



# DECISION

*Fair Work Act 2009*

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

## **HammondCare**

(AG2023/3562)

### **HAMMONDCARE AGED CARE ENTERPRISE AGREEMENT 2023**

Aged care industry

COMMISSIONER MATHESON

SYDNEY, 28 NOVEMBER 2023

*Application for approval of the HammondCare Aged Care Enterprise Agreement 2023*

[1] An application has been made for approval of an enterprise agreement known as the *HammondCare Aged Care Enterprise Agreement 2023* (Agreement). The application was made by HammondCare (Applicant) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (Act). The Agreement is a single enterprise agreement.

[2] Changes to the Act came into effect on 6 June 2023 in relation to genuine agreement. The Form F17A indicates that the notification time for the Agreement was 8 December 2022. In these circumstances and as a consequence of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Amending Act), clause 66 of Part 13 of Schedule 1 of the Act has the effect that despite the amendments made to the Act by Part 14 of Schedule 1 to the Amending Act, Part 2-4 of the Act continues to apply as if the amendments had not been made. The application has been assessed on this basis, taking into account the provisions of Part 2-4 of the Act in force in relation to genuine immediately prior to 6 June 2023.

[3] The application was accompanied by a signature page that did not comply in all respects with Regulation 2.06A of the *Fair Work Regulations 2009* (Cth). An amended signature page was subsequently filed. I consider it appropriate in the circumstances to waive an irregularity in the form or manner in which an application was made and do so pursuant to s.586(b) of the Act.

[4] The Applicant, who is also the employer covered by the Agreement, has provided written undertakings. A copy of the undertakings is attached at Annexure A of this decision (Undertakings). The views of each person I know is a bargaining representative for the Agreement were sought in relation to the Undertakings and no objections were raised. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[5] Pursuant to s.190(3) of the Act, I accept the Undertakings.

[6] Subject to the Undertakings, and on the basis of the materials before the Commission, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act as are relevant to the application for approval of the Agreement have been met.

[7] The Australian Nursing and Midwifery Federation, Health Services Union and United Workers' Union, being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) of the Act, I note that the Agreement covers the organisations.

[8] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 5 December 2023. The nominal expiry date of the Agreement is 30 June 2026.



COMMISSIONER

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## Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2023/3562

Applicant:  
HammondCare

Section 185 – Application for approval of a single enterprise agreement

### Undertaking – Section 190

I, Mike Baird, Chief Executive Officer for HammondCare, have the authority given to me by HammondCare to give the following undertakings with respect to the *HammondCare Aged Care Enterprise Agreement 2023* (“the Agreement”):

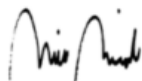
1. HammondCare undertakes and agrees that the dispute resolution procedure in clause 8 of the Agreement will, subject to the terms of the Agreement, apply to disputes concerning any matters arising under the Agreement.
2. For employees in Specialised Carer classifications covered by the *Aged Care Award 2010* or the *Social, Community, Home Care and Disability Services Industry Award 2010*, and Nurse Practitioners covered by the *Nurses Award 2020*, HammondCare undertakes and agrees that clause 15.1(e) of the Agreement will be interpreted as though the reference to 2 hours was a reference to 1 hour.
3. In addition to undertaking (2) above, HammondCare undertakes and agrees that, for the purposes of clause 15.1(e) of the Agreement, where any Agreement-covered employee is required to work overtime and such overtime exceeds 4 hours, the employee will be supplied with a further meal at no cost to the Employee.
4. HammondCare undertakes and agrees to interpret and apply clause 20.1(a) of the Agreement as though it was amended to provide as follows:
  - “(a) time spent attending the activities referred to in this clause 20.1 will not be viewed as overtime unless the attendance results in the Employee working more than seventy-six (76) hours in a fortnight or more than 10 ordinary hours in a shift”.

For the avoidance of uncertainty, the entitlement to overtime shall not apply in circumstances where an employee is not entitled to payment under clause 20.1(c) of the Agreement.

5. HammondCare undertakes and agrees to interpret and apply to interpret and apply the Agreement as though clause 25.1 was deleted and replaced with the following:
  - (a) An Employee who is required and authorised to use their own motor vehicle in the course of their duties will be paid the Vehicle Allowance set out in **Annexure 1**.
  - (b) An Employee who is required and authorised to use public transport in the course of their duties will be reimbursed by HammondCare for actual expenses incurred by the Employee on provision of receipts for all expenses claimed.
  - (c) If an Employee is rostered to work with consecutive clients/residents on a day or shift (excluding clients either side of a break in a broken shift), they will be paid the applicable hourly rate for all time spent travelling or allocated by HammondCare (whichever is the greater) between consecutive clients/residents. Time travelled/allocated by HammondCare will form part of the Employee's minimum contracted hours of work.
  - (d) If an Employee is required to travel from their usual place of residence to attend mandatory training and/or meetings, **clause 20 – Attendance at Training and Meetings** will apply. In this instance, Employees will be paid in accordance with this clause 25 or clause 20 of this Agreement, but not both.
  - (e) Employees must advise HammondCare Payroll and their Manager of any change to their usual place of residence within seven (7) days of the Employee changing address.
  
6. For employees in Specialised Carer classifications covered by the *Aged Care Award 2010*, HammondCare undertakes and agrees that clause 28.4(b) of the Agreement will be interpreted and applied as though the reference to 3 hours is instead as a reference to 4 hours.
  
7. For employees in the Specialised Carer – New Entrant classification as defined in clause 52.2(a) of the Agreement, HammondCare undertakes and agrees to apply the following rates of pay in substitution for the rates of pay set out in Annexure 1 to the Agreement:

Classification	From the first full pay period on or after <b>1 July 2023</b>	From the first full pay period on or after <b>1 July 2024</b>	From the first full pay period on or after <b>1 July 2025</b>
New Entrant	\$28.70	\$29.56	\$30.45

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



\_\_\_\_\_  
Signature

24 November 2023

\_\_\_\_\_  
Date

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

# **HammondCare Aged Care Enterprise Agreement 2023**

## **PART A – APPLICATION AND OPERATION**

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- 1. Title**  
This Agreement will be known as the HammondCare Aged Care Enterprise Agreement 2023.
- 2. Arrangement**  
This Agreement will be arranged as follows:

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### 3. Commencement and Duration

- 3.1 This Agreement commences seven days after it is approved by the Commission in accordance with section 54(1) of the Act. The nominal expiry date of this Agreement is **30 June 2026**.
- 3.2 This Agreement will be read and interpreted in conjunction with the NES. Where there is an inconsistency with this Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

### 4. Definitions

In this Agreement:

- 4.1 **Act** means the *Fair Work Act 2009* (Cth).
- 4.2 **Agreement** means the HammondCare Aged Care Enterprise Agreement 2023.
- 4.3 **Award** means the relevant Modern Award that would be applicable to the Employee in the absence of this Agreement. For the purposes of this Agreement, relevant Modern Awards include:
- (a) the Aged Care Award 2010;
  - (b) the Nurses Award 2020; and
  - (c) the Social, Community, Home Care and Disability Services Award 2010.
- 4.4 **Base Rate of Pay** means the rate payable to an Employee for their ordinary hours of work, but does not include:
- (a) incentive-based payments or bonuses;
  - (b) loadings;
  - (c) monetary allowances;
  - (d) overtime and penalty rates; and
  - (e) any other separately identifiable amounts.
- 4.5 **Board** means the Nurses and Midwives Board of Australia and will also be a reference to the Australian Health Practitioner Regulation Authority (AHPRA).
- 4.6 **Casual Employee** means an Employee engaged as a casual employee as defined by s15A of the Act.
- 4.7 **Commission** means the Fair Work Commission
- 4.8 **Employee** means a person employed by HammondCare in the classifications in this Agreement.
- 4.9 **Employer** means HammondCare (ABN 48 000 026 219).
- 4.10 **Full-time Employee** means an Employee as set out in clause 9.2.
- 4.11 **Immediate Family** means:
- (a) a spouse (including a former spouse), de facto partner (including a former de facto partner) (where "de facto partner" means a person who lives with the Employee on a genuine domestic basis), child (including an adopted child, foster child placed with the Employee for short term or long term out-of-home care, stepchild, ex-nuptial child or adult child), parent, grandparent, grandchild or sibling of the Employee; or
  - (b) a child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the Employee.



- 4.12 **HammondCare at Home** means HammondCare’s in-home care service providing personal care and domestic assistance to clients in a private residence, HammondCare Social Club or Respite Service.
- 4.13 **HammondCare at Home Employee** means an Employee employed in a Specialised Carer (Home Care) classification in clause 53 of this Agreement.
- 4.14 **National Employment Standards (NES)** means the minimum employment standards set out in Part 2-2 of the Act.
- 4.15 **Part-time Employee** means an Employee as set out in clause 9.3.
- 4.16 **Registered Nurse (RN)** means a person registered by the Board as a Registered Nurse.
- 4.17 **Regulations** means the *Fair Work Regulations 2009 (Cth)*.
- 4.18 **Residential Care Home(s)** means a dementia specific and non-dementia specific care home and/or cottage operated by HammondCare.
- 4.19 **Residential Care Home Employee** means an Employee primarily employed to perform work in a Residential Care Home.
- 4.20 **Serious Misconduct** has the meaning set out in r1.07 of the Regulations.
- 4.21 **Shift Worker** means an Employee who works ordinary hours as outlined in clause 30.1(c) of this Agreement.
- 4.22 **Union** means the organisation(s) that have given notice under s183 of the Act and which the Commission has noted is covered by this Agreement in accordance with s201-2 of the Act.

## 5. Coverage

- 5.1 This Agreement covers:
- (a) HammondCare (ABN 48 000 026 219); and
  - (b) Employees as defined in clause 4.8, employed in a Residential Care Home in any location in Australia, excluding Victoria, or in HammondCare at Home.
  - (c) employee organisations that have given notice under s183 of the Act that they want to be covered by this Agreement and who the Commission has noted, in accordance with s201-2 of the Act, are covered by the Agreement.

## PART B – FLEXIBILITY ARRANGEMENTS, CONSULTATION AND DISPUTE RESOLUTION

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### 6. Flexibility

- 6.1 HammondCare and an Employee covered by this Agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the Agreement if:
- (a) the Agreement deals with one or more of the following matters:
    - (i) overtime rates;
    - (ii) penalty rates;
    - (iii) arrangements about when work is performed (such as working hours);
    - (iv) allowances; and
    - (v) leave loading.
  - (b) the arrangement meets the genuine needs of HammondCare and the Employee in relation to one or more of the matters mentioned in paragraph (a) above; and
  - (c) the arrangement is genuinely agreed to by HammondCare and the Employee.
- 6.2 HammondCare must ensure that the terms of the individual flexibility arrangement:
- (a) are about 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 have been if no arrangement was made.
- 6.3 HammondCare must ensure that the individual flexibility arrangement:
- (a) is in writing;
  - (b) includes the name of the Employer and the Employee;
  - (c) is signed by the Employer and the Employee and if the Employee is under 18 years of age, signed by a parent or guardian of the Employee;
  - (d) includes details of:
    - (i) the terms of the Agreement 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 his or her employment as a result of the arrangement; and
  - (e) states the day on which the arrangement commences.
- 6.4 HammondCare must give the Employee a copy of the individual flexibility arrangement within fourteen (14) days after it is agreed to.
- 6.5 If an Employee's understanding of written English is limited, HammondCare will take all reasonable measures to ensure the Employee understands the individual flexibility arrangement, including translation into an appropriate language.
- 6.6 HammondCare or the Employee may terminate the individual flexibility arrangement:
- (a) by giving no more than twenty-eight (28) days written notice to the other party to the arrangement; or
  - (b) if HammondCare and the Employee agree in writing – at any time.

## 7. Consultation

### 7.1 HammondCare's Duty to Notify and Discuss

- (a) If HammondCare has made a definite decision to introduce major changes in production, program, organisation, structure, or technology that are likely to have significant effects on the Employees, HammondCare will notify the Employees who may be affected by the proposed changes, and their representative(s), including union representative(s), if any.
- (b) 'Significant effects' include promotion opportunities or job tenure, termination of employment, major changes in the composition, operation, or size of HammondCare's workforce or in the skills required, the elimination or diminution of job opportunities, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs. Where this Agreement otherwise makes provision for the alteration of any of these matters, they will not be considered to have significant effect.

### 7.2 Discussion with Employees and their Representatives

- (a) HammondCare will discuss with the Employees affected by the introduction of the changes, and their representative(s), including Union representative(s), if any:
  - (i) the introduction of the changes;
  - (ii) the likely effect on the Employees; and
  - (iii) the measures taken to avert or mitigate the adverse effects of such changes,as soon as is practicable after HammondCare has made the decision outlined in clause 7.1(a).
- (b) For the purposes of those discussions, HammondCare will provide, in writing, to the Employees concerned:
  - (i) all relevant information about the proposed changes, including the reasons for, and the nature of, the proposed changes;
  - (ii) the number and categories of Employees likely to be affected;
  - (iii) information about the expected effects of the changes on the Employees; and
  - (iv) any other matters likely to affect the Employees,as soon as is practicable after HammondCare has made the decision outlined in clause 7.1(a). HammondCare will not be required to disclose confidential or commercially sensitive information.
- (c) HammondCare will give prompt and genuine consideration to matters raised about the major changes by the Employees, and the Union to which they belong.

- 7.3 Changes to Regular Rosters or Ordinary Hours of Work
- (a) HammondCare will consult with Employees and their representative(s), including Union representative(s), if any, about a change to their regular roster or ordinary hours of work.
  - (b) For the purposes of this clause 7.3, HammondCare will:
    - (i) provide information to affected Employees about the change;
    - (ii) invite affected Employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities); and
    - (iii) consider any views that are given by the Employees.
  - (c) The requirement to consult under this clause 7.3 does not apply in the case of Casual Employees.

## 8. Dispute Resolution

- 8.1 Any grievance or dispute that arises in connection with an Employee's employment with HammondCare or the NES will, where possible, be settled by discussion between HammondCare and the Employee in accordance with HammondCare's policies and procedures, which may include discussion with more senior levels of management as appropriate.
- 8.2 If the matter is not resolved after taking all appropriate steps under clause 8.1, it may be referred by either party to the Commission, or any other person agreed between the parties, for conciliation. If the dispute cannot be resolved by conciliation, the Commission may exercise any other method of dispute resolution permitted by the Act it considers appropriate to resolve the dispute including mediation and, finally, arbitration.
- 8.3 HammondCare or an Employee may appoint another person, organisation, or association to support and/or represent them for the purposes of clause 8.1 – 8.2.
- 8.4 An Employee who is party to a dispute must, while the dispute is being resolved:
- (a) continue to work in accordance with his or her contract of employment, unless the Employee has a reasonable concern about an imminent risk to their health or safety; and
  - (b) comply with any reasonable direction given by HammondCare to perform other available work, either at the same workplace or at another workplace.
- 8.5 In directing an Employee to perform other available work, HammondCare will have regard to:
- (a) the provisions (if any) of the law of the Commonwealth or of a State or Territory dealing with work health and safety that apply to that Employee or that other work; and
  - (b) whether that work is appropriate for the Employee to perform.

## PART C – TYPES OF EMPLOYMENT AND TERMINATION OF EMPLOYMENT

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### 9. Types of Employment

#### 9.1 Letter of Appointment

- (a) On appointment, HammondCare will provide Full-time and Part-time Employees with a letter of appointment setting out the following:
  - (i) the classification and rate of pay of the Employee; and
  - (ii) the number of ordinary hours to be worked each fortnight and the rostering arrangements that will apply to those hours.
- (b) On appointment, HammondCare will provide Casual employees with a letter of appointment setting out the following:
  - (i) the classification and rate of pay of the Employee.

#### 9.2 Full-time Employees

A Full-time Employee is any Employee, other than a Part-time or Casual Employee, who is employed to work an average of thirty-eight (38) ordinary hours per week or as otherwise specified in **clause 12.1 – Ordinary Hours of Work**. At HammondCare, rostering patterns mean that these hours are calculated based on seventy-six (76) ordinary hours per fortnight.

#### 9.3 Part-time Employees

- (a) A Part-time Employee is an Employee who, subject to clause 9.3(d) and (e), works a reasonably predictable number of hours each week, which is less than thirty-eight (38) hours per week, or seventy-six (76) hours per fortnight on average or as otherwise specified in **clause 12.1 – Ordinary Hours of**.
- (b) Before commencing Part-time Employment, HammondCare and the Employee will agree on the minimum hours to be worked in each seventy-six (76) hour fortnight and:
  - (i) for Residential Care Home Employees: the days of the week the Employee will work and the starting and finishing times each day; or
  - (ii) for HammondCare at Home Employees: the days of the week the Employee will work and the starting and finishing times within which the Employee is available to work and may be rostered to work their minimum hours on those days.
- (c) Part-time Employees are entitled to the benefits under this Agreement on a pro rata basis.
- (d) A Part-time Employee may, by mutual agreement with HammondCare, work additional hours.
- (e) A Part-time Employee may agree to be available at nominated times to work additional hours (above their contracted minimum hours), to a maximum of thirty-eight (38) hours per week, or seventy-six (76) hours per fortnight.
- (f) The number of ordinary hours actually worked, up to a maximum of seventy-six (76) hours per fortnight, will be used to calculate leave accruals.

- (g) If an Employee requests a reduction in their working days and/or hours of availability, their minimum contract hours per fortnight may be reduced proportionately with the reduction in their hours of availability. Any reduction in contract hours will only be made following consultation and agreement with the Employee and will be confirmed in writing.
- (h) Review of Part-time Hours
  - (i) An Employee's contract hours will be reviewed by HammondCare at least every twelve (12) months, or otherwise more frequently at the request of the Employee up to a maximum of three (3) reviews per annum. If the Employee has regularly worked more than their contract hours in the preceding six (6) months, such contract hours shall be adjusted by HammondCare to reflect the hours regularly worked by the Employee, provided that any adjustment reflects roster cycles, Employee availability and shift configurations utilised at the workplace.
  - (ii) HammondCare will not be required to adjust the Employee's contract hours if the Employee has been working additional hours above their contracted hours as a result of the following:
    - A. the increase in hours is as a direct result on another Employee being absent on leave, for example, annual leave, long service leave, parental leave, workers' compensation, approved extended unpaid leave; and/or
    - B. the increase in hours is temporary due, for example, to the specific needs of a resident or client.
  - (iii) In addition to the matters listed in clause 9.3(h)(ii), changes to hours may be affected by:
    - A. continuity of funding;
    - B. client and resident numbers; and
    - C. in the case of HammondCare at Home Employees, client preferences for services, including their ability to choose particular care workers.
  - (iv) Any changes to the Employee's hours as a result of this clause 9.3(h) will be by mutual agreement between HammondCare and the Employee.

#### 9.4 Casual Employees

- (a) A Casual Employee is an Employee engaged as a casual employee as defined in the Act.
- (b) A Casual Employee will be paid the base rate of pay as set out in **Annexure 1** for the level at which they are employed, plus a casual loading of twenty-five (25) percent of that amount in compensation for annual leave, paid personal leave, paid carer's leave, paid compassionate leave and redundancy payments not received by Casual Employees.
- (c) Right to Request Casual Conversion  
Offers and requests for conversion from casual employment to full-time or part-time employment are provided for in the NES, and will apply to Employees who have been employed by HammondCare for at least six (6) months.

## 9.5 Temporary Employees

- (a) Fixed-term, maximum-term or task contracts of employment may be offered when the need for a genuine temporary arrangement is required to meet the requirements of HammondCare, which may include but are not limited to, covering Employee absences on parental leave, limited term funding arrangements, long term relief (such as covering an extended period of leave without pay) or known future service reductions.
- (b) Applicants will be advised in writing prior to accepting a position that it is temporary, the expected length of the appointment and the reason why it is temporary.

## 10. Termination of Employment

### 10.1 Minimum Employment Period

- (a) Unless waived or reduced by HammondCare in writing, a probationary period of six (6) months applies to all Full-time and Part-time Employees.
- (b) If a Casual Employee is offered employment as a Full-time or Part-time Employee, and that Casual Employee has not yet completed six (6) months of service with HammondCare, a probationary period equivalent to the difference between the amount of time the Casual Employee has worked for HammondCare and six (6) months, will apply.
- (c) During the probationary period, the employment of a Full-time or Part-time Employee may be terminated by either party by giving one (1) week's notice, or at HammondCare's discretion, by making a payment in lieu of notice.

### 10.2 Notice of Termination

- (a) Except as outlined in clause 10.1 and 10.2, the employment of a Full-time or Part-time Employee may be terminated by either party by giving notice to the other party as set out in clauses 10.2(b) and 10.2(c) or at HammondCare's discretion, by making payment in lieu of notice, or by giving part notice and part payment in lieu of notice, or forfeiture of the equivalent wages in lieu of notice.
- (b) Period of Notice

Period of Continuous Service	Notice Period
1 year or less	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

- (c) In addition to the notice periods specified in clause 10.2(b), Employees aged over forty-five (45) years who have completed two (2) years or more continuous service are entitled to one (1) additional week's notice from HammondCare.

- (d) HammondCare may dismiss an Employee without notice for Serious Misconduct that justifies instant dismissal. In such circumstances, the Employee will not be entitled to notice, or any payment in lieu of notice.
- (e) If HammondCare has given notice to an Employee, that Employee will remain in HammondCare's employment until the date of expiration of that notice, unless HammondCare elects to provide payment in lieu of notice.
- (f) If an Employee has given notice to HammondCare and both parties agree to the employment ending before the end of the notice period, wages will be paid only up to the agreed date the employment ends.

### 10.3 Forfeiture

If an Employee fails to give notice in accordance with clause 10.2 or fails to work out the notice period, the Employee will not be paid for the period of notice not worked.

### 10.4 Leave During Notice Period

- (a) Where either party has given notice of termination of employment, the Employee will not be entitled to paid personal/carer's leave during the notice period without a valid medical certificate.
- (b) HammondCare will not unreasonably refuse requests for annual leave during the notice period, provided that the reasons for the request are provided to HammondCare in writing for consideration. HammondCare will notify the Employee of its decision as soon as reasonably practicable.
- (c) Where HammondCare has given notice of termination to an Employee within this **clause 10 – Termination of Employment**, the Employee will be allowed to take time off up to the equivalent of one (1) working day without loss of pay for the purpose of seeking other employment. This time will be taken at times mutually convenient to the Employee and HammondCare.

### 10.5 Statement of Service

On termination of employment HammondCare will, at the request of the Employee, provide the Employee with a statement signed by HammondCare stating the period of employment, the Employee's classification and when the employment terminated.

## 11. Redundancy

### 11.1 Application

Clause 11 will:

- (a) apply in respect of Full-time Employees and Part-time Employees;
- (b) not apply where employment is terminated because of conduct that justifies dismissal including malingering, inefficiency, or neglect of duty; and
- (c) not apply in the case of Casual Employees or Temporary Employees engaged for a specific period or for a specified task.

11.2 An Employee's entitlement to redundancy is provided for in the NES, except for the provisions in this clause 11.



### 11.3 Redundancy Pay

- (a) In addition to the period of notice required for ordinary termination in clause 10.2, HammondCare will pay redundancy pay as follows in respect of the Employee's continuous period of service:

Period of Continuous Service	Under 45 years of age	45 years of age and over
Less than 1 year	NIL	NIL
1 year but less than 2 years	4 weeks' pay	5 weeks' pay
2 years but less than 3 years	7 weeks' pay	8.75 weeks' pay
3 years but less than 4 years	10 weeks' pay	12.5 weeks' pay
4 years but less than 5 years	12 weeks' pay	15 weeks' pay
5 years but less than 6 years	14 weeks' pay	17.5 weeks' pay
6 years and over	16 weeks' pay	20 weeks' pay

"Weeks' pay" means the Employee's base rate of pay at the date of termination, and will include over-Agreement payments, shift and weekend penalties and the in-charge allowance (if applicable).

### 11.4 Transfer to Lower Paid Duties

If HammondCare and an Employee mutually agree that the Employee is to be transferred to lower paid duties for reasons set out in clause 7.1(a), HammondCare will give the Employee the same period of notice the Employee would have been entitled to if their employment had been terminated. HammondCare may, at HammondCare's discretion, make payment in lieu of notice of an amount equal to the difference between the Employee's former ordinary rate of pay (including applicable shift and weekend penalty rates) for the Employee's ordinary hours and the Employee's new ordinary rate of pay.

### 11.5 Time off During the Notice Period

- (a) Where HammondCare has given notice of termination within this **clause 11 – Redundancy**, an Employee will be allowed to take time off up to the equivalent of one (1) working day without loss of pay each week of the notice period for the purpose of seeking other employment.
- (b) The time off provided for in clause 11.5(a) will be taken at times mutually convenient to the Employee and HammondCare.

## PART D – HOURS OF WORK AND RELATED MATTERS

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### 12. Hours of Work

#### 12.1 Ordinary Hours of Work

- (a) A Full-time Employee's ordinary hours of work will be seventy-six (76) hours per fortnight. The ordinary hours of work for Part-time and Casual Employees will be in accordance with **clause 9 – Types of Employment**.
- (b) Ordinary hours each day are continuous except for unpaid meal breaks and when worked as part of a Broken Shift.

#### 12.2 Arrangement of Hours

##### (a) HammondCare at Home Employees

The ordinary hours of work for HammondCare at Home Employees classified according to clause **52 - Classifications** is exclusive of meal breaks. The ordinary hours of work for day workers will be worked on any day from Monday to Sunday between 6:00am and 8:00pm.

##### (b) Residential Specialised Dementia Carers, Care Service Employees and Nursing Employees

The ordinary hours of work for Specialised Dementia Carers, Care Service Employees and Nursing Employees classified according to clause **52 - Classifications** is exclusive of meal breaks. The ordinary hours of work for day workers will be worked on any day from Monday to Friday between 6:00am and 6:00pm.

- (c) Hours of work will be arranged so that each Employee will not work their ordinary hours on more than ten (10) days in the fortnight.
- (d) Each day shift will be a maximum of eight (8) ordinary hours, or by mutual agreement, ten hours. Each night shift will be a maximum of ten (10) ordinary hours.
- (e) There will be a minimum break of ten (10) hours between ordinary rostered shifts. This may be reduced to eight (8) hours by mutual agreement.
- (f) An Employee will not work more than seven (7) consecutive shifts unless the Employee requests and HammondCare agrees.

### 13. Minimum Hours

13.1 Full-time Employees will be paid for a minimum of four (4) hours each start.

13.2 Part-time Employees and Casual Employees will be paid for a minimum of two (2) hours each start.

### 14. Roster of Hours

14.1 At least two (2) weeks before the first working period in a roster, HammondCare will make that roster available to Employees. The roster will show the ordinary hours of work for each Employee. Rosters may be made available to Employees via telephone, including via SMS, mobile applications, direct contact, mail, email, or other electronic

means. If HammondCare has provided Employees with a smartphone, Employees will access their roster via that smartphone.

- 14.2 Part-time Employees will be rostered in accordance with clause 9.3(b) of this Agreement, taking into consideration their availability and operational need.
- 14.3 If a Full-time Employee has ordinary hours of work arranged to include an ADO in accordance with **clause 19 Allocated Day Off**, that ADO will be shown on the roster for that Employee.
- 14.4 The roster may be altered to enable continuity of HammondCare's services if there are urgent or unexpected resident/client changes, or if an Employee is absent for illness or emergency, or to facilitate an agreed shift swap. In these circumstances, the following will apply:
- (a) If such an alteration requires a Full-time Employee to work on a day they were not originally rostered to work, that Employee may elect to be paid at overtime rates or take time off in lieu. Time off in lieu will be taken on a day mutually agreed between HammondCare and the Employee and taken in accordance with **clause 28.2 Time off in Lieu of Payment of Overtime**.
- 14.5 Cancellation
- (a) If a client cancels a service more than seven (7) days before the scheduled service, HammondCare may amend an Employee's roster to ensure the Employee continues to be offered their minimum contracted hours for the pay period, which may be offered and made up by working with other HammondCare At Home clients, including social clubs and respite services, Residential facilities, or any other work the Employee is appropriately skilled to perform.
- (b) If a client cancels a service within seven (7) days of the scheduled service, the following will apply:
- (i) Client cancellation before 5pm the day prior to the scheduled service:
- A. HammondCare may direct the Employee to perform other work during the hours the Employee was rostered to work; or
- B. HammondCare may cancel the rostered shift, or part of the rostered shift, and direct the Employee to perform other work at a time mutually agreed with the Employee within that pay period to ensure the Employee works their minimum contracted hours within that pay period. If no mutually agreeable time can be found within that pay period, HammondCare may direct the Employee to work make-up time within six (6) weeks of the date of the cancelled service. HammondCare must provide the Employee with seven (7) days' notice of the requirement to work make-up time.
- C. For the purposes of clause 14.5(b)(i)(B), other work may include working with other HammondCare clients, including social clubs and respite services, within a Residential Care Home, or any other work the Employee is appropriately skilled to perform.
- (ii) Client cancellation after 5pm the day prior to the scheduled service:

- A. HammondCare may endeavour to reach mutual agreement with the Employee to perform other work during the hours the Employee was rostered to work, or within the relevant pay period; or
  - B. if no mutually agreeable time can be found within that pay period, HammondCare will pay the Employee for the work the Employee would have performed had the cancellation not occurred.
- (iii) In all circumstances, the Employee will be paid for the work they would have performed in connection with the cancelled service in the pay period in which the service was originally scheduled as though the cancellation had not occurred. In the event an Employee agrees or is directed to perform alternative work and that work attracts a higher rate of pay (for example a shift allowance, weekend penalty or public holiday penalty) any additional payment will be paid in the pay period in which the alternate work is performed.

For the purposes of this clause 14.5(b), other work may include working with other HammondCare clients, including social clubs and respite services, at Residential facilities, or any other work the Employee is appropriately skilled to perform.

## **15. Breaks**

### **15.1 Meal Breaks**

- (a) Employees rostered to work for six (6) hours or more in a shift are entitled to an unpaid meal break of not more than one (1) hour, but not less than thirty (30) minutes. If an Employee works more than ten (10) hours in a shift, they are entitled to an unpaid meal break of one (1) hour.
- (b) An Employee rostered for six (6) hours or less may choose to forego the unpaid meal break in clause 15.1(a) with approval from HammondCare.
- (c) HammondCare will consult with Employees to ensure a meal break is able to be taken within the six (6) hour shift. Employees may also discuss their meal break arrangements with their manager or supervisor. HammondCare may stagger meal breaks to meet operational needs.
- (d) Unpaid meal breaks do not count as time worked.
- (e) An Employee who is required to work overtime for more than two (2) hours, and that overtime goes beyond 7:00am, 1:00pm and 6:00pm will be supplied with a meal at no cost to the Employee. A monetary allowance will not be paid in place of a meal.
- (f) If a Residential Care Home Employee is directed to remain with a resident during their meal break, the Employee will be provided with a meal at no cost to the Employee. The Employee will be paid for their meal break at their base rate of pay plus applicable loadings and/or shift penalties.
- (g) HammondCare may, for operational reasons, direct an Employee to be on standby or to have a provided meal with a client/ resident during their meal break. The Employee will be paid for their meal break at their base rate of pay plus applicable loadings and/or shift penalties for every day or shift that this occurs.

- (h) Paid meal breaks in clauses 15.1(f) and 15.1(g) will be counted as time worked.
- (i) Other than in circumstances under clause 15.1(f) and 15.1(g), if an Employee is entitled to a meal break and is required to work without a meal break commencing within six (6) hours, they will be paid at the applicable overtime rate for the time worked until the meal break is taken, or the shift ends.

## 15.2 Tea Breaks

- (a) Employees rostered to work 7.6 hours or more in a continuous shift will be entitled to two (2) paid tea breaks of ten (10) minutes each.
- (b) Employees rostered to work less than 7.6 hours in a continuous shift will be entitled to one (1) ten (10) minute paid tea break for every four (4) hours worked. For HammondCare at Home Employees working a broken shift, the entitlement to a tea break will be to one (1) ten (10) minute paid break for every four (4) hour engagement as defined in clause 16(e) of this Agreement.
- (c) Paid tea breaks will count as time worked.
- (d) Tea breaks may not be taken immediately before or immediately after a paid or unpaid meal break without approval from HammondCare in advance.
- (e) By mutual agreement between the Employee and HammondCare, an Employee entitled to two (2) paid tea breaks may combine their break and take it as single twenty (20) minute paid tea break.
- (f) To ensure a tea break is taken, HammondCare at Home Employees will have tea breaks noted in their daily schedule. A tea break may be incorporated into travel time between clients, provided that the allocated travel time satisfies the expected travel time and the minimum time the Employee is entitled to for their tea break.

## 16. Broken Shifts

- (a) HammondCare at Home Employees may be required to work broken shifts to meet operational and client needs. Residential Care Home Employees other than Employees in nursing classifications may reach mutual agreement with HammondCare to work broken shifts. Residential Care Home Employees in nursing classifications will not be requested or required to work broken shifts.
- (b) Broken Shift means a shift worked by a Full-time Employee or Part-time Employee that includes one (1) or two (2) unpaid breaks of more than sixty (60) minutes other than meal breaks. For the avoidance of uncertainty, travel time paid in accordance with **clause 20 – Attendance at Training and Meetings and/or clause 25.1 – Travel Expenses** of this, is not included in calculating unpaid breaks of more than sixty (60) minutes.
- (c) Where the Broken Shift includes more than one (1) unpaid break of more than sixty (60) minutes (other than a meal break and excluding paid travel time), HammondCare and the Employee must agree that the Employee will work a Broken Shift with two (2) unpaid breaks before each occasion the Employee is to work such a shift, unless the Broken Shift is part of an agreed regular pattern of work under clause 9.1(a)(ii).

- (d) The maximum spread between the start of the first period of duty and the end of the last period of duty for a Broken Shift is twelve (12) hours. All work performed beyond a span of twelve (12) hours will be paid at double ordinary time.
- (e) Employees working a Broken Shift will be paid a minimum of two (2) hours for each Engagement. Engagement means time worked with a client/resident together with the time taken to travel between clients/residents, paid meal breaks, tea breaks and overtime worked. An Employee can work more than one Engagement in a day when a Broken Shift occurs.
- (f) There will be a minimum break of ten (10) hours between Broken Shifts rostered on consecutive days, unless mutually agreed in writing by the Employee and HammondCare, or if the shifts are associated with a Sleepover, under **clause 17 - Sleepover**.
- (g) If an Employee works a Broken Shift, they will be paid the allowance set out in **Annexure 1 – Broken Shift Allowance**.
- (h) Payment for a Broken Shift will be at the base rate of pay with applicable loadings, penalty rates and shift allowances for the time worked, provided that shift allowances are only payable in respect of periods of work in a Broken Shift that fall within an afternoon shift, night shift and/or public holiday shift as defined in **clause 25.3 – Shift Allowances**.

## 17. Sleepover

17.1 Employees may undertake Sleepovers by mutual agreement.

17.2 Sleepover means:

- (a) sleeping overnight in a Residential Care Home; or
- (b) at the premises of the client/resident for whom the Employee is responsible; in order to be on call for emergencies.

17.3 The following conditions apply to each night of Sleepover:

- (a) The span for a Sleepover will be more than eight (8) hours and less than ten (10) hours on any night.
- (b) An Employee will be provided with free board and lodging for each night of Sleepover.
- (c) An Employee will be provided with a separate room with a bed and use of staff or client facilities where applicable.
- (d) In addition to the provision of free board and lodging referred to in clause 17.3(b), the Employee will be paid the Sleepover Allowance as set out in **Annexure 1 – Sleepover Allowance**.
- (e) Casual Employees may only be used for Sleepovers when Full-time Employees or Part-time Employees are not available for that duty. In no case will Casual Employees be used exclusively, or almost exclusively, for Sleepovers.
- (f) No work other than that of an emergency nature will be required to be performed during any sleepover. For the purposes of this clause an emergency is any unplanned occurrence or event requiring prompt action.

- (g) For Residential Care Home Employees, an Employee directed to perform work other than that of an emergency nature will be paid the appropriate hourly rate set out in clause 17.3(h) from the start of the Sleepover to the end of the non-emergency work, or from the start of the non-emergency work to the end of the Sleepover, whichever is the lesser, in addition to the Sleepover Allowance in clause 17.3(d).
- (h) For Residential Care Home Employees, all time worked during a Sleepover will count as time worked, and be paid as follows:
  - (i) all time worked by Full-time Employees during any Sleepover will be paid at overtime rates.
  - (ii) all time worked by Part-time Employees during any Sleepover will be paid at the Employee's base rate of pay plus any applicable shift and weekend penalties, except if the total number of hours worked on that day exceeds the number of hours worked by Full-time Employees, or ten (10) hours if there are no Full-time Employees. In this case, the excess hours worked on that day will be paid at overtime rates. Further, if the total number of hours worked exceeds seventy-six (76) hours in the fortnight, the excess hours worked in that fortnight will be paid at overtime rates.
  - (iii) all time worked by Casual Employees during any Sleepover will be paid at the base rate of pay plus applicable shift and weekend penalties, except that if the total number of hours worked exceeds seventy-six (76) hours in the fortnight the excess hours worked in the fortnight will be paid at overtime rates.
- (i) HammondCare at Home Employees directed to perform work other than that of an emergency nature will be paid for the time worked at the prescribed overtime rate with a minimum payment of one (1) hour. If the work exceeds one (1) hour, payment will be made at the prescribed overtime rate for the duration of the work.
- (j) HammondCare at Home Employees rostered to perform work immediately before, and/or immediately after the Sleepover period, must be rostered for a minimum of four (4) hours in total for one or more of these periods of work.
- (k) If an Employee performs so much work during a Sleepover period that they will not have eight (8) consecutive hours' break between the completion of their ordinary work on one day and the commencement of their ordinary work on the next day or shift, they must be released from duty without loss of pay until they have had eight (8) consecutive hours off duty.
- (l) A Sleepover may only be rostered to commence immediately at the conclusion of an Employee's shift and continuous with that shift, and/or immediately prior to an Employee's shift and continuous with that shift.
- (m) An employee will not be required to Sleepover during any part of their rostered days off or ADO.
- (n) Nothing in this **clause 17 – Sleepover** will preclude HammondCare from rostering an Employee to work shiftwork instead of undertaking Sleepovers.

## **18. Live-in Home Carer**

- 18.1 The provisions of this clause 18 are in substitution for, and not cumulative upon, **clause 12 – Hours of Work, clause 28 – Overtime, clause 25.3 – Shift Allowances, clause 26 – Saturday and Sunday Penalty Rates and clause 41 – Public Holidays.**
- 18.2 Live-in Home Carer means an Employee who has mutually agreed with HammondCare to live at a client’s home for a period of twenty-four (24) hours or more and is on-call for non-scheduled work and to perform personal care and/or housekeeping duties during the live-in period. Employees will be required to work a total of no more than eight (8) ordinary hours during this period.
- 18.3 Employees performing the duties of a Live-in Home Carer will be provided with full board and lodging, including a separate room with a bed. In addition, Live-In Home Carers will be paid the allowance in **Annexure 1** while staying at a client’s home between 10:00pm and 6:00am. This allowance is paid in substitution for the Sleepover Allowance in **clause 17 – Sleepover.**
- 18.4 Hours worked at a client’s home between 6:00am and 8:00pm will be paid at the Employee’s base hourly rate up to a maximum of eight (8) ordinary hours per day. Hours worked at a client’s home between 8:00pm and 10:00pm will be paid at the Employee’s base hourly rate plus a thirty (30) percent loading.
- 18.5 If an Employee is required to perform more than eight (8) hours of work during a twenty-four (24) hour period, that work will be treated as overtime and paid at the rate of time and half for the first two (2) hours and double time thereafter, except on Sunday when the overtime rate will be double-time and on public holidays when the overtime rate will be double time and a half.
- 18.6 An Employee working as a Live-in Home Carer for five (5) consecutive days will be entitled to two (2) days off, paid at the Employee’s base rate of pay. An Employee may accumulate a maximum of six (6) paid days off, which must be taken at the conclusion of their live-in duty.

## **19. Allocated Day Off (ADO)**

- 19.1 This clause 19 applies to Full-time Employees only.
- 19.2 ADO means a paid day off for Full-time Employees whose ordinary hours of work are arranged as one hundred and fifty-two (152) hours in a twenty-eight (28) calendar-day cycle so that each Employee will not:
- (a) work their ordinary hours on more than nineteen (19) days in each twenty-eight (28) calendar-day cycle (for a regular shift length of eight (8) hours); or
  - (b) work their ordinary hours on more than twenty-three (23) days in each twenty-eight (28) calendar-day cycle (for a regular shift length of ten (10) hours).
- 19.3 An ADO will not be rostered on a public holiday.
- 19.4 The taking of an ADO will be determined by mutual agreement between HammondCare and the Employee.
- 19.5 An Employee may, by mutual agreement with HammondCare, accumulate up to five (5) ADOs to be taken in conjunction with annual leave, or at another agreed time.
- 19.6 Time towards an ADO will not accumulate during any period(s) of workers’ compensation, parental leave (whether paid or unpaid), long service leave, annual



leave or any other form of paid or unpaid leave, with the exception of paid personal/carer's leave.

- 19.7 An Employee may request to be paid an amount equivalent to the value of the accrued ADO(s) instead of taking those days off. This request must be in writing, specifying the number of ADOs to be paid, with a minimum of two (2) weeks' notice before the Employee expects to receive such payment.
- 19.8 If an Employee's ADO balance is greater than five (5) days, HammondCare may, at its discretion, require the Employee to:
- (a) take the ADOs in conjunction with any scheduled annual leave; or
  - (b) be paid out the ADOs.
- 19.9 An Employee must take an ADO within twelve (12) months of accruing it. If twelve (12) months has passed since accrual, and an Employee has not taken the ADO, HammondCare may, at its discretion pay out the ADO.
- 19.10 Where an Employee's employment terminates for any reason, accumulated ADOs will be paid to the Employee at the Employee's base rate of pay.

## **20. Attendance at Training and Meetings**

- 20.1 HammondCare endeavours to schedule mandatory training and meetings during ordinary hours of work. If an Employee is required by HammondCare to attend training, registration, or meetings for work-related purposes at times outside the Employee's rostered ordinary hours of work, that Employee will receive their base rate of pay per hour for the actual time spent in attendance at such activities, provided that:
- (a) time spent attending the activities referred to in this clause 20.1 will not be viewed as overtime unless the attendance results in the Employee working more than seventy-six (76) hours in a fortnight;
  - (b) subject to clause 20.1 (c), an Employee will be entitled to receive a minimum of two (2) hours pay for any period they attend the activities referred to in this clause 20.1 unless the activity takes place immediately before or after a rostered shift, in which case, Employees shall be paid for time spent attending the activities;
  - (c) participation in assigned eLearning modules shall be paid for the recommended timing or fifteen (15) minutes per subject or sub-unit (however described), whichever is the higher, provided that where an Employee is afforded time to complete such modules during their ordinary working hours but instead elects to complete such training at home or otherwise out of working hours, the Employee shall not be entitled to payment for time attending to such training;
  - (d) with agreement from HammondCare, a Residential Care Home Employee may elect to take time off in lieu of payment for a period equivalent to the time the activity was attended by the Employee.
- 20.2 A Residential Care Home Employee will be reimbursed for all reasonable travel expenses actually incurred in attending training that is not held at the Employee's regular work location.

- 20.3 If a HammondCare at Home Employee is not at work and is required by HammondCare to attend mandatory meetings or training at their service office or an alternate location, and the Employee is required to use their private vehicle for such attendance, the Employee will be reimbursed for all reasonable travel expenses actually incurred in attending training.
- 20.4 Notwithstanding the above, if an Employee is invited and chooses to attend, the workplace to participate in non-compulsory local events such as Reward and Recognition, Employees will be paid their base rate of pay for the time spent in attendance at these events. The Employee will not be entitled to any other allowance or penalty for attendance.

**21. Stand Down**

HammondCare is committed to maintaining employment for its Employees. Despite this, there may be circumstances that necessitate the stand down of an Employee where, in the opinion of HammondCare, the Employee cannot be usefully employed because of any:

- (a) stoppage of work for any cause for which HammondCare cannot reasonably be held responsible; or
- (b) other circumstances provided for in s.524 and s.525 of the Act.

## PART E – PAYMENT OF WAGES AND RELATED MATTERS

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### 22. Payment of Wages

- 22.1 Employees will be paid the Base Rates of Pay set out in **Annexure 1**.
- 22.2 Wages will be paid fortnightly on a Thursday by electronic funds transfer into an account nominated by the Employee. HammondCare will provide Employees with a minimum of four (4) weeks' notice of any change to the day wages are paid.
- 22.3 If HammondCare has overpaid an Employee, the Employee will be notified in writing of any such overpayment and provided details sufficient to establish that an overpayment has occurred. Following this written notice, the Employee and HammondCare will meet to determine a reasonable repayment schedule. This repayment schedule will be confirmed in writing with the Employee. HammondCare may take appropriate action available at law to recover such overpayment.
- 22.4 If HammondCare has underpaid an Employee, once notified HammondCare will rectify the confirmed underpayment as soon as reasonably practicable. By mutual agreement in writing, HammondCare may make payment to rectify the error in the next available adjustment payment run, or the next fortnightly pay. In the absence of mutual agreement, payment will be made no later than close of business the following working day.
- 22.5 To the extent permitted by s.324 and s.326 of the Act, and with agreement from an Employee, HammondCare may make pay deductions.

### 23. Superannuation

- 23.1 HammondCare will make superannuation contributions as required by law into the Employee's nominated fund. If the Employee does not choose a fund in accordance with legislation, HammondCare will make contributions into:
- (a) the Employee's stapled fund; or
  - (b) if the Australian Taxation Office (ATO) does not identify a stapled fund for the Employee, to the Health Employees Superannuation Trust Australia (HESTA).
- 23.2 Superannuation contributions form part of an Employee's total remuneration package and are calculated based on an Employee's ordinary time earnings as defined by the ATO.

### 24. Remuneration (Salary) Packaging Benefits

- (a) HammondCare may wish to facilitate the provision of salary packaging benefits to individual Employees covered by this Agreement. Nothing in this clause 24 places any obligation on an Employee to enter a salary packaging arrangement.
- (b) For the purposes of this clause 24:
  - (i) 'Benefits' means the benefits nominated by the Employee from the benefits listed in clause 24(d)(iii).
  - (ii) 'Benefit Value' means the amount specified as the cost to HammondCare of the Benefit provided, including Fringe Benefits Tax, if any.
  - (iii) 'Fringe Benefits Tax' means tax imposed by the *Fringe Benefits Tax Act 1986* (Cth).

- (c) Except as provided by this clause 24, an Employee covered by this Agreement must be paid a Base Rate of Pay and otherwise provided terms and conditions of employment, that are not less than those required by this Agreement.
- (d) HammondCare may offer, and the Employee may agree in writing to accept:
  - (i) the Benefits nominated by the Employee; and
  - (ii) a salary equal to the difference between the Benefit Value and the salary that would have applied to the Employee under clause 24(c) had the Employee not entered into a remuneration packaging agreement.
  - (iii) the available Benefits are:
    - A. superannuation (other than the minimum superannuation required to be paid in accordance with clause 23 of this Agreement;
    - B. other salary packaging benefits offered by HammondCare from time to time.
- (e) HammondCare will advise the Employee of the Benefit Value before the remuneration packaging agreement is entered into.
- (f) Employees should seek independent financial advice before entering a salary packaging arrangement.
- (g) Nothing in this Agreement requires HammondCare to continue to offer remuneration packaging where changes to existing taxation law impacts the provision of salary packaging. HammondCare will provide Employees with three (3) months' notice of any change or cancellation of available salary packaging arrangements, unless the changes to taxation law require a shorter period of notice.

## 25. Allowances and Other Conditions

### 25.1 Travel Expenses

- (a) If an Employee is required to use their private motor vehicle on HammondCare business, they will be paid the Vehicle Allowance set out in **Annexure 1**.
- (b) An Employee who is required to use public transport on HammondCare business will be reimbursed by HammondCare for actual expenses incurred by the Employee on provision of receipts for all expenses claimed.
- (c) For the purpose of clauses 25.1(a) and (b) of this Agreement, travel on "HammondCare business" means:
  - (i) travel between consecutive clients/residents (excluding clients either side of a break in a Broken Shift);
  - (ii) travel associated with pre-approved social outings with clients/residents, including in the course of providing domestic assistance to a client or resident; and
  - (iii) Extended Employee Travel.
- (d) Extended Employee Travel in clause 25.1(c) of this Agreement means travel in excess of forty (40) kilometres by a HammondCare at Home Employee:
  - (i) from the Employee's usual place of residence to their first place of work on a day or shift; and/or

- (ii) returning to the Employee's usual place of residence following the completion of the Employee's last duties on a day or shift.

In calculating travel by a HammondCare at Home Employee on a day or shift:

- (iii) kilometres travelled on each journey will be calculated separately and will not accumulate over the duration of a day or shift. For example, if an Employee travels thirty (30) kilometres from their usual place of residence to their first place of work and then travels twenty (20) kilometres on their return journey home following the completion of their last duties, the Employee will not be entitled to be paid the Vehicle Allowance in clause 25.1(a); and
- (iv) only those kilometres in excess of forty (40) kilometres per journey will attract payment of the Vehicle Allowance in clause 25.1(a). For example, if an Employee travels fifty-five (55) kilometres from their usual place of residence to their first place of work, the Vehicle Allowance will be paid on fifteen (15) kilometres of travel only; and
- (v) the Vehicle Allowance in clause 25.1(a) will be paid on travel up to a maximum of eighty (80) kilometres per journey.

(e) Travel on "HammondCare business" does not include:

- (i) except as provided in clause 25.1(c)(iii) and (d) of this Agreement, travel from the Employee's usual place of residence to their first place of work/HammondCare premises and/or the return journey to the Employee's usual place of residence following completion of the Employee's last duties on a day or shift; and
- (ii) travel during a break in a Broken Shift.

(f) If an Employee is rostered to work with consecutive clients/residents (excluding clients either side of a break in a broken shift), they will be paid the applicable hourly rate for all time spent travelling or allocated by HammondCare (whichever is the greater) between consecutive clients/residents. This excludes:

- (i) travel from the Employee's usual place of residence to their first place of work/HammondCare premises; and
- (ii) the return journey to the Employee's usual place of residence following completion of the Employee's last duties on a day or shift.

Time travelled/allocated by HammondCare will form part of the Employee's minimum contracted hours of work.

(g) If an Employee is requested by HammondCare to attend a client visit in extraordinary circumstances, including but not limited to requiring travel in excess of eighty (80) kilometres from their usual place of residence per journey, the exclusions in clause 25.1(f) may be waived by HammondCare at its discretion and HammondCare may decide, based on the merits of each situation, to pay the Vehicle Allowance and/or travel time to and from the client/work location, or to provide alternative vehicle support to the

Employee. An Employee may make a request for the application of this clause 25.1(g) with their Manager, with assistance from the People Team if required.

- (h) If an Employee is required to travel from their usual place of residence to attend mandatory training and/or meetings, **clause 20 – Attendance at Training and Meetings** will apply. In this instance, Employees will be paid in accordance with this clause 25 or clause 20 of this Agreement, but not both.
- (i) Employees must advise HammondCare Payroll and their Manager of any change to their usual place of residence within seven (7) days of the Employee changing address.

#### 25.2 Meal and Out-of-Pocket Expenses

HammondCare will reimburse pre-approved meals and reasonably incurred out-of-pocket expenses arising from approved social outings with clients/residents on provision of receipts for all expenses claimed. The client/resident, or the client/resident program and not HammondCare, is to cover the client/resident's expenses.

*Examples of out-of-pocket and meal expenses include movie or theatre entrance fees or the cost of a coffee for the Employee.*

#### 25.3 Shift Allowances

- (a) Residential Care Home Employees
  - (i) Full-time Employees will be paid shift allowances in addition to their Base Rate of Pay for shifts rostered to commence as follows:

Shift Commencement	Allowance
At or after 10:00am and before 1:00pm	10%
At or after 1:00pm and before 4:00pm	12.5%
At or after 4:00pm and before 4:00am	15%
At or after 4:00am and before 6:00am	10%

- (ii) Part-time Employees and Casual Employees will only be entitled to the allowances in clause 25.3(a)(i) if their shift commences before 6:00am or finishes after 6:00pm.
  - (b) HammondCare at Home Employees  
Employees will be paid a shift allowance of thirty (30) percent for all hours worked outside of the ordinary hours outlined in clause 12.2(a).
  - (c) Casual Employees  
Casual Employees will be entitled to shift allowances in addition to the casual loading. The shift allowance is not calculated on the casual loading.

#### 25.4 Uniforms and Personal Protective Clothing

Generally, Employees will not be required to wear uniforms. If an Employee's duties require them to work in a hazardous situation they will be provided with appropriate protective clothing.

## 25.5 In-Charge Allowance (Residential Care Homes)

- (a) If a Registered Nurse is designated as In-Charge during their whole shift on a day, evening, or night in a Residential Care Home, they will be paid the per shift allowance in **Annexure 1**.
- (b) If a Registered Nurse is designated as In-Charge for at least half of their shift on a day, evening, or night in a Residential Care Home, they will be paid the per shift allowance in **Annexure 1**.
- (c) 'In-Charge' means a Registered Nurse designated by HammondCare to make clinical decisions in the absence of a Residential Manager, After-Hours Coordinator or other appropriately senior clinical decision-maker.

## 25.6 On-Call Allowance

- (a) If an Employee is required by HammondCare to be On-Call, they will be paid the allowance in **Annexure 1** for each 12-hour period (or part of a 12-hour period).
- (b) If an On-Call Employee is required to return to a Residential Care Home as part of their on-call arrangement, **clause 28.4 – Recall** will apply.
- (c) If an On-Call Employee can resolve a matter appropriately by telephone or other electronic communication without needing to return to a Residential Care Home, they will be paid a minimum of one (1) hour at the applicable overtime rate in addition to the on-call allowance. Any telephone calls or other electronic communication after the first disturbance will be paid at the applicable overtime rate for the actual time worked in resolving a matter, rounded to the nearest fifteen (15) minutes.
- (d) 'On-Call' means an arrangement whereby the Employee agrees to make themselves ready and available to return to their place of work at short notice whilst off-duty.

## 25.7 Residential Care Home Employee Working Alone

- (a) HammondCare endeavours to roster Residential Care Home Employees in a manner that does not require any Employee to work alone in a cottage or other area of the Residential Care Home taking into consideration Employee safety and the delivery of quality care.
- (b) Where a Residential Care Home Employee is designated by HammondCare as working alone in a cottage or other area of a Residential Care Home for more than half of a rostered day or afternoon shift, they will be paid the Working Alone Allowance set out in Annexure 1.
- (c) The Working Alone Allowance will not be paid in circumstances where a Residential Care Home Employee works alone in a cottage or other area of a Residential Care Home for half the shift or less, for example, when other Employees are taking an unpaid meal break, or on night shift.

- (d) The Working Alone Allowance will be paid in addition to payment for time worked, including time spent on a meal break with a resident in accordance with clause 15.1(f) of this Agreement.
- (e) An Employee who is eligible to receive the Working Alone Allowance in accordance with this clause may request additional support and/or guidance from their Manager in order to maintain delivery of quality care, Employee safety or in the event of an emergency. Such a request will not affect the Employee's entitlement to be paid the Working Alone Allowance.

## 25.8 Continuing Education Allowance

- (a) This clause 25.8 applies to Nurse classifications in this Agreement. It does not apply to Clinical Nurse Specialists, Clinical Nurse Consultants and Clinical Nurse Educators.
- (b) The allowances in this clause 25.8 are not included in an Employee's Base Rate of Pay. They will not be included in any termination or redundancy payment.
- (c) The allowances in this clause 25.8 will be paid during all periods of paid leave, except long service leave.
- (d) A Registered Nurse or Enrolled Nurse who holds a continuing education qualification in a clinical field (in addition to their qualification leading to registration or enrolment) will be paid the relevant allowance set out in clause 25.8(e), subject to the following:
  - (i) the qualification must be accepted by HammondCare as directly clinically relevant to the skills and competencies required by the Employee to carry out their ordinary duties.
  - (ii) the Employee must provide HammondCare with appropriate evidence of the qualification.
  - (iii) if the Employee holds more than one relevant qualification, they will only be entitled to the payment of one allowance. The applicable allowance will be the one of greater value.
  - (iv) if the Employee is employed on a part-time or casual basis the applicable allowance will be paid on a pro rata basis.
- (e) Subject to clause 25.8(d):
  - (i) A Registered Nurse who holds a relevant postgraduate certificate in a clinical field (not including a hospital certificate) will be paid the weekly allowance in **Annexure 1 – Continuing Education PGC**.
  - (ii) A Registered Nurse who holds a relevant postgraduate diploma or degree in a clinical field will be paid the weekly allowance in **Annexure 1 – Continuing Education PGD**.
  - (iii) A Registered Nurse who holds a relevant master's degree in a clinical field will be paid the weekly allowance in **Annexure 1 – Continuing Education MD**.
  - (iv) A Registered Nurse who holds a relevant doctorate in a clinical field will be paid the weekly allowance in **Annexure 1 – Continuing Education D**.



- (v) An Employee employed as an Enrolled Nurse who holds a Certificate IV qualification in a clinical field (in addition to the minimum qualification required for registration) will be paid the weekly allowance in **Annexure 1 – Continuing Education EN-C**.
- (f) The allowances in this clause 25.8 will increase throughout the nominal term of the Agreement at the same percentage as Base Rates of Pay are increased in this Annexure 1.

**26. Higher Duties**

- (a) An Employee may be required to perform the duties of a higher grade from time to time, provided the Employee has the required skill and competence to perform those duties.
- (b) If an Employee is required to perform such higher duties, they will be paid at the higher rate for:
  - (i) the actual time the higher duties were performed, if two (2) hours or less; or
  - (ii) the full shift if the higher duties were performed for more than two (2) hours.

**27. Saturday and Sunday Penalty Rates**

- (a) If an Employee is required to work ordinary hours on a Saturday or a Sunday, they will be paid the penalty rate set out in the table below. Saturday and Sunday penalty rates are payable on the Base Rate of Pay in substitution for the casual loading in **clause 9.4 – Casual Employees** and the shift allowances in **clause 25.3 – Shift Allowances** unless otherwise stated.

- (i) For work in a Residential Care Home

Employee Classification	Day	Permanent Employees	Casual Employees
Assistant in Nursing	Saturday	150%	150%*
	Sunday	175%	175%*
Enrolled Nurse, Specialised Carer, Services Support Employee, Support Services Team Leader	Saturday	150%	175%
	Sunday	175%	200%
Registered Nurse	Saturday	150%	150%
	Sunday	175%	175%

\*Note: For the purposes of this clause, penalty rates marked with a (\*) will be paid on the casual rate of pay. All other penalty rates will be paid on the Base Rate of Pay.

- (ii) For work in HammondCare at Home

Employee Classification	Day	Permanent Employees	Casual Employees
Specialised Carer	Saturday	150%	175%
	Sunday	200%	225%

## 28. Overtime

### 28.1 Payment of Overtime

- (a) HammondCare may require an Employee to work reasonable overtime. An Employee may refuse to work overtime if the working of that overtime results in the Employee working hours that are unreasonable. What is unreasonable or otherwise will be determined based on:
- (i) any risk to Employee health and safety;
  - (ii) the Employee's personal circumstances including any family or carer responsibilities;
  - (iii) the needs of HammondCare;
  - (iv) the notice (if any) given by HammondCare of the overtime and by the Employee of their intention to refuse it; and
  - (v) any other relevant matter.
- (b) Overtime will be payable:
- (i) if a Full-time Employee works more than their ordinary hours.
  - (ii) if a Part-time Employee is directed by HammondCare to work more than their rostered hours (for the avoidance of uncertainty, overtime shall not be payable in circumstances where a Part-time Employee is offered additional hours and accepts those additional hours in accordance with clauses 9.3(d) and 9.3(e)).
  - (iii) if a Part-time Employee:
    - A. works more than ten (10) hours per shift;
    - B. works more than seventy-six (76) hours per fortnight, if employed on a fortnightly basis;
    - C. works more than one hundred and fifty-two (152) hours per four (4) weekly period, if employed on a four-weekly basis; or
    - D. is directed to work additional hours on a day the Employee is not otherwise rostered to work.
  - (iv) if a Casual Employee:
    - A. works more than ten (10) hours per shift; or
    - B. works more than seventy-six (76) hours per fortnight.
  - (v) if the required break or rest period between shifts set out in **clause 12 – Hours of Work** has not occurred.
- (c) In computing overtime, each day will stand alone. The only exception is if a period of overtime is continuous and extends beyond midnight. In this circumstance, all overtime hours in this period will be regarded as occurring on the one day.

(d) An employee eligible to be paid overtime in accordance with this clause will be paid the penalty rates set out in the table below. Overtime penalty rates are payable on the Base Rate of Pay in substitution for the casual loading in **clause 9.4 – Casual Employees**, the shift allowances in **clause 25.3 – Shift Allowances**, the weekend penalties in **clause 27 – Saturday and Sunday Penalty Rates** and the public holiday penalties in **clause 42.2 – Public Holiday Penalty Rate** unless otherwise stated.

(i) For work in a Residential Care Home

Employee Classification	Day	Permanent Employees	Casual Employees
Assistant in Nursing, Enrolled Nurse	Monday to Saturday First 2 hours	150%	150%*
	Monday to Saturday Thereafter	200%	200%*
	Sunday	200%	200%*
	Public Holiday	250%	250%*
Registered Nurse	Monday to Saturday First 2 hours	150%	
	Monday to Saturday Thereafter	200%	
	Sunday	200%	
	Public Holiday	250%	
Specialised Carer, Services Support Employee, Support Services Team Leader	Monday to Friday First 2 hours	150%	187.5%
	Monday to Friday Thereafter	200%	250%
	Saturday / Sunday	200%	250%
	Public Holiday	250%	312.5%

\*Note: For the purposes of this clause, penalty rates marked with a (\*) will be paid on the casual rate of pay. All other penalty rates will be paid on the base rate of pay.

(ii) For work in HammondCare at Home

Employee Classification	Day	Permanent Employees	Casual Employees
Specialised Carer	Monday to Saturday First 2 hours	150%	175%

	Monday to Saturday Thereafter	200%	225%
	Sunday	200%	225%
	Public Holiday	250%	275%

## 28.2 Time Off in Lieu of Overtime

- (a) By agreement with HammondCare, an Employee may choose to take time off in lieu (**TOIL**) of payment for overtime. This TOIL must be taken at a mutually agreeable time, within twelve (12) months of accrual of the overtime.
- (b) An Employee who has previously elected to take TOIL, but has not yet taken time off, may request at any time to be paid overtime instead of taking TOIL. This payment will be made in the next pay period following the request. This overtime will be paid at the penalty rate applicable to the overtime when worked.
- (c) The period of TOIL that an Employee is entitled to take is equivalent to the overtime payment that would have been made.

*Example: An Employee who works one hour of overtime attracting a penalty rate of double time will be entitled to two hours of TOIL.*

- (d) If the TOIL is not taken within twelve (12) months, or on termination of the Employee's employment (whichever occurs sooner), HammondCare will pay the Employee the overtime at the penalty rate applicable at the time the overtime was worked.
- (e) An Employee cannot be compelled to take TOIL instead of payment for overtime.

## 28.3 Rest Period after Overtime

- (a) If an Employee works so much overtime that they do not have a rest period of at least ten (10) hours between the conclusion of overtime and the commencement of the Employee's next rostered shift, the Employee will be released from duty without loss of ordinary pay until they have had ten (10) consecutive hours off duty.
- (b) If, at the request of HammondCare, an Employee returns to work without having ten (10) hours off duty after working overtime, they will be paid at double time for all hours worked until the commencement of a ten (10) hour break.

## 28.4 Recall

- (a) If a Full-time Employee is recalled to work overtime after leaving their place of work, they will be paid a minimum of four (4) hours at the overtime rate applicable at the time of the recall.
- (b) If a Part-time Employee or Casual Employee is recalled to work overtime after leaving their place of work, they will be paid a minimum of three (3) hours at the overtime rate applicable at the time of the recall.

- (c) If an Employee is recalled to work, HammondCare will reimburse them for all reasonable travel expenses actually incurred due to the recall to work. If an Employee uses their personal motor vehicle, they will be paid the Vehicle Allowance in **Annexure 1**.

**29. Make-up Time**

- (a) With agreement from HammondCare, an Employee may request to work Make-up Time.
- (b) For the purposes of this clause, Make-up Time means an Employee taking time off their ordinary hours to work those hours at a later time, during the spread of ordinary hours contained in this Agreement.
- (c) Make-up Time will be paid at the base rate of pay, except if an Employee on shift work requests, and HammondCare agrees to, Make-up Time. In this circumstance, the Make-up Time will be paid at the shift work rate that would have been applicable to the hours taken off.

## PART F – LEAVE AND PUBLIC HOLIDAYS

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### 30. Annual Leave

#### 30.1 Annual Leave Entitlement

- (a) All Employees, other than Casual Employees, will accrue four (4) weeks of paid annual leave per year of continuous service in accordance with the Act.
- (b) Shift Workers will receive an additional one (1) week of paid annual leave per year of continuous service, meaning they will accrue five (5) weeks of paid annual leave per year of continuous service.
- (c) For the purposes of clause 30.1(b) of this Agreement and the additional one (1) week of annual leave in the NES, Shift Worker means an Employee who:
  - (i) works their ordinary hours outside the hours set out in clauses 12.2(a) and (b); and/or
  - (ii) works more than four (4) ordinary hours on ten (10) or more weekends per annum, where work on a weekend means work performed in ordinary time on a Saturday and/or a Sunday in a single calendar week.
- (d) In addition to clause 30.1(c), in the case of a HammondCare at Home Employee, a Shift Worker also means a live-in home carer who works more than eight (8) twenty-four (24) hour care shifts per annum under clause 18 of this Agreement.

#### 30.2 Taking Annual Leave

- (a) When requesting annual leave, Employees must give four (4) weeks' notice to their Manager. HammondCare may waive the four (4) week notice period at its discretion in the case of extreme or unforeseeable circumstances.
- (b) HammondCare will respond to the request as soon as reasonably practicable, but in any case, within one (1) week of receiving the annual leave request.
- (c) Any request for annual leave will not be unreasonably refused. HammondCare may take into consideration its operational requirements in considering a request for annual leave.
- (d) If a public holiday falls on a day when an Employee is on annual leave, the Employee's absence from work on that public holiday will not be counted as annual leave.
- (e) If an Employee has an annual leave balance of more than eight (8) weeks (or in the case of a Shift Worker, ten (10) weeks) (**Excessive Leave Balance**), HammondCare and the Employee will seek to genuinely reach an agreement on how to reduce or eliminate the Excessive Leave Balance.
- (f) If agreement cannot be reached under clause 30.2(e), HammondCare may direct an Employee with an Excessive Leave Balance to take annual leave provided:
  - (i) any direction to take annual leave cannot result in the Employee having less than six (6) weeks of accrued annual leave remaining;
  - (ii) the Employee is provided with eight (8) weeks' notice of the date the leave is to be taken; and

- (iii) the direction to take leave will not be for a period of less than one (1) week.

### 30.3 Annual Leave Pay Rate

Annual leave will be paid at the Employee's Base Rate of Pay at the time the leave is taken, together with the loading set out in **clause 30.7 – Annual Leave Loading**.

### 30.4 Payment for Annual Leave

An Employee may choose to be paid their annual leave as a lump sum before commencing the period of leave. Annual leave will otherwise be paid via the normal pay cycle during leave.

### 30.5 Cashing Out Annual Leave

- (a) An Employee may cash out an amount of accrued but untaken annual leave provided:
  - (i) the Employee's remaining accrued annual leave entitlement after cashing out is four (4) weeks or more;
  - (ii) the request is made in writing;
  - (iii) HammondCare accepts the request;
  - (iv) the Employee will be paid at least the full amount that would have been payable to them had they taken the leave that they cash out under this clause 30.5; and
  - (v) once cashed out, the Employee will no longer be entitled to the annual leave they have cashed out.
- (b) Any cash out of annual leave will be paid at the Employee's Base Rate of Pay at the time the request is made, together with the loading set out in **clause 30.7 – Annual Leave Loading**.

### 30.6 Payment on Termination of Employment

If an Employee's employment with HammondCare ceases, the Employee will be paid all accrued but untaken annual leave, together with the loading set out in **clause 30.7 – Annual Leave Loading**.

### 30.7 Annual Leave Loading

- (a) Subject to clause 30.7(c), annual leave loading is payable to an Employee in addition to the pay for a period of annual leave taken by the Employee. The loading is 17.5 percent of the Employee's base rate of pay at the time the leave is taken.
- (b) The annual leave loading referred to in clause 30.7(a) will be capped at four (4) weeks annual leave per annum for nursing Employees.
- (c) The Employee will be paid the greater of either the leave loading, or the usual shift allowances and weekend penalties that would have been paid to the Employee had they worked during the period of annual leave. Shift allowances and weekend penalties will not be payable for public holidays that occur during

a period of annual leave, or for days that have been added to annual leave under **clause 42 – Public Holidays**.

### **31. Purchased Additional Annual Leave**

- (a) HammondCare may offer Full-time Employees and Part-time Employees access to purchased additional annual leave (**PAAL**) of up to two (2) weeks per annum, purchased in one (1) week blocks.
- (b) PAAL is purchased via a proportionate reduction in the Employee's Base Rate of Pay over a period of twelve (12) months, from the date the PAAL is purchased (**PAAL Year**). Any PAAL purchased, but not used within the PAAL Year will be paid to the Employee.
- (c) PAAL is treated as leave without pay, and annual leave loading will not apply.
- (d) An Employee's superannuation entitlements will be calculated on their Base Rate of Pay before any purchase of additional annual leave (that is, the Employee's pre-PAAL rate of pay).
- (e) An Employee's annual leave entitlements must be exhausted before PAAL can be used.
- (f) A request for PAAL must be in writing and include:
  - (i) the dates the Employee wishes to use their annual leave and PAAL for the year;
  - (ii) agreement that the Employee's Base Rate of Pay will be reduced by 1.92 percent for each week of leave for the PAAL Year; and
  - (iii) authority for HammondCare to withhold an amount equivalent to any PAAL taken but not accrued on the final pay in the PAAL Year or on termination of the Employee's employment with HammondCare.

### **32. Personal/Carer's Leave**

#### **32.1 Personal Leave Entitlement**

- (a) In accordance with the NES, an Employee, other than a Casual Employee, will be entitled to ten (10) days (equal to 7.6 hours per day) of paid personal/carer's leave per annum that may be taken by the Employee if they are not fit for work because of personal illness or injury. Part-time Employees and Temporary Employees will receive this entitlement pro rata, based on their ordinary hours of work.
- (b) For the purposes of this clause 32, Employees will be paid for the number of hours the Employee would have worked that day if not absent, up to the maximum days of leave provided in accordance with the NES or clause 32.1(a) of this Agreement.
- (c) If all personal/carer's leave is not taken in a year, the untaken leave will accumulate from year to year.
- (d) Unused personal/carer's leave is not paid out to the Employee on termination of employment with HammondCare.
- (e) The Employee will notify HammondCare of the general nature of their illness (particularly if it may have transmission implications for clients/residents or



other Employees) or injury and the estimated length of their absence, where practicable, at least two (2) hours before the commencement of their rostered shift.

- (f) HammondCare will require documentary evidence for any absence:
  - (i) of more than two (2) consecutive days and/or shifts;
  - (ii) taken either side of a public holiday or ADO;
  - (iii) on a public holiday the employee was rostered to work;
  - (iv) immediately before or after a period of annual leave; and
  - (v) on a day the Employee agrees to work and fails to attend their shift.
- (g) In addition to the circumstances outlined in clause 32.1(f), HammondCare may request documentary evidence for continued patterns of absence, including for a single day absence if deemed necessary.
- (h) For the purposes of this clause 32 – Personal/Carer’s Leave, documentary evidence means:
  - (i) a medical certificate from a medical practitioner stating that the Employee was, is or will be unfit to work due to illness or injury; or
  - (ii) if it is not possible to provide a medical certificate, a statutory declaration made by the Employee stating that the Employee was, is or will be unfit to work due to illness or injury.

### 32.2 Paid Carer’s Leave

- (a) A Full-time Employee or Part-time Employee may use any accrued personal/carer’s leave entitlement as carer’s leave to provide care or support to a person referred to in clause 32.2(b) when they are ill or injured or require care due to an unexpected emergency.
- (b) The entitlement to use personal/carer’s leave under this clause 32.2 is subject to:
  - (i) the Employee being responsible for the care or support of the person concerned; and
  - (ii) the person concerned being:
    - A. a member of the Employee’s Immediate Family as defined in clause 4.11; or
    - B. a member of the Employee’s household.
- (c) The Employee will notify HammondCare of the need for carer’s leave and the estimated length of their absence, where practicable, at least two (2) hours before the commencement of their rostered shift.
- (d) HammondCare may request documentary evidence to support the absence as outlined in clause 32.1(h). In addition, the medical certificate or statutory declaration must state the name of the person requiring care, the person’s relationship with the Employee, the estimated length of absence and that the person has (or will have) an illness or injury, or unexpected emergency that requires care by another person.
- (e) For the purposes of this clause 32.2, Employees will be paid for the number of hours the Employee would have worked that day if not absent, up to the

maximum days of leave provided in accordance with the NES or clause 32.1(a) of this Agreement.

### 32.3 Unpaid Carer's Leave

- (a) Subject to the requirements of clauses 32.2(c) and (d), an Employee (including a Casual Employee) will be entitled to a period of up to two (2) days' unpaid carer's leave (equal to 7.6 hours per day) for each occasion a member of the Employee's Immediate Family (as defined in clause 4.11) or household requires care or support when they are ill or injured or require care due to an unexpected emergency.
- (b) An Employee may take unpaid carers leave as a single, continuous period of up to two (2) days, or any separate periods by mutual agreement with HammondCare.
- (c) An Employee cannot take unpaid carers leave if the Employee could instead take paid carer's leave.

### 32.4 Grandparent Leave

- (a) A Full-time Employee or Part-time Employee may use one (1) day (equal to 7.6 hours per day) from their paid personal leave entitlement as Grandparent leave for their grandchild's birth.
- (b) Grandparent leave must be taken within one (1) month of the child's birth.
- (c) HammondCare may request documentary evidence to support the absence.

### 32.5 Personal Leave on a Public Holiday

If a public holiday falls on a day when an Employee is on personal leave, the Employee's absence from work on that public holiday will not be counted as personal leave.

### 32.6 Personal/Carer's Leave Pay Rate

- (a) Personal/Carer's leave will be paid at the Employee's Base Rate of Pay for the ordinary hours they would have worked during the leave.
- (b) HammondCare will not change the rostered hours of work of an Employee for the seven (7) days immediately following the commencement of personal leave for the sole reason that the Employee is on personal leave.

### 32.7 Personal Leave and Workers' Compensation

- (a) Employees will not be entitled to paid personal leave for any period that the Employee is entitled to payment at their base rate under a workers' compensation scheme.
- (b) If an Employee is not receiving their base rate of pay under a workers' compensation scheme, HammondCare will, upon request by the Employee pay the Employee the difference between the amount received as workers' compensation and their base rate of pay out of the Employee's accrued personal leave entitlement.

- (c) If an employee's personal leave entitlement is exhausted, the Employee will not be entitled to the payment described in clause 32.7(b).
- (d) Clause 32.7(b) will not apply if an Employee unreasonably refuses to undergo a rehabilitation program or to participate in a return-to-work plan.

### **33. Compassionate Leave**

33.1 HammondCare endeavours to provide a range of support measures for Employees responsible for providing palliative and end of life care to HammondCare residents and clients including, but not necessarily limited to, pastoral support and access to HammondCare's Employee Assistance Program and grief counsellors. The provisions in this clause 33 outline Employee entitlements to compassionate leave for the Employee's Immediate Family or members of the Employee's household.

#### **33.2 Paid Compassionate Leave**

- (a) An Employee (other than a Casual Employee) will be entitled to paid compassionate leave in accordance with the Act and subject to the terms of the Act.
- (b) A Full-time Employee or Part-time Employee is entitled to a period of two (2) days of compassionate leave for each occasion when:
  - (i) a member of the Employee's Immediate Family (as defined in clause 4.11) or a member of the Employee's household:
    - A. contracts or develops a personal illness that poses a serious threat to their life; or
    - B. sustains a personal injury that poses a serious threat to their life; or
    - C. dies;
  - (ii) a child is stillborn, where the child would have been a member of the Employee's Immediate Family or household; or
  - (iii) the Employee or their spouse or de facto partner has a miscarriage.
- (c) HammondCare may, at its discretion, provide an additional day of paid compassionate leave if interstate or overseas travel is required by the Employee. HammondCare may also make other leave entitlements available to the Employee for this purpose.
- (d) HammondCare may request documentary evidence to support the absence.

#### **33.3 Compassionate Leave Pay Rate**

Paid compassionate leave will be paid at the Employee's Base Rate of Pay for the ordinary hours they would have worked during the leave.

#### **33.4 Unpaid Compassionate Leave**

- (a) Casual Employees will be entitled to two (2) days of unpaid compassionate leave for each occasion outlined in clause 33.2(b)(i) to (iii).
- (b) HammondCare may request documentary evidence to support the Casual Employee's unavailability to attend work.

### **34. Natural Disaster Leave**

- (a) This clause will apply when a natural disaster is declared in a local government area or areas by a relevant State government and the circumstances:
  - (i) prevent the Employee from attending work or leaving home; or
  - (ii) pose a genuine threat to the Employee's property.
- (b) An Employee (other than a Casual Employee) is entitled to up to five (5) days of paid leave per annum (which is not cumulative from year to year) to attend to matters relating to the natural disaster. Natural disaster leave will be paid at the Employee's Base Rate of Pay for the ordinary hours they would have worked during the leave.
- (c) A Casual Employee will be entitled to up to five (5) days of unpaid leave per annum.
- (d) HammondCare may request documentary evidence to support the absence.

### **35. Leave Without Pay**

- (a) If an Employee has used all their paid leave entitlements, they may request Leave without pay (**LWOP**). HammondCare may approve or refuse the request in its absolute discretion.
- (b) When requesting LWOP, Employees must give four (4) weeks' notice. LWOP for a period of ten (10) days or less can be approved by the Employee's Manager. Requests for LWOP of more than ten (10) days must be approved by a Head of Region or Operations Manager.
- (c) Periods of approved LWOP will not break continuity of service. Paid leave and other entitlements do not accrue while an Employee is on LWOP.

### **36. Parental Leave**

#### **36.1 General**

- (a) Employees are entitled to take unpaid parental leave in accordance with the Act, and subject to the terms of the Act.
- (b) Paid entitlements in this clause 36 form part of an Employee's entitlement to twelve (12) months of unpaid parental leave under section 70 of the Act, even though the Employee is entitled to be paid for the leave under this Agreement.
- (c) Parental leave may include:
  - (i) maternity leave – when an Employee gives birth, including circumstances of stillbirth, and in cases of neonatal death following twenty (20) weeks' gestation;
  - (ii) partner leave – when an Employee's spouse or de facto partner gives birth; or
  - (iii) adoption leave – when an Employee adopts a child under sixteen (16) years of age, including the placement of a child by permanent care order.

#### **36.2 Paid Parental Leave**

- (a) Following twelve (12) months of continuous service with HammondCare, Employees (other than a Casual Employee) will be entitled to:

- (i) fourteen (14) weeks' paid maternity leave or adoption leave for the primary carer of the child; or
  - (ii) six (6) weeks' paid partner leave, at their Base Rate of Pay.
- (b) The paid entitlement described in clause 36.2(a)(i) can be arranged as fourteen (14) weeks' full pay, or twenty-eight (28) weeks' half pay.
- (c) The paid entitlement described in clause 36.2(a)(ii) will be payable to:
- (i) the child's father;
  - (ii) the partner of the birth mother; or
  - (iii) the partner of the primary carer of an adopted child.
- For the purposes of this clause, "partner" includes same-sex and de facto partner but does not include former de facto partners.
- (d) If an Employee has taken a previous period of parental leave, the Employee is not entitled to the benefit described in this clause 36.2 for a further period of paid parental leave unless the Employee returns to work with HammondCare for a period of at least twelve (12) months following the previous period of parental leave, except in the case of stillbirth or neonatal death, where a lesser qualifying period of nine (9) months will apply. Nothing in this clause 36.2(d) prevents the Employee from accessing unpaid parental leave in accordance with the Act.

### 36.3 Parental Leave Pay Rate

- (a) For the purposes of clause 36 – Parental Leave, paid leave taken at the Employee's "base rate of pay" will be the higher of:
- (i) the average of the ordinary hours actually worked by the Employee in the twelve (12) month period immediately before the commencement of parental leave; or
  - (ii) the ordinary hours worked by the Employee at the time of the commencement of parental leave.

### 36.4 Parental Leave Notice

- (a) An Employee must provide at least ten (10) weeks' notice in writing of their intention to take maternity leave, partner leave or adoption leave. This notice must include documentary evidence to support the leave and outline the period of leave being sought, including an intended start date.
- (b) An Employee must provide confirmation of the intended start date at least four (4) weeks before the commencement of their leave.
- (c) If an Employee is unable to provide the notice outlined in 36.4(a) and (b) for reasons outside of their control, they must formally notify HammondCare as soon as reasonably possible of their intention to take leave.

### **37. Long Service Leave**

#### **37.1 Long Service Leave Entitlement**

- (a) An Employee will be entitled to long service leave in accordance with the provisions of this Agreement and applicable State or Territory long service leave laws.
- (b) Accrued but untaken long service leave will be paid to the Employee on termination of their employment in accordance with applicable State or Territory long service leave laws.

#### **37.2 Taking Long Service Leave**

- (a) Employees should take long service leave as soon as practicable after becoming eligible for the entitlement.
- (b) An Employee may, by agreement with HammondCare, take their accrued long service leave at half pay, for twice the length of time.
- (c) When requesting long service leave, Employees must give four (4) weeks' notice to their Manager.
- (d) HammondCare will respond to the Employee in writing within two (2) weeks of receiving the long service leave request.
- (e) Any request for long service leave will not be unreasonably refused but may be declined on reasonable business grounds based on the operational requirements of HammondCare. Where HammondCare is unable to approve a request for long service leave, HammondCare will endeavour to agree a mutually convenient alternative time period for the employee to take long service leave with the Employee.
- (f) Any direction from HammondCare for an Employee to take long service leave will be in accordance with applicable State or Territory long service leave laws.

#### **37.3 Long Service Leave Pay Rate**

Long service leave will be paid at the Employee's Base Rate of Pay for the ordinary hours they would have worked during the leave unless the applicable State and Territory long service leave laws require otherwise.

### **38. Domestic and Family Violence Leave**

#### **38.1 Domestic and Family Violence Leave Entitlement**

- (a) An Employee will be entitled to up to ten (10) days of paid domestic and family violence leave per annum in accordance with the NES. Domestic and family violence leave may be taken if:
  - (i) the Employee is experiencing family and domestic violence; and
  - (ii) the Employee needs to do something to deal with the impact of the family and domestic violence, for example attending court hearings, accessing police services, attending counselling or other medical appointments or appointments with financial and legal professionals and relocation and safety activities directly associated with alleviating the effects of family and domestic violence; and

- (iii) it is impractical for the Employee to do so outside of the employee's work hours.
- (b) If an Employee's entitlement to paid domestic and family violence leave is exhausted, the Employee may access unpaid domestic and family violence leave.

### 38.2 Taking Domestic and Family Violence Leave

- (a) Domestic and family violence leave can be taken in part-days (minimum of half-day), single days or consecutive days.
- (b) The Employee must advise HammondCare of the absence, including the expected duration of the absence, as soon as reasonably possible.
- (c) HammondCare may request documentary evidence to support the absence. All documentation will be treated in strict confidence.

## 39. Special Infection Leave

- (a) In addition to the entitlement to personal/carer's leave in this Agreement, Full-time Employees and Part-Time Employees will be entitled to paid leave outlined in this clause 39. For Casual Employees, the entitlement to leave in this clause is unpaid.
- (b) Gastroenteritis Leave
  - (i) An Employee who has contracted gastroenteritis will be entitled to up to a total of three (3) days gastroenteritis leave per annum, which is not cumulative from year to year, provided:
    - A. at the time the Employee contracts gastroenteritis, the Employee's workplace is experiencing a gastroenteritis outbreak (as defined by the Department of Health and Ageing); and
  - (ii) the Employee provides a medical certificate from a registered medical practitioner certifying a gastroenteritis diagnosis. For Full-time Employees and Part-time Employees, gastroenteritis leave will be paid at the Employee's Base Rate of Pay.
- (c) COVID/Pandemic Leave
  - (i) An Employee will be entitled to up to a total of five (5) days of COVID/pandemic leave per annum (which is not cumulative from year to year) if they cannot work because:
    - A. they have contracted COVID-19 or a pandemic disease as declared by a State or Federal health authority;
    - B. at the time the Employee contracts the pandemic disease, there is a confirmed case of COVID-19 or the pandemic disease at the Employee's workplace; and
    - C. HammondCare, government or State or Federal medical authorities require them to self-isolate or quarantine.
  - (ii) For Full-time Employees and Part-time Employees, COVID/pandemic leave will be paid at the Employee's Base Rate of Pay.

#### 40. Emergency Community Service Leave

- (a) An Employee will be entitled, acting reasonably, to take unpaid leave to perform emergency community services.
- (b) The Employee must advise HammondCare of the absence, including the expected duration of the absence, as soon as reasonably possible.
- (c) Participation must be on a voluntary basis and be with a recognised emergency management body (as defined in the NES) such as the State Emergency Service or Rural Fire Service.
- (d) HammondCare may request documentary evidence to support the Employee's absence from work on emergency community service leave.

#### 41. Ceremonial Leave

- (a) With approval from HammondCare, an Employee who is legitimately required by Indigenous tradition to be absent from work for Aboriginal or Torres Strait Islander ceremonial purposes will be entitled to up to ten (10) days of unpaid leave per annum.
- (b) The Employee must advise HammondCare of the absence, including the expected duration of the absence, as soon as reasonably possible.

#### 42. Public Holidays

##### 42.1 Public Holiday Entitlement

- (a) For the purposes of this Agreement, public holidays are defined in the Act and include:
  - (i) New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, Anzac Day, King's Birthday, Labour Day and Boxing Day; and
  - (ii) Any other day, or part day, recognised under the NES as a public holiday.
- (b) Full-time Employees and Part-time Employees will be entitled to the public holidays in clause 42.1(a) without loss of pay, provided that the Employee will only be paid for a public holiday if it falls on a day they are rostered or have ordinary hours of work.
- (c) If HammondCare requests an Employee to work on a public holiday, and the Employee unreasonably refuses to work, the Employee will not be paid for that day.

##### 42.2 Public Holiday Pay Rate

- (a) If an Employee is required to work ordinary hours on a Saturday or a Sunday, they will be paid the penalty rate set out in the table below. Public holiday penalty rates are payable on the base rate of pay in substitution for the casual loading in **clause 9.4 – Casual Employees**, the shift allowances in **clause 25.3 – Shift Allowances** and the weekend penalties in **clause 27 – Saturday and Sunday Penalty Rates**.



- (i) For work in a Residential Care Home

Employee Classification	Permanent Employees	Casual Employees
Assistant in Nursing, Enrolled Nurse, Registered Nurse	250%	250%
Specialised Carer, Services Support Employee, Support Services Team Leader	250%	275%

- (ii) For work in HammondCare at Home

Employee Classification	Permanent Employees	Casual Employees
Specialised Carer	250%	275%

- (b) In lieu of the penalty in clause 42.2(a), a permanent Employee may request to be paid at time and a half with an additional day added to the Employee's next period of annual leave. This request must be made in writing when the Employee commences employment, and/or in either June or December each year.

#### 42.3 Additional Public Holiday – NSW and Queensland Employees

- (a) Employees in New South Wales and Queensland will be entitled to an Additional Public Holiday each year.
- (b) The Additional Public Holiday will occur:
- (i) For Residential Care Home Employees, on the gazetted NSW August Bank Holiday; or
  - (ii) For HammondCare at Home Employees, on Melbourne Cup Day.
- (c) If an Employee works in both a Residential Care Home and for HammondCare at Home, they will only be entitled to one of the days outlined in clause 42.3(b).
- (d) If a full day public holiday is proclaimed and observed as a local public holiday within the area the Residential Care Home or HammondCare at Home service is located, the Employee will not be entitled to the Additional Public Holiday outlined in clause 42.3(b) and will instead be entitled to the local public holiday.
- (e) If a part day public holiday is proclaimed and observed as a local public holiday within the area the Residential Care Home or HammondCare at Home service is located, the Employee will be entitled to a full day public holiday in substitute

for the Additional Public Holiday, to be taken on the observed local public holiday.

**43. Jury Service**

- (a) If a Full-time Employee or Part-time Employee is required to attend jury service during ordinary working hours, HammondCare will pay the Employee the difference between the amount the Employee is paid to attend jury service, and the Employee's Base Rate of Pay, plus any shift loading and regular allowances, that the Employee would have received if they had not been required to attend jury service.
- (b) An Employee must notify HammondCare as soon as possible of the date they are required to attend jury service and the expected duration.
- (c) The Employee must provide HammondCare with proof of attendance and a record of payments received for that attendance.

## PART G – MISCELLANEOUS

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### 44. Savings

- (a) As a result of the making of this Agreement, no Employee will:
  - (i) Suffer a reduction in the Base Rate of Pay received by the Employee as at 30 June 2023; or
  - (ii) suffer a reduction or diminution of the conditions of employment received by the Employee as at 30 June 2023.

### 45. Requests for Flexible Working Arrangements

#### 45.1 Flexible Working Request

- (a) An Employee can request flexible working arrangements in accordance with the requirements of section 65 of the Act.
- (b) The request must be in writing and set out the details of the change being requested and the reasons for the request.

#### 45.2 Transition to Retirement

- (a) Without limiting clause 45.1 of this Agreement, a Full-time Employee or Part-time Employee with at least twelve (12) months' continuous service with HammondCare may notify HammondCare in writing of their intention to retire within the next five (5) years and participate in a transition to retirement arrangement.
- (b) A transition to retirement arrangement may include but is not limited to:
  - (i) a reduction in the Employee's contracted or guaranteed ordinary hours of work;
  - (ii) a job-share arrangement;
  - (iii) working in a position at a lower classification or rate of pay; and/or
  - (iv) the Employee accessing their accrued but untaken long service leave or annual leave for the purpose of reducing the number of days worked per week.

#### 45.3 Responding to the Request

- (a) Before responding to a request made under s.65 of the Act or clause 45.2 of this Agreement, HammondCare will 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, taking into consideration:
  - (i) the needs of the Employee arising from their circumstances;
  - (ii) any alternate options that may be considered to accommodate the Employee's request to any extent; and
  - (iii) any reasonable business grounds for refusing the request.
- (b) HammondCare will respond to the Employee in writing within twenty-one (21) days of the request, stating whether HammondCare grants or refuses the request.

- (c) If HammondCare refuses the request, the written response under clause 45.2(b) will:
  - (i) state whether there are any other changes in working arrangements HammondCare can offer the Employee to attempt, even in part, to accommodate their request; or
  - (ii) state that there are no changes HammondCare can make to accommodate the Employee's request.
- (d) If HammondCare and the Employee reach agreement on a change in working arrangements proposed under clause 45.2(c)(i), that agreement will be confirmed in writing by both parties.

#### **46. Workload Management**

- (a) HammondCare recognises the importance of balanced workloads for Employee safety and the delivery of quality care.
- (b) If an Employee is concerned about their workload:
  - (i) in the first instance, they should discuss their concerns with their Manager, and if appropriate, explore solutions;
  - (ii) if a solution cannot be identified, the Employee and/or their Manager should refer the concern to an appropriate Senior Manager; then
  - (iii) if a solution cannot be identified in consultation with a Senior Manager, the Employee, their Manager and/or the Senior Manager should refer the concern to the relevant General Manager or member of the People team.
- (c) The outcome of discussions under clause 46(b), including any proposed solutions, will be recorded in writing, and communicated with the Employee within one (1) month of the concern being raised.
- (d) Resolution of workload concerns should be based on (but may not be limited to) the following:
  - (i) clinical assessment of client and/or resident needs;
  - (ii) the demands of the working environment (for example, Residential Care Home layout);
  - (iii) statutory obligations, including in relation to work health and safety;
  - (iv) the requirements of nurse regulatory legislation;
  - (v) reasonable workloads;
  - (vi) accreditation standards; and
  - (vii) budgetary considerations.
- (e) If, after following the steps outlined in clause 46(b) and 46(c), the concerns are still unresolved, the Employee or HammondCare may utilise **clause 8 – Dispute Resolution**.

#### **47. Labour Flexibility and Mixed Functions**

- (a) HammondCare may require an Employee to carry out any reasonable duties that the Employee has the required skill, competence, and training to perform.
- (b) HammondCare may require an Employee to carry out any duties and use any tools and equipment as may be required, that the Employee has the required

skill and competence to perform. If the Employee does not possess the required skill or competence, appropriate training will be provided.

- (c) Any direction issued by HammondCare under this clause 47 will be consistent with HammondCare's responsibility to provide a safe working environment for Employees and its duty of care to clients/residents.

#### **48. Union Representatives**

- (a) A Union representative who has been recognised as the Residential Care Home or HammondCare at Home representative for a Union covered by this Agreement will be released from work for:
  - (i) up to five (5) days per annum to attend training facilitated by the Union; and
  - (ii) up to three (3) days per annum to attend the Union's annual conference.
- (b) A Union representative must provide HammondCare with at least four (4) weeks' written notice, specifying the reason, and expected duration of the absence to attend Union business outlined in clause 48(a). HammondCare will not unreasonably refuse this request.
- (c) A Union representative will be entitled to leave without pay, or any accrued annual leave or long service leave to attend Union business outlined in clause 48(a).
- (d) Union representatives will be given reasonable access to HammondCare resources including notice boards, meeting rooms, internet, printing and scanning for the purpose of carrying out their duties as a Union representative.

#### **49. Aged Care Work Value Case**

- 49.1 HammondCare commits to pass on any additional funding it receives from the Commonwealth Government throughout the nominal term of this Agreement arising from the Fair Work Commission Aged Care Work Value Case (**ACWVC**) to Employees.
- 49.2 Without limiting clause 49.1 of this Agreement, HammondCare may allocate amounts received from the Commonwealth Government referred to in clause 49.1 for the purpose of paying Employee salary and wages and on-costs. For the purpose of this clause, on-costs include all costs associated with:
  - (a) superannuation, workers' compensation insurance scheme premiums, penalty rates, overtime penalties, loadings including leave loading, allowances and leave entitlements;
  - (b) backfilling staff absences;
  - (c) administrative costs related to the ACWVC changes; and
  - (d) any other cost identified by the Federal Government as an on-cost for the purposes of funding the ACWVC.
- 49.3 Any increase in Employee salaries and/or wages in Annexure 1 arising as a result of this clause 49, will take effect from the start of the first full pay period commencing on or after the date HammondCare commences to receive additional funding from the Commonwealth Government.

49.4 Any dispute about the matters contemplated by this clause 49 may be dealt with under **clause 8 – Dispute Resolution**, provided that, for the purposes of clause 8.2 of this Agreement, HammondCare and the affected Employee(s), or an Employee representative acting on their behalf, may agree on the process to be followed by the Commission in dealing with the dispute, including mediation, conciliation or, by mutual consent between the parties, arbitration.

**50. Procedural Fairness**

50.1 HammondCare will uphold principles of procedural fairness, including the right of an Employee to bring a support person, in all disciplinary matters.

50.2 If an Employee is required to attend a disciplinary meeting, they will be paid their Base Rate of Pay for the duration of the meeting.

**51. Anti-Discrimination and Harassment**

(a) HammondCare is committed to ensuring that all Employees enjoy a workplace that is free from discrimination, harassment (including sexual harassment) and bullying.

(b) The parties to this Agreement commit to interpreting and applying the provisions of this Agreement so that there is no breach to any relevant legislation in respect of discrimination or harassment.

**52. Classifications**

On commencement of employment with HammondCare, an Employee will be appointed to the appropriate classification level in accordance with the Employee's skills and/or qualifications and/or experience, and the duties required to be performed in the position, as set out in this clause 52.

Site-specific role descriptions reflecting an Employee's indicative tasks within a particular classification level may be developed however those role descriptions do not form part of, and are not incorporated into, this Agreement.

Rates of pay for each classification level are set out in Annexure 1 to this Agreement.

**52.1 Progression**

- (a) Unless otherwise specified, progression between New Entrant, Level 1 and Level 2 classification levels will be based on service and/or experience and will require completion of the hours of work and mandatory training specified for each classification and level within that classification. Progression may be deferred in the following circumstances at HammondCare's discretion:
  - (i) the Employee is subject to formal investigation regarding their work performance or conduct; and/or
  - (ii) HammondCare has determined that the Employee is not performing to the standard expected of their current classification level.
- (b) If HammondCare intends to defer progression under clause 52.1, it must provide written confirmation to the Employee outlining the reason for the delay in progression and the areas of support available to overcome or address the identified performance or conduct issues. If progression is deferred under this clause, the Employee may request a review of the deferral decision after three (3) months.
- (c) Progression to Level 3 onwards in this Agreement will be by appointment on the basis set out in this clause 52.

**52.2 Specialised Carer**

Specialised Carers provide personal care, domestic support, and life engagement in a residential or home environment in accordance with HammondCare's philosophy of care and values. In addition to physical and emotional care, Specialised Carers play an important role with the support of their broader team to enable each resident and/or

home care client to succeed at the activities of daily living which promote dignity, self-respect and maintain the resident and/or home care client's quality of life.

Specialised Carers model appropriate behaviour and encourage a calm, supportive and secure atmosphere for residents and/or home care clients.

Specialised Carers will be designated to one of the following core care streams, but may be offered hours of work by HammondCare and, subject to any other provision in this Agreement, may accept work in other streams where the Employee has the appropriate experience and training to perform that work:

Specialised Carer – Home Care	Specialised Carer – Dementia Care	Specialised Carer – Residential Care
Providing a range of care activities to clients living with a range of complex needs in a home care setting including (but not limited to) personal care, domestic assistance and meals assistance.	Providing personalised care to residents living with complex dementia in a Residential Care Home setting.	Providing personalised care to residents living with a range of complex care needs, in a Residential Care Home setting.

**(a) Specialised Carer - New Entrant**

A Specialised Carer – New Entrant position is one where the Employee:

- (i) requires no previous experience in personal care delivery or domestic assistance;
- (ii) requires on-the job training and supervision;
- (iii) works within established routines, methods and procedures;
- (iv) works under direct or routine supervision either individually or as part of a team;
- (v) is required to undertake a broad range of tasks demonstrating competency in the provision of personal care and domestic assistance and is responsible for the quality of their work; and
- (vi) is required to provide general assistance to higher level Employees.

**(b) Specialised Carer – Level 1**

A Level 1 position is one where the Employee:

- (i) has completed a minimum of 500 hours of work experience with HammondCare or relevant prior experience that enables the Employee to work effectively at this level;
- (ii) works with the general support and guidance of higher-level Employees;
- (iii) works under general supervision either individually or as part of a team;
- (iv) demonstrates sound communication skills;



- (v) works within established processes with scope to exercise a degree of autonomy and/or judgment within the Employee's training and experience; and
- (vi) is required to undertake a broad range of personal care, domestic support, and life and social engagement duties and is responsible for ensuring the quality of their work.

A Specialised Carer – Home Care Employee who is employed by HammondCare only to carry out general housekeeping duties and not to engage in broader personal care duties will be classified and paid at this level and will not progress to the Specialised Carer – Level 2 classification.

(c) **Specialised Carer – Level 2**

A Level 2 position is one where the Employee:

- (i) has completed a minimum of 1000 hours of work experience with HammondCare or relevant prior experience;
- (ii) works independently and under limited supervision;
- (iii) is responsible for ensuring the quality of their work;
- (iv) carries out a range of clinical care activities that support the personal care needs of residents and/or home care clients;
- (v) performs the full range of personal care, domestic support, and life and social engagement duties;
- (vi) in the case of a Residential Care Home Employee, participates in case management and the development and maintenance of care plans (in conjunction with other team members and allied health professionals);
- (vii) models HammondCare's philosophy of care and assists in mentoring Employees at the same or lower level; and
- (viii) in the case of a Specialised Carer – Home Care Employee, may be required to drive a minibus or larger vehicle.

(d) **Specialised Carer – Level 2 Progression**

An Employee classified in accordance with clause 52.1(c) Specialised Carer – Level 2, will be appointed to Level 2.1 and will progress to each further step within Level 2 on completion of:

- (i) 1000 hours of service at that level, provided that in the case of progression from Level 2.2 to Level 2.3, the Employee will progress on completion of 1,976 hours of service; and
- (ii) mandatory training as required by HammondCare from time to time.

(e) **Specialised Carer – Level 3**

A Level 3 position is one where the Employee:

- (i) is a permanent employee appointed as such by HammondCare;
- (ii) holds a minimum Certificate III in Aged Care or Care Support Services or other relevant qualifications or experience acceptable to HammondCare;
- (iii) demonstrates a high level of skill in clinical assessment and behaviour management of residents and/or clients;
- (iv) in the case of a Residential Care Home Employee:
  - A. has been designated by HammondCare as having overall responsibility for a particular function within a Residential Care Home;
  - B. has responsibility for leading and/or supervising other Employees in the Residential Care Home, which may include (but is not limited to:
    - I. coordinating the work of other Employees; and
    - II. coaching and mentoring other Employees.
- (v) models HammondCare's philosophy of care and provides coaching and/or mentoring to Employees at a lower level;
- (vi) exercises autonomy and personal judgment in undertaking their duties within the Employee's qualifications and experience; and
- (vii) works independently and is responsible for ensuring the quality and timeliness of their work.

(f) **Senior Specialised Carer**

A Senior Specialised Carer is a role defined and appointed by HammondCare in its sole discretion. The rate of pay for this position will be determined by HammondCare, taking into consideration the Employee's skills and experience.

### 52.3 Service Support Employees

Support Service Employees provide a range of important services for HammondCare's Residential Care Homes, which may include, but are not limited to:

- (a) food services
- (b) laundry services
- (c) cleaning or domestic services

Service Support team members model appropriate behaviour and support a calm, secure atmosphere for residents.

(a) **Service Support Employee – New Entrant**

A New Entrant position is one where the Employee:

- (i) requires no previous experience in the provision of services support;
- (ii) performs a range of basic duties under direct or routine supervision;
- (iii) works within established routines, methods and procedures with clear instruction and is responsible for the quality of their work; and
- (vii) is required to provide general assistance to higher level Employees.

Indicative roles at this level may include:

General Services	Food Services
Cleaner Laundry Operator	Food or Domestic Services Assistant Cook (non-trade)

**(b) Service Support Employee – Level 1**

A Level 1 position is one where the Employee:

- (i) has completed a minimum of 500 hours of work experience with HammondCare or relevant prior experience that enables the Employee to work effectively at this level;
- (ii) performs a range of tasks under general supervision, either individually or as part of a team;
- (iii) works within established routines, methods and procedures, requiring detailed instruction in limited circumstances; and
- (iv) is responsible for the quality of their work.

Indicative roles at this level may include:

General Services	Food Services
Cleaner Laundry Operator	Food and Domestic Services Assistant Cook (non-trade)

**(c) Service Support Employee – Level 2**

A Level 2 position is one where the Employee:

- (i) has completed a minimum of 1000 hours of work experience with HammondCare or relevant prior experience;
- (ii) works under limited supervision;
- (iii) possesses well-developed interpersonal and communication skills;
- (iv) is required to undergo on-the-job training; and
- (v) at HammondCare’s discretion, may require formal qualifications and/or relevant training and/or experience.

Indicative roles at this level may include:

General Services	Food Services
Experienced Cleaner (full range of duties) Experienced Laundry Operator (full range of duties)	Experienced Food and Domestic Services Assistant (full range of duties)

**(d) Service Support Employee – Level 3**

A Level 3 position is one where the Employee:

- (i) has completed a minimum of 1976 hours of work experience with HammondCare or relevant prior experience;
- (ii) exercises discretion within established policies, guidelines, and procedures;
- (iii) works under limited supervision individually or as part of a team;
- (iv) is responsible for ensuring the quality of their work; and
- (v) may be required to drive a minibus or larger vehicle.

Indicative roles at this level may include:

General Services	Food Services
Experienced Cleaner (full range of duties) Experienced Laundry Operator (full range of duties) Laundry Driver	Experienced Food and Domestic Services Assistant (full range of duties)

(e) **Service Support Team Leader**

A Service Support Team Leader position is one where the Employee:

- (i) is appointed as such by HammondCare;
- (ii) has completed at least two (2) years of full-time equivalent experience with HammondCare or relevant prior experience;
- (iii) holds relevant qualifications or experience acceptable to HammondCare, and in the case of an Employee who holds a relevant trade qualification, is required to use that qualification in performing their duties;
- (iv) has been designated by HammondCare as having responsibility for leading and/or supervising other Employees, which may include (but is not limited to):
  - A. coordinating the work of other Employees; and
  - B. training Employees; and
- (v) schedules work programs on a routine and regular basis; and
- (vi) in the case of food services Employees, means the most senior Employee at a site or location.

General Services	Food Services
Laundry Supervisor	Food Services Supervisor Trade Cook or Chef

52.4 Nursing Employees

(a) Recognition of Service and Experience

- (i) Experience means paid service whether in Australia or internationally as a Registered Nurse, midwife or Enrolled Nurse, holding registration with a professional registration body recognised by the Australian Health Practitioner Regulation Agency (**AHPRA**) in a grade or sub-grade at least equal or comparable to the grade in which the Employee is, or is about to be, employed, except:
  - A. where an internationally trained nurse (**IQN**) is granted registration with conditions, previous experience will not be counted whilst the conditions are in place. Experience as defined will count once there are no longer registration conditions in place;
  - B. where an IQN is granted registration subject to successful completion of a bridging program, previous experience will not be counted until the completion of that bridging course;
  - C. where an IQN is required by the Australian professional registration body to undertake an outcome-based assessment (**OBA**), previous experience will not be counted until the completion of that OBA.
  
- (ii) A year of experience in this Agreement means the completion of 1976 hours of work experience and:
  - A. For the purpose of being classified under this Agreement:
    - I. an Employee's anniversary date is the date the Employee commenced work as a Registered Nurse or Enrolled Nurse following registration either in Australia or internationally subject to 53.4(a)(i) above;
    - II. experience and years of experience are relevant only to determining the appropriate Employee classification based on experience; and
    - III. requires the Employee to provide evidence of prior experience as set out in 53.4(a)(iii).
  
- (iii) Evidence of Prior Experience
  - A. Within three (3) months of commencing employment with HammondCare, a nursing Employee must provide documentary evidence detailing other relevant service or experience not disclosed at the time of commencement. This evidence may take the form of a statutory declaration in the absence of other documentary evidence. Until such evidence is provided, the Employee will be paid at the level for which evidence of experience has been provided.
  - B. If the evidence referred to in 52.4(b)(i) is provided within three (3) months of commencement of employment with HammondCare, the Employee will be paid at the appropriate level from the date of commencement. If the evidence referred to in 52.4(b)(i) is provided at or after three (3) months of commencement, the Employee will be paid at the appropriate level from the date the evidence is provided.

- C. If an Employee wishes to progress to the next year of service or experience because they have completed hours of work with another employer, the Employee must provide documentary evidence to HammondCare within three (3) months of completing those hours.
- D. If the evidence referred to in 52.4(a)(iii)(C) is provided within three (3) months of the entitlement arising, the Employee will be paid at the higher classification rate from the date they were entitled to progress to the next year of service or experience. If the evidence referred to in 52.3(a)(iii)(C) is provided at or after three months of the entitlement arising, the Employee will be paid the appropriate rate from the date the evidence is provided.

(b) Nursing Classifications

- (i) **Assistant in Nursing** means an Employee, other than a Registered Nurse, Trainee or Enrolled Nurse who is employed in nursing duties in a Residential Care Home.
- (ii) **Enrolled Nurse** means a person registered by the Board as an Enrolled Nurse (EN).
- (iii) **Registered Nurse** means a person registered by the Board as a Registered Nurse (RN).
- (iv) **Clinical Nurse Consultant** means a Registered Nurse appointed as such by HammondCare, who is a permanent employee and who has had at least five years' post-registration experience and has, in addition, approved post-registration nursing qualifications relevant to the field in which they are appointed, or such other qualifications or experience deemed appropriate by HammondCare.
- (v) **Clinical Nurse Specialist** means a Registered Nurse appointed as such by HammondCare, who is a permanent employee and who holds specific post-registration qualifications and twelve (12) months' experience working in the clinical areas of their specified post registration qualification.
- (vi) **Clinical Nurse Educator** means a Registered Nurse appointed as such by HammondCare, who is a permanent employee and who holds relevant post-registration certificate qualifications or experience deemed appropriate by HammondCare, and who is required to implement and evaluate educational programmes at a Residential Care Home. The Clinical Nurse Educator shall cater for the delivery of clinical nurse education and may also be responsible for new Employee orientation at the Residential Care Home. Nothing in this classification will affect the role carried out by

the Clinical Nurse Specialist as a specialist resource and the Clinical Nurse Consultant in the primary role of clinical consulting and researching.

- (vii) **Nurse Educator** means a Registered Nurse appointed as such by HammondCare, who is a permanent employee and holds a post-registration certificate, or who has relevant experience or other qualifications deemed appropriate by HammondCare. A Nurse Educator shall be responsible for the development, implementation, and delivery of nursing education programmes within a Residential Care Home or group of residential aged care facilities. Nurse education programmes include but are not limited to, post-registration certificates, continuing nurse education, orientation programmes including new graduate programmes, post-enrolment courses for Enrolled Nurses and where applicable, general staff development courses.
- (viii) **Senior Nurse Educator** means a Registered Nurse appointed as such by HammondCare, who is a permanent employee and who holds a post-registration certificate or appropriate qualifications, who has, or is working towards, recognised tertiary qualifications in education or equivalent and has demonstrated experience and skills in the field of education. A Senior Nurse Educator will be responsible for one or more Nurse Educators in the planning, co-ordination, delivery and evaluation of educational programmes such as post-registration certificate courses, continuing nurse education, orientation programmes including new graduate programmes, post-enrolment courses for Enrolled Nurses and where applicable, general staff development courses either in a Residential Care Home or in a group of residential aged care facilities.
- (ix) **Nurse Practitioner** means a Registered Nurse appointed as such by HammondCare, who is a permanent employee and who is authorised by the Board, pursuant to Section 19A of the Nurses Amendment (Nurse Practitioners) Act 1998, to practice as a Nurse Practitioner.

## ANNEXURE 1 – BASE RATES OF PAY AND ALLOWANCES

Classification	Step	From the first full pay period on or after 1 July 2023	From the first full pay period on or after 1 July 2024	From the first full pay period on or after 1 July 2025
			3%	3%
<b>Specialised Carer (Home Care, Residential and Dementia)</b>				
New Entrant		\$28.30	\$29.15	\$30.02
Level 1		\$29.22	\$30.10	\$31.00
Level 2	2.1	\$30.20	\$31.11	\$32.04
	2.2	\$30.80	\$31.72	\$32.68
	2.3	\$31.50	\$32.45	\$33.42
Level 3		\$32.50	\$33.48	\$34.48
Senior Specialised Carer		\$33.50	\$34.51	\$35.54
<b>Service Support Employee</b>				
New Entrant		\$24.33	\$25.06	\$25.81
Level 1		\$25.29	\$26.05	\$26.83
Level 2		\$26.27	\$27.06	\$27.87
Level 3		\$26.55	\$27.35	\$28.17
Support Services Team Leader		\$27.55	\$28.38	\$29.23
Support Services Team Leader (Most Senior Food Services)		\$33.90	\$34.92	\$35.96
<b>Nursing</b>				
Assistant in Nursing		\$30.56	\$31.48	\$32.42
<b>Enrolled Nurse</b>				
Year 1		\$34.69	\$35.73	\$36.80
Year 2		\$35.33	\$36.39	\$37.48
Year 3		\$36.22	\$37.31	\$38.43
Year 4		\$37.04	\$38.15	\$39.29
Year 5 and thereafter		\$37.84	\$38.98	\$40.15
<b>Registered Nurse</b>				
Year 1		\$43.40	\$44.70	\$46.04
Year 2		\$43.48	\$44.78	\$46.12
Year 3		\$45.43	\$46.79	\$48.19
Year 4		\$49.51	\$51.00	\$52.53
Year 5 and thereafter		\$51.79	\$53.34	\$54.94
Clinical Nurse Consultant		\$61.32	\$63.16	\$65.05



Clinical Nurse Specialist	\$53.12	\$54.71	\$56.35
Clinical Nurse Educator	\$53.12	\$54.71	\$56.35
Nurse Educator	\$56.09	\$57.77	\$59.50
Senior Nurse Educator	\$63.95	\$65.87	\$67.84
Nurse Practitioner	\$53.30	\$54.90	\$56.54

#### OTHER RATES AND ALLOWANCES

Brief Description of Allowance Item	Clause	<i>From the first full pay period on or after</i> 1 July 2023	<i>From the first full pay period on or after</i> 1 July 2024	<i>From the first full pay period on or after</i> 1 July 2025
Broken Shift Allowance (Residential Care)	16	\$8.75	\$8.75	\$8.75
Broken Shift Allowance (HammondCare at Home) – paid per break in shift, compensating for possible travel time and kilometres.	16	\$24.27	\$24.27	\$24.27
Sleepover Allowance (paid per sleepover)	17	\$61.09*		
Live-in Home Carer Allowance (between 10.00pm and 6.00am)	18	\$113.30	\$113.30	\$113.30
Vehicle Allowance (paid per kilometre)	25.1	\$0.96*		
In-charge Allowance – Whole Shift (paid per shift)	25.5(a)	\$36.55	\$36.55	\$36.55
In-charge Allowance – Part Shift (paid per shift)	25.5(b)	\$22.66	\$22.66	\$22.66
<b>On-call Allowance (paid per 12-hour period) (OCA)</b>				
OCA Rostered day off, Saturday, Sunday and Public Holiday	25.6	\$45.17	\$46.52	\$47.92
OCA Monday to Friday	25.6	\$25.48	\$26.24	\$27.03
Working Alone Allowance (paid per shift)	25.7	\$15.00	\$15.00	\$15.00
<b>Continuing Education Allowance (per week pro-rata)</b>				

Continuing Education Allowance - PGC	25.8(e)(i)	\$19.49	\$20.08	\$20.68
Continuing Education Allowance - PGD	25.8(e)(ii)	\$32.41	\$33.39	\$34.39
Continuing Education Allowance - MD	25.8(e)(iii)	\$38.93	\$40.10	\$41.30
Continuing Education Allowance – EN-C	25.8(e)(iv)	\$13.35	\$13.75	\$14.17

\*For these allowances, HammondCare will pay the higher of the allowance that is in the relevant Modern Award (Aged Care Award, Nurses Award and Social, Community, Home Care and Disability Services Award) or the allowance that is in this Agreement.

**SIGNING PAGE**

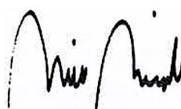
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EXECUTED as an agreement.

SIGNED for and on behalf of  
HammondCare ABN 48 000 026 219 by  
an authorised officer:

Mike Baird

Name



Signature

Chief Executive Officer

Position

Level 4, 207B Pacific Highway St Leonards NSW 2065

Address

SIGNED by an Employee Bargaining  
Representative:

Daniel Mclean

Name



Signature

Employee Bargaining Representative

Position

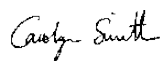
Level 4, 207B Pacific Highway St Leonards NSW 2065

Address

SIGNED for and on behalf of an  
Employee Organisation by an authorised  
officer:

Carolyn Smith

Name



Signature


Director - United Workers Union

Position

18/10/2023

54 Cheriton Street, Perth WA 6000

Address



.....  
Shaye Candish  
Branch Secretary  
Australian Nursing and Midwifery Federation  
New South Wales Branch  
50 O'Dea Ave  
WATERLOO NSW 2017



.....  
WITNESS  
Michael Whaites  
50 O'Dea Ave, Waterloo

*Authority to sign Agreement on behalf of employees is in accordance with Rule 40 of the Rules of the Australian Nursing and Midwifery Federation and as bargaining representative in accordance with the Fair Work Act 2009.*

## IN THE FAIR WORK COMMISSION

FWC Matter No.:  
AG2023/3562

Applicant:  
HammondCare

Section 185 – Application for approval of a single enterprise agreement

### Undertaking – Section 190

I, Mike Baird, Chief Executive Officer for HammondCare, have the authority given to me by HammondCare to give the following undertakings with respect to the *HammondCare Aged Care Enterprise Agreement 2023* (“the Agreement”):

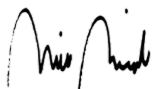
1. HammondCare undertakes and agrees that the dispute resolution procedure in clause 8 of the Agreement will, subject to the terms of the Agreement, apply to disputes concerning any matters arising under the Agreement.
2. For employees in Specialised Carer classifications covered by the *Aged Care Award 2010* or the *Social, Community, Home Care and Disability Services Industry Award 2010*, and Nurse Practitioners covered by the *Nurses Award 2020*, HammondCare undertakes and agrees that clause 15.1(e) of the Agreement will be interpreted as though the reference to 2 hours was a reference to 1 hour.
3. In addition to undertaking (2) above, HammondCare undertakes and agrees that, for the purposes of clause 15.1(e) of the Agreement, where any Agreement-covered employee is required to work overtime and such overtime exceeds 4 hours, the employee will be supplied with a further meal at no cost to the Employee.
4. HammondCare undertakes and agrees to interpret and apply clause 20.1(a) of the Agreement as though it was amended to provide as follows:
  - “(a) time spent attending the activities referred to in this clause 20.1 will not be viewed as overtime unless the attendance results in the Employee working more than seventy-six (76) hours in a fortnight or more than 10 ordinary hours in a shift”.

For the avoidance of uncertainty, the entitlement to overtime shall not apply in circumstances where an employee is not entitled to payment under clause 20.1(c) of the Agreement.

5. HammondCare undertakes and agrees to interpret and apply to interpret and apply the Agreement as though clause 25.1 was deleted and replaced with the following:
- (a) An Employee who is required and authorised to use their own motor vehicle in the course of their duties will be paid the Vehicle Allowance set out in **Annexure 1**.
  - (b) An Employee who is required and authorised to use public transport in the course of their duties will be reimbursed by HammondCare for actual expenses incurred by the Employee on provision of receipts for all expenses claimed.
  - (c) If an Employee is rostered to work with consecutive clients/residents on a day or shift (excluding clients either side of a break in a broken shift), they will be paid the applicable hourly rate for all time spent travelling or allocated by HammondCare (whichever is the greater) between consecutive clients/residents. Time travelled/allocated by HammondCare will form part of the Employee's minimum contracted hours of work.
  - (d) If an Employee is required to travel from their usual place of residence to attend mandatory training and/or meetings, **clause 20 – Attendance at Training and Meetings** will apply. In this instance, Employees will be paid in accordance with this clause 25 or clause 20 of this Agreement, but not both.
  - (e) Employees must advise HammondCare Payroll and their Manager of any change to their usual place of residence within seven (7) days of the Employee changing address.
6. For employees in Specialised Carer classifications covered by the *Aged Care Award 2010*, HammondCare undertakes and agrees that clause 28.4(b) of the Agreement will be interpreted and applied as though the reference to 3 hours is instead as a reference to 4 hours.
7. For employees in the Specialised Carer – New Entrant classification as defined in clause 52.2(a) of the Agreement, HammondCare undertakes and agrees to apply the following rates of pay in substitution for the rates of pay set out in Annexure 1 to the Agreement:

Classification	From the first full pay period on or after <b>1 July 2023</b>	From the first full pay period on or after <b>1 July 2024</b>	From the first full pay period on or after <b>1 July 2025</b>
New Entrant	\$28.70	\$29.56	\$30.45

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



Signature

24 November 2023

Date