

# AGREEMENT

Between

HACIENDA HEIGHTS HEALTHCARE & WELLNESS CENTRE

and

UNITED FOOD AND COMMERCIAL WORKERS  
LOCAL 1167

DURATION: OCTOBER 1, 2015 - SEPTEMBER 30, 2019

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## PREFATORY STATEMENT

Hacienda Heights Healthcare & Wellness Centre reserves the right to delete, add to, or modify any or all of the following proposals until such time as a tentative agreement is reached. If accepted, each of the provisions contained herein will be the basis of a first collective bargaining agreement.

## OFFER

For the purposes of this proposal, the effective date will be the end of the next payroll immediately after the date that the Union has officially informed Hacienda Heights Healthcare & Wellness Centre in writing that the employees have ratified an overall settlement of the contract.

## AGREEMENT

This Agreement is entered into and effective as of this 1<sup>st</sup> day of October, by and between HACIENDA HEIGHTS HEALTHCARE & WELLNESS CENTRE, hereinafter referred to as the “Employer” or the “Company,” and UNITED FOOD AND COMMERCIAL WORKERS UNION, LOCAL 1167, chartered by the United Food and Commercial Workers International Union, hereinafter referred to as the “Union.”

### SECTION 1 - SCOPE OF AGREEMENT

1.1 Definitions. The term “employee” or “employees” as and wherever used in this Agreement shall mean all full-time and on-call certified nursing assistants, nursing assistants, restorative nursing assistants, cooks, dietary employees, janitor and laundry and housekeeping employees employed by the Employer at its facility located at 1311 Date Street, San Bernardino, California, but specifically excluding all other employees, office clerical employees, confidential employees, registered nurses, licensed vocational nurses, managerial employees, guards and supervisors as defined in the National Labor Relations Act.

1.2 Supervisory Employees. Employer recognizes the fact that bonafide supervisory employees are only those who have the authority to hire, promote, discipline (counsel and/or warn), discharge or otherwise effect changes in the status of employees or effectively recommend such action, and it is not the Employer’s policy to establish jobs or job titles for the purpose of excluding such employees from the provisions of this Agreement.

### SECTION 2 - RECOGNITION AND COVERAGE

2.1 Recognition. The Employer recognizes the Union as the sole and exclusive bargaining agent of the employees covered by this Agreement for the purposes of collective bargaining with respect to rates of pay, hours of work and other terms and conditions of employment.

2.2 Bargaining Unit Work. Work generally performed by employees within the bargaining unit shall not be assigned or performed by any person not in the bargaining unit unless:

2.2.1 It is done on a temporary basis only.

2.2.2 A supervisor is performing the work for training purposes.

2.2.3 An emergency situation exists or a situation where providing good patient care requires the work to be performed.

2.2.4 The Union retains the right to grieve such subcontracting if the Union believes the use of such help was only to avoid the use of current employees.

### SECTION 3 - UNION SECURITY AND REPRESENTATION

#### 3.1 Membership Requirements.

3.1.1 Present Union Members. All present employees covered by this Agreement who are members of the Union as of the date of execution of this Agreement shall, as a condition of employment, remain members of the Union in good standing. However, no employee will be required, as a condition of employment, to pay any initiation fees, reinstatement fees or dues to the Union that accrued or were imposed before the date of execution or effective date of this Agreement, whichever is later.

3.1.2 Future Union Members. All present employees covered by this Agreement who are not members of the Union as of the date of execution of this Agreement and all employees covered by this Agreement who are hired thereafter shall, as a condition of continued employment, become members of the Union by the thirty-first (31<sup>st</sup>) day from the date of hire, date of execution or effective date of this Agreement, whichever is later, and thereafter remain members of the Union in good standing. No employee who was employed by the Employer as of the date of execution or effective date of this Agreement, whichever is later, will be required, as a condition of employment, to pay any initiation fees or reinstatement fees to the Union. Nor will any employee employed by the Employer as of the date of execution or effective date of this Agreement or hired thereafter be required to pay retroactive dues to the Union covering the time period before the thirty-first (31<sup>st</sup>) day from their date of hire or the date of execution or effective date of this Agreement, whichever is later. The Union has the right to represent an employee during the ninety (90) day probation period, but not to grieve any actions taken.

3.1.3 Membership Obligations. Upon the failure of the employee to tender initiation fees, reinstatement or dues to the Union required under paragraphs 3.1.1 or 3.1.2 of this Section, the Union shall notify the Employer and the employee by letter of such failure, and the Employer shall discharge said employee no later than the seventh (7<sup>th</sup>) business day after such notice, unless the employee pays or tenders to the Union said unpaid monies prior to the expiration of the seventh (7<sup>th</sup>) business day period. Such notice will be mailed to the facility.

3.1.4 Dues Check Off. The Employer agrees to deduct the regular monthly Union dues and initiation fees uniformly required as a condition of membership in the Union every pay period from the wages of each employee covered by this Agreement who has completed thirty (30) days of employment and has provided the Employer with a voluntary individual written authorization to make such deductions on a form that has been mutually agreed upon by the Employer and the Union. Such deductions, when authorized, shall be made from the net wages due an employee each pay period, and shall be transmitted to the Union's office no later than the twentieth (20<sup>th</sup>) day of the month following the month in which such deductions were made. The deduction shall be expressly limited to regular

monthly Union dues and initiation fees only and the Employer shall have no obligation of whatsoever nature to make deductions for any other purpose, including but not limited to, reinstatement fees, special dues, special assessments, fines, strike funds or other assessments.

3.1.4.1 No deductions will be made from the wages of any such employee until the Employer has received a signed copy of a voluntary individual written authorization to make such deductions with such authorization to be received by the Employer no later than the first (1st) day of the month in which the deductions are to commence in order to be deducted for that month.

3.1.4.2 Authorization for such deductions is to be entirely voluntary on the part of each such individual employee, and after one (1) year following his written authorization to make deductions, any such employee may revoke his individual voluntary authorization upon giving thirty (30) days' written notice to the Employer and the Union.

3.1.5 Hold Harmless. The Union shall indemnify the Employer and hold it harmless against any and all suits, claims, demands, liabilities, damages, costs, legal fees and expenses that arise out of or by reason of any action that shall be taken by the Employer in complying specifically with the provisions of the foregoing paragraphs 3.1.3 and 3.1.4 of this Section or in reliance on any list or notice which shall have been furnished to the Employer under any of such provisions.

3.2 Hire and Transfer Notice. Within thirty (30) workdays following an employee's hire or transfer, the Employer will notify the Union of the Employee's name, address, telephone number, Social Security number, job classification, title, rate of pay and date of hire or transfer. The Employer will inform the Union of the name, social security number and date of termination of all terminated employees.

3.3 New Hire Probation. The language matches union and employer to my knowledge) All employees shall be considered probationary employees during the initial ninety (90) days of their employment and shall have no seniority status and will not be eligible for any benefits during said period, but shall receive wages at the contract rate provided for their respective classifications. Their rights and duties shall, in all other respects, be governed by the terms of this Agreement. The Employer may extend the probation of any employee for any thirty (30) days after providing written notice to the Union. A probationary employee may be terminated at any time during the initial or extended probation period without notice and without recourse through the grievance and arbitration procedures set forth in this Agreement. Upon successful completion of said probationary period, seniority rights shall date back to the initial date of employment.

3.4 X-Rays and Physicals. The Employer agrees to provide employees access to free X-rays and physicals so the employees can meet the state and/or county requirements in regard to pre-employment and annual X-rays and physicals through a contracted physician of the Employer's choice.

3.4.1 The Employer agrees to post the date, time and place of the X-rays and/or physical examinations as early as possible, but not less than five (5) days in advance of date of occurrence. Whenever possible, employees shall be scheduled to work on that day to enable them to take such X-rays and/or physical examinations during their scheduled hours of work.

3.4.2 Employees hired prior to May 1, 1990 may continue to have their X-rays and/or physical examinations done by their own physician. The Employer shall assume the cost of such X-ray and/or physical examinations up to ten dollars (\$10) maximum. To receive such reimbursement, the employee must furnish the Employer with a copy of the physical form.

3.4.3 Any employee who is not scheduled to work during the period the X-rays and/or physical examinations are given to employees shall be compensated for time spent by the employee in reporting and taking the X-rays and/or physical examination, but not less than two (2) hours at the appropriate rate of pay.

3.5 Access of Business Representatives. It is agreed that a single authorized representative of the Union shall have the right to conduct Union business within a facility and shall have access to bargaining unit employees in non-work areas during visits for the purpose of making inquiries concerning working conditions, complaints of members of the Union and other matters pertaining to the enforcement of this Agreement. The Union representative shall not interrupt the Employer's operations. The Union representative will notify the supervisor or, in the absence of a supervisor, a designee, in advance or upon arrival of visit. The Administrator or designee will arrange with the Union for investigations and meetings between employees and Union representatives. Such meetings and investigations shall be conducted in a place designated by the Administrator with no interference of the operation of the facility. The Employer agrees to permit the Union representative, upon request, to review the current roster of employees.

3.6 Bulletin Boards. The Employer shall provide space on a bulletin board at the facility for use of the Union. This space will be used for Union administrative matters, such as Union meeting notices and other material which shall be mutually agreed upon. The Union further agrees not to post material on the board that is false or derogatory of the Employer.

3.7 Facility Representative.

3.7.1 The employees may elect one (1) Facility Representative per nurse aide shift. Such person shall be acceptable to the employees and the local Union.

3.7.2 The Facility Representative under the guidance and at the discretion of the local Union, shall only deal with a representative of the Employer designated to handle grievances.

3.7.3 The Facility Representative shall perform their functions outside of their working hours on their own time, unless the Employer, at his sole discretion, requires the Facility Representative's presence during the Facility Representative's regular shift.

3.7.4 The Facility Representative shall not direct any employee how to perform or not to perform his/her work, shall not countermand the order of any supervisor and shall not interfere with the normal operations of the Employer or any other employee. Activities as a Facility Representative shall in no way interfere with any assigned duties as an employee.

3.7.5 When the Employer intends to issue a written warning or to discharge or suspend an employee, the employee shall have the right to request the presence of either the Facility Representative or the Union Agent at any such disciplinary meeting. No employee shall be disciplined as a result of such a meeting where such employee was denied the presence of a Facility Representative or Union Agent unless, after making a good faith effort, the Employer is unable to secure representation.

3.7.6 The Union will inform the company in writing of the names of persons designated Facility Representatives.

## SECTION 4 - MANAGEMENT RIGHTS

4.1 The Employer retains the sole right to manage its business, including, but not necessarily limited to, the right to open new facilities or establishments; to transfer, relocate, close or suspend any facility, establishment or operation; to determine the kind, quality and quantity of patients; to establish, maintain and modify patient care standards; to subcontract non-bargaining unit work and/or services to maintain life support and other operations; to manage its workforce; to select and determine the number, types and qualifications of employees required; to direct and assign work to the workforce; to establish and modify the hours of work; to establish and change work schedules and location within the facility; to determine appropriate levels of staffing; to establish and modify work rules; and, in general, retain all rights not expressly granted in the contract or by law to the Union or to the employees.

## SECTION 5 - SENIORITY

5.1 Definition of Seniority. Seniority shall mean an employee's continuous length of service with the Employer from most recent date of hire.

5.1.1 Seniority shall be the determining factor in the event of layoff and recall from layoff, and vacation scheduling provided qualifications and ability are substantially equal.

5.1.2 A leave of absence of thirty (30) days or less shall not alter an employee's seniority date. Employee's seniority date will be appropriately adjusted forward in time for leaves of absence longer than thirty (30) days.

5.1.3 If an employee is placed "on-call" due to a decrease in census and is brought back within thirty (30) days, the employee's seniority date will not be affected.

5.2 Vacation Schedule Preference. Employees shall be given their preferences for accrued vacation in accordance with their position in the seniority group.

5.3 Job Posting. All employees will be notified of permanent job openings within the bargaining unit.

5.4 Upon prior written notice, an employee may request to change their regularly scheduled shift to another shift provided there is a vacancy. Provided qualification and ability are substantially equal, current employees shall have first rights to requested shift changes, based on seniority, prior to the hiring of new employees or the usage of "on-call" employees for that shift. Employees with formal written discipline within the previous twelve (12) months of a shift vacancy shall not be considered for a requested shift change.

5.5 The Employer has sole discretion to create or modify the employee's rotation and regularly scheduled rotation provided it is not in conflict with any other provision of this agreement. The Employer has the sole and exclusive right to determine the total number of labor hours needed to run its operations and can adjust that number upward or downward without consultation or notice to the Union. Nothing in this Section shall limit the Employer's right to call off employees or send them home before the end of their shift. In addition, the Employer enjoys the sole and exclusive right to determine the mix of job classifications needed to run its operations. The Employer also reserves the right to reduce scheduled hours or modify staffing patterns for some or all bargaining unit employees in a given classification in response to low daily census or other business conditions. In the event that low daily

census or acuity levels requires a reduction in the number of scheduled employee for that day, the Employer agrees that it shall follow this order in canceling or laying off employees for the day:

1. Registry/agency/travelers (as long as the Employer does not incur any cost by canceling their scheduled work);
2. Volunteers (in which event the employee shall only be paid for hours actually worked notwithstanding any other provision of this section);
3. On-call or per diem employees,
4. Full time employees. Full time employees who report to work and are sent home before the end of their scheduled shift will be paid a minimum of 4 hours unless such employee volunteers to be sent home.

After any reduction of scheduled hours caused by the above mentioned business decisions, the Employer will make a good faith effort to restore hours lost to those employees.

5.6 Promotion or Lateral Transfer. Full-time employees who meet the qualifications of a vacant bargaining unit position that is posted in a higher-paying or lateral job classification may submit a written request to the Business Office for the position within five (5) business days after the position is posted. The most qualified candidate will be selected for the position. Where two (2) or more employees of equal qualifications and ability have requested the available position, the employee with the greatest seniority will prevail. If a qualified candidate does not apply for the position within five (5) days from posting, the Employer may hire an outside candidate. Employees who move to a higher-rated (promotion) or lateral classification shall serve a ninety (90) calendar day probationary period. During such ninety (90) day trial period, the employee shall be given thorough instruction and proper orientation in the new work and shall be given an evaluation by the Employer between the thirtieth (30<sup>th</sup>) and fortieth (40<sup>th</sup>) day from the date of transfer. Such evaluation shall be placed in the employee's file. An employee who fails to qualify for the new job classification shall be returned to the immediate, previously held job classification at the applicable rate of pay without loss of seniority.

5.6.1 The Employer may request an employee to transfer to a job classification at the same wage rate or higher wage rate, provided however, the employee shall have the option to accept or reject such transfer without loss of seniority. An employee who is transferred by the Employer as herein provided shall be subject to the probationary provisions of the Promotion and Lateral Transfer section of this Section.

5.6.2 Employees being promoted to the nurse's aide classification who are not certified by the necessary government agency at the time of promotion will serve a trial period of four (4) months or whatever length of time is required by law, whichever is longer.

5.6.3 Upon request, any employee denied a request for promotion shall be given a written reason why they did not receive the promotion. If requested by the employee, there will be a meeting between the employee, the Union and the Employer.

5.7 Reduction of Hours and Reduction in Work Force. On any reduction of hours or any reduction of work force, the least senior employee in a job classification within the department at the facility shall be the first reduced in hours, or the first displaced. Such employee may then displace the least senior employee in another department at the facility, provided the employee has the experience and is qualified, in the opinion of the Employer, to perform the work of the least senior employee in said department and previously held that position in good standing at the facility.

The Employer will give as much advance notice as possible to affected employees and the Union of a pending reduction in the work force.

5.8 Recall Rights. A laid-off employee shall have recall rights for one (1) calendar year, beginning with the date of layoff. Employees shall be recalled by classification seniority.

5.9 Loss of Seniority. Seniority will be lost by:

5.9.1 Voluntary quit.

5.9.2 Discharge for cause.

5.9.3 Failure to accept and report for work within seven (7) business days after date of mailing of notice of recall, which shall be sent by registered or certified letter to the last address shown for the employee on the records of the Employer.

5.9.4 Failure to report for work in accordance with the terms of any leave of absence, unless the terms are otherwise agreed upon by the Employer and employee.

5.9.5 Layoff exceeding twelve (12) months.

5.9.6 An absence from work without notification to the facility on three (3) occasions within a twelve month period.

5.10 Seniority List. A seniority list of all employees in the bargaining unit shall be established and maintained by the Employer. Such list shall include the full name of the employee in order of seniority, date of hire, classification. The seniority list shall be posted next to the employee's work schedule and a copy of the current list shall be mailed to the local Union.

## SECTION 6 – DISCHARGE

6.1. Principles: The Employer retains the right to discipline or discharge employees for just and sufficient cause. However, probationary employees may be disciplined and/or discharged at will without recourse to the grievance or arbitration procedure of this Agreement.

6.2 Warning Notices. Employees who are discharged for failure to satisfactorily perform job duties or failure to perform work as required shall have had one (1) prior warning in writing of such incompetence or failure to perform work as required, with a copy sent to the Union, except that no prior warning is required before discharge for any of the offenses listed in Section 6.3 of this Agreement. The Employer agrees to send a copy of all written warnings to the Union Representative within seven (7) business days from the date of issue.

6.3 Drug Testing. Drug testing shall be permitted of bargaining unit members in accordance with the requirements of California law.

6.4 Discharge Procedure. Upon the discharge of any non-probationary employee, the Employer shall, within three (3) working days thereafter, excluding Saturday, Sunday and holidays, notify the Union in writing of such discharge stating the reasons therefore.

6.4.1 The Employer agrees to exercise fair and reasonable judgment in the application of this Section. The Union, acting on behalf of any employee whom the Union believes to have been disciplined or discharged without proper cause, shall have the right to appeal such discipline or discharge in accordance with the grievance procedure set forth in Section 19 - Grievances and Arbitration of this Agreement. The Employer shall provide copies of written warnings to the employee and shall provide written notice of discharge or suspension to the employee and the Union.

## SECTION 7 – PERSONNEL RECORDS

7.1 If an employee wishes to inspect his/her personnel file, all such inspections shall be requested in writing to the Administrator, they will be scheduled during regular office hours at a mutually convenient time for the employee and the Employer and the inspection will be conducted under supervision of the Administrator or corporate representative.

7.2 The employee shall have a right to insert in his/her file reasonable supplementary material and a written response to any items in the file. Such response shall remain attached to the material it supplements for as long as the material remains in the file.

7.3 Employees, upon written request to the Administrator, shall be given the opportunity to review and make comments regarding any document of a derogatory, critical or negative nature that is to be placed in the employee's file.

7.4 The Employer will notate in the employee's file that there is a companion investigation file housed in the administrator's office.

## SECTION 8 - HOURS OF WORK AND OVERTIME

### 8.1 Workweek and Workday:

8.1.1 Workweek. The workweek shall be seven (7) consecutive days, beginning on Sunday and ending on Sunday.

8.1.2 Definition of Week and Day. The regular day (for the purposes of determining the payment of overtime) shall begin at 12:01 a.m. and ends 24 hours later.

8.1.3 Request for Consecutive Days Off. Any full-time employee requesting two (2) consecutive days off, thirty (30) days prior to posting of the work schedule, shall be granted the request. The Employer reserves the right to schedule such consecutive days off. The Employer will grant as many requests as can be scheduled. If granting such requests proves to be unfeasible, the Employer will grant such requests on a seniority basis.

### 8.2 Definition of Full-Time Employees:

8.2.1 Full-Time. A full-time employee is defined as one who is regularly scheduled to work thirty-five (35) hours or more per work week. Full-time employees are eligible for all employee benefits after completion of the benefits-eligibility waiting period. On March 31, June 30, September 30 and December 31, the Employer will look at hours worked by each bargaining unit employee over the previous quarter and determine a monthly average by dividing the total worked in

that period by the number of weeks. Any employee working 35.0 or more hours per week will be classified as full-time prospectively until the next measurement period. Any employee working less than 35.0 hours will not be designated as full-time prospectively.

8.2.2 On-Call/Per Diem Employee.

8.2.2.1 On-Call/Per Diem Employee Rate of Pay. The rate of pay for an on-call/per diem employee shall not be less than the minimum rate in his/her department. This employee shall not be eligible for any vacation pay, sick leave, holiday pay or any other benefits.

8.2.3 Status Change. The Company only allows up to four status changes per year.

8.3 Recognition – Workweek. The Employer agrees that on-call/per-diem jobs shall not be created or scheduled for the purpose of destroying the full-time workday or full-time workweek principle. However, nothing in this Agreement shall be construed to guarantee any employee a full-time workday or a full-time workweek or, a minimum number of hours per day or per week, and the Employer may modify such workday or workweek at its discretion.

8.4 Overtime.

8.4.1 Time and One-Half. The overtime rate of pay of one and one-half (1½) times the employee's straight-time hourly rate shall be paid for:

8.4.1.1 All hours worked in excess of eight (8) hours during a workday.

8.4.1.2 All hours worked in excess of forty (40) hours in a workweek.

8.4.1.3 The first 8 hours of work on the seventh consecutive day of work in a workweek.

8.4.1.4 The first four (4) hours worked on the second consecutively assigned and approved shift following a full eight (8) hour shift.

8.4.2 Double-Time. The overtime rate of pay will be calculated at two (2) times the employee's straight-time hourly rate for:

8.4.2.1 All hours worked in excess of twelve (12) hours in a workday.

8.4.2.2 All hours worked in excess of eight on the seventh consecutive day of work in a workweek.

8.4.3 All holiday hours worked shall count as time worked for the purposes of computing weekly overtime.

8.5 Non-Pyramiding. There will be no pyramiding of overtime. No other sections of the Agreement will provide for any pyramiding of overtime pay. All overtime shall be paid in accordance with paragraphs 8.4.1 and 8.4.2 of Section 8.4 of this Agreement.

8.6 Meal Period. All hours shall be worked consecutively, except for a one-half (½) hour non-paid meal period which will be assigned by the supervisor to each employee scheduled to work at least five (5) hours in a given shift. No employee shall be scheduled for more than five (5) hours or less

than three (3) hours of work before a meal period. Meals shall be consumed in authorized areas only. All employees shall punch out on the time clock when leaving the work station for the meal period and shall punch back in on the time clock when returning to the work station at the completion of the meal period. The meal period will be scheduled as near the middle of the shift as possible.

8.7 Work Schedules. The Employer agrees to post a legible schedule, in ink or other permanent type, of the working hours for all employees. Such schedule shall show each employee's name, starting time, quitting time and days off. It is further agreed that biweekly or monthly work schedules must be made and posted no later than 12:00 noon on Wednesday of the last week preceding the commencement of such biweekly or monthly work schedule. Changes to the posted schedule may be made by the Employer to meet the needs of the business, including the right to send employees home after the start of their shift and before the end of their shifts. Such schedule shall be posted on the bulletin board or at a place where all employees and representatives of the Union may observe same at all times during the workweek. A copy of the schedule shall be furnished to the Union at the request of the Local.

8.8 Rest Period. An employee working more than two (2) hours and up to and including six (6) hours in a workday shall receive one (1) fifteen (15) minute uninterrupted rest period. An employee working more than six (6) hours in a workday shall receive two (2) fifteen (15) minute uninterrupted rest periods during such day. The first rest period shall be given during the first half of the employee's schedule and the second period during the second half of such workday.

8.8.1 Uninterrupted. The term uninterrupted means not being called to perform work. If the employee is called back to work during the rest period, the employee will be given a new uninterrupted rest period to replace that which was interrupted as soon as possible. Any employee working a double-shift shall receive another fifteen (15) minute rest period at the commencement of the second shift.

8.9 Legal Proceedings. Any employee served with a legal notice, citation or subpoena which involves any facet of the Employer's operation or which may require the employee to appear in legal proceedings during scheduled work time shall immediately inform the Employer of such service. Employees shall be paid as time worked under the terms of this Agreement for time spent at appearances or standby in legal proceedings at the request of the Employer.

#### 8.10 Additional Hours.

8.10.1 Volunteer List. Employer will maintain a monthly list of volunteers based on seniority for purposes of alleviating any increased work load due to absences of any nature. If a volunteer cannot be found on the list, then the work will be assigned to the least senior employee who has signed same list volunteering for extra work whenever it is available. In the event that two employees on the list have refused to work such additional hours, management may utilize whatever method it deems necessary to attempt to fill the absence.

8.10.1.1 It is understood that employees who sign the list for extra work will be expected to work when called. An employee on this list who refuses to report after being contacted on two consecutive occasions will have his/her name dropped from the list for the remainder of current schedule and for the following month's schedule. Each employee must be given the opportunity to sign the list. Upon request the Union shall be furnished a copy of the list.

8.10.2 Assignment of Hours. Scheduled and unscheduled open shifts will first be offered to those employees for whom the extra shift will not result in the payment of overtime. The Employer shall utilize its best efforts to offer extra shifts to employees with the most seniority for whom the extra shift will not result in the payment of overtime. If this fails and attempts are exhausted, unclaimed open shifts whether scheduled or unscheduled, will be assigned to the least senior employees within a classification, and such employees shall be required to work the overtime or additional hours.

8.10.3 Call In. Employees called in to work prior to the beginning of a work shift shall be paid for the hours worked.

8.11 Pay Period. Pay periods and pay days shall be as outlined in the Employer's policies. The Employer reserves the right to change the pay periods and pay days after meeting and conferring with the Union.

8.12 Reporting pay shall be handled in accordance with State law.

8.13 The Employer has the sole and exclusive right to determine the total number of labor hours needed to run its operations and can adjust that number upward or downward without consultation or notice to the Union.

8.14 Each employee shall have the right to know his/her accruals in sick leave, vacation and holidays. Employees shall request such in writing and the Employer shall provide the requested information in writing within one (1) week.

## SECTION 9 - COMPENSATION

9.1 Wages. Appendix A, attached hereto and by reference made a part of this Agreement, sets forth classifications and appropriate wage schedules.

9.2 Work Performed Above Classification. Employees assigned to duties outside their job classification carrying a higher rate of pay shall be paid at the higher rate for all time worked in the higher classification based on seniority in the higher classification. When assigned by management to a lower classification for a temporary period the employee shall not suffer a reduction in pay for work in such lower classification except in connection with the employee's return to work from a leave of absence.

9.3 Travel:

9.3.1 Employees required to travel by the Employer during a daily work schedule shall be compensated at their regular straight-time rate of pay.

9.3.2 Employees required to travel by personal car during work hours will be paid the IRS Standard Business mileage rate, or higher if Employer reimburses at a higher rate for other Employer facilities, for each mile.

9.4 Injury on the Job. When an employee is injured on the job, there shall be no deduction from the employee's pay for the day in which the employee was injured and reported for medical care. When such employee returns to work following the injury and is certified as ready and able to perform all regular duties, the Employer shall make a reasonable effort to adjust the schedule without penalty to

the employee. When placing said employee back on the schedule, the Employer, among other factors, will take the following into consideration: patient care needs, the existing schedule and the normal working schedule of the employee in question. The Employer will attempt to adjust the schedule without penalty to any of the above-mentioned factors.

9.5 No Reduction in Rates. It is agreed that no employee shall, as a result hereof, suffer any reduction in wages. No employee receiving hourly rates in excess of the rates herein shall be replaced by another employee at a lesser hourly rate for the purpose of avoiding any of the provisions of this Agreement.

9.6 Regulation on Rates. Employer agrees to abide by federal, state, county, city and agency regulations in regard to monies received. The Employer in its sole discretion may pay employees more than the minimum rates set forth in this Agreement. Such monies will be in addition to the rates as outlined in this Agreement.

## SECTION 10 – INSURANCE

10.1 Liability Insurance. The Employer shall carry general liability insurance with limits of no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate.

10.1.1 The Employer will hold the employee harmless from any liability on account of deductible features of the policy to the extent an employee is being sued for activities in the course and scope of his/her employment.

10.1.2 The Employer shall provide the Union with a copy of the policy upon request..

## SECTION 11 - HOLIDAYS

11.1 Holidays Observed.

11.1.1 For eligible full-time employees who have been employed ninety (90) days (who have completed the probationary period), the following days shall be recognized as Holidays:

New Year's Day	Labor Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

11.1.2 Birthday Holiday. For employees hired prior to January 1, 2015, following one (1) year of employment, full-time employees will be entitled to a birthday holiday. The Birthday holiday is expected to be scheduled and taken and will not be carried over from year to year. If the birthday holiday is not scheduled and/or taken it will be forfeited. The Birthday holiday will not be paid out upon termination. The Birthday holiday must be taken on the employee's birthday or within thirty (30) days thereafter. Employees hired prior to November 1, 2014 who have over 10 years of service shall also be entitled to a personal holiday. The personal holiday must be used each calendar year and does not carry over to the next calendar year.

11.1.3 Holidays falling on Sunday shall be observed on the following Monday, and all conditions and benefits applying to the holiday shall be effective on Monday.

11.1.4 The birthday holiday shall be paid at the normal straight time rate for the full-time employee.

11.1.5 No birthday holiday shall be granted during a recognized holiday week as provided in Section 11.1.1, unless approved by the Employer.

11.2 Holiday Schedule. A schedule of those employees working a holiday shall be posted by the supervisor two (2) weeks in advance of the actual holiday. The Employer will endeavor to rotate the holidays off for eligible employees in as equitable a manner as possible. For scheduling the Birthday Holiday, the parties agree that there must be a mutual accommodation between the right of an employee to take this holiday when desired and the right of the Employer to preserve an orderly operation and maintain necessary staffing. An employee requesting a given workday as the Birthday Holiday must provide at least fourteen (14) calendar days advance notice. The Employer shall endeavor to grant such requests subject to operational requirements. The parties agree to administer this provision in good faith.

Written requests to work on any holiday shall be given first preference, based on seniority. Once an employee has agreed to work on any holiday and the work schedule has been posted, they shall be required to work.

11.3 Holiday Pay for Holiday Worked. Eligible full-time employees working on a holiday shall be paid the appropriate rate for working the day and shall, additionally, receive holiday pay which is paid at the employee's straight time hourly rate of pay.

11.4 Holiday Pay Eligibility Defined. To receive holiday pay, an eligible employee must work the full scheduled workdays immediately before and after the holiday, unless the absence is approved in advance by the employee's supervisor. In no event, however, will an employee be eligible to receive holiday pay if the holiday falls during an unpaid leave of absence. Additionally, if an employee is absent on the day of the holiday or does not work his or her full schedule on the day on which the employee is scheduled to work, the employee shall not receive holiday pay unless the absence is due to a documented accident or an illness for which the employee provides written certification or verification of illness from a physician.

11.5 Holiday pay will vary by employee based on the average number of regular hours worked per week.

11.6 If a holiday falls during an employee's approved vacation period, the employee will be paid for the holiday and will not be charged with a vacation day for the day the holiday is observed.

11.7 Employees on leave of absence for any reason are ineligible for holiday pay benefits for holidays that are observed during the period they are on leave.

## SECTION 12 - VACATIONS

12.1 Vacation Eligibility. A full-time employee shall receive paid vacations based on the following schedule. Employees do not accrue vacation during their probationary period:

Length of Service	Accrual Earning Rate
0-3 months	0.000
4 to 12 months	0.0274 (up to 5 days/40 hours per year)
13-36 months	0.0205 (up to 5 days/40 hours per year)
37 to 60 months	0.0411 (up to 10 days/80 hours per year)
61 to 240 months	0.0616 (up to 15 days/120 hours per year)
240 months and beyond	0.0822 (up to 20/160 hours days per year)-

Eligible employees may accrue vacation up to a maximum cap equal to twice their annual accrual amount. Once an employee reaches this cap, the employee will not accrue any further vacation until they use accrued vacation to drop below the cap. Vacation is not accrued during any unpaid leave of absence.

12.2 Computation of Vacation Pay. Employees will receive vacation pay computed on the basis of straight-time hours worked, vacation and sick leave hours paid.

12.3 Holiday During Vacation. If a paid holiday falls within the scheduled vacation period of an employee, an additional day of vacation with full pay, or an additional day's pay in lieu of the holiday, will be granted.

12.4 Vacation at Termination. An employee who resigns or is terminated shall receive all earned, but unpaid, vacation hours. Earned and unpaid vacation hours of a deceased employee shall be payable to the deceased's estate.

12.5 Vacation Schedule. Vacations may be scheduled after vacation pay is earned, subject to Management approval and the Employer's need for the employee's services. In order to allow a well-coordinated schedule, employees are to submit their vacation requests by completing a request for time off form, at least one month before they would like to take their vacation. Assuming patient needs can be met, vacation shall be scheduled on the basis of seniority.

12.5.1 Vacation shall not be in increments of less than one (1) week. In justifiable circumstances, the employee may request to split vacation into increments of less than one (1) week.

12.5.3 The Employer will schedule, where possible, the employee's days off in such a way that they are attached to the employee's vacation period.

12.5.4 If the Employer changes the employee's vacation schedule, they must give the employee one month of notice. Vacations may be requested by employees at any time during the year.

12.6 Vacation Accumulation and Pay. Vacation must be taken annually.

The employee may request vacation pay in writing one (1) month prior to taking a scheduled vacation, and such paycheck will be made available to the employee on the last day of work prior to starting the vacation leave.

12.7 Vacation Relief. The Employer will provide adequate vacation relief and will, to every extent possible, accomplish required work without undue hardship on any one employee or group of employees.

### SECTION 13 - DISABILITY AND UNEMPLOYMENT

13.1 The Employer will cause employees to be covered by unemployment and disability compensation in accordance with the terms of the California Unemployment Insurance Code.

### SECTION 14 - SICK LEAVE

14.1 Eligibility. FOR EMPLOYEES HIRED ON OR AFTER RATIFICATION:

The Employer shall implement a sick leave program that complies with the minimum requirements of AB 1522.

FOR EMPLOYEES HIRED PRIOR TO RATIFICATION:

Such employees may use sick hours in connection with the diagnosis, care or treatment of an existing health condition, preventive care for yourself or your immediate family member, or when you are the victim of domestic violence, sexual assault, or stalking.

For the purpose of this policy family member means:

- child - including biological, adopted, foster, and step children, legal ward or a child to whom the employee stands in loco parentis or the child of a registered domestic partner
- parent - including biological, adopted, foster, and step parent, legal guardian of an employee or of an employee's spouse or registered domestic partner
- spouse or registered domestic partner
- grandparent
- grandchild
- sibling

#### Accrual

Employees accrue 1 hour of sick leave for every 30 hours worked (which equate to 0.03333 for each hour worked).

Sick leave balances carry over from year to year; the accrual cap is 48 hours. If you reach this cap, no further paid sick days will accrue until you use some paid sick leave and your sick bank balance falls beneath the cap.

#### Usage

Sick leave begins accruing from date of hire but cannot be used until the 90th day of actual work. You may then use your accrued paid sick days on the first day of absence for a covered purpose.

There is a usage cap of 48 hours. Therefore you may utilize up to 48 hours of paid sick leave per calendar year. You may utilize your accrued sick time in a minimum of 2 hour increments.

If the need to use paid sick leave is foreseeable, you must provide reasonable advance notice to your supervisor or department head. If the need to use paid sick leave is not foreseeable, you must provide notice as soon as practicable. Use of paid sick leave may run concurrently with other leaves under local, state and/or federal law.

Beginning January 1, 2017, for employees who utilize 24 hours or less of sick leave in the preceding calendar year, they shall be entitled to cash out up to 24 hours of paid sick leave at their then current rate of pay. The request for cash out must be made in writing and no later than January 31<sup>st</sup>. Payout of the sick leave will occur no later than February 28<sup>th</sup>.

Unused sick leave will not be paid out at time of termination.

14.2 Integration of SDI and Sick Leave. All sick leave benefits will be integrated with California Disability Insurance (SDI) benefits received by eligible employees to provide 100% of normal wages until exhaustion of sick leave benefits and/or the SDI benefits or the return to normal work duties as released by the attending physician.

14.4 Doctor's Certificate. Except as may be prohibited by AB 1522, a doctor's certificate may be required by the Employer for absences if the Employer has a basis to believe the absence is an abuse of this sick leave Section. In addition, employees must submit a release from their physician to return to work if they miss three (3) or more days. Employees will not be eligible for paid sick hours without a release from the treating physician.

## SECTION 15 - LEAVES OF ABSENCE

15.1 Statutory Leaves. The Employer shall administer Family and Medical Leave, Pregnancy Disability Leave and Military Leave in accordance with the requirements of California and Federal law.

15.2 Non-Statutory Medical Leave. A full-time employee, after completion of ninety (90) days of employment and subject to prior written approval from the employee's supervisor or the Administrator, is eligible to take up to twelve (12) weeks of unpaid medical leave in any rolling twelve (12) month period due to the employee's own illness or injury that does not otherwise qualify for statutory leave provided under federal or state law and that prevents the employee from working for more than seven (7) consecutive business days. Prior to taking such leave, the employee must submit a written request to his or her supervisor or the Administrator and must further provide written certification of the need for the leave from the employee's physician. Any accrued and unused vacation and sick leave will be applied to a non-statutory medical leave. Vacation and sick leave hours are not accrued during such a leave, nor will the employee be eligible for holiday pay.

15.2.1 To be able to return to work after a non-statutory medical leave, the employee must provide the Employer with a medical release and fitness-for-duty certificate from his or her physician at least seven (7) days before the date the employee intends to return to work. After an approved leave of twelve (12) weeks or less, and subject to the employee providing the medical release and fitness-for-duty certificate, the Employer will return the employee to the same position the employee held before the leave unless the Employer had to fill the position because of business necessity or the position was eliminated. If the employee's position is no longer available, the Employer

will make a reasonable effort to place the employee in a vacant comparable position or, if a comparable position is not available, any other vacant position at the facility for which the employee is qualified at the pay rate for that position. If no such position is available, the employee may be terminated by the Employer without recourse through the grievance and arbitration procedures set forth in this Agreement. If, within twelve (12) weeks from the start of leave, the employee fails to return to work or does not provide the medical release and fitness-for-duty certificate, the employee may be terminated by the Employer without recourse through the grievance and arbitration procedures set forth in this Agreement.

15.3 Personal Leave. Personal leaves of absence up to thirty (30) days may be granted to a full-time employee at the sole discretion of the employee's supervisor or the Administrator for any compelling personal reason other than provided elsewhere in this Agreement. The duration of the leave is at the sole discretion of the supervisor or Administrator. The employee must submit a written request for a personal leave for approval thirty (30) days in advance or as soon as possible before the leave is to begin. Personal leaves are unpaid. Any accrued and unused vacation will be applied to a personal leave. Vacation and sick leave hours are not accrued during such a leave, nor will the employee be eligible for holiday pay.

15.3.1 At the completion of an approved personal leave of absence, the employee will be returned to the same position the employee held before the leave unless the Employer filled the position during the employee's absence or the position was eliminated. If the employee's position is no longer available, the Employer will make a reasonable effort to place the employee in a vacant comparable position or, if a comparable position is not available, any other vacant position at the facility for which the employee is qualified at the pay rate for that position. If no such position is available, the employee may be terminated by the Employer without recourse through the grievance and arbitration procedures set forth in this Agreement. An employee who fails to report to work on the first day after expiration of a personal leave will be deemed to have voluntarily terminated his or her employment without recourse through the grievance and arbitration procedures set forth in this Agreement.

15.4 For leaves over thirty (30) days the employee's seniority date shall be adjusted forward in time by the length of the leave.

15.5 Bereavement Leave. When a death occurs in the immediate family of an employee, the employee shall be entitled to an unpaid leave of absence of three (3) days when the employee has less than three (3) years of service. Employees with the following years of service will receive paid bereavement leave as follows:

<u>Years of Service</u>	<u>Paid Days for Bereavement</u>
3	1 day paid, 2 days unpaid
7	2 days paid, 1 day unpaid
10	3 days paid

15.5.1 Immediate family is defined as spouse/domestic partner, sister, brother, daughter, son, mother, father, grandfather, grandmother, grandchildren, step-children, step-parents and mother-in-law and father-in-law of the present spouse.

15.6 Jury Duty. The Company encourages you to serve on jury duty when called. If you are required to serve as a juror or witness, you will be granted time off without pay. You should notify your supervisor of the need for time off for jury duty as soon as a notice or summons from the court is

received. You may be requested to provide written verification from the court clerk of performance of jury service.

15.7 Any employee who accepts gainful employment while on any leave of absence forfeits all seniority and reinstatement rights to employment at the facility.

## SECTION 16 - GROUP INSURANCE PLANS

16.1 The Employer agrees to make available Life, Accidental Death and Dismemberment, and Dental Insurance for the duration of this Agreement to full-time employees who regularly work thirty-seven and one-half (37½) hours or more per week and to part-time employees who are regularly scheduled to work thirty (30) or more hours but less than thirty-seven and one-half (37½) hours in a workweek. Eligibility for group health insurance shall be governed by the requirements of the Affordable Care Act.

16.2 The Employer shall have the unilateral right to select or change the carrier of any of its group insurance plans at its discretion without negotiation with the Union. The Employer shall also have the right to change any of the benefits, eligibility requirements or levels of coverage provided under any of its group insurance plans at its discretion, in which case the Employer agrees to provide the Union with copies of the summary plan descriptions and will afford the Union up to thirty (30) days to negotiate any proposed changes prior to implementing the changes at the facility.

16.3 Such group insurance plan coverage will be made available as follows:

16.3.1 Upon an eligible employee's enrollment in the Company group medical plan, after completion of the probationary period, for an employee with less than 5 years of service, the Employer will pay seventy-five percent (75%) of the premium for employee only coverage for the lowest priced health plan offered per month toward whatever health insurance offering and level of coverage (employee, employee plus spouse, employee plus children, family) is selected by the employee. For eligible employees with at least 5 but less than 10 years of service, the Employer will pay eighty percent (80%) of the premium for employee only coverage for the lowest priced health plan offered per month toward whatever health insurance offering and level of coverage (employee, employee plus spouse, employee plus children, family) is selected by the employee. In subsequent years (greater than 10 years), the Employer will pay eighty-five percent (85%) of the premium for employee only coverage for the lowest priced health plan offered per month toward whatever health insurance offering and level of coverage (employee, employee plus spouse, employee plus children, family) is selected by the employee. In the event the Employer's contribution set forth above does not comply with the provisions of the ACA, the Employer's contribution shall be increased to meet the ACA minimums.

16.3.2 The employee will pay one hundred percent (100%) of the monthly premium cost for Life, Accidental Death and Dismemberment and Dental insurance coverage.

16.3.3 The parties understand and agree that if the monthly premium cost under any of the group insurance plans provided by the Employer increases or decreases at any time, the employee's percentage contribution toward the monthly premium cost will remain the same and thus the employee's monthly premium cost will similarly increase or decrease as the case may be. The parties further understand and agree that any such changes in the employee's monthly premium cost are not subject to

the thirty (30) day negotiation provision set forth in Section 16.2 above and may be unilaterally implemented by the Employer without negotiation with the Union.

#### SECTION 17 - RETIREMENT PLAN

17.1 All full-time employees after one (1) year of employment are entitled to enter the Employer's 401(k) plan at the appropriate plan entry date. The Employer will not match this plan.

#### SECTION 18 - NON-DISCRIMINATION

18.1 The Employer and the Union agree that they will not discriminate against any employee in regard to tenure of employment or job status because of his/her union activity or membership, race, creed, religion, color, national origin, age, sex, disability, or any other protected category. The Employer agrees upon request to consult with the Union regarding any reasonable accommodation of an employee's disability which conflicts with the provisions of this Agreement.

#### SECTION 19- GRIEVANCES AND ARBITRATION

19.1 Scope of the Grievance Procedure. Any and all matters of controversy, dispute or disagreement of any kind or character existing between the parties and arising out of or in any way involving the interpretation or application of the terms of this Agreement shall be examined and resolved by the procedures of this Section.

##### 19.2 Grievance Procedure Steps:

19.2.1 Step 1: A grievance shall be taken up orally in the first instance between the employee and a Union representative and the Employer's designated representative within seven (7) business days from the employment action, event, incident or issue that is the subject of the grievance or from notice to the employee or the Union of same, which is earliest.

19.2.2 Step 2: If the grievance is not satisfactorily adjusted in Step 1, it will be reduced in writing, specifying the nature of the grievance in reasonable detail, the provision(s) of the Agreement in dispute, the names of the individual or individuals involved, if any, and the remedy requested sent to the Administrator within five (5) business days following the Step 1 meeting and thereafter promptly taken up between the Union representative and the Employer representative, each of whom has the authority to adjust the grievance. The Employer representative shall respond to the Union representative in writing within seven (7) business days after the grievance has been taken up in Step 2.

19.2.3 Notwithstanding the provisions of paragraphs 19.2.1 and 19.2.2 of this Section, any grievance over an employee's discipline or discharge must be filed by the Union with the Administrator in writing within seven (7) business days after the Union or the employee receives notice from the Employer of the discipline or discharge. If a written grievance is not filed with the Administrator within this seven (7) day period, the discipline or discharge shall be conclusively deemed valid and proper unless a longer period is mutually agreed to in writing by the Administrator and the Union.

19.2.4 Step 3: If a grievance is not satisfactorily adjusted in Step 2, the grievance may be submitted to arbitration by written notice to the Administrator not later than fifteen (15) business days following receipt of the written answer in Step 2.

19.3 Arbitration. Within fifteen (15) business days from the date of appeal of the matter to arbitration, the parties shall meet to select an Arbitrator. If the parties cannot agree upon an Arbitrator, the Federal Mediation and Conciliation Service shall be requested jointly by the parties to name a panel of five (5) Arbitrators. The parties shall then choose the Arbitrator by alternately striking a name from the list until one (1) name remains as the Arbitrator chosen by the parties and empowered to arbitrate the dispute.

19.3.1 The Arbitrator shall be authorized to rule upon and issue a decision and award in writing on any issue for arbitration, including the question of arbitrability of such issue. The decision and award shall be final and binding upon the parties to this Agreement. Decisions are to be rendered within thirty (30) business days of the final presentation of evidence or briefs; extension(s) will be only by mutual agreement of the parties. The expenses of the Arbitrator and other mutually agreed-to expenses shall be borne equally by the parties. Each party shall be responsible for the cost of its own representation and witnesses.

19.3.2 The Arbitrator shall have no power to add to, subtract from, alter, amend, modify or project beyond its meaning, any of the terms and provisions of this Agreement.

19.4 General. The time limits set forth in this Section may be extended upon mutual agreement of the parties. The first step of the grievance procedure may be mutually waived, but no matter may be appealed to arbitration without having been heard at the second step.

19.4.1 Where two (2) or more employees are part of a common grievance, the matter shall be heard as a single grievance.

19.4.2 If the Employer does not respond within specified time limit(s), the Union may proceed to the next step. Any matter not appealed within specified time limit(s) or during an extension thereof is considered settled.

19.4.3 No settlement or decision of any Arbitrator shall create a basis for retroactive adjustment in any other case.

19.5 Where the grievance is over an employee's discharge from employment, the Union agrees that any arbitration hearing over the employee's discharge will be commenced no later than one hundred twenty (120) days after the date of discharge unless the Employer agrees in writing to waive this requirement. If the arbitration hearing commences more than one hundred twenty (120) days after the date of the employee's discharge, and the Employer is not the primary cause of the delay, the parties agree that the maximum amount of back pay that the Arbitrator may award, if any is to be awarded, is what the employee would have earned at the facility over a six (6) month period beginning from the date of discharge minus any earnings the employee received elsewhere.

19.6 The parties agree that the arbitrator shall accept a written statement signed under penalty of perjury by a resident, patient or family member in lieu of their sworn testimony and it shall carry the same force and effect as if the resident, patient or family member appeared and provided live testimony. The parties agree that neither shall call a resident, patient or family member as a witness. The Union

Representative, if the resident, patient or family member agrees, shall be allowed to be present while the written statement is obtained.

“In cases involving resident care, the standard of “just cause” shall be met if the Employer had a reasonable belief that the alleged actions or failure to act occurred. The Employer agrees to submit to the arbitrator the investigation that the State of California Department of Health conducted on the incident in dispute. Upon review of that report the arbitrator shall give consideration in any findings he/she may render in the case.

If the Arbitrator determines in a resident care case that the above-defined just cause standard was met he/she should not change the discipline given by the Employer except in extraordinary circumstances. In reviewing whether the Employer’s belief was reasonable, the Arbitrator’s review may include (1) the appropriateness of the Employer’s investigation; (2) the strength of the evidence supporting the allegation; (3) the employee’s work history; (4) the resident’s complaint history; (5) the resident’s cognitive ability; (6) physical evidence, if any; and (7) other such factors traditionally reviewed in disciplinary cases.

All employees of the Employer are trained in recognizing and reporting elder and dependent abuse and are mandated by law to report the same even if they doubt the veracity of the allegations. An employee must report a known or suspected instance of abuse if he or she: (a) has observed or has knowledge of an incident that reasonably appears to be abuse; (b) has been told by an elder or dependent adult that he or she has experienced behavior constituting abuse; or (c) reasonably suspects that abuse has occurred.

#### SECTION 20 - TERMINATION PAY

20.1 Employees who are separated from the service of the Employer shall be paid for any accrued, unused vacation time.

#### SECTION 21 - SEPARABILITY CLAUSE

21.1 The provisions of this Agreement are deemed to be separable to the extent that if a court of last resort adjudged any provisions of this Agreement in its application between the Union and the undersigned Employer to be in conflict with any law, such decision shall not affect the validity of the remaining provisions of this Agreement, but such remaining provisions shall continue in full force and effect, provided further that in the event any provision or provisions are so declared to be in conflict with a law, both parties shall meet immediately for the purpose of renegotiating an agreement on the provision or provisions so invalidated.

#### SECTION 22 - MISCELLANEOUS PROVISIONS

22.1 Employee Responsibility. No employee shall be requested to sign any work done by another employee.

22.1.1 No employee will be responsible for changes made on patient’s charts when changes are made without employee’s knowledge.

22.2 Employee Education and Orientation. It is the employee's responsibility to keep abreast of developments in the health care field. The Employer will arrange during working hours to assist the employees to learn new procedures and to operate new equipment in the Employer's facility.

22.3 Payroll Data. In case of a dispute over wages, the Union representative shall, upon request, have the right to a copy of the necessary payroll and time card information relative to employees covered by this Agreement. The Employer shall notify the Union office in writing of the disposition of the special check if requested to settle the dispute, including the gross amount of wages paid.

22.4 Interview Interrogation. In any instance where an employee is to be interviewed and/or interrogated by the Employer or his representative in respect to any alleged violation of the collective bargaining agreement or alleged infraction of Company policies which may result in disciplinary action including, without limitation, a warning notice, the employee shall be informed of his/her right to have his/her business representative present during such interview or interrogation.

22.5 Polygraphs. No Employer shall demand, allow or require any applicant for employment or prospective employment or any employee to submit to or take a polygraph (lie detector) test or similar test or examination as a condition of employment or continued employment.

### SECTION 23 - OBLIGATION

23.1 Requirements. The facility will continue to operate under the guidelines as set forth in Title 22, Division 5, Chapter 3 of the California Administrative Code and the Federal Register, Volume 39, Number 12, Part III of the Articles of Participation of the Medicare Program or as may be amended, and the safety program as set forth by Company policy to comply with reasonable and necessary provisions for the safety and well-being of employees during hours of employment.

23.2 Employer Obligation. The Employer agrees that employees shall not perform duties which violate federal or state laws.

23.3 Bulletin Boards. The facility will permit the Union the use of designated bulletin boards in the employee lunchroom for Union matters. The Union further agrees not to post material on the board that is false, derogatory or disparaging of the Employer or the services it provides. If the Employer deems that any posting violates the provisions of this section, it may request that the Union immediately remove said materials from the bulletin board.

### SECTION 24 - NEW OR REVISED JOBS

24.1 The Employer retains the right to establish new jobs or revise current jobs, except as limited by this Agreement. The rate of pay is at the discretion of the Employer, subject to all appropriate State and Federal regulations.

24.2 At such time as the Employer establishes a new job or changes the job content of an existing job, a job description shall be written and a rate established for such a new or changed job, and a copy of same sent to the Union.

## SECTION 25 - STRIKE/LOCKOUT

25.1 It is agreed that during the life of this Agreement or any extension thereof, there shall be no lockout on the part of the Employer at the facility.

25.2 The Union agrees that during the term of this Agreement or any extension thereof, neither its officers nor its members or its other agents or representatives will call, instigate, participate in or condone any strikes, sympathy strikes, walkouts, slowdowns, stoppages, picketing, leafleting or other interruption of work at the facility, whether or not the cause therefore was or was not subject to arbitration. These restrictions shall apply to all such activities at the Employer's facilities.

25.3 Neither the violation of any provision of this Agreement by the Employer, nor the commission of any act by the Employer constituting an unfair labor practice, shall excuse the Union, or any of its members or representatives, or any employee from their obligations under Federal Labor Law or any provision of this Agreement, specifically including this Article.

25.4 If either party to this Agreement violates any provision of this Article, the other party shall be entitled to seek all appropriate relief, including but not limited to injunctive relief, monetary damages and attorneys' fees.

## SECTION 26 - MATTERS COVERED

26.1 All matters not covered in this Agreement shall be deemed to have been raised and properly disposed of. This Agreement contains the full and complete agreement between the parties, and neither party shall be required to bargain upon any issue during the life of this Agreement.

26.2 The failure of either party to enforce any of the provisions of this Agreement or granted by law shall not be deemed a waiver of any right, nor a waiver of its authority to exercise such right in some way not in conflict with the Agreement.

## SECTION 27 - SUBCONTRACTING

The Employer reserves the right to subcontract housekeeping, laundry and dietary services. Any subcontracted employees shall receive the wages, fringe benefits and all other terms and conditions of employment specified in the Union's contract with this Employer. The subcontractor however reserves the right to implement substantially equivalent health, dental and vision plans of its choosing. Also, the subcontractor can implement its own 401k or other retirement plan. Finally, the subcontractor can offer life, disability and other insurance products through carrier(s) of its choosing. The Employer will secure a third party agreement to the Contract signed by the Union and the Employer. The Employer will not be liable for any breach by the subcontractor of the provisions of this section. The Union's sole remedy in the event of a breach is to pursue a grievance against the subcontractor. No grievance may be brought against the Employer for violations committed by a subcontractor under this Section. All subcontracted employees covered by the recognition provision of this Agreement shall become and remain members of the Union. In the event that the Employer changes.

The Employer further agrees that in the event the agreement between the Employer and a subcontractor is terminated and the work formerly being performed by the subcontractor will now be performed by a different subcontractor, the Employer will require the new subcontractor to:

- (a) Hire the formerly subcontractor's employees (so long as they are eligible for employment-citizenship, necessary licensure (if applicable), and not on any state or federal exclusion list).
- (b) Honor the formerly subcontracted employees' date of hire for seniority purposes.
- (c) Agree that the impacted employees will be covered by the terms of this Agreement.

SECTION 28 - EXPIRATION AND RENEWAL

This Agreement shall be effective October 1, 2015 and shall continue in effect for a period of four (4) years following the effective date. It shall continue in effect from year to year unless changed or terminated as provided herein.

Either party wishing to change or terminate this Agreement must serve written notice of desire to amend to the other party at least ninety (90) days prior to the expiration date.

Applicable federal law which establishes special notice periods for health care institutions shall prevail over this Agreement.

In witness whereof, the respective parties hereto have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

FOR THE EMPLOYER:

FOR THE UNION:

By: \_\_\_\_\_  
 Mitch Reichmann  
 Hacienda Heights Healthcare & Wellness Centre

By: \_\_\_\_\_  
 Rick Bruer, President  
 UFCW Local 1167

APPENDIX A - WAGES

A. 1. The following will be the minimum wages effective upon ratification:

<u>CLASSIFICATION</u>	<u>MINIMUM START RATE</u>	<u>2 YEARS</u>
R.N.A.	10.50	11.50
CNA	9.50	10.50
Cook	9.30	10.10
Janitor	9.20	10.00
Others	9.00	9.60
HSG	9.00	9.60

2. Effective on the first day of the month following ratification, all bargaining unit employees with at least 1 year of service shall receive an increase of 2% which shall not be added to the wage scales. The following shall be the minimum wage rates:

<u>CLASSIFICATION</u>	<u>START RATE</u>	<u>2 YEARS</u>
R.N.A.	10.50	11.50
CNA	9.50	10.50
Cook	9.30	10.10
Janitor	9.20	10.00
Others	9.00	9.60
HSG	9.00	9.60

3. Effective January 1, 2016, any bargaining unit employee earning less than \$10.00/hr shall have his or her hourly rate of pay increased to \$10.00/hr and the following shall be the minimum wage rates.

<u>CLASSIFICATION</u>	<u>START RATE</u>	<u>2 YEARS</u>
R.N.A.	10.50	11.50
CNA	10.00	10.50
Cook	10.00	10.10
Janitor	10.00	N/A
Others	10.00	N/A
HSG	10.00	N/A

4. Effective on the first day of the month that is 13 months following ratification, all bargaining unit employees with at least 1 year of service shall receive an increase of 2% which shall not be added to the wage scales. The following shall be the minimum wage rates.

<u>CLASSIFICATION</u>	<u>START RATE</u>	<u>2 YEARS</u>
R.N.A.	10.50	11.50
CNA	10.00	10.50
Cook	10.00	10.10
Janitor	10.00	N/A
Others	10.00	N/A
HSG	10.00	N/A

5. Effective on the first day of the month that is 25 months following ratification, all bargaining unit employees with at least 1 year of service shall receive an increase of 2% which shall not be added to the wage scales. The following shall be the minimum wage rates:

<u>CLASSIFICATION</u>	<u>START RATE</u>	<u>2 YEARS</u>
R.N.A.	10.50	11.50
CNA	10.00	10.50
Cook	10.00	10.10
Janitor	10.00	N/A
Others	10.00	N/A
HSG	10.00	N/A

**B. General and Special Wage Provisions**

1. Those rates in A.1 are minimum rates and the Employer at its sole discretion may pay above said rates.

2. CNA's are responsible for attending the employer provided in-service (24 hours) in order to renew certification. Attendance at said in-service will be paid hours of work. Those employees not retaining recertification shall not be scheduled for work until recertified.

3. Employees being promoted shall be placed on the scale step of the new classification that gives the employee a raise in pay.

**C. QASP Bonus:**

Employer shall provide all bargaining unit employees with the following opportunities to earn incentive payments by delivering high-performance results at the worksite from each August 1<sup>st</sup> through July 31<sup>st</sup> of the following year (i.e., California's AB1629 rate year). The Employer and the Union intend to cooperate as necessary and/or engage jointly to assist the bargaining unit's efforts in achieving each element of the high-performance incentive payment program through education or other responsive support.

Each month, unless mutually agreed otherwise, Employer and Union will jointly update and distribute to bargaining unit members a Facility High-Performance Report Card with the following elements:

1. **Staffing Compliance:** The percentage of days in the past month where Employer met or exceeded the required minimum staffing level. The high-performance incentive payment standard shall be to achieve a score of 100% every month of the year.
2. **Time-Clock Performance:** The percentage of days in the past month where bargaining unit employees achieved 100% compliance with Employer time clock rules, including at a minimum, no missed time clock punches, no lunches less than thirty minutes, and every member executing Employer's wage and hour declaration each pay period certifying the member's receipt of all required meal and rest breaks and that the member did no work "off the clock". The high-performance incentive payment standard shall be to have no more than three (3) missed punches per ninety-nine (99) beds per month for every month of the year. Notwithstanding this standard, the employees who miss time-clock punches are subject to discipline up to and including termination.
3. **Workers Compensation Experience:** The amount of medical and indemnity claims cost resulting from a work-related injury, that an insurance company has paid or expects to pay in the future ("Actual Losses") versus the Facility's projected losses ("Expected Losses") as determined by California's Workers' Compensation Insurance Rating Bureau ("WCIRB"). The high-performance incentive payment standard shall be to maintain the Facility's WCIRB experience modification (i.e., Actual Losses divided by Expected Losses) at seventy percent (70%) or below for the entire year. If the Facility's experience modification is greater than seventy percent (70%), it can also achieve a high-performance incentive payment standard by demonstrating that the current year's experience modification reduction is improving on a three (3) year trend to achieve the seventy percent (70%) experience modification target (i.e., the Facility had at least a one-third reduction by July from its August experience modification in the prior year and the seventy percent (70%) target).
4. **CMS "5 Star" Quality Rating:** The CMS Five-Star Quality Rating for the Facility. The high-performance incentive payment standard shall be to achieve a Facility Rating of "5 Stars" for the most recent CMS Five-Star Quality Rating. A Facility that starts with a Five-Star Quality Rating of less than "5 Stars" can also achieve a high-performance incentive payment standard by showing a one (1) Star or greater improvement upon Employer's prior year's Facility Rating of "2 Stars" or more (e.g., final Rating must be at least "3 Star" or better).
5. **Facility Regulatory Compliance Results:** All final inspection reports delivered to Facility following each annual certification visit, complaint investigation, or special incident investigation for violation of state or federal law by any government agent for the period from August 1<sup>st</sup> through July 31<sup>st</sup> of each year. The high-performance incentive payment standard shall be met if no inspection report over the applicable twelve (12) month period: (a) required Employer to pass a re-survey in order to achieve substantial compliance with state and federal regulation; (b) contained a deficiency higher than an "F" in scope and severity; (c) contained an "IJ" (i.e., immediate jeopardy) finding; or (d) assessed a citation for a state deficiency higher than a "B" citation.
6. **CMS Quality Measures:** The Employer's past four quarter's trend on the CMS Quality Measures for ADL Decline, Long Stay High-Risk Pressure Ulcer, Weight Loss, Restraints, and Injurious Falls. The high-performance incentive payment standard shall be that the most recent quarter's Quality Measure scores were better than the respective California Averages for the same quarter. If one or more of the Facility quality measure scores are above the respective California Average for the final quarter, the facility can also achieve a high performance

incentive payment standard by showing a positive trend over the past four quarters and the most recent quarter score is better than the same quarter in the past year (e.g., the fourth quarter measure for Restraints in 2014 is less than the measure from the fourth quarter of 2013) or for the past four quarter's trend to be positive (i.e., the latest quarter scores are better than the past three quarter's scores).

After Employer and Union have jointly updated the Facility High-Performance Report Card with the final results from July, each year the Employer will notify bargaining unit members whether they have qualified for a High-Performance Incentive Payment under the Program according to the following:

1. If the bargaining unit achieved the high-performance standard for three (3) or more elements of the Program, bargaining unit employees shall qualify to collectively share a bonus equal to fifty percent (50%) of the monies received by Employer that year under the QASP program, if any.
2. If the bargaining unit achieved the high-performance standard for two (2) or fewer elements of the Program, bargaining unit employees shall not qualify to collectively share any monies received by Employer that year under the QASP program, if any.

*\*\* In the first year of this Agreement, starting from the effective date of the Agreement, the foregoing Incentive Payment(s) will be pro-rated according to the percentage of time that the Agreement existed between the twelve (12) month award measurement period from August 1<sup>st</sup> to July 31<sup>st</sup> of the following year.*

To the extent that Employer notified bargaining unit members that they have qualified for a High-Performance Incentive Payment under the Program, the Union will notify the Employer how it wishes such bonus to be distributed to bargaining unit employees. The Employer will distribute such bonus to bargaining unit employees after it has received the funds from the QASP Program. A bargaining unit employee must still be employed by the Employer at the time of Employer's QASP Program funds receipt in order to receive a bonus payment. Any bargaining unit member who qualified for a bonus payment and terminated employment prior to Employer's receipt of QASP funds will forfeit his or her eligibility to receive such bonus money. Any bonus distribution cannot exceed the total cumulative pool of monies available to be collectively shared among bargaining unit members and the distribution formula determined by the Union must be legally permissible.

**Sunset:** If either party does not elect to extend the High-Performance Incentive Payment Program in a successor contract, then the Program shall cease to exist as of the date this Agreement expires

## **BONUS**

All full-time employees who have at least 90 days of service at time of ratification will be eligible for a signing bonus in the amount of \$100.00 upon ratification of this Agreement. The signing bonus will be payable in the second pay period following the Employer's receipt of written notice from the Union regarding ratification. Only those employees employed on date the signing bonus is paid will be eligible for the payment.

All full-time employees who have at least 90 days of service on the commencement of the 36<sup>th</sup> month following ratification will be eligible for in the amount of \$50.00. Only those employees employed on date the bonus is paid will be eligible for the payment.

All full-time employees with at least 3 years of service one time per year (excluding the month of December and the months when the bonuses set forth above are paid), shall be entitled to an annual bonus pursuant to the following schedule:

3 to 10 years of service-\$50.00 pre tax

Over 10 years of service-\$100 pre tax

An eligible employee shall give the Employer a minimum of 30 days' notice of when he or she wishes the bonus to be paid. The bonus will be added to the Employee's regularly scheduled paycheck. No special check requests will be honored. The employee must be active when the request for a bonus is made, and cannot be the subject of any disciplinary action within the last 120 days and cannot have provided notice of resignation.