



COLLECTIVE AGREEMENT

20 January 2019 to 19 March 2021

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And

PATHLAB WHAKATANE LIMITED

COLLECTIVE AGREEMENT

PART ONE – APPLICATION OF COLLECTIVE AGREEMENT

1 PARTIES TO THIS COLLECTIVE AGREEMENT SHALL BE:

- **Pathlab Whakatane Limited** (Herein after referred to as the “employer”)
- And **APEX Inc** (Herein after referred to as “APEX” or the “union”)

1.1 The parties agree that any new employee, whose work is covered by this agreement and who is engaged by the employer between the date this collective agreement is ratified by the union and the expiry date shall be offered in writing the opportunity for this CA to apply to them. The new employee shall from the date of becoming a union member, be entitled to all the benefits, and be bound by all the obligations, under this collective agreement.

Any new employee to whom this CA applies by virtue of the operations of this sub clause shall be deemed covered by this agreement.

1.2 This collective shall apply to allow employees who are employed or engaged to be employed to supervise or perform pathology tests and / or associated duties in the laboratory service including Information Technology (staff whose primary function is Information Technology support within the laboratory), after death care (mortuary) duties, the collection of specimens, specimen reception and related clerical work, and any employee substantially employed as one of the aforementioned but whom may from time to time use different titles including but not restricted to the following designations:

- Charge Medical Laboratory Scientist
- Senior Medical Laboratory Scientist
- Medical Laboratory Scientist
- Medical Laboratory Scientist (Provisional Registration)
- Supervising Medical Laboratory Technician
- Medical Laboratory Technician
- Medical Laboratory Technician (Provisional Registration)
- Charge Phlebotomist
- Medical Laboratory Pre-Analytical Technician
- Medical Laboratory Pre-Analytical Technician (Provisional Registration)
- Trainee Laboratory Pre-Analytical Technician
- Medical Laboratory Assistant

Coverage does not apply to Pathologists and the Laboratory Manager.

2 INTERPRETATIONS

In this agreement, unless the context otherwise requires:

“Cadet” means an employee who whilst employed is concurrently undergoing a course of training leading to a qualification in medical laboratory technology that is recognised by the Medical Laboratory Science Board as registrable, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Casual employee” means an employee who has no set hours or days of work and who is normally asked to work as and when required.

“Charge Medical Laboratory Scientist” means a person appointed in charge of a department or section of the laboratory and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Co-ordinator” means a person who is appointed to coordinate and lead a functional activity within the laboratory, such as Quality Coordinator, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“District Health Board” (DHB) means an organisation established as a District Board under Section 15 of the NZ Public Health and Disability Act 2000.

“Full time employee” means an employee who works not less than the “ordinary” or “normal” hours set out under “hours of work” in this agreement.

“Intern” means an employee who has completed their degree and is still meeting their work experience requirements to gain registration as a MLS from the MLSB or equivalent, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Laboratory Scientist” means an employee who holds a science degree or equivalent who is employed to perform medical laboratory science but is not a registered Medical Laboratory Technologist / Scientist, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Laboratory System Support Staff / Laboratory Information Technology Staff” means an employee with a previous laboratory background employed principally to maintain and enhance laboratory computer systems.

“Medical Laboratory Assistant” means a person employed in medical laboratory work in manual or technical work ancillary to those of a medical scientist, but who is not a medical laboratory scientist, medical laboratory technician or a trainee / intern.

“Medical Laboratory Scientist” means a person employed in a medical laboratory work who is registered with, and holds a current practising licence issued by the Medical Laboratory Science Board, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Medical Laboratory Scientist (Provisional Registration)” means a person employed in medical laboratory work who has provisional registration and holds a current annual practising certificate issued by the Medical Sciences Council, and any employee substantially employed as one of the aforementioned but from time to time uses different titles..

“Medical Laboratory Technician” means a person with QTA / QPT / QSST/ QMLTC or other relevant qualification. For purposes of clarification a relevant qualification shall include a New Zealand BSc based on biological sciences, NZCS or other recognised medical laboratory qualification or degree on addition to one year practical laboratory experience.

“Medical Laboratory Technician (Provisional Registration)” means a person employed in medical laboratory work who has provisional registration and holds a current annual practising certificate issued by the Medical Sciences Council and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Medical Laboratory Pre-Analytical Technician” means a person employed in medical laboratory work who has full registration and holds a current annual practising certificate issued by the Medical Sciences Council. And any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Medical Laboratory Pre-Analytical Technician (Provisional Registration)” means a person employed in medical laboratory work who has provisional registration and holds a current annual practising certificate issued by the Medical Sciences Council. And any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Part-time employee” means an employee, other than a casual employee, who works on a regular basis but less than the ordinary or normal hours prescribed in this agreement.

“Phlebotomist” means a person who collects blood and other specimens as requested by an authorised referrer, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Section Head” means a person appointed in charge of a section within a department of the laboratory and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Service” means:

- **For salary purposes:** as per 5.4

- **For Annual leave purposes:**

The aggregate of:

- a. Any individual employee’s service previously recognised at the commencement date of this agreement.
- b. Service with the NZ Blood Service, any District Health Board, Hospital and Health Service, Crown Health Enterprise, Area Health Board, Hospital Board, Regional Health Authority, or the Public Health Commission of at least 12 months duration provided the service ended within 5 years of the date of current appointment to the Health Service, or within 5 years of the start of the latest period of continuous service with the organisations listed in this sub clause..
- c. Service in any medical or other relevant laboratory in New Zealand or overseas except that this service shall be counted for the purpose of determining salary steps and annual leave entitlement only.

“Supervising Medical Laboratory Technician” means a person filling an established position where they are required to undertake the day to day supervision of a group of Medical Laboratory or Senior Medical Laboratory Technicians, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Team Leader / Unit Manager” means a person appointed the technical and business leader of a laboratory discipline or department, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Technical Specialist / Clinical Scientist” means a person who is appointed to lead a designated technical area of the laboratory, e.g. automation, and any employee substantially employed as one of the aforementioned who may from time to time use different titles.

“Trainee Medical Laboratory Technician” means a person employed in a position for which the employer normally requires the holding of a relevant qualification and who is studying towards that relevant qualification.

PART TWO – PROVISIONS RELATING TO HOURS OF WORK

3 HOURS OF WORK

Preamble

The employer will take all practical steps to prevent harm occurring to employees from the way work is organised. In particular the employer will monitor on call arrangements and the frequency and duration of call outs and shall take this into account when considering an employees continued fitness to work safely during normal hours of work. If possible fatigued employees shall be authorised to not attend duty or finish their normal duty early without loss of pay for any period of authorised absence.

- 3.1 Unless as provided for in 3.1.1, 3.1.2 or 3.1.3, ordinary hours of work shall be 40 per week and not more than eight hours per day with two consecutive days off. Each daily duty shall be continuous except for meal periods and rest breaks. Provided, however, that in emergency circumstances, the Employer may require an employee to work at other times and for periods other than those specified.
- 3.1.1 Alternatively ordinary weekly hours of work shall be 80 per fortnight and not more than 8 hours per day with four days off every 14. No more than 6 consecutive shall be worked without 1 day off and the other three days shall be consecutive. Each daily duty shall be continuous except for meal periods and rest breaks.
- 3.1.2 Alternatively ordinary weekly hours of work shall be 80 per fortnight and not more than 8 hours per day with 4 consecutive days off in any 14 day period. The days off shall consist of 2 periods of 2 consecutive days each. No more than 10 consecutive days shall be worked at any one time. Each daily duty shall be continuous except for meal periods and rest breaks.
- 3.1.3 Alternatively ordinary weekly hours of work shall be 40 hours per week in 4 consecutive 10 hour days. Employees employed under this provision shall not be paid overtime until they have worked 10 hours per day or 40 hours per week. Each daily duty shall be continuous except for meal periods and rest breaks.
- 3.1.4 Current employees can only have their hours of work altered by agreement. Employees agreeing to alter their hours of work to those specified under 3.1.1, 3.1.2 or 3.1.3 shall be required to record their agreement in writing. Where any proposed alteration affects the established roster, agreement must be gained from 70% of the affected employees.
- 3.1.5 Employees have the right to seek the advice of their union or to have the union act on their behalf before signing any such agreement.
- 3.2 Rosters will be notified to those involved not less than 28 days prior to the commencement of the roster provided that less notice may be given in exceptional circumstances.
- 3.3 The normal working week shall commence on Monday at the normal starting time of the employer.

4 MEAL PERIODS AND REST BREAKS

- 4.1 Except when required for urgent or emergency work and except as provided in 4.2 no employee shall be required to work more than five hours continuously without being allowed a meal break of not less than half an hour.
- 4.2 An employee unable to be relieved from work for a meal break shall be allowed to have a meal on duty and this period shall be regarded as working time.
- 4.3 Except where provided for in 4.2 an employee unable to take a meal after five hours duty shall be paid at time-half rate (T0.5) in addition to normal salary from the expiry of five hours until the time when a meal can be taken.
- 4.4 During the meal break or rest breaks prescribed above, free tea, coffee, milk, milo or similar and sugar shall be supplied by the employer. Where it is impractical to supply tea, coffee, milk, milo or similar and sugar free of charge, an allowance of \$1.56 per week increasing to \$1.61 from the first full pay period on or after 20th February 2020 in lieu shall be paid. This allowance shall continue during all periods of leave except leave without pay.
- 4.5 Rest breaks of 10 minutes each for morning tea, afternoon tea or supper where these occur during duty, shall be allowed as time worked.

PART THREE – RATES OF REMUNERATION

5 SALARIES AND WAGES

(Note: All rates effective from the first full pay period on or after date stated)

An employee may request a classification/salary review through the completion of the application form available for request for consideration of a remuneration increase above the following scales.

5.1 Medical Laboratory Scientist

A medical Laboratory Scientist shall receive an annual rate of salary approved by the employer for the position held.

Step	Per annum from 20.01.19	Per hour	Per annum from 20.02.20	Per hour
18	\$101,736	\$48.911	\$104,788	\$50.379
17	\$98,178	\$47.201	\$101,123	\$48.617
16	\$94,621	\$45.491	\$97,460	\$46.856
15	\$91,064	\$43.781	\$93,796	\$45.094
14	\$87,506	\$42.070	\$90,131	\$43.332
13	\$83,950	\$40.360	\$86,468	\$41.571
12	\$80,393	\$38.651	\$82,805	\$39.810
11	\$77,191	\$37.111	\$79,507	\$38.224
10	\$73,988	\$35.571	\$76,208	\$36.638
9	\$70,788	\$34.033	\$72,912	\$35.054
8	\$67,586	\$32.493	\$69,613	\$33.468
7	\$65,511	\$31.496	\$67,477	\$32.441
6	\$63,437	\$30.499	\$65,340	\$31.414
5	\$61,363	\$29.501	\$63,204	\$30.386
4	\$59,286	\$28.503	\$61,064	\$29.358
3	\$57,211	\$27.505	\$58,928	\$28.331
2	\$55,136	\$26.508	\$56,790	\$27.303
1	\$49,910	\$23.995	\$51,407	\$24.715

5.1.1 Progression between steps 1 and 2 shall be after six months subject to the intern achieving full registration and this will become their anniversary date for the purpose of progression through the automatic annual steps.

5.1.2 Progression between steps 2 and 9 inclusive shall be by automatic annual increment on each employee's commencement anniversary.

5.1.3 Progression to step 10 shall be on confirmation of the completion of a minimum of a full year of full 24/7 roster requirements with confirmed technical competence in all areas of the laboratory

- 5.1.4 Progression to step 11 shall be on confirmation that the employee, in the opinion of the employer meets all of the following criteria:
- Full participation in the 24 hour, 7 day week roster
 - Demonstration of technical competence in all areas of the laboratory
 - A minimum of 12 months on step 10
 - Consistently high performance
 - Flexibility and reliability
 - Demonstration of sound leadership
 - Technical Specialist for a section or department in the laboratory or 2IC supervision of a section, with shared responsibility for daily operations, advanced equipment maintenance and imparting advanced theory and practical knowledge of the specialist area on to other employees.
- 5.1.5 Progression to step 12 is on confirmation that the employee meets all of the criteria set out in clause 5.1.4 and in addition is assigned a significant area of extra responsibility outside of their area of the laboratory – for example Quality Mgmt, Health & Safety Mgmt or an Advanced Quality Assurance role (the ability to coordinate quality assurance within a section/department).
- 5.1.6 Progression to step 13 is on confirmation or appointment to a supervisory / managerial position. Management tasks include but are not limited to: ensuring workload is allocated to appropriate staff, management review, staff education/development, regular meetings, budget control, stock control, planning and organising, managing projects, customer service, quality of service, advancing methods for approval to Lead of Specialties as required.
- 5.1.7 Progression further through the scale is dependent on performance, skill shortage, clinical expertise, job content and responsibilities in addition to those outlined in 5.1.6.

5.2 Medical Laboratory Technician / Medical Laboratory Pre-Analytical Technician

STEP	Per annum from 20.01.18	Per hour	Per annum from 01.07.19	Per hour	Per annum from 20.02.20	Per hour
6	\$56,915	\$27.363	\$57,814	\$27.795	\$59,548	\$28.629
5	\$54,544	\$26.223	\$55,403	\$26.636	\$57,065	\$27.435
4	\$52,173	\$25.083	\$52,994	\$25.478	\$54,583	\$26.242
3	\$49,799	\$23.942	\$50,588	\$24.321	\$52,106	\$25.051
2	\$47,428	\$22.802	\$48,179	\$23.162	\$49,623	\$23.857
1	\$45,059	\$21.663	\$45,768	\$22.004	\$47,141	\$22.664

- 5.2.1 A Technician or Pre-Analytical Technicians will be appointed to this scale if they hold a QTA / QPT / QSST / QMLTC or other relevant qualification. For purposes of clarification a relevant qualification shall include a New Zealand BSc based on biological sciences, NZCS or other recognised medical laboratory qualification or degree in addition to one year of practical laboratory experience.
- 5.2.2 Subject to 5.2.1 Trainee Technicians and Pre-Analytical Technicians will move to step 1 of the above scale from the date that the employee obtains a relevant

qualification.

- 5.2.3 Progression from step 1 through step 4 shall be by automatic annual increment on the anniversary date of the appointment to the scale.
- 5.2.4 Progression further through the scale is dependent on performance, skill shortage, job content, responsibilities and / or clinical expertise.
- 5.2.5 Where a Medical Laboratory Technician is rostered to work 50% or more of their rostered duties outside the hours of 0730 hours to 1730 hours Monday to Friday in the department without direct supervision on those shifts on a regular basis, they shall be paid no less than Step 3. A Medical Laboratory Technician who has a minimum of one year's experience working in accordance with the provisions of this clause shall be paid no less than Step 6 of this scale.
- 5.2.6 The employer acknowledges that it is their responsibility to provide adequate supervision as per the provisions of the HPCAA Act 2003 and MLSB Policy 2004 "Definition of the Profession of Medical Laboratory Science" and any subsequent relevant policies.
- 5.2.7 In keeping with the parties commitment to quality services the employer recognises the need for appropriate supervision. The employer shall encourage Medical Laboratory Technicians to gain a registrable qualification.

5.3 Medical Laboratory Assistant / Trainee Medical Laboratory Technician / Trainee Medical Pre-Analytical Technician

Step	Per annum from 20.01.19	Per hour	Per annum from 20.02.20	Per hour
4	\$43,756	21.037	\$45,069	\$21.668
3	\$42,551	20.457	\$43,827	\$21.071
2	\$41,064	19.742	\$42,296	\$20.335
1	\$39,878	19.172	\$41,075	\$19.747

- 5.3.1 Progression from step 1 to 4 shall be by automatic annual increment on the anniversary of the employee's appointment.

5.4 Recognition of Previous Service for Salary Purposes Only

5.4.1 Medical Laboratory Assistants / Laboratory Technicians

The Employer may credit previous service for salary purposes only for connected service (as defined below) for medical laboratory assistants / Laboratory Technicians as follows:

Service in private laboratories	Full credit
Service in hospital laboratories	Full credit
Service in university laboratories	Full credit
Nursing service	Half credit
Teaching services (sciences)	Half credit

5.4.2 Medical Laboratory Scientist

The employer may credit previous service for salary purposes only for connected service (as defined below) for medical laboratory technologists as follows:

Service in private laboratories	Full credit
Service in hospital laboratories	Full credit
Service in university laboratories	Full credit

5.4.3 'Connected Service' comprises all periods of service in the employ of a Hospital / Area Health Board, CHE, HHS, District Health Board, Blood Service, a separate institution, or the Crown in New Zealand, that are continuous with one another. Where such service is broken only for the period required to take a course of study approved by the employer or for a period of not more than 12 months for any other reason, the service preceding and succeeding that period shall be regarded as continuous.

5.5 Medical laboratory employees on full-time study leave with or without pay shall continue to receive annual increments to which they would otherwise be entitled.

5.6 Medical laboratory employees will commence within these scales according to the job size determined by the employer from the job description for the position held.

6 EMPLOYMENT OF CADETS

Cadets who are employed to undertake duties as a medical laboratory assistant / medical laboratory technician on either a part time or casual basis will be paid the appropriate hourly rate according to the scale described in clause 5.2 and 5.3. Cadets employed in the role of a medical laboratory assistant / medical laboratory technician will be entitled to the same conditions of employment as other employees on a pro rata basis.

Cadets on placement cannot perform productive work unless they are employed.

NOTE: Instruction and limited demonstration of analytical techniques and performance of laboratory procedures / tasks under direct supervision does not constitute productive work.

7 OVERTIME, PENAL RATES AND DUTY ALLOWANCES

7.1 Definitions

7.1.1 For calculation purposes, the normal hourly rate shall be one thousand and eightieth (2,080) part, correct to three decimal places of a dollar, of the yearly rate of salary payable.

7.1.2 Overtime is time worked in excess of the daily duty as defined in 3 and all time, other than time for which a duty allowance is payable, worked on a Saturday, Sunday or public holiday, when such work has been properly authorised.

7.2 Overtime

Subject to 7.4, overtime shall be paid at the following rates. In computing overtime, each day shall stand-alone.

7.2.1 In respect of overtime worked on any day (other than a public holiday), from midnight Sunday / Monday to midday on the following Saturday at one and one-half times the normal hourly rate of pay (T1.5) for the first three hours and at double the normal hourly rate of pay (T2) thereafter except that employees working overtime between 2200 hours and 0600 hours will be paid at the rate of T2.

7.2.2 In respect of overtime worked from midday Saturday to midnight Sunday / Monday or on a public holiday at double the normal hourly rate of pay (T2).

7.3 Penal Rates

Subject to 7.4 penal time shall be paid at the following rates *in addition to normal salary*:

7.3.1 From midnight Friday / Saturday to midday Saturday at half the normal hourly rate of pay (T0.5) for the first three hours and at the normal hourly rate of pay (T1) thereafter.

7.3.2 From midday Saturday to midnight Sunday / Monday at time one of the normal hourly rate of pay (T1).

7.3.3 On Public holidays at the normal hourly rate of pay (T1).

7.4 Overtime and penal time shall not be paid in respect of the same hours.

7.5 Minimum Break Between Spells of Duty

7.5.1 A break of at least nine consecutive hours must be provided whenever possible during the fifteen hours that immediately precede the start of a duty of a full shift or more. Except that where an employee works between the hours of 0200 hours and 0500 hours, a nine hour break must also be provided after the call back unless otherwise mutually agreed.

7.5.2 Periods of a full shift or more include:

- i. Periods of normal rostered work; or;
- ii. Periods of overtime that are continuous with a period of normal rostered work; or
- iii. Full shifts of overtime / call-back duty.

7.5.3 This requirement to provide a break wherever possible applies whether or not any additional payment will apply under the provisions of this clause.

7.5.4 If a break as required under clause 7.5.1 above cannot be provided between periods of qualifying duty, the duty is to be regarded as continuous until a break of at least nine continuous hours is taken and it shall be paid at overtime rates, with proper regard to the time at which it occurs and the amount of overtime which precedes it.

7.5.5 The additional payment provisions of this clause will not apply in any case where the result would be given an employee a lesser payment than would otherwise have been received.

7.5.6 Time spent off duty during ordinary hours solely to obtain a nine-hour break shall be paid at ordinary time rates. Any absence after the ninth continuous hour of such a break, if it occurs in ordinary time, shall be treated as a normal absence from duty.

NOTE: If a callback of less than a full shift of worked during the fifteen hours immediately preceding a full shift or more a break of nine continuous hours must be provided wither before or after the callback.

7.6 Authorised absences, either with or without pay, are as provided for in this agreement and shall be counted as actual hours worked for the purposes of calculated overtime.

7.7 Night Allowance

7.7.1 Night rate: An employee whose normal hours of duty fall between 2000 hours and 0600 hours will be paid at time one quarter of the normal hourly rate of pay (T0.25) in addition to normal salary for all hours which so fall provided that:

- i. The rate is to be calculated on the ordinary time hourly rate.
- ii. The minimum payment under this provision shall not be less than payment for two hours at T0.25 of the normal hourly rate even if the part of a shift which falls between the hours of 2000 hours and 0600 hours is less than two hours worked.

7.7.2 Night rate is not to be paid when overtime is being worked or a penal rate / duty allowance is payable.

7.7.3 In addition to the rates set out in 7.7.1 above, the employer shall pay to an employee whose hours of work fall between 2200 hours and 0600 hours, Monday to Friday, a Night allowance of \$2.61 for each hour worked and \$2.69 as from the first full pay period on or after 20th February 2020.

8 **ONCALL / ONCALL ALLOWANCE**

8.1 On Call Allowance

Where an employee is instructed to be on call during normal off duty s/he shall be paid an on call allowance of \$2.80 per hour or part thereof while on call and \$2.89 as from the first full pay period on or after 20th February 2020. On Public holidays the call allowance shall be \$6.52 per hour or part thereof and \$6.72 as from the first full pay period on or after 20th February 2020.

8.2 Where the employer requires the employee to participate in an on call roster, at the discretion of the employer:

- A cell phone shall be made available by the employer to the employee for the period of on call duty, at no expense to the employee, or
- Half the cost of a single telephone rental shall be reimbursed to the employee by the employer and a long-range locator (or similar electronic device) shall be made available to the employee for the period of on call duty at no expense to the employee.

8.3 Call back

8.3.1 An employee shall be paid for a minimum of three hours, or for actual working and travelling time, whichever is the greater – at the appropriate rate, when the employee:

- Is called back to work after completing the day's work or shift, and having left the place of employment; or
- Is called back before the normal time of starting work, and does not continue working until such normal starting time, except that:
 - a. Call backs commencing and finishing within the minimum period covered by an earlier call back shall not be paid for.
 - b. Where a call back commences before and continues beyond the end of a minimum period for a previous call back, payment shall be made as if the employee had worked continuously from the beginning of the previous call back to the end of the later call back.

- 8.3.2 Where part-time employees are part of an official on call roster and are called out from their place of residence in emergency circumstances, then they shall be paid on the basis of a minimum of three hours at appropriate rates. The length of the call would be measured in respect of actual time worked only, except that outside of the normal hours of duty (i.e. 0800 hours to 1700 hours Monday to Friday) the length of the call would be measured in respect of actual time worked and reasonable travelling time from the place of call to the place of duty and return to the place of call or residence. The minimum payment prescribed shall apply to each recall, except that:
- Call-outs commencing and finishing within the minimum period covered by an earlier call-out shall not attract any additional payment;
 - Where a call-out commences before and continues beyond the end of a minimum period for a previous call-out payment shall be made as if the employee had worked continuously from the beginning of the previous call-out to the end of the latter call-out.
- 8.3.3 Where laboratory employees are called back to duty outside their normal hours of work, the employee shall either be provided with transport or they shall be reimbursed with accordance with clause 33.
- 8.4 An employee shall not be required to be on call in the 15 hours preceding a rostered day off, Monday to Friday, but may volunteer to do so.

9 HIGHER DUTIES ALLOWANCE

- 9.1 Where an employee is temporarily appointed or seconded to a higher graded position for a period of 5 or more consecutive working days the employee will receive a higher duties allowance for the whole period of that appointment.
- 9.2 The higher duties allowance payable shall be the difference between the current salary of the employee acting in the higher position and the minimum salary the employee would receive if appointed to that position.

10 MEAL ALLOWANCE

A shift employee who works a qualifying shift of eight or ten hours or more and who is required to work more than one hour beyond the end of the shift (excluding any break for a meal) shall be paid a meal allowance of \$10.09 and \$10.40 from the first full pay period on or after 20th February 2020 or at the option of the employer, be provided with a meal.

PART FOUR – PROVISIONS RELATING TO LEAVE

11 PUBLIC HOLIDAYS

11.1 The following days shall be observed as public holidays:

- New Year's Day
- The day after New Year's Day
- Waitangi Day
- Good Friday
- Easter Monday
- ANZAC Day
- Sovereign's Birthday
- Labour Day
- Christmas Day
- Boxing Day
- Applicable Anniversary Day

When any of the above holidays (other than Waitangi Day and ANZAC Day) falls on a Saturday or Sunday, it shall be observed on the following Monday, and, in the event of another holiday falling on such a Monday, such other holiday shall be observed on the next succeeding Tuesday. ANZAC Day and Waitangi Day shall be observed on the day on which they fall.

Provided that, in order to maintain essential services, the employer may require an employee to work on a public holiday.

11.2 Employees Required to Work on Public Holidays

11.2.1 A rostered employee required to work on a public holiday as part of the normal roster (i.e. not as overtime) shall be paid at time one (T1) in addition to normal salary, and is also to be granted a day's leave on pay at a later date convenient to the employer.

11.2.2 A rostered employee required to work on a public holiday which would otherwise have been the employee's normal day off (i.e. required to work overtime) shall be paid at the overtime rate for the hours worked and in addition is to be granted a day's leave on pay at a later date convenient to the employer.

11.2.3 An employee required to be on call on a Public Holiday shall be granted a minimum of 1 days paid leave at a later date convenient to the employer.

11.2.4 Any employee required to work on New Year's Day, 2nd January, Christmas Day or Boxing Day when these holidays fall on a Saturday or a Sunday shall receive the public holiday penal payment and a day in lieu.

Any employee who is not required to work on New Year's Day, 2nd January, Christmas Day or Boxing Day when these holidays fall on a Saturday or a Sunday but is required to work on the days on which they are observed shall receive the public holiday penal payment and a day in lieu.

Any employee who is required to work on New Year's Day, 2nd January, Christmas Day or Boxing Day when these holidays fall on a Saturday or a Sunday and is required to work on the days on which they are observed shall receive the public holiday penal payment for the actual days on which they fall, the weekend penal payment for the days on which they are observed and a day in lieu for each public holiday worked.

11.3 Public Holidays Falling During Leave or Time Off

11.3.1 Leave on pay – When a public holiday falls during a period of annual leave, sick leave on pay or special leave on pay, an employee is entitled to that holiday which is not to be debited against such leave.

11.3.2 Leave without pay – An employee shall not be entitled to payment for a public holiday falling during a period of leave without pay (including sick leave and military leave without pay) unless the employee has worked during the fortnight ending on the day on which the holiday is observed.

11.3.3 Leave on reduced pay – An employee shall, during a period on reduced pay, be paid at the same reduced rate for public holidays falling during the period of such leave.

11.3.4 Off duty day - Except where the provisions of 12.3.1 apply, if a public holiday, other than Waitangi Day and ANZAC Day falls on a rostered employee's off duty day (such off duty day not being a Saturday or Sunday) the employee shall be granted an additional day's leave at a later date convenient to the employer.

11.3.5 When part time employees work fixed days (example every Monday to Wednesday) they will receive a day's leave if a public holiday falls on one of those fixed days and they work it. If they are not required to work that day, then they will receive the paid public holiday and no days leave is granted. If a public holiday falls on a day which is NOT one of their fixed days they neither get paid nor a days leave.

11.3.6 When a part time employees work full rotating shifts (i.e. work different set of days each week – Monday to Thursday week 1, Tuesday to Friday week 2 and so on) shall be paid all public holidays.

11.4 Equivalent time off in lieu of whole holidays is to be treated the same as annual leave in respect of the rules regarding accumulation (refer to clause 12.2.4).

12 **ANNUAL LEAVE**

12.1 Subject to 13.2 below, employees shall be granted leave of absence on full pay in respect of each leave year as follows:

With under six years' service – 20 days (4 weeks) from the employees first anniversary date falling after 1 April 2007 in accordance with the Holidays Act 2003.

With six or more years' service – 23 working days (4.6 weeks) from the employees first anniversary date falling after 20th January 2019.

12.2 Conditions

The employer may decide, after consultation with the employee, when annual leave will be taken. Approval of annual will not be unreasonably held. The responsibility to arrange cover for employees leave lies with the employer. It is not the responsibility of individual employees to find cover for their own leave.

- 12.2.1 The term “leave year” means the year ending with the anniversary date of the employee’s appointment.
- 12.2.2 For the purpose of this clause, service is as defined in clause 2.
- 12.2.3 The employer may permit an employee to take annual leave in one or more periods.
- 12.2.4 The employer may permit all or part of the annual leave accruing in respect of a leave year to be postponed to the next following year, but the annual leave entitlement at any one time shall not exceed the total of annual leave accruing in respect of two leave years.
- 12.2.5 Provided that, where an employee is on continuous leave without pay due to illness or accident the employee will be permitted to take or accumulate leave for up to two years. After this, an employee will not qualify for any further period of leave until duty is resumed.
- 12.2.6 When an employee ceases duty, salary shall be paid for accrued annual leave and the last day of service shall be the last day of such work.
- 12.2.7 Except where the employer approves, where an employee is absent on special leave, whether with or without pay (i.e. including leave for study awards but excluding sick, accident or military leave) for an intermittent or continuous period of more than 35 days (including Saturdays and Sundays) during a leave year, annual leave shall be reduced in accordance with the scale below.

NOTE: A “study award” for the purpose of this subclause shall be deemed to be a fulltime course of study at a tertiary educational institute, during which the employee is able to take advantage of the mid-term holidays available to other full-time students of that institute. It shall not include leave to attend organised classes, lectures, block courses or examinations required for the attainment of essential basic qualifications.

12.2.8

Days of Absence (including Saturdays and Sundays)	Annual leave Entitlement to be reduced by the number of working days shown below		
	Annual Leave Entitlement		
Days	4 weeks	5 weeks	6 weeks
0-35	-	-	-
36-71	2	2 1/2	3
72-107	4	5	6
108-143	6	7 1/2	9
144-179	8	10	12
180-215	10	12 1/2	15
216-251	12	15	18
252-287	14	17 1/2	21
288-323	16	20	24
324-359	18	22 1/2	27
360-365	20	25	30

- 12.3 Every part-time employee will be entitled to annual leave as prescribed. Salary during leave will be paid for the employee's usual working week.
- 12.4 Anticipation of Annual Leave for Overseas Trip
An employee with over 20 years' current continuous service may anticipate one year's annual leave entitlement for the purposes of taking a trip overseas.
- 12.5 Payment in Lieu of Annual Leave for Casual Employees
Casual employees, at the discretion of the employer, shall EITHER;
- Be paid 8% gross taxable earnings in lieu of annual leave, to be added to each fortnightly or weekly wage payment (no annual taxable earnings calculation is therefore necessary); or
 - Annual leave will accrue pro rata according to hours worked in accordance with clause 12.1.
- 12.6 Leave Without Pay in Relation to Annual Leave Entitlement
An employee who is granted leave without pay and who remains in the service of the employer, will, except where provision is made otherwise, have such leave counted as service for annual leave purposes.
- 12.7 Extra Leave for Shift Employees

"Shift work" is defined as the same work performed by two or more employees or two or more successive sets or groups of employees working successive periods.

12.7.1 Any shift work performed during a period which is not overtime that meets any of the following criteria qualifies for additional leave:

- a. The shift work performed each day:
 - Extends over at least 13 continuous hours, and
 - Is performed by two or more employees working roster shifts, and
 - The shift involves at least two hours of work performed outside the hours of 0800 to 1700 hours.
- b. The shift work does not extend over at least 13 continuous hours each day but at least four hours of the shift work are performed outside the hours of 0800 to 1700 hours.
- c. The shift work performed:
 - Is rostered and rotating, and
 - Extends over at least 15 continuous hours, and
 - Not less than 40% of the hours worked in the period covered by the roster cycle is outside the hours of 0800 hours to 1700 hours.

Shift leave is granted to employees on the 1st of January each year as follows; provided that a minimum of 40 qualifying shifts have been worked in the preceding 12 months of service:

12.7.2 Full-time staff who regularly and continually perform shift work and engage in the out of hours on call roster shall be granted **five** additional days of leave for each completed 12 months of service. New employees will receive a pro-rata entitlement according to the proportion of the year they have been employed.

12.7.3 Part-timers who regularly and continually perform shift work and engage in the out of hours on call roster shall be granted an additional **two** days of leave for each completed 12 months of service.

12.7.4 Part-timers who perform purely shift work (where over 90% of the ordinary rostered hours of work are classified as shift work) and engage in the out of hours on call roster shall be granted an additional **three** days of leave for each completed 12 months of service.

12.7.5 This additional shift leave is non-transferable if not used and must be taken within the year it is granted.

12.7.6 Payment for shift leave is to be on the same basis of average earnings as applies with annual leave.

13 SICK LEAVE

13.1 Conditions

13.1.1 Where an employee is granted leave of absence because of sickness or injury not arising out of and in the course of employment (in this clause referred to as “sick leave”), the employee shall be entitled to payments at the base rates (T1 only).

13.1.2 On appointment with the employer, a fulltime employee shall be entitled to five working days sick leave on ordinary pay (i.e. T1 rate). On completion of each subsequent six months, he / she shall be entitled to a further five working days, with a maximum entitlement of 260 working days.

13.1.3 The production of a medical certificate or other evidence of illness may be required.

13.1.4 Sick leave is to be debited on an hour to hour basis

13.1.5 Part time employees are entitled to sick leave on a pro rata basis but not less than the minimum provided for under the Holidays Act 2003.

13.1.6 Casual employees have no entitlement to sick leave.

13.2 Discretionary powers of the employer to grant leave in excess of the above prescribed limits.

13.2.1 Where a full time employee is incapacitated by sickness or injury arising out of and in the course of employment, full salary may be paid at the discretion of the employer.

13.2.2 Where an employee is suffering from a minor illness that could have a detrimental effect on the patients or others in the employee’s care, the employee may, at their discretion, either:

- a. Place the employee on suitable alternative duties; or
- b. Direct the employee to take leave on payment at base rates (T1 only) for not more than eight days in any one year, in addition to the normal entitlement to sick leave.

13.2.3 Where an employee is incapacitated by sickness or injury in their first twelve months of employment, full salary up to a maximum of 10 days may be paid at the discretion of the employer, providing that, should the employee resign or otherwise cease employment, prior to completing twelve months service, repayment shall be made to the employer.

13.3 Sickness at Home

13.3.1 The employer may grant an employee leave on payment at ordinary base rates (T1 only) as a charge against sick leave entitlement when the employee must stay at home to attend to a member of the household who through illness becomes dependent on the employee. This person would in most cases be the employee's child or partner but may be another member of the employee's family or household.

13.3.2 Approval is not to be given for absences during or in connection with the birth of an employee's child. Such a situation should be covered by annual leave or parental leave.

13.3.3 The production of a medical certificate or other evidence of illness may be required.

13.4 Sick leave in relation to Annual and Long Service Leave

13.4.1 When sickness occurs during annual or long service leave the employer shall permit the period of sickness to be debited against sick leave entitlement, except where the sickness occurs during leave following relinquishment of office, provided:

- The period of sickness is more than three days;
- A medical certificate is produced, showing the nature and duration of the illness.

13.4.2 In cases where the period of sickness extended beyond the approved period of annual or long service leave, approval shall also be given to debiting the portion which occurred within the annual or long service leave period against sick leave entitlement if the total continuous period of sickness exceeds three days.

13.4.3 Annual or long service leave may not be split to allow periods of illness of three days or less to be taken as sick leave.

13.5 Leave Without Pay in Relation to Sick Leave Entitlements

An employee who is granted leave without pay and who remains in the service of the employer, will have such leave included in determining sick leave entitlement.

14 **BEREAVEMENT / TANGIHANGA LEAVE**

The employer shall approve special bereavement leave on pay for an employee to discharge any obligation and / or to pay respects to a deceased person with whom the employee has had a close association. Such obligations may exist because of blood or family ties or because of particular cultural requirements such as attendance at all or part of a Tangihanga (or its equivalent). Employees shall be entitled to

- 5 days bereavement leave on the death of a spouse/partner, parent or child;
- 3 days bereavement leave on the death of a sibling, grandparent, grandchild or spouse's parent;
- 1 days bereavement leave on the death of any other person that the employer accepts as being bereavement for the employee

14.1 Additional bereavement leave may be provided at the discretion of the employer

14.2 If bereavement occurs while an employee is absent on annual leave, sick leave on pay, or other special leave on pay, such leave may be interrupted and bereavement leave granted in terms of 14.1 above. This provision will not apply if the employee is on leave without pay.

14.3 In granting time off therefore, and for how long, the employer must administer these provisions in a culturally sensitive manner.

15 LONG SERVICE LEAVE

15.1 Eligibility

15.1.1 Employees who have completed 20 years' current continuous service as defined in clause 5.5 may be granted once only four weeks' long service leave.

15.1.2 Continuous service may be broken by periods of up to three months but any break in service of longer than three months shall debar an employee from counting the service prior to that break towards the qualifying period for long service leave. This includes periods of service over three months in an overseas post which are taken after resignation from a hospital, Area Health Board, Crown Health Enterprise, Hospital and Health service or Pathlab Whakatane Limited.

15.1.3 Leave without pay in excess of three months (including sick leave without pay): taken on any one occasion cannot be included in the 20-year qualifying period, e.g. An employee who has had in aggregate of a year's leave without pay will not qualify for long service leave until 21 years of qualifying service excepting that such leave shall be included in the qualifying period where it was granted for:

- Standard New Zealand Government bursaries or similar Government sponsored awards;
- Recognised training courses;
- Military service;
- New Zealand Government service on secondment or otherwise in the Cook Islands, Niue or Tokelau Islands

In addition a period of service in an overseas post while on leave without pay in excess of three months, whether on secondment or not, may qualify as service for long service leave, provided the terms and conditions governing it are determined by the appropriate New Zealand Government employing agency and provided the employee concerned has remained, throughout the overseas service, in the employment of the health service or New Zealand Government Department. Where staff have served overseas outside normal career patterns in order to carry out a New Zealand Government requirement, e.g. special aid assignments, sympathetic consideration will be given to applications for standard long service leave conditions after 20 years' service, including a period of overseas when an employee was serving the Government by enabling it to fulfil an international obligation.

15.1.4 Employees who resign (except under 15.1.1 above) or who are dismissed, except through no fault of their own, will forfeit any long service leave to which they might otherwise be entitled.

15.2 Procedures for taking Long Service Leave

15.2.1 Long service leave must be taken in one period except that an employee recalled from leave because of an emergency is entitled to resume leave after the emergency.

15.2.2 Except as provided below, long service leave must be taken within five years of qualification and before relinquishment of office or it will be forfeited. There are no exceptions to this rule.

- Employees who are within two years of retirement when they qualify may, at the discretion of the employer, be paid salary for four weeks' leave at the time of retirement.

- Employees who are aged 60 or more and who give notice of resignation may, at the discretion of the employer, be paid salary for four weeks' leave at the time of their resignation.
- The employer may pay salary for four weeks' leave to an employee who retires medically unfit after qualifying for long service leave, but before taking or forfeiting it under these rules.

15.2.3 Payment for long service leave is to be on the same basis of average earnings as applies with annual leave. Average earnings are to be assessed on the basis of the calculation year preceding the leave, and paid out at the commencement of the leave.

15.2.4 Allowances and other payments which continue during annual leave shall be payable during long service leave.

15.2.5 Where a public holiday or substituted succeeding day falls during the period of long service leave, the employee is entitled to the holiday which is not to be debited against such leave.

15.2.6 Reduced hours or part-time workers are to receive a prorate reduction of pay, during long service leave.

15.3 Deceased employees

The employer may approve a cash payment equivalent to four weeks' salary to the widow, widower or if no surviving spouse exists, to dependent child(ren) or the estate of a deceased employee who had qualified for long service leave but who had neither taken nor forfeited it under these rules.

15.4 Current continuous service

Current continuous service (for the purposes of calculating long service entitlements) shall mean:

- a. Continuous service with BOPDHB and its predecessors in title, another Hospital and Health Service, Environmental Science and Research or Teaching Service in a Tertiary Institute and Pathlab Whakatane Limited. Previous service with such organisations may be counted as long as a break in service is no greater than three months. Where a break in service is greater than three months then the periods of service preceding the break shall not qualify.
- b. For employees whose service with BOPDHB commenced prior to 1 September 1995, service which was recognised under their previous collective employment contract shall continue to be recognised for the remainder of their current service.

16 PARENTAL LEAVE

16.1 Statement of Principle

The parties acknowledge the following provisions are to protect the rights of employees during pregnancy and on their return to employment following parental leave. (See Clause 17. - Reappointment After Absence Due to Childcare).

16.2 Parental Leave is Leave Without Pay

16.3 Entitlement and eligibility

Provided that the employee assumes or intends to assume the care of the child born to or adopted by them or their partner, the entitlement to parental leave is:

- In respect of every child born to them or their partner;
- In respect of every child up to and including five years of age, adopted by them or their partner;
- Where two or more children are born or adopted at the same time, for the purposes of these provisions the employee's entitlement shall be the same as if only one child had been born or adopted.

16.4

- Parental leave of up to 12 months is to be granted to employees with at least one year's service at the time of commencing leave.
- Parental leave of up to six months is to be granted to employees with less than one year's service at the time of commencing leave.
- Provided that the length of service for the purpose of this clause means the aggregate period of service, whether continuous or intermittent, in the employment of the employer.
- The maximum period of parental leave may be taken by either the employee exclusively or it may be shared between the employee and their partner either concurrently or consecutively. This applies whether or not one or both parents are employed by the employer.

16.5 In cases of adoption of children of less than five years of age, parental leave shall be granted in terms of 16.3 and 16.4 above, providing the intention to adopt is notified to the employer immediately following advice from the relevant agency to the adoptive applicants that they are considered suitable adoptive parents. Subsequent evidence of an approved adoption placement shall be provided to the employer's satisfaction.

16.6 Employees intending to take parental leave are required to give at least one month's notice in writing and the application is to be accompanied by a certificate signed by a registered medical practitioner certifying the expected date of delivery. The provision may be waived in the case of adoption

16.7 An employee absent on parental leave is required to give at least one month's notice to the employer of their intention to return to duty. When returning to work the employee must report to duty no later than the expiry date of such leave.

NOTE: It is important that employees are advised when they commence parental leave that, if they fail to notify the employer of their intention to return to work or resign, they shall be considered to have abandoned their employment.

16.8 Parental leave is not to be granted as sick leave on pay.

16.9 Job Protection

16.9.1 Subject to 16.11 below, an employee returning from parental leave is entitled to resume work in the same position or a similar position to the one they occupied at the time of commencing parental leave. A similar position means a position.

- At the equivalent salary, grading;
- At the equivalent weekly hours of duty;
- In the same location or other location within reasonable commuting distance; and
- Involving responsibilities broadly comparable to those experienced in the previous position.

16.9.2 Where applicable, employees shall continue to be awarded increments when their

incremental date falls during absence on parental leave.

16.10 Options

16.10.1 The employer must, as a first preference, hold the employee's position open or fill it temporarily until the employee's return from parental leave. In the event that the employee's position is a "key position" (as defined in section 41(2) of the Parental Leave and Employment Protection Act 1987) the employer may fill the position on a permanent basis.

16.10.2 Where the employer is not able to hold a position open, or to fill it temporarily until an employee returns from parental leave, or fills it permanently on the basis of it being a key position, and, at the time the employee returns to work, a similar position (as defined above) is not available, the employer may approve one of the following:

- (a) An extension of parental leave for up to a further 12 months until the employee's previous position or a similar position becomes available; or
- (b) An offer to the employee of a similar position in another location (if one is available) with the normal transfer expenses applying; if the offer is refused, the employee continues on extended parental leave as above for up to 12 months; or
- (c) The appointment of the employee to a different position in the same location, but if this is not acceptable to the employee the employee shall continue on extended parental leave in terms of 16.10.2 above for up to 12 months;
- (d) Provided that, if a different position is accepted and within the period of extended parental leave in terms of (b), the employee's previous position or a similar position becomes available, then the employee shall be entitled to be appointed to that position; or
- (e) Where extended parental leave in terms of (a) above expires, and no similar position is available for the employee, the employee shall be declared surplus under clause 25 of this agreement.

16.11 If the employee declines the offer of appointment to the same or similar position in terms of clause 16.9.1 above, parental leave shall cease.

16.12 Where, for reasons pertaining to the pregnancy, an employee on medical advice and with consent of the employer, elects to work reduced hours at any time prior to confinement, then the guaranteed proportion of full-time employment after parental leave shall be the same as that immediately prior to such enforced reduction in hours.

16.13 Lump Sum Payment

16.13.1 Where an employee who is entitled to parental leave of up to 12 months, returns to duty before or at the expiration of leave or extended leave and completes a further six months' service, they qualify for a payment equivalent to 30 working days leave on pay, that is at the rate applying for the 30 working days immediately following their ceasing duty.

Provided that, if both male and female partners are employed in the health service and are eligible for the payment, then they are entitled to one and only one payment, and they may choose (after they have qualified) who will receive it.

If employment prior to confinement was part-time, however, payment shall be based on the percentage that such part time hours bear to whole employment.

16.13.2 Where, for reasons pertaining to the pregnancy, an employee, on medical advice and with the consent of the employer elects to work reduced hours at any time

prior to confinement, then the calculation of the lump sum payment shall be based on the proportion of full-time employment immediately prior to any such enforced reduction in hours.

16.13.3 An employee who is absent on parental leave for less than six weeks (30 working days) will receive that proportion of the payment that their absence represents in working days.

16.13.4 An employee returning from parental leave may request the employer to vary the proportion of full time employment from that which applied before the leave was taken. The granting of such a request shall be at the discretion of the employer, that is the principle of job protection cannot be guaranteed. The calculation of the lump sum payment in these circumstances shall be based on the proportion of full time employment, which applied before taking leave (excluding any temporary reduction in hours immediately prior to confinement).

16.14 Parental Leave Absence Filled by Temporary Appointee

If a position held open for and employee on parental leave is filled on a temporary basis, the employer must inform the temporary appointee that their employment will terminate on the return of the employee from parental leave.

17 REAPPOINTMENT AFTER ABSENCE DUE TO CHILDCARE

Where an employee resigns from a permanent position with the employer to care for pre-school children, the employer is committed, upon application from the employee, to make every reasonable endeavour to re-employ that person where a comparable and suitable position exists within four years of the resignation, providing that the person has the necessary skills to fill the vacancy competently; then the person under these provisions shall be appointed in preference to any other applicant for the position.

Absence for childcare reasons will interrupt service but not break it. The period of absence will not count as service for the purpose of sick leave, annual leave, retiring leave or gratuities, long service or any other leave entitlements.

18 JURY SERVICE AND WITNESS LEAVE

18.1 Employees called on for jury service or who are subpoenaed or as a witness for the Crown, the employer, or in the course of their employment, are required to serve. Where the need is urgent, the employer may apply for postponement because of particular work needs, but this may be done only in exceptional circumstances.

18.2 An employee called on for jury service or as a witness may elect to take annual leave, leave without pay, or leave on pay.

18.3 Where leave on pay is granted, a certificate is to be given to the employee by the employer to the effect that the employee has been granted leave on pay and requesting the Court to complete details of juror's fees and expenses paid. The employee is to pay the fees received to the employer but retain expenses.

18.4 Where leave on pay is granted, it is only in respect of time spent on jury service, including reasonable travelling time. Any time during normal working hours when the Court does not require the employee, the employee is to report to work where this is reasonable and practical.

19 UNION REPRESENTATIVE'S EDUCATION LEAVE

The employer shall grant leave on pay annually for members of APEX to attend courses

authorised by the Minister of Labour to facilitate the employees' education and training as employee representatives in the workplace.

The number of days education leave per annum granted shall be as follows:

- 1-5 members 3 days
- 6-50 members 5 days
- 51-280 members 1 day for every 8 FTE or part thereof
- Over 281 members 35 days plus 5 days for every 100 FTE or part hereof exceeds 280

20 EMPLOYEE RELEASE

- 20.1 Employees with 5 years continuous service with the current employer may apply for a one-off continuous period of unpaid Employee Release for a period of three months up to a maximum of twelve months. Such application shall be considered on a case-by-case basis and granted at the discretion of the employer. All service related provisions / benefits will be put on hold until resumption of normal duties.
- 20.2 The notification of the employee's intent to return to normal duties will be the same as Clause 16.7 (Parental Leave).
- 20.3 Job protection provisions will be the same as in Clause 16.9.1 (Job Protection).
- 20.4 The provisions of this clause are separate from and in addition to normal unpaid leave provisions, and it is acknowledged that employees may apply for unpaid leave at any time during their employment.

PART FIVE – TERMS OF EMPLOYMENT

21 PROTECTIVE CLOTHING

- 21.1 Suitable clean protective clothing shall be made available by the employer where the nature of a particular duty or duties would either continuously or intermittently render an employee's personal clothing or uniform to excessive soiling or damage or expose the employee's person to injury or excessive discomfort through biological, chemical or physical hazards. Such protective clothing shall remain the property of the employer and, as such, shall be laundered or otherwise cleaned free of charge.

Where an employer required a laboratory employee to wear a particular type of shoe, two pairs shall be supplied free of charge to every whole-time medical laboratory employee or an allowance of \$142.82, shall be paid in lieu. Six pairs of duty socks, stockings or pantyhose shall also be supplied free of charge or an allowance of \$35.06 shall be paid in lieu. This clause does not apply to any employer that does not have this provision in their agreement that was in force immediately prior to this agreement.

- 21.2 In the case of a medical laboratory employee who is employed part-time, a proportionate part of these allowances shall be paid as applicable.
- 21.3 A laboratory employee may at the employer's discretion be compensated for damage to personal clothing worn on duty, or reimbursed dry cleaning charges for excessive soiling to personal clothing worn on duty, provided the damage or soiling did not occur as a result of the employee's negligence or failure to wear the protective clothing provided.

22 REFUND OF ANNUAL PRACTISING CERTIFICATE

Where a laboratory employee is required by law to hold an annual practising certificate in order to practise that profession or trade with the employer, the cost of the certificate shall be refunded to the employee provided that:

- It must be a statutory requirement that a current certificate be held for the performance of duties.
- The employee must be engaged in duties for which the holding certificate is a requirement.
- The employee must be a member of the particular occupational class to whom the requirement applies.

23 RECERTIFICATION

- 23.1 The employer accepts responsibility for providing the necessary resources and costs to meet the competency requirements of the Health Practitioner Competency Assurance Act. Reimbursement of fees required to enrol in a recognised Continuing Professional Development (CPD) points programme will be provided to a maximum of \$200 per annum per employee.
- 23.2 To assist employees in updating and enhancing their skills, subject to prior approval, the employer will meet the cost of professional development. Where CPD is undertaken at the weekend then equivalent time up to a maximum of 8 hours in lieu will be provided to be taken at a later date by agreement between the employer and the employee.

24 EMPLOYEE PARTICIPATION

- 24.1 The parties to this agreement accept that change in the Health Service is necessary in order to ensure the efficient and effective delivery of health services.
- 24.2 The parties recognise that they have a mutual interest in ensuring that health services are provided efficiently and effectively, and that each has a contribution to make in this regard.

The involvement of employees should contribute to:

- Improved decision making.
- Greater co-operation between the parties to this agreement.
- More harmonious, effective, efficient, safe and productive workplace.

Therefore the employer agrees to the following provisions for consultation, recognition of staff participation and access to facilities.

- 24.2.1 Paid time off shall be allowed for recognised staff representatives to attend meetings with management, consult with employees, to consult and discuss those issues addressed in this clause and clause 26.0 specifically; staff surplus, and options for resolving staff surplus.
- 24.2.2 Prior approval for such meetings shall be obtained from management. Such approval shall not be unreasonably withheld.
- 24.2.3 The amount of time off and facilities provided shall be sufficient to enable full consideration of the issues.
- 24.3 For the purposes of clauses 24.0 and 25.0, the recognised representative shall be the union advocate unless otherwise agreed.
- 24.4 Employment Protection Provisions

24.4.1 The intent of the following provisions is to meet the requirements of Part 6A, "Continuity of employment if employer's business restructured" Section 69, subpart 2, of the Employment Relations Act 2000 (as amended by Employment Relations Amendment Act (No 2) 2004, and Schedule 1B, parts 19, 20 and 21 of the same Act. The definitions as contained in Subpart 2 of the Employment Relations Amendment Act (No 2) 2004 shall apply to this clause. These provisions shall only apply so long as a statutory obligation to include them in employment agreements remains in force.

24.4.2 The employer, before undertaking any restructuring, will identify any affected employees (as defined in section 69L (2), and quantify the full cost of their employment. This is for the purpose of advising the prospective employers of the cost of the affected employees' employment by the new employer (as defined in Section 69L (1)) should the new employer enter into a restructuring agreement with the employer and all affected employees choose to transfer to the new employer.

24.4.3 The employer will give written notice to all affected employees, and to APEX, of the proposed restructuring, including the work being performed which is part or the whole of the employers' business that the employer is negotiating for restructuring. The notice must be given prior to or at the same time as any request for proposal (or equivalent) is publicly notified.

24.4.4 The employer will give written notice to the new employer before any agreement as to the restructuring is entered into. The notice will include:

- A copy of this Agreement

- The terms of paragraphs 19 and 20 of the code of good faith for public health sector, Schedule 1B to the Employment Relations Amendment Act (No 2) 2004, as required by paragraph 21 of the code.

24.4.5 Upon a restructuring agreement being entered into by the new employer with the employer, the employer shall notify the new employer with whom it has entered into the restructuring agreement (“the Contracted New Employer” or “CNE”) and each affected employee of the specific following employment details (relating to that affected employee) which shall be transferred to the CNE:

- Superannuation entitlements
- Long service entitlements
- Leave balances except annual leave that is required to be cashed up at the date of transfer.
- Any conditions of employment enjoyed by the employee outside this agreement. Provision for liability cover in the event of a future claim where the event arose during the employee’s employment with the employer

24.4.6 The CNE shall provide offers of employment to the affected employees. The offer of employment must be on the same terms and conditions as applied to the employee immediately before the restructuring too effect.

24.4.7 The CNE shall give the affected employees the opportunity to meet with the CNE during the two weeks following the offer of employment being made to answer any questions the employee has and only for that purpose. The union shall be invited to attend all such meetings.

24.4.8 The employee shall be given a two week period from the date of receipt of the offer of employment to inform the CNE of whether they choose to transfer to the CNE (by accepting the offer of employment) or choose not to transfer to the CNE.

24.4.9 If any employee is unable to respond within the timeframe set out in clause 24.4.8 above, because they are away from the workplace or as a result of some other extenuating circumstance, the employee shall have until such time as is reasonable to respond. For example, should the employee be overseas on holiday, and then the time for response should be two weeks from their return from overseas.

24.4.10 Clause 25 shall apply to any employees who choose not to transfer to the CNE, except that the terms of clause 25.2.1 and the notice period in clause 25.3 shall be regarded as having been met, so that the employer shall not be required to pay compensation for redundancy to the employee as set out in clauses 25.11 and 25.12 of this agreement.

25 STAFF SURPLUS

25.1 When as a result of the substantial restructuring of the whole, or any parts, of the employer’s operations; either due to the reorganisation, review of work method, change in plant (or like cause), the employer required a reduction in the number of employees or, employees can no longer be employed in their current position, at their current grade or work location (i.e. the terms of appointment to their present position), then the options in subclause 25.5 below shall be invoked and decided on a case by case basis by the employer having due regard to the circumstances of the affected employee

25.2 Where an employee’s employment is being terminated by the employer by reason of the sale or transfer of the whole or part of the employer’s business, nothing in this Agreement shall require the employer to pay compensation for redundancy to the employee if:

25.2.1 The person acquiring the business or the part being sold or transferred

- Has offered the employee employment in the business or the part being sold or transferred; and
- Has agreed to treat service with the employer as if it were service with that person and as if it were continuous; and

The conditions of employment offered to the employee by the person acquiring the business or the part of the business being sold or transferred are the same as, or are no less favourable than, the employee's conditions of employment, including:

- Any service related conditions; and
- Any conditions relating to redundancy; and
- Any conditions relating to superannuation

Under the employments being terminated; and

The offer of employment by the person acquiring the business or the part of the business being sold or transferred is an offer to employ the employee in that business or part of the business either:

- In the same capacity as that in which the employee was employed by the Employer; or
- In a capacity that the employee is willing to accept.

25.3 Notification

The employer will advise the employee organisation at least one month prior to the date that notice is required to be given to the employee whose position is required to be discharged. Notification of a staffing surplus shall be advised to the affected employee. This date may be varied by agreement between the parties. During this period, the employer and the employee will meet to discuss the option most appropriate to the circumstances. Where employees are to be relocated, at least one months' notice shall be given to employees, provided that in any situation, a lesser period of notice may be mutually agreed between the employee and the employer where the circumstances warrant it (and agreement shall not be unreasonably withheld).

25.4 The following information shall be made available to the employee representative:

- The location/s of proposed surplus
- The total number of proposed surplus employees
- The date by which the surplus needs to be discharged
- The positions, grading, names and ages of the affected employees
- Availability of alternative positions with the employer.

On request the employee representative will be supplied with relevant additional information where available.

25.5 Options

The following are the options in order of preference to be applied by the Employer in staff surplus situations:

- Reconfirmed in position
- Attrition
- Redeployment
- Leave without pay
- Retraining
- Enhanced early retirement
- Severance.

Option a will preclude employees from access to the other options. The aim will be to minimise the use of severance. When severance is included, the provisions in subclause 25.12 will be applied as a package.

25.6 Reconfirmed in Position

Where a position is to be transferred into a new structure in the same location and grade, where there is one clear candidate for the position, the employee is to be confirmed in it. Where there is more than one clear candidate the position will be advertised with appointment made as per normal appointment procedures.

25.7 Attrition

Attrition means that as people leave their jobs because they retire, resign, transfer, die or are promoted then they may not be replaced. In addition or alternatively, there may be a partial or complete freeze recruiting new employees or on promotions.

25.8 Redeployment

Employees may be redeployed to a new job at the same or lower salary in the same or new location.

Where the new job is at a lower salary, an equalisation allowance will be paid to preserve the salary of the employee at the rate paid in the old job at the time of redeployment. The employer can preserve the salary in the following ways:

- A lump sum to make up for the loss of basic pay for the next two years (this is not abated by any subsequent salary increase); or
- An ongoing allowance for the two years equivalent to the difference between the present salary and the new salary (this is abated by any subsequent salary increases).

Where the new job is within the same local area and extra travelling costs are involved, actual additional travelling expenses by public transport shall be reimbursed for up to 12 months.

The redeployment may involve employees undertaking some on-the-job training.

25.9 Leave Without Pay

Special leave without pay may be granted within a defined period without automatic right of re-engagement. This provision does not include parental or sick leave.

25.10 Retraining

25.10.1 Where a skill shortage is identified, the employer may offer a surplus employee retraining to meet that skill shortage with financial assistance up to the maintenance of full salary plus appropriate training expenses. It may not be practical to offer retraining to some employees identified as surplus. The employer needs to make decisions on the basis of cost, the availability of appropriate training schemes and the suitability of individuals for retraining.

25.10.2 If an employee is redeployed to a position that is similar to his or her previous one, any retraining may be minimal, taking the form of "on the job" training such as induction or in-service education

Where an employee is deployed to a new occupation or a dissimilar position the employer should consider such forms of retraining as in-service education, block courses or night courses at a tertiary or other institution, nursing bridging programmes, etc.

25.11 Enhanced Early Retirement

25.11.1 Employees engaged by a DHB (or its predecessor) prior to 1 May 1994 are eligible if they are within 10 years of the age eligibility for government superannuation and have a minimum of ten years' total aggregated service with the employer, with that DHB or contracted out hospital-based Medical Laboratory and one or more other DHBs, and with one or more of the following services:

- Public Service
- New Zealand Post Office
- New Zealand Railways
- Any University in New Zealand
- Any Health Centre in any New Zealand Polytechnic or College of Education.

But excludes any service with any of the above services or with any DHB which has been taken into account for the purposes of calculating any entitlement to a redundancy / severance / early retirement or similar payment from any of the above services or from any DHBs.

25.11.2 Employees by a DHB (or its predecessor) on or after 1 May 1994 are eligible if they are within 10 years of the age of eligibility for government superannuation and have a minimum of 10 years total current continuous service with a DHB or the current employer.

25.11.3 Membership of a superannuation scheme is not required for eligibility.

25.11.4 The employee shall receive the following:

- One month's notice of retirement or 8.33 per cent of basic salary (T1 rate only) for the preceding 12 months in lieu of notice. This payment is regardless of length of service; and
- 12 per cent of basic salary (T1 rate only) for the preceding 12 months, or part thereof for employees with less than 12 months service; and
- 4 per cent of basic salary (T1 rate only) for the preceding 12 months multiplied by the number of years of service minus one up to a maximum of 19; and
- Where the period of total aggregated service is less than 20 years, 0.333 per cent of basic salary (T1 rate only) the employee would have received between their actual retirement and the date of their being eligible for government superannuation.

NOTE: The total amount paid to employees under this provision shall not exceed the total basic salary (T1 rate only) the employee would have received between their actual retirement and the date of their being eligible for government superannuation.

- If the employee has ten or more years' service, the full retiring gratuity set out in the scale contained in Clause 10 shall be paid.
- Outstanding annual leave and long service leave may be separately cashed up.

25.12 Severance

25.12.1 Payment will be made in accordance with the following:

For employees engaged by a DHB (or its predecessor) prior to 1.5.94 "Service" for the purposes of this subclause means total aggregated service with the employing employer, with that employer and one or more other Crown Health Enterprises, Private Medical Laboratory and with one or more of the following services:

- Public service

- Post office
- New Zealand Railways
- Any University in New Zealand
- Any Health Centre in any New Zealand Polytechnic and/or College of Education.

However, excludes any service with any of the above services or with any Board, CHE, HHS or DHB that has been taken into account for the purposes of calculating any entitlement to a redundancy / severance / early retirement or similar payment from any of the above services or from any Boards.

25.12.2 For employees engaged by a DHB on or after 1.5.94 "Service" for the purpose of this clause means current continuous service with the DHB or the current employer.

25.12.3 8.33 percent of basic salary (T1 rate only) for the preceding 12 months, in lieu of notice. This payment shall only be made where the requisite notice cannot be given. Notice that is of a lesser period than required by this document shall require the employer to pay an amount proportionate to the ungiven period of notice. This payment is regardless of length of service; and

25.12.4 12 per cent of basic salary (T1 rate only) for the preceding 12 months, or part thereof for employees with less than 12 months' service; and

25.12.5 4 per cent of basic salary (T1 rate only) for the preceding 12 months, multiplied by the number of years of service minus one, up to a maximum of 19; and

25.12.6 Where the period of total aggregated service is less than 20 years, 0.333 per cent of basic salary (T1 rate only) for the preceding 12 months multiplied by the number of completed months in addition to completed years of service

NOTE: The total amount paid to employees under this provision shall not exceed the basic salary (T1 rate only) the employee would have received between their cessation and the date of their being eligible for government superannuation

25.12.7 Employees with not less than eight years' service, but less than ten years' service, shall be paid two weeks' basic salary (T1 rate only).

25.12.8 Employees with not less than five years' service but less than eight years' service, shall be paid one-week's basic salary (T1 rate only).

25.12.9 Outstanding annual leave and long service leave may be separately cashed up.

25.12.10 Job Search

The employer should assist surplus staff to find alternative employment by allowing them a reasonable amount of time off work to attend job interviews without loss of pay. This is subject to the employer being notified of the time and location of the interview before the employee is released to attend it.

25.13 Counselling

Counselling for affected employees and family will be made available as necessary.

26 NOTICE

Unless otherwise stipulated, the employment shall be deemed to be a monthly one and a month's notice shall be given by either side; but this shall not prevent the employer from summarily dismissing any employee for serious or wilful misconduct or other just cause. Unless otherwise agreed where the required notice is not given the person terminating the service shall pay or forfeit wages to the value of the unexpired period of notice as the case may require.

27 ABANDONMENT OF EMPLOYMENT

Where an employee absents him / herself from work for a continuous period exceeding three working days without the consent of the employer and without notification to the employer, and without good cause, he / she shall be deemed to have terminated his / her employment without notice.

PART SIX – OTHER PROVISIONS

28 DEDUCTION OF UNION FEES

The employer shall deduct union fees from the wages and salaries of members of the union when authorised in writing by members. The employer will forward the monies with the names and the individual amounts deducted to the union.

29 STOPWORK MEETINGS

- 29.1 Subject to subsections 29.2 to 29.5 the employer shall allow every employee covered by this agreement to attend, on ordinary pay, at least two meetings (each of a maximum of two hours duration) in each year (being the period beginning on the 1st day of January and ending on the 31st day of December) with their representatives.
- 29.2 The representative shall give the employer at least 14 days' notice of the date and time of any meeting to which subsection 29.1 is to apply.
- 29.3 The representative shall make such arrangements with the employer as may be necessary to ensure that the employer's business is maintained during any meeting. Including where appropriate an arrangement for sufficient employees to remain available during the meeting to enable the employer's operation to continue.
- 29.4 Work shall resume as soon as practicable after the meeting, but the employer shall not be obliged to pay any employee for a period greater than two hours in respect of any meeting.
- 29.5 Only employees who actually attend a meeting shall be entitled to pay in respect of that meeting and to that end the representative shall supply the employer with a list of employees who attended and shall advise the employer of the time the meeting finished.

30 EMPLOYMENT RELATIONSHIP PROBLEMS

An "employment relationship problem" includes:

- A personal grievance
- A dispute
- Any other problem relating to or arising out of the employment relationship.

- 30.1 Where an employment relationship problem arises the parties will in the first instance seek to resolve it between the immediately affected parties. Further to this:
- The employee will be provided the opportunity to be represented by their union or other such support person of their choosing at any time during the resolution process.
 - If the matter is unresolved either party is entitled to seek mediation from the Labour Department or refer the matter to the Employment Relations Authority. (Both mediation and investigation of employment relationship problems).
- 30.2 A "personal grievance means a claim that you:
- Have been unjustifiably dismissed; or
 - Have had your employment, or your conditions of employment, affected to your disadvantage by some unjustifiable action by the employer; or
 - Have been discriminated against in your employment; or
 - Have been sexually harassed in your employment; or
 - Have been racially harassed in your employment; or
 - Have been subjected to duress in relation to union membership.

If the employment relationship problem is a personal grievance, you must raise the grievance with the employer within a period of 90 days, beginning with the date on which the action alleged to amount to a personal grievance, occurred or came to your notice, whichever is the latter. There is also additional time available for raising a personal grievance under the Act, under particular circumstances (ERA Section 115).

30.3 Where any matter comes before the Authority for determination, the Authority must direct the matter to mediation in the first instance. Where mediation has failed or been deemed inappropriate in the circumstances, the Authority will then have the power to investigate the matter.

30.4 If the employment relationship problem relates to discrimination or sexual harassment, services available for the resolution of the problem include wither application to the Authority for the resolution of this grievance or a complaint under the Human Rights Act 1993, but not both.

31 INDEMNITY

The employer shall ensure that it is insured in such a manner as to provide adequate professional indemnity insurance cover for employees including cover for the costs of independent legal representation in the event of claims or issues that affect an employee and the provision of adequate run-off cover for an employee for claims arising after an employee has ceased employment with the employer in respects of acts or omission during employment.

32 TEMPORARY OR FIXED TERM AGREEMENTS

Temporary or fixed term employment agreements should only be used to cover specific situations of a temporary nature or fixed term, e.g. to fill a position where the incumbent is on study or parental leave; or where there is a task of a finite duration to be performed.

Temporary or fixed term employment agreements while justified in some cases to cover situations of a finite nature, must not be used to deny staff security of employment in traditional career fields.

33 USE OF PRIVATE VEHICLE ON EMPLOYER PREMISES

Employees who are instructed by the employer to use their private motor vehicle on the employer's business shall be paid a motor vehicle allowance as promulgated by the Inland Revenue Department and adjusted from time to time.

34 TRANSFER EXPENSES

Before a transfer takes place the terms under which such transfer is to occur shall be agreed between the employee and the employer and recorded in writing.

For:

- Transferring on promotion; or
- Transferring at the convenience of the employer

35 SAVINGS CLAUSE

Nothing in the agreement shall operate so as to reduce the conditions of employment applying to any employee at the date of this agreement coming into force unless specifically identified and agreed between the parties.

36 VARIATIONS

This agreement may be varied by agreement between parties subject to the APEX’s normal ratification procedures. Such agreement shall be in writing and signed by the parties.

37 TERM OF AGREEMENT

This agreement shall be deemed to have come into force on 20 January 2019 and shall continue in force until 19 March 2021.

Dated this day of

Signed:

AUTHORISED Representative of the
EMPLOYEE PARTY

AUTHORISED Representatives of the
EMPLOYER PARTIES

.....
Deborah Powell
National Secretary
APEX

.....
Dianne McQueen
Chief Executive Officer
Pathlab Whakatane Limited