employee chooses not to see the Human Resources or Family Violence contact.

(g) Where requested by an Employee, the Human Resources contact will liaise with the Employee's manager on the Employee's behalf, and will make a recommendation on the most appropriate form of support to provide in accordance with clause 60.5 and clause 60.6.

(h) The Employer will develop guidelines to supplement this clause, and which details the appropriate action to be taken in the event that an Employee reports family violence.

60.5 Leave

(a) **Full Time Employees/Part-Time Employees (0.5EFT and above)**

An Employee who works full-time or part-time (0.5EFT and above) experiencing family and domestic violence will have access to 20 days per year of paid special leave (pro rata for part time Employees) following an event of family and domestic violence and for related purposes such as counselling appointments, medical appointments, legal proceedings or appointments with a legal practitioner and other activities related to, and as a consequence of, family and domestic violence (this leave is not cumulative but if the leave is exhausted consideration will be given to providing additional leave).

This leave will be available in-full on the Employee's anniversary date and will reset to the full 20 days (pro-rata for part-time Employees) on the Employee's anniversary date thereafter.

This leave will be in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.

(b) **Casual Employees/Part-Time Employees (less that 0.5EFT)**

An Employee who works casually or part-time (less than 0.5EFT) experiencing family and domestic violence will have access to 10 days of paid special leave under the NES provisions. The 10 day entitlement will be available in-full on the Employee's anniversary date and will reset to the full 10 days on the Employee's anniversary date thereafter.

(c) An Employee who supports a person experiencing family and domestic violence

may utilise their personal leave entitlement to accompany them to court, to hospital, or to care for children. The Employer may require evidence consistent with subclause 60.4(a) from an Employee seeking to utilise their personal/carer's leave entitlement.

60.6 Individual Support

(a) In order to provide support to an Employee experiencing family and domestic violence and to provide a safe work environment to all Employees, the Employer will approve any reasonable request from an Employee experiencing family violence for:

(i) temporary or ongoing changes to their span of hours or pattern or hours and/or shift patterns;

(ii) temporary or ongoing job redesign or changes to duties;

(iii) temporary or ongoing relocation to suitable employment;

(iv) a change to their telephone number or email address to avoid harassing contact;

(v) any other appropriate measure including those available under existing provisions for family friendly and flexible work arrangements.

(b) Any changes to an Employee's role should be reviewed at agreed periods. When an Employee is no longer experiencing family and domestic violence, the terms and conditions of employment may revert back to the terms and conditions applicable to the Employee's substantive position.

(c) An Employee experiencing family and domestic violence will be offered access to the Employee Assistance Program (**EAP**) and/or other available local employee support resources. The EAP will include professionals trained specifically in family violence.

(d) An Employee that discloses that they are experiencing family and domestic violence will be given information regarding current support services.

61 Pre-natal Leave

61.1 An Employee required to attend pre-natal appointments or parenting classes that are only available or can only be attended during the Employee's ordinary rostered shift may, subject to the provision of satisfactory evidence of attendance, access their personal leave credit.

61.2 The Employee must give the Employer prior notice of the Employee's intention to take such leave.

62 Pre-adoption leave

62.1 An Employee 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.

62.2 The Employee and the Employer should agree on the length of the unpaid leave.

62.3 Where agreement cannot be reached, the Employee is entitled to take up to two days unpaid leave.

62.4 Where paid leave is available to the Employee, the Employer may require the Employee to take such leave instead.

63 Parental Leave

63.1 Structure of clause

This clause is structured as follows:

(a) Definitions: subclause 63.2

(b) Relationship with the NES: subclause 63.3

(c) Unpaid parental leave: subclause 63.4

(d) Flexible parental leave: subclause 63.5

(e) Paid parental leave: subclause **Error! Reference source not found.**

(f) Notice and evidence requirements: subclause 63.6

(g) Parental leave associated with the birth of a Child – additional provisions: subclause 63.7

(h) Unpaid pre-adoption leave: subclause 63.8

(i) Where placement does not proceed or continue: subclause 63.9

(j) Special maternity leave: subclause 63.10

(k) Variation of period of unpaid parental leave up to 12 months: subclause 63.11

(l) Right to request extension of period of unpaid parental leave beyond 12 months: subclause 63.12

(m) Parental leave and other entitlements: subclause 63.13

(n) Transfer to a safe job: subclause 63.14

(o) Returning to work after a period of parental leave: subclause 63.15

(p) Replacement Employees: subclause 63.16

(q) Communication during parental leave – organisational change: subclause 63.17

(r) Keeping in touch days: subclause 63.18

Other provisions associated with parental leave are also included in this Agreement. Specifically, **prenatal leave** at clause 61, **flexible working arrangements** which includes the right to request to return from parental leave on a part time basis at clause 21, leave to attend interviews and examinations relevant to adoption leave (**pre-adoption leave**) at clause 62 **and breastfeeding** at clause 64.

63.2 Definitions

For the purposes of this clause:

(a) **Child** means:

(i) in relation to birth-related leave, a child (or children from a multiple birth) of the Eligible Employee or the Eligible Employee's Spouse; or

(ii) in relation to adoption-related leave, a child (or children) under 16 (as at the day of placement or expected day of placement) who is placed or who is to be placed with the Eligible Employee for the purposes of adoption, other than a child or step-child of the Eligible Employee or of the Spouse of the Eligible Employee or a child who has previously lived continuously with the Eligible Employee for a period of six months or more (**Adopted Child**); or

(iii) as the case requires, includes a Stillborn Child.

(b) **Continuous Service** includes:

(i) continuous service with one and the same Employer; or

(ii) continuous service with more than one Employer including Institutions or Statutory Bodies (as defined at clause 65.1); and

(iii) includes any period of employment that would count as service under the Act; and

(iv) an Allowable Period of Absence as defined at subclause 65.1(a).

(c) **Eligible Casual Employee** means an Employee employed by the Employer in casual employment on a regular and systematic basis for a sequence of periods of employment during a period of at least six (6) months and who has, but for the birth or expected birth of a Child or the decision to adopt a Child, a reasonable expectation of continuing engagement by the Employer on a regular and systematic basis.

(d) **Eligible Employee** for the purposes of this clause 63 means an Employee who has at least 12 months' Continuous Service or an Eligible Casual Employee as defined above.

(e) **Employee Couple** has the same meaning as under the Act.

For avoidance of doubt, it is not necessary that both members of an Employee Couple work for the same Employer.

(f) **Flexible Parental Leave** means the 100 days' unpaid parental leave an Eligible Employee may take under clause 63.5 as part of their 52 weeks' entitlement of Parental Leave.

(g) **Primary Carer** means the person who has or will have a responsibility for the care of the Child. For the purpose of clause 63.6, only one person can be the Child's Primary Carer on a particular day and means the person who meets the Child's physical needs more than anyone else.

(h) **Notional Flexible Period** is the period during which the Eligible Employee would be on Flexible Parental Leave if the Eligible Employee took leave for all of the Eligible Employee's notified flexible days in a single continuous period

(i) **Spouse** includes a person to whom the Eligible Employee is married and a de facto partner, former spouse, or former de facto spouse of the Employee. A de facto Spouse means a person who lives with the Employee as husband, wife, or same-sex partner on a bona fide domestic basis.

(j) **Stillbirth** means the delivery of a Stillborn Child.

(k) **Stillborn Child** means:

(i) a child who weighs at least 400 grams at delivery or whose period of gestation was at least 20 weeks;

(ii) who has not breathed since delivery; and

(iii) whose heart has not beaten since delivery.

(l) **Unpaid Parental Leave** means the 52 weeks' parental leave an Eligible Employee may take under clause 63.4.

63.3 Relationship with the NES

This clause is not intended to exclude any part of the NES or to provide any entitlement which is detrimental to an Employee's entitlement under the NES. For the avoidance of doubt, the NES prevails to the extent that any aspect of this clause would otherwise be detrimental to an Employee.

63.4 Unpaid Parental Leave

(a) An Eligible Employee is entitled to 12 months' Unpaid Parental Leave if:

(i) the leave is associated with:

(A) the birth of a Child of the Eligible Employee or the Eligible Employee's Spouse; or

(B) the placement of a Child with the Eligible Employee for adoption; and

(b) The Eligible Employee must take the leave in a single continuous period, except as provided at clause 63.5 below.

(c) Each member of an Employee Couple may take up to 12 months Unpaid Parental Leave at any time within the 24 months of the birth or placement of the

child.

(d) Each member of an Employee Couple can take parental leave concurrently for part or all of their period of leave.

(e) An Eligible Employee may be able to extend a period of Unpaid Parental Leave in accordance with clause 63.12.

63.5 Flexible Unpaid Parental Leave

(a) An Eligible Employee who is entitled to take Unpaid Parental Leave under subclause 63.4 above will be able to take up to 100 days of their 12-month unpaid leave entitlement flexibly.

(b) **When Leave Can be Taken**

(i) At any time within 24 months of birth or placement of the child, but leave must end within 24 months of the birth or placement of the child.

(ii) Before and after continuous unpaid parental leave, but not prior to birth or placement of child unless provided by subclause 63.5(b)(iii) below.

(iii) **Taking leave that starts up to six (6) weeks before the expected date of birth of the child**

(A) A pregnant Eligible Employee may take Flexible Parental Leave during the period that starts six (6) weeks before the expected date of birth of the child.

(B) The amount of Flexible Parental Leave to which an Eligible Employee is entitled under subclause 63.5(a) is reduced by the number of days of Flexible Parental Leave taken under subclause 63.5(b)(iii).

(c) **How Leave Can be Taken**

Flexible Unpaid Parental Leave can be taken as:

(i) a single continuous period of one (1) or more days; or

(ii) separate periods of one (1) or more days each.

63.6 Paid Parental Leave

(a) Upon an Eligible Employee commencing parental leave:

(i) an Eligible Employee who will be the Primary Carer at the time of the birth or adoption of the Child will be entitled to 14 weeks' paid parental leave and superannuation in accordance with subclause **Error! Reference source not found.**; or

(ii) an Eligible Employee who will not be the Primary Carer at the time of the birth or adoption of the Child will be entitled to two weeks' paid parental leave.

Save that an Eligible Employee is not entitled to both paid Parental Leave under subclause 63.6(a)(i) and paid Parental Leave under subclause 63.6(a)(ii) in respect of the same birth or adoption.

(b) Paid parental leave is in addition to any relevant Commonwealth Government paid parental leave scheme (subject to the requirements of any applicable legislation)

(c) The Employer and Eligible Employee may reach agreement as to how the paid parental leave under this Agreement is paid. For example, such leave may be paid in smaller amounts over a longer period, consecutively or concurrently with any relevant Commonwealth Government parental leave scheme (subject to the requirements of any applicable legislation) and may include a voluntary

contribution to superannuation.

(d) Such agreement must be in writing and signed by the parties. The Eligible Employee must nominate a preferred payment arrangement at least four weeks prior to the expected date of birth or date of placement of the Child. In the absence of agreement, such leave will be paid during the ordinary pay periods corresponding with the period of the leave.

(e) A variation to the payment of paid parental leave resulting in the paid leave being spread over more than 10 weeks does not affect the period of continuous service recognised. For example, an Employee taking 20 weeks at half pay will, for the purpose of calculating continuous service, have ten weeks of continuous service recognised. An Employee taking five (5) weeks at double pay will have 10 weeks of continuous service recognised.

(f) The paid parental leave prescribed by this clause will be concurrent with any relevant unpaid entitlement prescribed by the NES / this Agreement.

63.7 Notice and evidence requirements

(a) **General requirement to give notice of taking Parental Leave**

An Eligible Employee must give the Employer written notice of the taking of Unpaid Parental Leave, or Flexible Parental Leave, or both, by the Eligible Employee.

(b) **Notice Requirements**

(i) An Employee must give at least 10-weeks written notice of the intention to take parental leave, including the proposed start and end dates. At this time, the Employee must also provide a statutory declaration stating:

(A) that the Employee will become either the Primary Carer or non-Primary Carer of the Child, as appropriate; and

(B) that for the period of parental leave the Employee will not engage in any conduct inconsistent with their contract of employment.

(c) **Taking Unpaid Parental Leave – Confirming or Changing Intended Start and End Dates**

At least four weeks before the intended commencement of parental leave, the Employee must confirm in writing the intended start and end dates of the parental leave, or advise the Employer of any changes to the notice provided in subclause 63.7(a), unless it is not practicable to do so.

(d) **Evidence**

The Employer may require the Employee to provide evidence which would satisfy a reasonable person of:

(i) in the case of birth-related leave:

(A) the date of birth, or expected date of birth of the Child (including without limitation, a medical certificate or certificate from a registered midwife, stating the date of birth or expected date of birth); and

(B) if relevant, that their Child was Stillborn (including without limitation, a certification by a medical practitioner or registered midwife of the child as having been delivered); or

(ii) in the case of adoption-related leave, the commencement of the placement (or expected day of placement) of the Child and that the Child will be under 16 years of age as at the day of placement or expected day of placement.

(e) **Notice requirements for Flexible Parental Leave**

(i) The Employee must give the Employer written notice of a flexible day on which the Employee will take Flexible Parental Leave:

(A) at least four (4) weeks before that day; or

(B) if that is not practicable, as soon as practicable (which may be a time after the leave has started).

(ii) If the Employer agrees, the Employee may change a day on which the Employee takes Flexible Parental Leave from a day specified in a notice under subclause 63.7(e)(i).

(f) An Employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by the birth of the Child or placement occurring earlier than the expected date or in other compelling circumstances. In these circumstances the notice and evidence requirements of this clause should be provided as soon as reasonably practicable.

63.8 Parental leave associated with the birth of a Child – additional provisions

(a) Subject to the limits on duration of parental leave set out in this Agreement and unless agreed otherwise between the Employer and Eligible Employee, an Eligible Employee who is pregnant may commence Unpaid Parental Leave at any time up to six (6) weeks immediately prior to the expected date of birth.

(b) **Six weeks before the birth**

(i) Where a pregnant Eligible Employee continues to work during the six (6) week period immediately prior to the expected date of birth, the Employer may require the Eligible Employee to provide a medical certificate stating that they're fit for work and, if so, whether it is inadvisable for them to continue in them present position because of illness or risks arising out of the Eligible Employee's pregnancy or hazards connected with the position.

(ii) Where a request is made under subclause 63.8(b)(i) and an Eligible Employee:

(A) does not provide the Employer with the requested certificate within seven (7) days of the request; or

(B) within seven (7) days after the request, the Eligible Employee gives the Employer a medical certificate stating that the Eligible Employee is not fit for work;

the Employer may require the Eligible Employee to commence their parental leave as soon as practicable.

(iii) Where a request is made under subclause 63.8(b)(i) and an Eligible Employee provides a medical certificate that states that the Eligible Employee is fit for work, but it is inadvisable for the Eligible Employee to continue in their present position during a stated period, clause 63.15 (Transfer to a safe job) will apply.

63.9 Unpaid pre-adoption leave

Employees' entitlement to pre-adoption leave is set out at clause 62 (Pre-adoption leave).

63.10 Where placement does not proceed or continue

(a) Where the placement of the Child for adoption with an Eligible Employee does

not proceed or continue, the Eligible Employee must notify the Employer immediately.

(b) Where the Eligible Employee had, at the time, started a period of adoption-related leave in relation to the placement, the Eligible Employee's entitlement to adoption- related leave is not affected, except where the Employer gives written notice under subclause 63.10(c).

(c) The Employer may give the Eligible Employee written notice that, from a stated day no earlier than four (4) weeks after the day the notice is given, any untaken long adoption-related leave is cancelled with effect from that day.

(d) Where the Eligible Employee wishes to return to work due to a placement not proceeding or continuing, the Employer must nominate a time not exceeding four (4) weeks from receipt of notification for the Eligible Employee's return to work.

63.11 Special maternity leave

(a) **Entitlement to unpaid special birth-related leave**

(i) An Eligible Employee is entitled to a period of unpaid special leave if they are not fit for work during that period because:

(A) they have a pregnancy-related illness; or

(B) all of the following apply:

1. they have been pregnant;
2. the pregnancy ends after a period of gestation of at least 12 weeks otherwise than by the birth of a living Child; and
3. the birth is not a Stillbirth.

(ii) An Eligible Employee who has an entitlement to personal leave may, in part or whole, take personal leave instead of unpaid special leave under this clause.

(iii) Where the pregnancy ends more than 28 weeks from the expected date of birth of the Child, the Eligible Employee is entitled to access any paid and/or unpaid personal leave entitlements in accordance with the relevant personal leave provisions.

(b) **Entitlement to paid special birth-related leave**

(i) An Eligible Employee is entitled to a period of paid special leave if the pregnancy terminates at or after the completion of 20 weeks' gestation or the Eligible Employee gives birth, but the baby subsequently dies.

(ii) Paid special leave is paid leave not exceeding the amount of paid leave available to Primary Carers under subclause 63.6(a)(i) (plus superannuation).

(iii) Paid special leave is in addition to any unpaid special leave taken under subclause 63.11(a)(i) .

(iv) Paid leave available to non-Primary Carers under subclause 63.6(a)(ii) will also apply in these circumstances.

(c) **Evidence**

(i) If an Eligible Employee takes leave under this clause the Employer may require the Eligible Employee to provide evidence that would satisfy a reasonable person of the matters referred to in subclause 63.7(d)(i) or

63.7(d)(ii) or to provide a certificate from a registered medical practitioner.

(ii) The Eligible Employee must give notice to the Employer as soon as practicable, advising the Employer of the period or the expected period of the leave under this provision.

63.12 Variation of period of Unpaid Parental Leave (up to 12 months)

(a) Where an Eligible Employee has:

(i) given notice of the taking of a period of Unpaid Parental Leave under subclause 63.4; and

(ii) the length of this period of Unpaid Parental Leave as notified to the Employer is less than the Eligible Employee's available entitlement to Unpaid Parental Leave; and

(iii) the Eligible Employee has commenced the period of Unpaid Parental Leave,

the Eligible Employee may apply to the Employer to extend the period of parental leave on one occasion. Any extension is to be notified as soon as possible but no less than four weeks prior to the commencement of the changed arrangements. Nothing in this clause detracts from the basic entitlement in subclause 63.4 or subclause 63.11.

(b) The Eligible Employee's available parental leave period is 12 months, less any periods of the following kinds:

(i) a period of Unpaid Parental Leave that the Employee has been required to take under subclause 63.8(b) or subclause 63.15(g);

(ii) if the Employee has given notice in accordance with subclause 63.7(e) of the taking of Flexible Parental Leave – a period equal to the Employee's Notional Flexible Period.

(c) If the Employer and Eligible Employee agree, the Eligible Employee may further change the period of parental leave.

63.13 Right to request an extension of period of Unpaid Parental Leave beyond 12 months

(a) An Eligible Employee entitled to Unpaid Parental Leave pursuant to the provisions of clause 63.4 may request the Employer to allow the Eligible Employee to extend the period of Unpaid Parental Leave by a further continuous period of up to 12 months immediately following the end of the available parental leave.

(b) **Request to be in writing**

The request must be in writing and must be given to the Employer at least four (4) weeks before the end of the available parental leave period.

(c) **Response to be in writing**

(i) The Employer must give the Eligible Employee a written response to the request within 21 days.

(ii) The response must:

(A) state that the Employer grants the request;

(B) if, following discussion between the Employer and Employee, the Employer and Employee agree to an extension of unpaid parental leave for a period that differs from the period requested

– set out the agreed extended period; or

(C) state that the Employer refuses the request.

(d) **Refusal Only in Specific Circumstances**

The Employer may refuse the request only if:

(i) the Employer has:

(A) discussed the request with the Employee; and

(B) genuinely tried to reach an agreement with the Employee about an extension of the period of unpaid parental leave;

(ii) the Employer and the Employee have not reached such an agreement;

(iii) the Employer has had regard to the consequences of the refusal for the Employee; and

(iv) the refusal is on reasonable business grounds.

(e) **Reasons for refusal to be specified**

Where the Employer refuses the request, the written response must include:

(i) details of the reasons for the refusal;

(ii) the Employer's particular business grounds for refusal and an explanation of how these grounds apply to the Employee's request;

(iii) either:

(A) set out the extension to the period of unpaid parental leave (other than the period requested) that the Employer would be willing to agree to; or

(B) state that there is no extension of the period that the Employer would be willing to agree to.

(f) **Reasonable opportunity to discuss**

The Employer must not refuse the request unless the Employer has given the Eligible Employee a reasonable opportunity to discuss the request.

(g) **No extension beyond 24 months**

An Eligible Employee is not entitled to extend the period of Unpaid Parental Leave beyond 24 months after the date of birth or day of placement of the Child.

63.14 Parental leave and other entitlements

An Eligible Employee may use any accrued annual leave or long service leave entitlements concurrently with Unpaid Parental Leave, save that taking that leave does not have the effect of extending the period of Unpaid Parental Leave.

63.15 Transfer to a safe job

(a) Where an Employee is pregnant and provides evidence that would satisfy a reasonable person that they are fit for work, but it is inadvisable for the Employee to continue in their present position for a stated period (the **risk period**) because of:

(i) illness or risks arising out of the pregnancy, or

(ii) hazards connected with the position,

the Employee must be transferred to an appropriate safe job if one is available

for the risk period, with no other change to the Employee's terms and conditions of employment.

(b) **Paid no safe job leave**

If:

(i) subclause 63.15(a) applies to a pregnant Eligible Employee but there is no appropriate safe job available; and

(ii) the Eligible Employee is entitled to Unpaid Parental Leave; and

(iii) the Eligible Employee has complied with the notice of intended start and end dates of leave and evidence requirements under subclause 63.7 for taking Unpaid Parental Leave;

then the Eligible Employee is entitled to paid no safe job leave for the risk period.

(c) If the Eligible Employee takes paid no safe job leave for the risk period, the Employer must pay the Eligible Employee at the Eligible Employee's rate of pay set out in Appendix Two for the Eligible Employee's ordinary hours of work in the risk period.

(d) This entitlement to paid no safe job leave is in addition to any other leave entitlement the Eligible Employee may have.

(e) If an Eligible Employee, during the six week period before the expected date of birth, is on paid no safe job leave, the Employer may request that the Eligible Employee provide a medical certificate within seven (7) days stating whether the Eligible Employee is fit for work.

(f) If, the Eligible Employee has either:

(i) not complied with the request from the Employer under subclause 63.15(e) above; or

(ii) provided a medical certificate stating that they are not fit for work; then

the Eligible Employee is not entitled to no safe job leave and the Employer may require the Eligible Employee to take parental leave as soon as practicable.

(g) **Unpaid no safe job leave**

If:

(i) subclause 63.15(a) applies to a pregnant Employee but there is no appropriate safe job available; and

(ii) the Employee will not be entitled to Unpaid Parental Leave as at the expected date of birth; and

(iii) the Employee has given the Employer evidence that would satisfy a reasonable person of the pregnancy if required by the Employer (which may include a requirement to provide a medical certificate),

the Employee is entitled to unpaid no safe job leave for the risk period.

63.16 Returning to work after a period of parental leave

(a) An Eligible Employee must confirm to the Employer that the Eligible Employee will return to work as scheduled after a period of Unpaid Parental Leave at least four weeks prior to the end of the leave, or where that is not practicable, as soon as practicable.

(b) An Eligible Employee will be entitled to return:

(i) unless subclause 63.16(b)(ii) or subclause 63.16(b)(iii) applies, to the position which they held immediately before proceeding on parental leave;

(ii) if the Eligible Employee was promoted or voluntarily transferred to a new position (other than to a safe job pursuant to subclause 63.15), to the new position;

(iii) if subclause 63.16(b)(ii) does not apply, and the Eligible Employee began working part-time because of the pregnancy of the Eligible Employee, or their Spouse, to the position held immediately before starting to work part- time.

(c) Subclause 63.16(b) is not to result in the Eligible Employee being returned to the safe job to which the Eligible Employee was transferred under clause 63.15. In such circumstances, the Eligible Employee will be entitled to return to the position held immediately before the transfer.

(d) Where the relevant former position (per subclauses 63.16(b) and 63.16(c) above) no longer exists, an Eligible Employee is entitled to return to an available position for which the Eligible Employee is qualified and suited nearest in status and pay to that of their pre-parental leave position.

(e) The Employer must not fail to re-engage an Eligible Employee because:

(i) the Eligible Employee or Eligible Employee's Spouse is pregnant; or

(ii) the Eligible Employee is or has been immediately absent on parental leave.

(f) The rights of the Employer in relation to engagement and re-engagement of casual Employees are not affected, other than in accordance with this clause.

(g) **Stillbirth or death of child – cancelling leave or returning to work**

(i) In the event of a Stillbirth, or if a Child dies during the 24-month period starting on the child's date of birth, then an Eligible Employee who is entitled to a period of parental leave in relation to the Child may:

(A) before the period of leave starts, give their Employer written notice cancelling the leave; or

(B) if the period of leave has started, give their Employer written notice that the Employee wishes to return to work on a specified day (which must be at least four (4) weeks after the date on which the Employer receives the notice).

(ii) Where notice under subclause 63.16(g)(i) is given, the Employee's entitlement to Parental Leave in relation to the Child ends:

(A) if the action is taken under subclause 63.16(g)(i)(A) immediately after the cancellation of the leave; or

(B) if the action is taken under subclause 63.16(g)(i)(B), immediately before the specified day.

(iii) This subclause 63.16(g) does not limit subclause 63.12(c) (dealing with the Employee varying the period of unpaid parental leave with the agreement of the Employer.

(h) **Employee who ceases to have responsibility for care of Child**

(i) This subclause 63.16(h) applies to an Employee who has taken unpaid Parental Leave in relation to a Child if the Employee ceases to have any responsibility for the care of the Child for a reason other than because:

(A) of a Stillbirth; or

(B) the Child dies during the 24-month period starting on the child's date of birth.

(ii) The Employer may give the Employee written notice requiring the Employee to return to work on a specified day.

(iii) The specified day:

(A) must be at least four (4) weeks after the notice is given to the Employee; and

(B) if the leave is birth-related leave taken by an Employee who has given birth, must not be earlier than six (6) weeks after the date of birth of the Child.

(iv) The Employee's entitlement to Parental Leave in relation to the Child ends immediately before the specified day.

63.17 Replacement Employees

(a) A replacement Employee is an Employee specifically engaged or temporarily promoted or transferred, as a result of an Eligible Employee proceeding on parental leave.

(b) Before the Employer engages a replacement Employee, the Employer must inform that person of the temporary nature of the employment and of the rights of the Eligible Employee who is being replaced to return to their pre-parental leave position.

63.18 Communication during parental leave – organisational change

(a) Where an Eligible Employee is on parental leave and the Employer proposes a change that will have a significant effect within the meaning of clause 3 (Consultation) of this Agreement on the Eligible Employee's pre-parental leave position, the Employer will comply with the requirements of clause 3 (Consultation) which include but are not limited to providing:

(i) information in accordance with clause 13.4; and

(ii) an opportunity for discussions with the Eligible Employee and, where relevant, the Eligible Employee' representative in accordance with clause 13.6.

(b) The Eligible Employee will take reasonable steps to inform the Employer about any significant matter that arises whilst the Eligible Employee is taking parental leave that will affect the Eligible Employee's decision regarding the duration of parental leave to be taken, whether the Eligible Employee intends to return to work and whether the Eligible Employee intends to request to return to work on a part-time basis.

(c) The Eligible Employee will also notify the Employer of changes of address or other contact details which might affect the Employer's capacity to comply with clause 63.18.

63.19 Keeping in touch days

(a) This clause does not prevent an Eligible Employee from performing work for the Employer on a keeping in touch day while the Eligible Employee is taking Unpaid Parental Leave. If the Eligible Employee does so, the performance of that work does not break the continuity of the period of Unpaid Parental Leave.

(b) Any day or part of a day on which the Eligible Employee performs work for the Employer during the period of leave is a keeping in touch day if:

(i) the purpose of performing the work is to enable the Eligible Employee to

keep in touch with their employment in order to facilitate a return to that employment after the end of the period of leave; and

(ii) both the Eligible Employee and Employer consent to the Eligible Employee performing work for the Employer on that day; and

(iii) the day is not within:

(A) if the Eligible Employee suggested or requested that they perform work for the Employer on that day – 14 days after the date of birth, or day of placement, of the Child to which the period of leave relates; or

(B) otherwise – 42 days after the date of birth, or day of placement, of the Child; and

(iv) the Eligible Employee has not already performed work for the Employer or another entity on ten days during the period of leave that were keeping in touch days.

(c) The Employer must not exert undue influence or undue pressure on an Eligible Employee to consent to a keeping in touch day.

(d) For the purposes of subclause 63.19(b)(iv) the following will be treated as two separate periods of unpaid parental leave:

(i) a period of Unpaid Parental Leave taken during the Eligible Employee's available parental leave period under clause 63.4; and

(ii) an extension of the period of Unpaid Parental Leave under clause 63.12.

64 Breastfeeding

64.1 Paid break

Each Employer will provide reasonable paid break time for an Employee to express breast milk for their nursing child each time such Employee has need to express the milk, or breastfeed the child within the workplace, for one year after the child's birth.

64.2 Place to express or feed

Employers will also provide a comfortable place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by an employee to express breast milk or breastfeed a child in privacy.

64.3 Storage

Appropriate refrigeration will be available in proximity to the area for breast milk storage. Responsibility for labelling, storage and use is with the Employee.

65 Long Service Leave

This clause supplements the operation of the Long Service Leave Act 2018 (Vic). *Casual Employees receive long service leave pursuant to the Long Service Leave Act 2018* (Vic).

65.1 Definitions

The following meanings shall apply to the terms referred to below for the purposes of this clause unless a contrary intention is apparent:

(a) **Allowable Period of Absence** means the greater of five weeks in addition to the total period of paid annual leave and/or personal leave that the Employee actually receives on termination, or for which he or she is paid in lieu.

(b) **Continuous Service** means continuous service with the same Employer plus any prior continuous service of six months or more with a different Employer covered by this Agreement, a Statutory Body, or an Eligible Community Health Centre.

(c) **Continuous Casual Employment** means, for the purpose of this clause, a period, or periods of casual employment with the same Employer that are taken to be continuous, because one of the following applies:

(i) the period starting at the end of a particular instance of employment and ending at the start of another particular instance of employment did not exceed either the Allowable Period of Absence, or 12 weeks (whichever is greater); or

(ii) in accordance with section 12(3) of the LSL Act:

(A) the Casual Employee had been employed by an Employer on a regular and systematic basis and the casual employee had a reasonable expectation of being re-engaged by the same Employer;

(B) any absence was due to the terms of engagement of the casual employee;

(C) any absence was due to the terms of engagement of the casual employee; or

(D) the casual Employee and Employer agreed, before the start of an absence, to treat the employment as continuous despite the absence.

(d) **Eligible Community Health Centre** means stand-alone Community Health Centres covered by the *General Dentists' Victorian Public Sector Multi-Enterprise Agreement 2009-2013*, or their successors.

Applicable Community Health Centres as of 1 January 2024 include: Access Health and Community, Banyule Community Health, Bellarine Community Health Ltd, Better Health Network Cohealth, Connect Health and Community, DPV Health, HealthAbility, Inspiro Health IPC Health, Latrobe Community Health Service, Link Health, and Community, North Richmond Community Health Limited, or Sunbury Community Health Centre.

(e) **Full-time Employee** means an Employee classified or employed as such at the time they apply for or commence long service leave;

(f) **LSL Act** means the *Long Service Leave Act 2018* (Vic).

(g) **Month** means a calendar month.

(h) **Pay** means remuneration for an Employee's normal weekly hours of work calculated at the Employee's ordinary time rate of pay at the time the leave is taken or (if they die before the completion of leave so taken) as at the time of their death and will include the amount of any increase to the Employee's ordinary time rate of pay which occurred during the period of leave.

Pay for a casual Employee, means the remuneration for the Employee's normal weekly hours of work at their ordinary pay calculated in accordance with sections 15 and 16 of the LSL Act.

(i) **Part-time Employee** means an Employee classified or employed as such at the time they apply for or commence long service leave.

(j) **Statutory Body** means the Victorian Department of Health and/or its successor.

(k) **Transfer of Business** occurs in the circumstances described at section 311 of the Act.

65.2 Entitlement

(a) Full-time and Part-Time Employees are entitled to:

(i) six months' long service leave with Pay on completion of fifteen years of Continuous Service; and

(ii) thereafter, an additional two months' long service leave with Pay on completion of each additional five years of Continuous Service.

(b) Subject to clause 65.5(d), the entitlement under clause 65.2(a) may be taken in advance on a pro rata basis if the Employee has accrued Continuous Service of at least:

(i) 10 years; or

(ii) from 1 July 2024, 9 years;

(iii) from 1 July 2025, 8 years; or

(iv) from 1 July 2026, 7 years.

65.3 Calculating Continuous Service

(a) **Periods that count towards Continuous Service**

Service or prior service during the following periods will be deemed to be continuous and will count as Continuous Service for the purpose of clause 65.2:

(i) an absence from work on any form of paid leave approved in writing by the Employer (e.g. annual leave, personal leave, long service leave and paid parental leave);

(ii) any interruption or ending of employment by the Employer if made with the intention of avoiding obligations in respect of long service leave or annual leave;

(iii) any absence on account of illness or injury arising out of or in the course of the employment of the Employee for a period during which payment is made under workers' compensation legislation;

(iv) a period of absence on community service leave under the Act;

(v) subject to the requirements of the Act, any interruption arising directly or indirectly from an industrial dispute;

(vi) all periods during which an Employee was serving in His Majesty's Forces or was made available by the Employer for national duty;

(vii) in the case of casual employment:

(A) periods of Continuous Casual Employment with the current Employer (in a role covered by this Agreement); and

(B) prior Continuous Casual Employment of six months or more that was with one or more Employers, Statutory Bodies; or

(C) prior Continuous Casual Employment with an Eligible Community Health Centre, provided that the Employee was employment on a full-time or part-time basis at the time they ceased employment with the Eligible Community Health Centre;

(viii) in the case of unpaid absences not otherwise referenced in this subclause:

(A) any unpaid leave that is authorised in advance in writing by the Employer to count as service; or

(B) up to (and including) 31 December 2023, any unpaid absence from work of not more than fourteen days in any year on account of illness or injury; or

(C) on and from 1 January 2024

(b) any period of unpaid leave taken on account of illness or injury;

(c) a period of Parental Leave, including Parental Leave that is extended under clause 63.12; and

(d) the first 52 weeks of any other type of unpaid leave not specifically referenced in this subclause; and

save that if long service leave was already taken or paid in lieu in respect of any period referred to above, no further benefit to long service leave will arise in respect of that period.

(e) **Periods that do not break Continuous Service, but do not count towards Continuous Service**

Unless otherwise agreed in writing in advance between the Employer and the Employee, the following periods do not break Continuous Service but do not count towards an Employee's Continuous Service for the purpose of calculating the employee's long service leave entitlement:

(i) any authorised period of unpaid leave not referred to in subclause 65.3(a);

(ii) any period between the engagement with one Employer, Statutory Body or Eligible Community Health Centre and another provided it is less than the Allowable Period of Absence;

(iii) the dismissal of an employee if the employee is re-employed by the same Employer within a period not exceeding two months from the date of such dismissal;

(iv) any absence on account of injury arising out of or in the course of their employment not covered by a period in which the Employee is receiving accident make up pay or other paid leave; and

(v) any absence from work of a female Full-time Employee for a period not exceeding 12 months in respect of any pregnancy not covered by subclauses 65.3(a)(i) or 65.3(a)(B).

(f) **Transfer of business**

Where a Transfer of Business occurs, an Employee who worked with the old Employer and who continues in the service of the new Employer will be entitled to count their service with the old employer as service with the new Employer for the purposes of this clause.

Proof of sufficient aggregate of service

The onus of proving a sufficient aggregate of service to support a claim for any long service leave entitlement will at all times rest upon the Employee concerned.

Certificate of Service

[Name of Institution] [date]

This is to certify that [Name of Employee] has been employed by this institution/society/centre/board for a period of [years/months/etc.] from [date] to [date].

Position held:
Classification Held:

During the above period, the Employee was employed on a casual basis from the period or periods between: ..... (years and days)

During the above period, the Employee had unpaid leave or absences that impact on the accrual of Long Service leave totalling ..... (years and days).

During the above period, the Employee utilised accrued Long Service Leave totalling ..... (years and days).

In addition, [Name of Institution] has recognised net additional service for Long Service Leave purposes with another employer or employers for the Employee totalling ..... (years and days) which was paid out/not paid out (strike out which is not applicable) by the former employer(s).

During the above period, the Employee transferred Long Service Leave accrued in respect of the period …… to ……., to another employer or employers.

The Employee had accrued personal leave totalling ……. hours as at the date of cessation of employment with [Name of Institution].

Tick all boxes that apply:

- ☐ The Employee received a payment in lieu of all unused, accrued Long Service Leave on cessation of employment with [Name of Institution]
- ☐ The Employee remains employed with [Name of Institution]
- ☐ The Employer has on record a Certificate of Service from another employer covered by the *Victorian Public Sector (General Dentists') Multi Enterprise Agreement 2018-2022 (No.2)* or the *Victorian Stand-Alone Community Health (General Dentists') Enterprise Agreement 2018-2022* (attach any copies)

Signed.....[Stamp of Institution]

65.4 Accrual rate for mixed service

Where an Employee has Continuous Service that includes a mixture of full-time/part-time service, on the one hand, and eligible casual service (i.e. service within the meaning of subclause 65.3(a)(vii)) on the other, the accrual rates for their long service leave entitlement will correspond to the relative periods of each type of service. That is:

(a) the periods of full-time/part-time service will accrue at the rate of 1.733 weeks' per year of eligible service; and

(b) the periods of eligible casual service will accrue at the rate of 0.8667 weeks' per year of eligible service.

65.5 Taking of leave

(a) **When leave is to be taken**

An Employee must be granted long service leave within six months of the date eligibility arose under this clause. By agreement, the taking of the leave may be postponed to such a date mutually agreed.

(b) **How leave is to be taken**

(i) An Employee may request to take long service leave as a single entitlement or in multiple separate periods, with each period being not less than one day.

(ii) By agreement, Employees may also utilise their long service leave entitlements as part of a Transition to Retirement in accordance with clause 32.

(c) **Payment for period of leave**

(i) Payment will be made in one of the following ways:

(A) in full advance when the Employee commences their leave;

(B) at the same time as payment would have been made if the Employee had remained on duty; or

(C) in any other way agreed between the Employer and Employee.

(ii) Where an Employee has been paid in advance, and an increase to the Employee's ordinary time rate of pay occurs during the period of long service leave taken, the Employee will be entitled to receive payment of the amount of any increase in pay at the completion of such leave.

(d) **Long service leave in advance**

(i) An Employee who is not eligible to take long service leave (including on a pro rata basis under subclause 65.2(b)) may request to take leave in advance by mutual agreement with the Employer.

(ii) If an Employee takes long service leave in advance, the Employee is not subsequently entitled to any further long service leave or payment in lieu of long service leave for the period of employment in respect of which the leave in advance was taken.

(iii) If an Employee takes long service leave in advance, and the Employee's employment ends before the entitlement has manifested, the Employer may deduct from any payment payable to the Employee as a result of the ending of the employment, an amount equal to the amount paid to the Employee for the leave, in respect of which the Employee will not become entitled.

(e) **Flexible taking of leave**

(i) An Employer may approve an application by an Employee to take double the period of long service leave at half pay.

(ii) Employees should seek independent advice regarding the taxation and superannuation implications of seeking payment under this subclause 65.5(e). The Employer will not be held responsible in any way for the cost or outcome of any such advice.

(iii) The Employer, if requested by the Employee, will provide information as to the amount of tax the Employer intends to deduct where payment of long service leave is sought under subclause 65.5(e)(i).

(iv) If granting the request under this subclause would result in an additional cost to the Employer, the Employer may refuse the Employee's request.

(v) Flexible taking of long service leave does not affect an Employee's period of Continuous Service recognised. For example, an employee taking 12 months of long service leave at half pay will, for the purpose of calculating continuous service, have six months of continuous service recognised.

65.6 Payment on termination of employment

(a) **Interpretation**

For the purposes of this clause 65.6, termination of employment has its ordinary meaning provided that:

(i) it is taken to occur upon conversion from Full-time Employment or Part-time Employment to casual employment; and

(ii) it is not taken to occur at the cessation of each shift as a casual Employee.

(b) **Basic entitlement at termination of employment**

(i) Except where an election is made under subclause 65.6(c) below, an Employee with an entitlement to long service leave under clause 65.2 is entitled to payment in lieu of untaken long service leave upon termination of employment, calculated as follows:

(A) if the termination occurs by reason of serious or wilful misconduct, one sixtieth of the period of Continuous Service; or

(B) if the termination occurs for any other reason, one thirtieth of the period of Continuous Service.

(c) **Election for payment of entitlement or transfer of entitlement at termination**

(i) An Employee who has an entitlement to take long service leave on a pro rata basis under subclause 65.2(b) (who therefore has less than 15 years' continuous service) and who intends to be re-deployed by another Employer may:

(A) request in writing that payment for accrued long service leave be deferred until after the Employee's Allowable Period of Absence (as defined above) has expired and

(B) where the Employee notifies the initial Employer in writing within the Allowable Period of Absence that the Employee has been employed as an Employee by another Employer, the initial employer is no longer required to make payment to the Employee in respect of such service.

(ii) Where the notice referred to at subclause 65.6(c)(i)(B) is not provided prior to or within the Allowable Period of Absence, the Employer will, upon the expiration of the allowable period of absence, make payment in lieu of long service leave as per subclause 65.6(b).

(iii) For the removal of doubt, an Employee who has an entitlement to take long service leave under clause 65.2(a) may not make an election under this clause in respect of that entitlement.

(d) **Payment in lieu of long service leave on the death of an Employee**

Where an Employee who has an entitlement to long service leave (or pro rata long service leave) under clause 65.2 dies while still in the employ of the Employer, payment in lieu of long service leave will be made to the Employee's personal representative equal to that in clause 66.6(b) above.

(e) **Public holidays**

Long service leave is inclusive of Public Holidays. See also clause 0 (Public Holidays).

65.7 Transitional Arrangements for Parental Leave taken after 3 May 2022 and before 1 January 2024

Note 1: Unpaid Parental Leave taken prior to 3 May 2022 does not count as Continuous Service unless otherwise agreed, per clause 65.3(e) above.

Note 2: Unpaid Parental Leave taken after 1 January will constitute Continuous Service per clause 65.3(vii)(A).

(a) As an exception to subclause 65.3(c), an Employee who took a period of unpaid

Parental Leave that included any part of the period between 3 May 2022 and 30 31 December 2023 (inclusive) may make an application to their Employer to have that service recognised for Long Service Leave purposes. The Employer will approve the application and provide to the Employee an updated Certificate of Service reflecting the adjusted service arrangements.

(b) An Employee electing to make an application under subclause 65.7 must make the application to the Employer no later than 6 months of the following (whichever occurs last):

(i) the date on which this Agreement commences;

(ii) the date on which the Employee returns to work after the qualifying period of unpaid Parental Leave; or

(iii) this clause 65.7 shall also apply to an Employee in respect of a former employer if the Employee took a qualifying unpaid period of Parental Leave under this clause while employed by that former employer.

65.8 Records

The Employer will keep a long service leave record for each Employee, containing particulars of service, leave taken, and payments made.

66 Cultural and Ceremonial Leave

66.1 The Employer may approve attendance during working hours by an Employee of Aboriginal or Torres Strait Islander descent at any Aboriginal community meetings, except the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

66.2 The Employer may grant an Employee of Aboriginal or Torres Strait Islander descent accrued annual or other leave to attend the Annual General Meetings of Aboriginal community organisations at which the election of office bearers will occur.

66.3 Ceremonial leave without pay may be granted to an Employee of Aboriginal or Torres Strait Islander descent for ceremonial purpose:

(a) connected with the death of a member of the immediate family or extended family (provided that no Employee shall have an existing entitlement reduced as a result of this clause); or

(b) for other ceremonial obligations under Aboriginal or Torres Strait Islander law.

66.4 It is expected that leave granted per annum under this clause will commonly be up to 10 days for a full time Employee.

66.5 Ceremonial leave granted under this clause is in addition to compassionate leave granted under any other provision of the Agreement.

66.6 Where an Employer receives a request to substitute a public holiday in accordance with clause 52.5 of this Agreement for a day during NAIDOC week, the Employer will consider all the circumstances including:

(a) any reason identified by the Employee with respect to the request; and

(b) the operational requirements of the Employer.

66.7 An Employer will not unreasonably refuse a request to substitute a public holiday under this subclause.

67 Leave to engage in Voluntary Emergency Management Activities

Note: Community Service Leave is provided for in the NES. This clause contains supplementary terms.

67.1 An Employee who engages in a voluntary emergency management activity, with a recognised emergency management body that requires the attendance of the Employee at a time when the Employee would otherwise be required to be at work is entitled to leave for:

(a) time when the employee engages in the activity; and

(b) reasonable travelling time associated with the activity; and

(c) reasonable rest time immediately following the activity.

67.2 The Employee must advise the Employer as soon as reasonably practicable if the Employee is requested to attend a voluntary emergency management activity and must advise the Employer of the expected or likely duration of the Employee's attendance. The Employee must provide a certificate of attendance or other evidence of attendance as reasonably requested by the Employer.

67.3 Recognised emergency management bodies include but are not limited to, the Country Fire Authority, Red Cross, State Emergency Service and St John Ambulance.

67.4 An Employee who is required to attain qualifications or to requalify to perform activities in an emergency management body must be granted leave with pay for the period of time required to fulfil the requirements of the training course pertaining to those qualifications, provided that such training can be undertaken without unduly affecting the operations of the Employer.

67.5 The Employer may refuse time release where the Employee's absence will adversely impact the capacity of the health services to maintain services.

67.6 Nothing in this clause limits the ability of an Employee to be absent from employment for engaging in eligible community service activity in accordance with Division 8 of the FW Act.

67.7 Nothing in this clause prevents an Employee from applying for a flexible working arrangement to assist their ability to respond to a watch and wait situation. Where such requests are made, the Employer will respond promptly having regard to the urgency of the request. All approved flexible working arrangements will be recorded in writing.

68 Jury Service

Note: Payments to Employees (other than casuals) for Jury Service is provided for in the NES. This clause contains supplementary terms. The Juries Act 2000 (Vic) *provides further terms, including those that apply to casuals.*

68.1 Entitlement (other than casuals)

An Employee required to attend for jury service will be reimbursed by the Employer an amount equal to the difference between:

(a) the amount paid in respect of attendance for jury service; and

(b) the amount the Employee could reasonably expect to have received from the Employer as earnings for that period had the Employee not been performing jury service.

68.2 An Employee will notify the Employer as soon as possible of the date they are required to attend jury service. The Employee will give the Employer proof of attendance at the court, the duration of such attendance and the amount received for jury service.

PART H – EDUCATION AND PROFESSIONAL DEVELOPMENT

69 Professional Support Allowance

69.1 It is understood and accepted that it is the obligation of employees to maintain their professional registration through participation in approved Continuing Professional Development (CPD) activities.

69.2 To achieve this the Employer will reimburse an Employee the cost of CPD related activities on an annual basis, including membership of professional associations which provide CPD, up to a value of the amounts set out below (pro-rata for Part time Employees, excluding casual employees):

(a) $2090 from the first full pay period to commence on or after 1 July 2024;

(Note – this first payment is indexed by the 3% plus an additional 1.5% as compensation for loss of indexation between 1 January 2024 and 30 June 2024)

(b) $2154 from the first full pay period to commence on or after 1 July 2025;

(c) $2218 from the first full pay period to commence on or after 1 July 2026;

(d) $2285 from the first full pay period to commence on or after 1 July 2027.

69.3 Ongoing Entitlement

Employers will reimburse the costs of CPD related activities on an ongoing annual basis in accordance with subclause 69.2(d) from 1 July 2028, until a replacement enterprise agreement for this Agreement is in force.

69.4 For the purpose of attendance at CPD related activities an employee may access paid leave in accordance with Clause 59 – Professional Development Leave.

69.5 Once-Off Cash Payment

(a) A $2000 one-off cash payment will be made to full-time equivalent Employees in recognition that no Professional Support Allowance was available from 1 July 2023 – 30 June 2024.

(b) This payment will be available on a pro-rata basis for part time Employees. Casual Employees are not entitled to any payment under this clause 71.5.

(c) Employees employed on the date this Agreement comes into effect (7 days after approval by the Fair Work Commission) are entitled to receive this payment.

(i) For avoidance of doubt, this payment is also payable to all Employees employed on the date described in subclause (d) above, whether they remain Employed by the Employer after that date.

(ii) Where an Employee transfer their service to another Employer listed in Appendix One, payment should be made by the Employer they were employed by on the date described in subclause (d) above.

(d) This payment will be made to eligible Employees as soon as practicable upon commencement of this Agreement.

70 Professional Development Leave

70.1 Whilst it is recognised that it remains the professional responsibility of Employees to maintain an appropriate level of skills and accreditation, the Employer will also encourage Employees to undertake professional development relevant to the acquisition of skills, knowledge, and qualifications for the efficient performance of the Employer's core activities; for Employees' progress along a career path and/or as a

requirement to maintain Employee registration.

70.2 Entitlement

(a) Employees are entitled to a maximum of five days' Paid Professional Development Leave. Part-time Employees are entitled to paid Professional Development Leave on a pro rata basis. The provisions of this clause do not apply to casual Employees.

(b) Professional development may include attendance at both internal and external conferences and seminars.

(c) Any education or training deemed compulsory or mandatory by the Employer will occur within an Employee's paid time. No deduction will be made to an Employee's annual professional development leave for mandatory training.

70.3 Application

(a) It is the responsibility of the Employee to make an application in writing to their Manager and, where relevant, Clinical Director nominating the preferred date(s) and providing a brief description of the nature of the professional development activity proposed to be undertaken and details of the relevance of the course to the Employee's employment.

(b) The Employee's application must be made at least six (6) weeks prior to the nominated date(s) unless otherwise agreed by the Employer.

(c) The applicant will be notified in writing if the leave is approved or not within seven (7) days of the request being received. If leave is not granted, the applicant will be notified of the reason(s).

(d) The Employer will not unreasonably withhold approval of the leave.

71 Clinical Quality, Clinical Audit and Peer Review

Employees employed under this Agreement are committed to participating in the practice of Clinical Quality activities as organised and agreed to by the Employer's Clinical Leadership Council where relevant (or its equivalent). This includes but is not limited to Clinical Audit and Peer Review which includes the collection and measurement of activities and outcomes related to clinical practice; analysis and comparison using standards, performance indicators and outcome measures; a feedback mechanism to redress problems that have been identified.

PART I – BEST PRACTICE EMPLOYMENT COMMITMENT

72 Best Practice Employment Commitment

72.1 The parties agree to establish a committee to discuss Best Practice Employment Commitments (BPEC) during the life of the Agreement on matters including:

(a) Implementation of the Agreement.

(b) Review and the development of Occupational Health and Safety procedures to address psychological well-being in the workplace in relation to contemporary practice.

(c) Examining existing industrial arrangements within Dental Services to identify potential efficiencies.

(d) Considering best practice approaches in supporting early career dentist enter and remain in the sector.

(e) Potential strategies to increase retention within the sector.

(f) Modernise classification descriptors having regard for reflecting contemporary needs and practice, to inform any future discussions.

72.2 The Committee will meet within the first 6 months of the commencement of the Agreement and then as required.

72.3 The Committee will comprise nominated representatives from the ADAVB, the VHIA and Department (as required). The Committee may, by agreement, establish sub-groups or delegate individual matters to a relevant health service(s) as required.

73 ADAVB Rights

73.1 Access to Employees (general)

For the purpose of this Agreement, a representative is taken to include the ADAVB.

73.2 Access to Employees (electronic)

(a) The Employer will ensure that:

(i) emails from the ADAVB domain name are not blocked or restricted by or on behalf of the Employer, except in respect of any individual Employee who has made a written request to the Employer to block such emails;

(ii) emails from Employees to ADAVB are not blocked or restricted by or on behalf of the Employer;

(iii) access from the Employer's computers and like devices to ADAVB websites and online information is not blocked, or limited; and

(iv) where a genuine security concern arises regarding the above, the Employer will immediately notify ADAVB to enable the security concern to be addressed.

73.3 Access to Employees (inductions and new employees)

(a) The Employer acknowledges the important role that employee representatives, including the ADAVB, play in the workplace and in representing employees.

(b) Employers will make available to new Employees as part of the induction process materials, including membership information, regarding the ADAVB as supplied by the ADAVB.

73.4 Representative Rights

NOTE: Additional rights of HSRs are contained in the OHS Act.

(a) In this clause, Representative means a nominated representative of the ADAVB, or HSR.

(i) A Representative is entitled to reasonable time release from duty to:

(ii) attend to matters relating to industrial, occupational health and safety or other relevant matters such as assisting with grievance procedures and attending committee meetings;

(iii) access reasonable preparation time before meetings with management disciplinary or grievance meetings with an ADAVB member;

(iv) appear as a witness or participate in conciliation or arbitration, before the Commission; and/or

(v) present information on the ADAVB at orientation sessions for new Employees.

(b) A Representative required to attend management or consultative meetings outside paid time will be paid to attend.

(c) A Representative will be provided with access to facilities such as telephones, computers, emails, noticeboards, and meeting rooms in a manner that does not adversely affect service delivery and work requirements of the Employer. In the case of an HSR, facilities will include other facilities as necessary to enable them to perform their functions as prescribed under the OHS Act.

73.5 Secondment

The Employer will, on application, grant leave without pay to an Employee for the purpose of secondment or other arrangement to work for the ADAVB subject to the Employer's reasonable operational requirements.

73.6 ADAVB Training

NOTE: an HSR may be entitled to any training in accordance with the OHS Act rather than, or in addition to, this clause.

(a) Subject to the conditions in this clause, Employees selected by the ADAVB to attend training courses predominately on industrial relations, will be entitled to a maximum of five days' leave without loss of pay per calendar year per Employee.

(b) The granting of leave will be subject to the Employer's operational requirements. The granting of leave will not be unreasonably withheld.

(c) Leave under this subclause is granted on the following conditions:

(i) applications are accompanied by a statement from the ADAVB advising that it has nominated the Employee or supports the application:

(ii) the training is conducted by the ADAVB, or accredited training provider; and

(iii) the application is made as early as practicable and not less than two (2) weeks before the training.

(d) The Employee will be paid their ordinary pay for normal rostered hours.

(e) Leave in accordance with this clause may include necessary travelling time in normal hours immediately before or after the course.

(f) Leave granted under this clause will count as service for all purposes of this Agreement.

(g) Expenses associated with attendance at training courses, including fares, accommodation and meal costs are not the responsibility of the Employer.

74 Value Based Oral Health Care

74.1 The parties will work together during the life of the agreement to:

(a) Facilitate implementation of a person-centred, value based public oral health model of care;

(b) The parties will seek to promote efficiency with the design and delivery of value based health care and services;

(c) The parties will work collaboratively to implement integrated multi-disciplinary teams that promote efficiency and productivity enabling the workforce to perform at their full scope of practice. This will include the list of productivity offsets listed in Appendix 5

PART J – CLASSIFICATIONS AND STAFFING

75 Classification Descriptors, Competencies and Salary Progression Criteria

75.1 Application of classification descriptors

(a) Employees will be classified in accordance with the classification descriptors contained within this clause and as set out in this Agreement in accordance with the below competencies and clinical duties. As an Employee progresses through the pay points and levels, it is a requirement that they maintain and build upon their competencies and abilities.

(b) In addition to the relevant competencies, an Employee must meet the description of the level and be required to perform the relevant clinical duties.

(c) All classification levels operate within the policies and procedures set out by the Employer.

(d) All Employees will;

(i) Undertake additional continuous improvement activities as approved and/or as requested by their manager/clinical or discipline lead,

(ii) Work collaboratively as a member of the wider dental team which includes dental practitioner students, oral health therapists, dental therapists, dental hygienists, dental prosthetists, and dental assistants, and the provision of care through use of interpreters.

(iii) Demonstrate an understanding of dental public health principles, and

(iv) Demonstrate the ability to recognise their clinical limitations.

(e) In addition to the competencies and clinical duties outlined below, employee dentists may be required to provide some support in clinical decision making to other members of the care team, consistent with competencies and clinical duties of their current level.

(f) Dentist employees may be required to perform the clinical duties of a lower-level employee dentist as articulated in the below classification, as required by the Employer. Any work done by an employee dentist, at the level of a lower classification, will be remunerated at the Dentist's current classification rate.

(g) **Progression**

(i) Annual progression between levels and pay points is not automatic.

(ii) Subject to this Clause, an Employee shall be eligible to progress annually to the next available salary point of their classification between Level 1a and Level 3e, providing that over the preceding 12 months they have:

(A) undertaken continuing professional development activities relevant to oral health and the services provided at the Employer's clinic,

(B) satisfied the Employer's requirements as to the provision of clinical services and associated administrative duties;

(C) complied with the Employer's operational policies and protocols as to infection control, clinical standards and response to emergency presentations;

(D) had minimal remedial interventions;

(E) achieved an appropriate level of patient satisfaction;

(F) demonstrated competencies and fulfilment of the clinical duties

outlined in this Agreement;

(G) complied with the responsibilities specified in their personal position description.

(iii) Where a health service does not offer treatments/services that require specific competencies/skills outlined above, an Employee may agree with the health service on equivalent competencies to enable progression.

75.2 Level 1 Classification

(a) **Description**

A Dentist at this level is an entry level graduate who has limited experience in all aspects of clinical dentistry.

Level 1 Dentists are to perform clinical work under the general oversight of a suitable more senior and experienced dentist, who will provide professional support and mentoring regularly as required.

NOTE: Clinicians who have not previously worked in the public sector but have worked in other sectors such as private or armed services, should not be considered "entry level" nor should they be employed at level 1.

(b) **Competencies and clinical duties**

(i) It is expected that a Level 1 Dentist possess the professional attributes and competencies of a newly qualified practitioner as articulated by the Australian Dental Council under the domains of:

(A) Social responsibility and professionalism

(B) Communication and leadership

(C) Critical thinking

(D) Health promotion

(E) Scientific and clinical knowledge

(F) Person-centred care

(ii) In addition, it is expected that a Level 1 Dentist will be competent to perform the following clinical duties:

Assessment (diagnoses) of and management planning for patients, and the provision of treatment as outlined by the organisation's model of care, including**:**

(A) direct restorative care,

(B) basic periodontal therapy,

(C) endodontic and prosthetic services, and

(D) the ability to perform simple exodontia procedures,

(E) for a broad range of patients in routine clinical situations.

Level 1 Dentists should work within their scope and competency. However, they may, with the appropriate support of a Dentist at a higher level, perform duties at a higher competency level for the purpose of clinical development and training. Any duties completed for this purpose will not be paid at a higher rate.

An Employee performing at a satisfactory level would be expected to spend no more than 1 year at this level prior to appointment to a Level 2.

75.3 Level 2 Classification

(a) **Description**

A Dentist at this level would be still gaining experience in some areas of clinical Dentistry.

This is a moderate skill level position, and employees at this level require regular professional support or mentoring from a more senior dentist.

(b) **Competencies and clinical duties**

(i) A Level 2 Dentist is expected to be proficient in all competencies and skills expected of a Level 1 Dentist as well as the following additional clinical duties;

(A) Managing a broader range of patients including those with disabilities and more complex medical and social histories.

(B) The ability to provide a range of dental services with greater efficiency, for example:

1. uncomplicated endodontics;
2. more complex restorative procedures including direct full coverage restorations;
3. minor oral surgery excluding impacted 3rd molars, where appropriate support and supervision from a more senior Dentist is provided;
4. management of acute and chronic periodontal conditions;
5. orthodontic advice; and
6. simple corrective orthodontic services;

(ii) Level 2 Dentists are not expected to independently perform duties beyond their competency level;

(A) The provision of treatment to patients under sedation (oral, inhalation, IV, or general anaesthesia),

(B) Performing surgical procedures without guidance/supervision (i.e., procedures that require a sterile field),

(C) Being rostered “on call” or recalled to work outside of business hours to attend to a dental emergency, or

(D) The provision of treatment that meets the Clinical Criteria for Specialist Level Care as per the Dental Health Services Victoria referral documents.

Employees performing at a satisfactory level would be expected to spend no more than three years at this level prior to appointment to Level 3.

75.4 Level 3 Classification

(a) **Description**

A Dentist at Level 3 is an experienced Employee competent in areas of clinical dentistry that are routinely provided in the public sector and who has the ability to manage challenging clinical situations.

(b) **Competencies and clinical duties**

(i) A Level 3 Dentist is expected to be competent in all required Level 1-2 competencies and clinical duties as well as:

(A) Advanced skills in managing difficult clinical situations; patients with more complex medical and social histories and those with disabilities.

(B) Ability to provide a broad range of efficient dental services infrequently requiring the support or advice from more senior clinicians, including:

1. sectional and surgical extractions of teeth which may require bone removal (excluding anticipated difficult surgical extractions; and/or dento-alveolar surgery for patients with

complex medical needs);

2. Minor soft tissue surgery such as management of oral soft tissue injury, or biopsy;
3. advanced endodontic procedures;
4. fixed prosthodontics where appropriate; and
5. provision of simple orthodontic appliances.

(C) Appropriate skills for the resolution of patient complaints.

(D) Should be able to act as a supervisor/mentor to Employees with less experience and teach undergraduate students.

(E) Exhibit a high level understanding and commitment to dental public health principles both in day-to-day duties and through involvement in relevant activities and initiatives (where agreed and time provided), such as research, health promotion, community engagement, advocacy etc

(F) Working effectively within an interdisciplinary team to deliver the Employer's model of care.

(c) **Responsibilities**

(i) In addition to the competencies outlined above, a Level 3 dentist:

(A) May be responsible for Employees within their team and may take on the role of a clinical or discipline lead when allocated time to do so outside of their existing clinical load.

(B) Has the capacity to teach undergraduate students.

(C) Can direct/lead work within the team.

(D) Must demonstrate commitment to professional development, peer review and would act as a mentor or supervisor to less experienced staff or students when required.

(E) Will perform general dental work requiring the independent examination, investigation, treatment planning and treatment of patients as outlined by the Employer's model of care.

(F) The provision of treatment to patients under sedation (oral, inhalation, IV, or general anaesthesia)

(G) Perform surgical procedures without guidance/supervision (e.g., procedures that require a sterile field)

(H) Grade 3 Dentists may also be required to perform the work of a Grade 1 or Grade 2 Dentist, as required by the Employer. Any work done by a Grade 3 Dentist, at the level of a Grade 1 or Grade 2 Dentist, will be remunerated at the Grade 3 Dentist rate.

75.5 Level 4 (Clinical) Classification

(a) **Description**

A dentist at this level is an experienced clinician and clinical leader. Positions at this level are by appointment only.

Includes an experienced Employee who is widely recognised for their exceptional competence in general dental work and has a proven record for carrying out a broad range of advanced and complex dental procedures as outlined by the Employer's model of care.

Level 4 (Clinical) dentists will have a high level of competence in all areas of general dentistry and/or recognised expertise in at least one clinical area.

This Employee is a clinical lead, mentoring less experienced dentists from Levels 1-3.

(b) **Competencies**

A Level 4 (Clinical) dentist is expected to be competent in all required Level 1-3 competencies and skills as well as:

(i) highly advanced skills in managing all difficult clinical situations, complex medical histories and those with disabilities;

(ii) ability to provide a highly advanced range of efficient dental services, rarely requiring support or advice from more senior clinician – for example:

(A) minor soft tissue surgery such as biopsy;

(B) advanced endodontic procedures seldom necessitating referral to specialists);

(iii) ability to provide advice to general dental practitioners and accept referrals;

(iv) an Employee at this level is expected to manage patient complaints, establish (where required) and maintain clinical guidelines, pathways and policies.

(c) **Responsibilities**

In addition to the Competencies at this level as described above at clause 79.7(b), a Level 4 (Clinical) dentist will:

(i) Frequently receive referrals from other dental practitioners and be called upon for dental advice.

(ii) Actively participate as a leader in the dental team that includes dental practitioner students, oral health therapists, dental therapists, dental hygienists, dental prosthetists and dental assistants.

(iii) Provide comprehensive high level support in clinical decision making to other members of the care team and Level 1, 2, or 3 Employees as required.

(iv) Act as a mentor and/or supervisor to less experienced staff or students. Will be responsible for initiatives and supervision of continuous improvement/quality assurance activities within their area.

(v) Level 4 and Level 5 Employees may be required to fulfil clinical and/or managerial roles at their level.

(vi) Have an active role in peer review processes, development and use of clinical pathways and clinical guidelines in the provision of care, professional development and other clinical leadership activities.

(vii) Have a high level of understanding of dental public health principles and working effectively within an interdisciplinary team to deliver on the Employer's model of care.

75.6 Level 4 (Managerial) Classification

(a) **Description**

An Employee at this level will lead the major activities of a department or health service including the planning, directing and management of staff. This position would require a high level of leadership in dental services and people management to drive the integration of diverse activities.

(b) **Competencies**

A Level 4 (Managerial) dentist is expected to be competent in all required Level 1-3 competencies and skills as well as:

(i) management skills including high level written and verbal communication skills;

(ii) supervisory and mentoring skills;

(iii) ability to undertake staff reviews;

(iv) ability to interpret financial reports and plan dental budgets; and

(v) ability to manage the physical, human and financial resources in an efficient and effective manner to provide optimal public dental health services to the community.

(c) **Responsibilities**

In addition to the Competencies at this level as described above at clause 79.8(b), a Level 4 (Managerial) dentist will:

(i) manage the relationship with external stakeholders and this may include management of difficult and sensitive health care and service delivery issues;

(ii) be required to play a lead role in setting services standards, as well as managing communication with key stakeholders in relation to all facets of public dental health; and

(iii) have a high level of understanding of dental public health principles and working effectively within an interdisciplinary team to deliver on the Employer's model of care.

(iv) Some other expectations may include:

(A) the management of new service models;

(B) establishing standards,

(C) redesigning existing facilities and services;

(D) assessing performance; and/or

(E) change management.

75.7 Level 4 (Hybrid) Classification

(a) **Descriptor**

A Level 4 Hybrid Employee is an employee whose primary focus is as a Clinical Leader with additional clinical related managerial duties. They will be an experienced Employee who is widely recognised for their exceptional competence in general dental work and has a proven record for carrying out a broad range of advanced and complex dental procedures as outlined by the Employer's model of care.

The Level 4 Hybrid Employee operates in an environment of medium complexity.

The Position is by Appointment (And limited to the number of funded positions available as specified in Appendix 4).

(b) **Competencies**

Competencies required at this level are those based on the competence applicable to Level 4 as required and relevant to the individual position.

(c) **Responsibilities**

In addition to the relevant competencies required of a Level 4 dentist, a Level 4 (hybrid) dentist will:

(i) Ensure high standards of clinical service delivery across the service.

(ii) Provide clinical leadership and management and actively participates as a leader in the dental team that includes dental practitioner students, oral health therapists, dental therapists, dental hygienists, dental prosthetists and dental assistants.

(iii) Provide comprehensive high-level support in clinical decision making to other members of the care team and level 1, 2, or 3 employees as required.

(iv) Act as a mentor and/or supervisor to less experienced staff or students.

(v) Be responsible for initiatives and supervision of continuous improvement/quality assurance and risk management activities within their area.

(vi) Be responsible for peer review processes, development and use of clinical pathways and clinical guidelines in the provision of care, professional development and other clinical leadership activities.

(vii) Also be required to play a lead role in setting services standards, as well as managing communication with key stakeholders in relation to all facets of public dental health.

(viii) Have a high level of understanding of dental public health principles and working effectively within an interdisciplinary team to deliver on the employer's model of care.

(ix) Contribute to strategic planning, development, and implementation of agreed outcomes.

(x) Some other expectations may include:

(A) the management of new service models;

(B) establishing standards, redesigning existing facilities and services;

(C) assessing performance; and/or

(D) and change management.

75.8 Level 5 (Clinical) Classification

(a) **Description**

A highly experienced Employee who is widely recognised for their exceptional competence in general dental work and has a proven track record of carrying out a broad range of advanced and complex general dental procedures as outlined by the organisation's model of care. Or is seen as an Employee with a special interest and high level of competence in a particular field of dentistry that is supportive of the Employer's model of care.

This level of Employee would frequently receive referrals from other dental practitioners and be called upon for dental advice.

An Employee at this level is a leader within the dental team that includes dental practitioner students, oral health therapists, dental therapists, dental hygienists, dental prosthetists and dental assistants.

Positions at this level are by appointment only.

(b) **Competencies**

In addition to the clinical competencies required of Level 1-4 Dentists, Level 5 (clinical) dentists will:

(i) have highly advanced skills in managing all difficult clinical situations, complex medical and social histories and those with disabilities;

(ii) have the ability to provide a highly advanced range of efficient dental services, rarely requiring support or advice from other clinicians – for example:

(iii) minor soft tissue surgery such as biopsy;

(iv) advanced endodontic procedures seldom necessitating referral to specialists;

(v) ability to provide advice to general dental practitioners and accept referrals;

(vi) high-level skills in managing patient complaints; and

(vii) ability to participate in research and provide clinical leadership.

(c) **Responsibilities**

In addition to the competencies at this level, as outlined above (clause 79.10(b)), a Level 5 (Clinical) Dentist will:

(i) provide comprehensive high level of support in clinical decision making to other members of the care team and Level 1, 2, 3 and 4 Employees as required;

(ii) act as a mentor or supervisor to all other Dentists, staff or students;

(iii) Level 4 and Level 5 Employees may be required to fulfil clinical and/or managerial roles at their level;

(iv) have a leadership role in the peer review process; model of care development; clinical pathways and clinical guidelines; professional development and other clinical leadership activities; and

(v) have a high level of understanding, contribution and leadership of dental public health principles and application at a service wide level to ensure all staff work effectively within an interdisciplinary.

Candidates for and incumbents of this position are normally required to be recognised statewide/nationally/internationally in their field of expertise through research, publications, and presentations and to maintain that recognition.

75.9 Level 5 (Managerial) Classification

(a) **Description**

A Level 5 (Managerial) Dentist is a senior dental manager.

An Employee at this level will either lead a medium sized facility or be part of the Executive Management team of a large and complex health service.

This position requires a thorough understanding of public oral health administration, and the individual would be required to manage a large and complex service and the application of this understanding in the management of the department/service.

Positions at this level are by appointment only.

(b) **Competencies**

A level 5 (managerial) dentist will be competent in all Level 1-3 clinical competencies, as well as all Level 4 (managerial) skills. In addition they will:

(i) have highly advanced skills in managing all difficult organisational situations, including people and stakeholder management;

(ii) have the ability to provide a highly advanced range of management capabilities, and only rarely requiring support or advice from more senior managers;

(iii) have the ability to provide advice to all members of the organisation – especially in relation to complex managerial and leadership issues;

(iv) have high- level skills in managing patient complaints; and

(v) have the ability to participate in research and provide organisational leadership.

(c) **Responsibilities**

In addition to the competencies required at this level, as described above in clause 79.11(b), a Level 3 (Managerial) Dentist will:

(i) Demonstrate human resource management and organisational change skills and achieving significant productivity and service delivery obligations from a large workforce.

(ii) Be required to manage negotiations at the highest levels with experienced clinicians, other health services, community representatives.

(iii) Be responsible for service delivery, facilities and resource requirements.

(iv) Be required to manage the most complex issues within the health service that will include the development of proposals and managing the delivery significant projects and continuous improvement initiatives.

(v) Possess a high level of understanding, contribution and leadership of dental public health principles and application at a service wide level to ensure all staff work effectively within an interdisciplinary team to deliver on the Employer's model of care.

75.10 Level 5 (Hybrid) Classification

(a) **Description**

A Hybrid Level 5 employee is an employee who is a clinical leader whose primary focus is oversight and strategic direction for clinical management. This may include additional managerial duties. This employee operates in an environment of high complexity.

The position is by Appointment (and limited to the number of allocated FTE pursuant to Appendix 4)

A Level 5 (Hybrid) Dentist is an experienced Employee who is widely recognised for their exceptional competence in general dental work and has a proven record for carrying out a broad range of advanced and complex dental procedures as outlined by the Employer's model of care.

Candidates for and incumbents of this position are normally required to be recognised statewide/nationally/internationally in their field of expertise through research, publications and presentations and to maintain that recognition

(b) **Competencies**

Competencies required at this level are those based on the competencies applicable to Level 5 as required, and relevant to the individual position.

(c) **Responsibilities**

In addition to the required competencies, as outlined above at clause 79.12(b), a Level 5 (hybrid) dentist will:

(i) Ensure high standards of clinical service delivery across the service.

(ii) Provide high level clinical leadership and management and actively participates as a leader in the dental team that includes dental practitioner students, oral health therapists, dental therapists, dental hygienists, dental prosthetists and dental assistants.

(iii) Provide comprehensive high level support in clinical decision making to other members of the care team and Level 1, 2, 3, 4 employees as required.

(iv) Act as a mentor and/or supervisor to less experienced staff or students.

(v) Be responsible for leading initiatives and supervision of continuous improvement/quality assurance activities within their area.

(vi) Be responsible for peer review processes, development and use of clinical pathways and clinical guidelines in the provision of care, professional development and other clinical leadership activities.

(vii) Contribute to QIS and risk management initiatives across the health service.

(viii) Have a high level of understanding, contribution and leadership of dental public health principles and application at a service wide level to ensure all staff work effectively within an interdisciplinary team to deliver

on the employer's model of care.

(ix) Be responsible for service delivery, facilities and resource requirements.

(x) Also be required to play a lead role in setting services standards, as well as managing communication with key stakeholders in relation to all facets of public dental health.

(xi) Lead strategic planning, development, and implementation of agreed outcomes.

(xii) Be required to manage negotiations at the highest levels with experienced clinicians, other health services, community representatives, and external services (e.g. Universities the department of health and human services and other departmental entities).

(xiii) Some other expectations may include:

(A) the management of new service models;

(B) establishing standards, redesigning existing facilities and services; and/or

(C) assessing performance; and change management.

76 Notification of Classification

76.1 The Employer shall notify each Employee in writing of their classification and terms of employment, on commencement.

76.2 The Employer shall notify each Employee of any alteration to their classification in writing within 14 days of the operative day of such alteration.

77 Clinical Skills Enhancement/Job Rotation

77.1 In order to achieve (or maximise) clinical delivery outcomes and priorities, an Employee shall be available to transfer through all clinical areas as determined by the Employer. Following discussions between the Manager and the Employee, an Employee may be temporarily rotated for the purpose of targeting resources to rural regions of greatest need, clinical skill enhancement, training in clinical and related procedures and personal career development. Reimbursement of expenses, excess travelling time and/or kilometre allowance (as per the Employer's policies) shall, if applicable, apply to such rotations.

78 Failure to Attend Patient Management

78.1 Patients arriving for treatment at each of the Employers clinics arrive and are treated either through the emergency clinic, or through a prearranged booking. The majority of patients arrive with a booking and are seen at specified times. Historically a significant number of patients fail to attend (FTA) at their prearranged time. It is not possible to predict the number of FTAs on any one shift and this can create a loss of active clinical time.

78.2 To assist in the efficient utilisation of dental services Employees agree to:

(a) adhere to the Employer's policy for patient bookings;

(b) work reasonable overtime where necessary having regard to clauses 47 (Overtime) and 50 (Workload) to assist in the treatment of the Employer's patients; and

(c) play an active role in the management of FTAs, which is not limited to attending to other patients or additional patients where the pre-booked patient has failed to attend.

79 Secondment

79.1 Where an Employee is seconded for service to any other clinical facility or health institution, the Employee shall remain in the employ of the parent Employer at which the Employee was engaged prior to secondment. The parent Employer shall remain responsible for the payment of any entitlements accruing to the Employee under this Agreement.

80 Scope of Practice

80.1 The parties to this Agreement acknowledge that a significant amount of improvement in productivity and treatment outcomes can be achieved by better managing the treatment provided to clients. This may include (but is not limited to):

(a) the parties are committed to utilising a team approach in providing dental treatment to patients.

(b) the Employer may direct an Employee to undertake the initial assessment, initial treatment and/or full treatment of any client, often with the significant support from a dental assistant.

(c) Employees will participate in maximising the utilisation of all other registered dental practitioners to the full extent of their scope of practice defined by their education, training, and competence.

(d) Employees will participate in maximising the utilisation of the skills of the entire non-registered dental workforce to the full extent of their education, training, and competence.

(e) Employees will participate in utilising the skills of appropriately qualified Dental Assistants. Employees will support Dental Assistants to provide a range of treatments to patients as appropriate. This will include, but is not limited to Radiography, Oral Health Promotion and Fluoride Treatment.

(f) The Employer will be responsible, as part of its credentialing procedure, to assess each Employees scope of practice.

81 Incidental and Peripheral Duties

81.1 The Employer may direct an Employee to carry out duties that are incidental and peripheral to the work normally performed where those duties are within the Employee's skill, competence and training and are consistent with the classification structure of this Agreement.

81.2 To assist in the efficient utilisation of dental services Employees will treat other patients as directed by the Employer.

82 Job Sharing

82.1 Nothing in this Agreement shall prevent two Employees sharing a position subject to the approval of the Employer.

83 Occupational Health and Safety / Workplace Violence

83.1 OHS Risk Management

(a) Those covered by this Agreement will take a pro-active approach to the prevention and management of workplace injuries, and to the achievement of a reduction in workplace injuries through the implementation of risk management

systems incorporating hazard identification, risk assessment and control, and safe work practices.

(b) The Employer recognises that its obligations to provide a safe workplace, extend to the places and localities it directs Employees to perform work.

(c) Those covered by this Agreement recognise that consultation with Employees and their representatives is crucial to achieving a healthy and safe work environment. To this end, Employers will consult employees and their representatives around matters relating to health and safety in the workplace.

(d) The Employer will implement the hierarchy of controls to control hazards and will eliminate the hazard at the source wherever practicable.

(e) This Agreement recognises that hazards include, but are not limited to:

(i) repetitive stress;

(ii) occupational violence and aggression;

(iii) circumstances that give rise to adverse effects on psychological health, including aggression or violence, bullying or sexual harassment.

(iv) unsafe design and layout of workplaces;

(v) slips, trips, and falls;

(vi) sharps; and

(vii) blood borne and other infectious diseases.

(f) The Employer will ensure that Dentists in people management positions will receive adequate education and support to ensure the following can occur:

(i) Identification and the assessment of OHS risks;

(ii) the undertaking of OHS incident investigations; and

(iii) consultation with staff over OHS issues.

(g) The Employer will provide such information, education, training, and supervision to all Employees of the Employer required to enable them to perform their work in a manner which is safe and without risks to physical and psychological health. This will occur on a regular basis as required to enable Employees to remain informed in relation to health and safety hazards, policies, and procedures.

83.2 Incident Reporting, Investigation and Prevention

(a) The Employer will facilitate timely reporting of incidents by Employees and ensure Employees who report incidents are appropriately supported.

(b) Following an incident, the Employer will as soon as practicable:

(i) provide the employee(s) with access to post incident support services;

(ii) take appropriate action to prevent further injury to Employees;

(iii) conduct an incident investigation in a timely manner and implement workplace controls to prevent the incident recurring; and

(iv) provide information regarding the Employee’s rights as relevant including the making and lodging of a workers compensation claim or reporting to police.

(c) The Employer will provide information, instruction and training to Employees and management staff regarding the importance of timely reporting, procedures regarding incident reporting, and linking this to incident investigation and prevention.

83.3 HSR Training

(a) HSRs will be entitled and encouraged to attend a WorkSafe Victoria approved course as soon as practicable following their election.

(b) The Employer will permit HSRs to take such time as is necessary or prescribed to attend occupational health and safety training courses approved by WorkSafe Victoria.

(c) HSRs will have the right to choose which course to attend, provided it is a WorkSafe Victoria approved course. An Employer will not prevent or obstruct an HSR from attending a course chosen by them.

(d) When attending an approved course, HSRs will be paid as the HSR had been at work.

(e) Where HSRs attend an approved course outside their normal working hours or roster, they will be paid as if they had been at work for the relevant time.

(f) The Employer is responsible for payment of course fees, travel costs and accommodation for HSR attendance at WorkSafe Victoria approved courses.

83.4 Facilities for HSRs

(a) HSRs will be provided with reasonable access to an office, telephone, computer (including email facilities where available), notice board, meeting room, and such other facilities as are necessary to enable them to perform their functions or duties as prescribed under the OHS Act.

(b) Health and safety representatives will have reasonable time release from duty to perform their functions and duties as is necessary or prescribed under the OHS Act.

(c) A Health and Safety Committee will be established where requested by an HSR.

83.5 Employee support and debriefing

(a) The Employer will provide support and debriefing to Employees who have directly or vicariously experienced a “critical incident” during the course of the work that results in personal distress or psychological trauma. The Employer is committed to assisting the recovery of Employees experiencing distress or trauma following a critical incident within the workplace with the aim of returning Employees to their pre-incident level of functioning as soon as possible.

(b) A critical incident is defined as an event outside the range of usual human experience within the workplace which has the potential to easily overcome a person's normal ability to cope with stress. It may produce a negative psychological response in an Employee who was involved in or witnessed, or otherwise deals with and/or is exposed through their course of their duties to the details of such an incident.

(c) Critical incidents in the workplace environment include, but are not limited to:

(i) violent assaults; or

(ii) suicide or attempted suicide; or

(iii) sudden or unexpected death; or

(iv) hostage or siege situations; or

(v) threats to kill; or

(vi) accounts of sexual violence; or

(vii) accounts of child abuse and domestic violence;

(viii) any other serious accidents or incidents.

83.6 Occupational Violence and Aggression Prevention and Management

(a) **Prevention and Management of Occupational Violence and Aggression**

Employees are entitled to be provided a workplace free of occupational violence and aggression.

(b) **Occupational Violence and Aggression Prevention**

(i) The parties to the Agreement support action to end violence and aggression in workplaces.

(ii) The Employer will develop an action plan, which will be subject to ongoing review, to address occupational violence and aggression.

(iii) Any action plan will:

(A) implement proactive measures to identify and address risks;

(B) ensure a reporting culture and mechanisms to assist in investigation; and

(C) provide appropriate support following workplace incidents.

(iv) The action plan will be consistent with the WorkSafe Guidance note relevant to occupational violence and aggression.

(v) In developing or reviewing an action plan the Employer will consult with HSRs, the ADAVB and affected Employees to identify any gaps having regard for the requirements at (iv).

(vi) The Employer will designate an occupational health and safety committee (which may be an existing committee) as responsible for overseeing the actions required by this clause.

(vii) Nothing in this clause limits an Employer from doing anything to support the reduction and prevention of occupational violence and aggression.

(viii) **Key Principles**

In developing, reviewing, and implementing policies, the following matters will be considered:

A. security;

B. risk identification;

C. the development of patient care plans;

D. incident reporting, investigation, and action;

E. workplace design;

F. training;

G. integration of policies and procedures;

H. post incident support;

I. application across all health disciplines;

J. empowering staff to expect a safe workplace; and

K. continuous improvement.

(ix) The Employer will undertake annual audits of their occupational violence and aggression management strategy, in consultation with HSRs.

SIGNATURES

SIGNED for and on behalf of each of the **EMPLOYERS** referred to in **Appendix 1** by the authorised representatives of the **Victorian Hospitals' Industrial Association** in the presence of:

TPN

Signature

TIM NAGLE

Name (print)

DIRECTOR, VICTORIAN HOSPITALS' INDUSTRIAL ASSOCIATION

Authority to sign

88 MARIBYRNONG STREET, FOOTSCRAY, VIC 3011

Address

Rianna Elisabeth Shoemaker

Witness

RIANNA SHOEMAKER

Name of Witness (print)

SIGNED for and on behalf of **The Australian Dental Association Victorian Branch** by its authorised officers in the presence of:

Signature

ILSA HAMPTON

Name (print)

CEO

Authority to sign

Witness

EMMA HOU

Name of Witness (print)

8/10 YARRA ST SOUTH YARRA

Address

APPENDIX 1 - LIST OF EMPLOYERS

1. Albury Wodonga Health
2. Alfred Health
3. Bairnsdale Regional Health Service
4. Barwon Health
5. Bass Coast Health
6. Bendigo Health
7. Boort District Health
8. Central Gippsland Health Service
9. Central Highlands Rural Health
10. Dental Health Services Victoria
11. East Grampians Health Service
12. Echuca Regional Health
13. Grampians Health
14. Goulburn Valley Health
15. Maryborough District Health Service
16. Monash Health
17. NCN Health
18. Northeast Health Wangaratta
19. Orbost Regional Health
20. Peninsula Health
21. Seymour Health
22. South West Healthcare
23. Swan Hill District Health
24. West Wimmera Health Service
25. Western Health

APPENDIX 2 - REMUNERATION & ALLOWANCES

Effective from FFPPOA	1-Jul-21	1-Jul-22	1-Jan-24	1-Jan-25	1-Jan-26	1-Jan-27
% Increase	N/A	2%	3%	3%	3%	3%
CLASSIFICATIONS (Fortnightly Rate $)						
Level 1	2984.38	3044.07	3135.39	3229.46	3326.34	3426.13
Level 2a	3247.81	3312.76	3412.15	3514.51	3619.95	3728.54
Level 2b	3458.54	3527.71	3633.54	3742.55	3854.82	3970.47
Level 2c	3669.12	3742.50	3854.77	3970.42	4089.53	4212.21
Level 3a	4107.96	4190.12	4315.82	4445.30	4578.66	4716.02
Level 3b	4298.58	4384.55	4516.08	4651.57	4791.11	4934.85
Level 3c	4489.08	4578.86	4716.22	4857.71	5003.44	5153.55
Level 3d	4679.65	4773.25	4916.44	5063.94	5215.86	5372.33
Level 3e	4902.88	5000.94	5150.97	5305.50	5464.66	5628.60
Level 4 (Clinical)	5043.19	5144.06	5298.38	5457.33	5621.05	5789.68
	5251.23	5356.26	5516.94	5682.45	5852.92	6028.51
Level 4 (Managerial)	5043.19	5144.06	5298.38	5457.33	5621.05	5789.68
	5251.23	5356.26	5516.94	5682.45	5852.92	6028.51
Level 4 (Hybrid)	6055.31	6176.41	6361.71	6552.56	6749.13	6951.61
Level 5 (Clinical)	5597.73	5709.69	5880.98	6057.41	6239.13	6426.30
	6117.42	6239.77	6426.96	6619.77	6818.37	7022.92
Level 5 (Managerial)	5597.73	5709.69	5880.98	6057.41	6239.13	6426.30
	6117.42	6239.77	6426.96	6619.77	6818.37	7022.92
Level 5 (Hybrid)	6487.81	6617.56	6816.09	7020.57	7231.19	7448.13
ALLOWANCES (Full-Time Weekly Rate $)						
Uniform Laundry Allowance	N/A	N/A	9.14	9.41	9.70	9.99

APPENDIX 3 – Level 4 and 5 Clinical/Manager Hybrid Positions

(1) During the life of the *Victorian Public Health Sector (General Dentists') Multi Enterprise Agreement 2018-2022* (**the 2018 agreement**) the parties undertook a process to nominate up to five Level 4 Hybrid Clinical/Manager positions and five Level 5 Hybrid Clinical/Managerial positions within the Employers listed in Appendix 1 of the 2018 agreement.

(2) The Agreement does not disrupt the outcome of the process referred to in sub-clause 1, nor does it establish any further requirement to create and/or appoint to Level 4 or Level 5 Hybrid Clinical/Managerial classifications.

(3) Notwithstanding the above, there are no restrictions on Employers appointing or reclassifying Employees to level 4 or level 5 Hybrid Clinical/Managerial positions during the Agreement to meet operational requirements, but it is not a requirement of the Agreement.

APPENDIX 4 – PRODUCTIVITY OFFSETS

The parties agree to implement and monitor a new model of care and thereby introduce productivity initiatives through the following actions:

(1) A greater proportion of examination services being provided by DT/OHTs

(2) Greater use of DA Cert IV in taking intra-oral radiographs

(3) Higher proportion of preventive services (cleaning, topical fluoride, fissure sealants) being provided by DT/OHTs

(4) Greater use of DA Cert IV for oral health education service (oral hygiene instruction, dietary advice)

(5) Primary tooth extractions predominantly provided by DT/OHTs

(6) Majority of restorations in children provided by DT/OHTs

(7) Greater proportion of restorations in adults being provided by DT/OHTs with extended scope of practice

(8) All dentures and most other denture related services (e.g: repairs(being provided by Dental Prosthetists.

Appendix 5 – FIXED TERM POLICY

Process for conversion where fixed term employment in the same or a substantially similar position exceeds the maximum duration of 3 years.

1.1 in accordance with this Appendix 3, an Employer must, assuming they wish to retain the Employee, make an offer of ongoing employment to a currently employed fixed term Employee if the Employee has been employed on fixed term contracts involving the same or substantially similar work pursuant to subclause 1.3 (b)

1.2 the offer must be:

(a) given to the Employee within the period of 21 days before their fixed term employment has reached 3 years' duration,

(b) made in writing;

(c) an offer to convert to ongoing employment at the same classification or equivalent as the Employee's fixed term role; and

(d) consistent with the employee's existing number of ordinary hours.

1.3 Notwithstanding subclause 1.2 above, the Employer is not required to make an offer under that subclause to an Employee if there:

(a) Are reasonable business grounds not to do so (see clause 1.5 below), or

(b) Are exceptional or unforeseen circumstances.

1.4 In this event, the Employer must give written notice to the Employee. The notice must:

(a) Advise the Employee that the Employer is not making an offer of ongoing employment;

(b) Provide details of the reasons for not making the offer, including the reasonable business grounds and details of any exceptional or unforeseen circumstances; and

(c) Be given to the employee within the period of 21 days before their fixed term employment has reached 3 year's duration.

1.5 For the purposes of 1.3 above, and without limitation, reasonable business grounds include:

(a) There is no ongoing vacancy available in which to place the Employee, and/or

(b) The Employee's position will cease to exist in the coming 12 months.

1.6 If an employer fails to make an offer of ongoing employment to an eligible fixed term Employee, the Employee may request in writing conversion to ongoing employment. Approval to convert to ongoing employment will not be withheld unless one of the exception in 1.3 applies.