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# GOVERNMENT NOTICES

## GOEWERMENSKENNISGEWINGS

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### DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

**No. R. 832****18 August 2006**

LABOUR RELATIONS ACT, 1995

**FURNITURE BARGAINING COUNCIL: EXTENSION OF MAIN COLLECTIVE AGREEMENT TO NON-PARTIES**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the **Furniture Bargaining Council** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry, with effect from 28 August 2006, and for the period ending 30 June 2008.

**M. M. S. MDLADLANA**

Minister of Labour

**No. R. 832****18 Augustus 2006**

WET OP ARBEIDSVERHOUDINGE, 1995

**MEUBEL NYWERHEDE BEDINGINGSRAAD: UITBREIDING VAN HOOF KOLLEKTIEWE  
OOREENKOMS NA NIE-PARTYE**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die **Meubel Nywerhede Bedingingsraad** aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 28 Augustus 2006, en vir die tydperk wat op 30 Junie 2008 eindig.

**M. M. S. MDLADLANA**

Minister van Arbeid

**FURNITURE BARGAINING COUNCIL****COLLECTIVE AGREEMENT**

in accordance with the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), made and entered into by and between the

**Furniture, Bedding and Upholstery Manufacturers' Association (FBUMA)**

and the

**Curtain Makers and Allied Products' Association (CMAPA)**

(hereinafter referred to as the "employers" or the "employers' organisations"), on the one part, and the

**National Union of Furniture and Allied Workers of South Africa (NUFAWSA)**

and the

**Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU)**

(hereinafter referred to as the "employees" or the "trade unions"), of the other part, being the parties to the Furniture Bargaining Council.

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**CHAPTER 1****1. SCOPE OF APPLICATION**

1.1 The terms of this Agreement shall be observed in the Furniture, Bedding, Upholstery and Curtain Manufacturing Industry—

- 1.1.1 by all employers who are members of the employers' organisations and by all employees who are members of the trade unions, and who are engaged or employed in the Furniture, Bedding, Upholstery and Curtain Manufacturing Industry;
- 1.1.2 in the Province of the Transvaal as it existed immediately prior to the coming into operation of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993); and
- 1.1.3 in the Magisterial Districts of Mafikeng and Vryburg as they were constituted as at 24 June 1960; and
- 1.1.4 in the Province of the Orange Free State as it existed immediately prior to the coming into operation of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993).

1.2 Notwithstanding the provisions of clause 1.1, the provisions of this Agreement—

- 1.2.1 apply only to employees from whose wages are prescribed in this Agreement and to the employers of such employees;

1.2.2 apply to learners under the Skills Development Act, 1998, or any contracts entered into or any conditions fixed thereunder; and

1.2.3 are subject to the provisions of the Determination by the Industrial Court, dated 30 October 1984, in the matter between the Industrial Councils for the Furniture and Bedding Manufacturing Industry, Transvaal and Natal, and the Industrial Councils for the Building Industry, Transvaal, Pietermaritzburg and Northern Areas and Natal.

1.3 The following provisions shall not apply to non-parties: Clauses 1.1.1 and 2 of Chapter 1, Chapter 2A and items 4.1 and 4.2 of Schedule 1.

#### 1.4 **Threshold—organisational rights**

The terms of this Agreement and the application thereof shall be subject to the following in respect of organisational rights thresholds:

Any association of persons that can prove to the satisfaction of the parties that it is a trade union duly registered in terms of section 96 of the Labour Relations Act, and that can prove by means of reasonable identification, membership of employees in the Industry in excess of 15% of the total number of employees in the Industry, shall be recognised as a sufficiently representative union entitled to exercise the rights set out in sections 12, 13 and 15 of the Labour Relations Act. As soon as sufficient representativeness has been proved to the parties, such sufficiently representative trade union shall be entitled to be treated for organisational purposes on an equal and fair footing with the other trade unions who are already members of the Bargaining Council.

## 2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall, in terms of section 31 of the Act, become binding on the above parties on 1 July 2006 and on non-parties on such date as may be fixed by the Minister of Labour in terms of section 32 of the Act, but not earlier than 1 July 2006, and shall remain in force for the period ending 30 June 2008, subject to the parties negotiating only on Sick Benefit Society contributions, minimum weekly wage rates and minimum weekly wage increases for the period 1 July 2007 to 30 June 2008.

## 3. INDUSTRIAL ACTION

No person bound by the provisions of this Collective Agreement shall engage in or participate in a strike or lockout or any conduct in furtherance of a strike or lockout in respect of any matter regulated by this Agreement.

## 4. DEFINITIONS

Any expression used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act and any reference to an Act shall include any amendments to such Act, and unless the contrary intention appears, words importing the masculine gender shall include the feminine gender and vice versa; further, unless inconsistent with the context—

“**Act**” means the Labour Relations Act, 1995 (Act 66 of 1995);

“**assistant despatch clerk**” means an employee who assists the despatch clerk, and who is under his direct supervision;

“**assistant storeman**” means an employee who assists the storeman, and who is under his direct supervision;

“**Caretaker**” means an employee who is resident on the factory premises and who is responsible for any one or more of the following duties:

- (a) care of contents of the premises;
- (b) care and cleaning of the premises;
- (c) supervision of cleaning staff;

“**casual driver of motor vehicle**” means an employee who is employed as a driver of a motor vehicle by the same employer for not more than three days in any one month (to be remunerated daily for nine hours at no less than the applicable minimum hourly rate for drivers, plus 15% holiday bonus fund);

“**casual employee**” means an employee who is employed by the same employer for not more than three days in any one month (to be remunerated at the applicable hourly rate for the occupation skills level of work performed, plus 15% holiday bonus fund);

“**chargehand**” means an employee who customarily and regularly direct, subject to the instructions of management, the work of other employees while he is also engaged in the production of furniture and/or upholstery and/or bedding and/or curtaining;

“**Collective Agreement**” means any current agreement for the Furniture, Bedding, Upholstery and Curtaining Manufacturing Industry in which wages are prescribed, or in the absence of such an agreement, the last wage agreement published for the Industry in terms of the Act;

“**compulsory retirement age**” for an employee in the Industry is the age of 65 years;

“**contributions**” means the amount of money payable to the funds of the Council as determined from time to time;

“**Council**” means the Furniture Bargaining Council registered in terms of the Act;

“**dependant**”, in relation to a member and for the purposes of the—

- (a) *Provident Fund* means—  
persons accepted by the Fund as being dependants in accordance with the rules of the Fund; and the
- (b) *Sick Benefit Society* means—  
persons accepted by the Society as being dependants in accordance with the rules of the Society; and the
- (c) *Death and Disability Scheme* means—  
persons accepted by the Scheme as being dependants/beneficiaries in accordance with the rules of the Scheme;

“**despatch clerk**” means an employee who is wholly or mainly engaged in the despatch or the packing or receiving of goods for transport or delivery and who may attend to or supervise the checking, mass-measuring, packing, marking, addressing or despatching thereof;

“**driver**” means an employee who is engaged in driving a motor vehicle, and for the purposes of this definition the expression “**driving a motor vehicle**” includes all periods of driving, any time spent by a driver on work connected with the vehicle or the load and all periods during which he is obliged to remain at his post in readiness to drive;

“**driver’s logbook**” means a book provided by his employer (if required) to be completed in duplicate;

“**emergency services**” means any work which, owing to causes such as fire, storm, accident, act of violence or theft, must be done without delay, and any work necessary for the transportation of machinery to prevent any serious dislocation in the Industry;

“**establishment**” means any premises where furniture, bedding, upholstery and curtain manufacturing takes place;

“**experience**” means the total length of all periods of employment which an employee (in the occupation in which he is engaged) has had in any industry;

“**foreman**” and/or “**supervisor**” means an employee who is employed in a supervisory capacity and who, in the execution of his duties, which shall be related directly to the Furniture, Bedding, Upholstery and Curtain Manufacturing Industry—

- (a) manages the manufacturing activities of a whole establishment or a department or subdivision thereof as his primary duty; and/or
- (b) customarily and regularly directs the work of other employees; and/or
- (c) has the authority to engage or dismiss employees, or make suggestions as to the same, or as to promotions or demotions; and/or
- (d) customarily and/or regularly exercises discretionary powers; and
- (e) is paid a wage of not less than that prescribed for the highest-paid employee in this Agreement whether weekly or monthly; and
- (f) is paid in full, whether or not he completes the number of hours of work specified in this Agreement, subject thereto that a foreman/supervisor shall not be entitled to payment for hours of work lost owing to short time being worked, stay-aways and absence without prior permission,

but excludes employees who are engaged in costing, designing, buying, planning, organising, directing and/or controlling the duties of a foreman and/or supervisor: Provided that in the absence of foremen and/or supervisors, the aforesaid excluded employees shall be deemed to be the foremen or supervisors;

“**Furniture, Bedding, Upholstery and Curtain Manufacturing Industry**” or “**Industry**” means, without in any way limiting the ordinary meaning of the expression, the industry in which employers and their employees are associated for the manufacture, either in whole or in part, of all types of furniture, bedding, upholstery and curtaining irrespective of the materials used, and includes the following:

- (a) Repairing, upholstering, reupholstering, staining, spraying or polishing and/or repolishing; making loose covers and/or cushions and/or curtains, and/or making and/or repairing box-spring mattresses, and/or frames for upholstering; wood machining, veneering and carving in connection with the manufacturing and/or repair of furniture; polishing and/or repolishing pianos; and/or manufacturing and/or staining, spraying or polishing and/or repolishing tearoom, office, church, school, bar or theatre furniture, and cabinets for musical instruments and radio or wireless cabinets; including the activities carried on in any premises where wood-machining, wood-turning and/or wood carving in connection with the production of furniture is carried on; and also including the repairing, reupholstering or repolishing of furniture in or in connection with establishments in which the production of furniture or any operation associated with the final preparation of any article of furniture for sale, either in whole or in part, is carried on, and the veneering of laminated blockboard or plywood doors used for furniture, and all parts of materials used in the manufacturing of furniture; but excluding the manufacturing of studio couches as defined hereinafter, and cushions for such studio couches; the manufacturing of articles made principally of wicker, grass and/or cane, and the manufacture of metal furniture, excluding the manufacturing of metal bedsteads;

- (b) that portion of the Furniture Manufacturing Industry concerned with the manufacturing of television cabinets, excluding the manufacturing of television cabinets made principally of metal and/or plastic and/or television cabinets made by manufacturers of television sets for the housing of television sets manufactured by them in the Magisterial District of Alberton and Johannesburg;
- (c) manufacturing bedding, which includes any one or more of the following operations:
- (i) Manufacturing mattresses, spring mattresses, overlays, bolsters, pillows, cushions for studio couches and spring units;
  - (ii) manufacturing studio couches;
  - (iii) all operations and processes incidental to the manufacturing of the articles mentioned in (i) or (ii) if carried out by an employee employed in the manufacturing of such articles, but excluding the operations and processes in the manufacturing and/or assembly of metal parts of such articles;

**"Holiday Bonus Fund"** means the Furniture Bargaining Council Holiday Bonus Fund, administered by the Council;

**"large-size employer"** means an employer who employs in excess of 20 employees;

**"medium-size employer"** means an employer who employs between 11 and 20 employees;

**"micro-size employer"** means an employer who employs less than 4 employees;

**"new establishment"** means a business within the scope of this Agreement, which has not conducted manufacturing activities for a period of more than 6 months;

**"small-size employer"** means an employer who employs between 4 and 10 employees;

**"temporary employment service or labour broker"** means a service provided by any person who, for reward, procures for or provides to a client other persons who—

- (a) render services to, or perform work for, the client; and
- (b) who are remunerated by the temporary employment service, or the labour broker

and in which such persons are employees of the temporary employment service or a labour broker and the temporary employment service or labour broker is such persons' employer;

**"trade union representative or shop steward"** means a person who is a registered member of any of the trade unions which are parties to this Agreement and who has been elected as such by the employees at any particular establishment;

**"wage"** means the remuneration payable in money to an employee as prescribed in this Agreement or where an employer regularly pays to an employee an amount higher than the prescribed amount such higher amount;

**"watchman"** means an employee who is employed by an employer registered with or liable for registration with the Council to guard premises or other immovable property;

**"weekly paid employee"** means an employee who is remunerated weekly;

**"working employer"** means any person, including a partner in a partnership or a director in a company or a member of a close corporation, who performs any of the classes of work of which wages are prescribed in this Agreement.

## 5. PROHIBITION OF TWO-TIER BARGAINING

All employers and employees to whom this Agreement is applicable shall be bound not to attempt to renegotiate any of the conditions contained in this Agreement at company or plant level, irrespective of whether there is a valid recognition agreement in force between a union and an employer, during the currency of this Agreement or any subsequent period of extension.

## 6. REGISTRATION OF EMPLOYERS

6.1 Every employer shall within one month from the date of which this Agreement comes into operation, if he has not already done so pursuant to any previous agreement, and every employer entering the Industry after that date shall within one month of commencement of operations by him, forward to the General Secretary of the Council a completed registration form in the form specified by the Council from time to time and a registration fee as prescribed in Schedule 1 of this Agreement.

**Note:** This registration form is obtainable from the Council.

6.2 Whenever there is any change in the details submitted in terms of clause 6.1, the employer shall resubmit a completed registration form, as specified, to the Council within 14 days of such change.

6.3 An employer who intends to cease being an employer shall notify the Council, in writing, at least 14 days prior to the date on which he intends such cessation.

6.4 Any employer in the Industry shall, when required to do so by the Council, within seven days of that request, lodge with the Council a cash amount or guarantee acceptable to the Council, to cover the payment in respect of his employees as follows:

- 6.4.1 One week's wages;
- 6.4.2 13 weeks' levies and contributions in respect of—
  - 6.4.2.1 Holiday Bonus Fund contributions;
  - 6.4.2.2 Council Levies;



#### 6.4.2.3 Provident Fund contributions and additional Provident Fund contributions:

Provided that the minimum guarantee shall be for an amount of R500.

6.5 Where the cash amount or guarantee lodged by an employer is insufficient to cover the payment of wages, levies and contributions referred to above, the employer shall, on demand by the Council, increase the cash amount or guarantee to an amount sufficient to cover such payment. An employer shall be permitted to reduce the amount of his cash amount or guarantee. When a reduction of any cash amount or guarantee is granted it shall be implemented at intervals of no less than six months.

6.6 The Council shall be entitled to utilise any cash amount or guarantee lodged by an employer with the Council to pay any amount which may be due to the Council by such employer in respect of levies and contributions or to pay any wages which may be due to any one or more employees of such employer, where the Council is satisfied that such wages are due and payable to the employees concerned by the employer involved. The total claim in respect of any one or more employees shall not exceed the total of the cash amount or guarantee lodged with the Council. The amount any employee is entitled to claim as wages shall not exceed that portion of the cash amount or guarantee lodged with the Council which represents wages.

6.7 Every employer shall keep employee records as specified by the Basic Conditions of Employment Act, 1997 (Act 75 of 1997).

6.8 Every employer shall comply with the relevant legislation relating to factories and/or workrooms.

### 7. NEWLY ESTABLISHED SMALL EMPLOYER CONCESSION

New establishments with not more than a total of 10 employees (including employees involved in activities other than furniture, bedding, upholstery and curtain manufacturing activities e.g. administration, sales, marketing, etc), may apply for the following phasing in concession, provided that their employees agree thereto:

#### **PHASE ONE: First year of registration until the end of the first September following registration**

During this period the employer shall be exempted from prescribed minimum wages, Holiday Bonus Fund, Provident Fund, additional Provident Fund or Sick Benefit Society contributions. Employees may be remunerated at their current rates of pay and wage increments may be negotiated between employer and employee(s).

All other provisions of this Agreement shall remain applicable, including the following:

Any accumulated leave-pay benefits accrued by the employees prior to October of the first year of registration shall be paid out by the employer in terms of the Basic Conditions of Employment Act, 1997, when due. The following contributions shall be payable as prescribed in Schedule 1:

- (a) Council levies;
- (b) trade union subscriptions (if applicable).

#### **PHASE TWO: October of the second year of registration to the end of September of the following year**

During this period the employee(s) shall be remunerated at their current rates of pay and wage increments may be negotiated between employer and employee(s). In addition to the contributions payable in Phase One, the following contributions shall become payable as prescribed in Schedule 1:

Holiday Bonus Fund contributions.

#### **PHASE THREE: October of the third year of registration to the end of September of the following year**

During this period the employee(s) shall be remunerated at not less than 75% of the prevailing minimum weekly wage rates as prescribed in Schedule 2 or Schedule 3. In addition to the contributions payable in phases one and two, the following contributions shall become payable as prescribed in Schedule 1:

Provident Fund contributions;

additional Provident Fund contributions or Sick Benefit Society contributions.

#### **PHASE FOUR: As from October of the fourth year of registration**

All the provisions of the prevailing Agreement administered by this Council shall become applicable, including wages as prescribed in Schedule 2 or Schedule 3.

In the event of an establishment employing in excess of 10 employees at any time, all the provisions of the prevailing Agreement, including remuneration at no less than 100% of the prevailing minimum prescribed weekly wage rates and all contributions normally payable to this council, shall come into effect immediately.

### 8. TERMS OF EMPLOYMENT

#### 8.1 Ordinary hours of work

8.1.1 Save as is otherwise provided for in this Agreement, no employer shall require or permit an employee—

8.1.1.1 to work for more than 44 hours, excluding meal intervals, in any one week;

8.1.1.2 to work for more than nine hours, excluding meal intervals, on any one day.

8.1.2 All hours of work on any day, exclusive of meal intervals, shall be consecutive.

## 8.2 Intervals

An employer shall grant to each of his employees—

- 8.2.1 a rest interval of 10 minutes as nearly as practicable in the middle of each morning and afternoon work-period, which shall be regarded as part of ordinary hours of work;
- 8.2.2 a lunch interval of not less than one hour after a continuous period of work of not more than five hours, which shall not be regarded as part of ordinary hours of work.

## 8.3 Overtime

- 8.3.1 All time worked in excess of the number of ordinary hours of work in one week shall be overtime.
- 8.3.2 An employer may request an employee to work overtime. This request shall not unreasonably be rejected and the employee shall not be permitted to work overtime in excess of 10 hours in any one pay week: Provided that employees shall be given at least 24 hours' prior notice of overtime to be worked. For overtime to be worked in excess of 10 hours in any pay week, prior permission shall be obtained from the Council.
- 8.3.3 An employee shall not be entitled to payment for overtime unless he has completed the weekly ordinary number of hours of his establishment, unless the time lost is owing to illness for which he must produce a medical certificate on the day he resumes work.

## 8.4 Shift work

- 8.4.1 No normal shift shall exceed nine hours per day or 44 hours per week.
- 8.4.2 Not less than six hours shall elapse between successive shifts of an employee.
- 8.4.3 Where an employee's ordinary shift or part of it is worked on a public holiday, the employee concerned shall be remunerated for such shift as follows:
  - 8.4.3.1 If the major portion of such shift is worked on a public holiday, the entire shift shall be deemed to have been worked on such day and the employee shall be remunerated for work on a public holiday;
  - 8.4.3.2 if the lesser portion of such shift is worked on such day, the entire shift shall be deemed to have been worked on a weekday, and the employee shall be remunerated at his ordinary rate of remuneration.
- 8.4.4 Time worked by an employee after the completion of his normal shift shall be regarded as overtime and be paid for in accordance with the prescribed rates provided that the establishment's weekly ordinary hours of work have been exceeded.

## 8.5 Public holidays

- 8.5.1 All public holidays proclaimed in terms of the Public Holidays Act, 1994 (Act 36 of 1994), shall be recognised as paid public holidays, except where a public holiday falls on a day which is not a normal working day.
- 8.5.2 In the event of the services of an employee being terminated by an employer seven working days or less prior to Good Friday the employee shall be entitled to the payment of wages for Good Friday and Family Day.
- 8.5.3 In the event of the services of an employee being terminated by an employer seven working days or less prior to the annual closing date in terms of this Agreement, the employee shall be entitled to payment of wages for all the public holidays during the annual closure.

## 8.6 Annual closure

During any period of annual closure, no employer shall require or permit an employee to perform work and no employee shall undertake work, whether for remuneration or not. Annual closure shall be for a period of 15 consecutive working days, as follows:

2006—from the evening of Friday, 15 December 2006, to the morning of Thursday, 11 January 2007;

2007—from the evening of Friday, 14 December 2007, to the morning of Friday, 11 January 2008.

Any establishment may apply to the Council for exemption from the prescribed annual closure dates, if the establishment believes that extraordinary circumstances exist that may warrant the granting of an exemption.

## 8.7 Paid sick leave and proof of incapacity

- 8.7.1 "Sick-leave cycle" means a period of thirty-six (36) months' employment with the same employer immediately following:
  - 8.7.1.1 an employee's commencement of employment; or
  - 8.7.1.2 the completion of that employee's prior sick-leave cycle.
- 8.7.2 Paid sick leave is limited to 10 working days for every 12 months of employment and 30 working days for every sick-leave cycle.

- 8.7.3 Notwithstanding the provisions of clause 8.7.2, during the first six months of employment, an employee's entitlement to sick leave may be limited by an employer to one day's paid sick leave for every 26 days worked.
- 8.7.4 During an employee's first sick-leave cycle, an employer may reduce the employee's entitlement to sick leave in terms of clause 8.7.2 by the number of days' sick leave taken in terms of clause 8.7.3.
- 8.7.5 An employer shall pay an employee for a days' sick leave—
- 8.7.5.1 the wage the employee would ordinarily have received for work on that day; and
  - 8.7.5.2 on the employee's usual pay day.
- 8.7.6 An employee who is absent from his workplace owing to incapacity for the first three individual days in a sick-leave cycle shall be paid sick leave irrespective of whether such an employee produces a medical certificate or not. An employee may be required to present a medical certificate to his employer in order to qualify for the payment of sick leave from the fourth individual day that he is absent from his workplace owing to incapacity in each sick-leave cycle.
- 8.7.7 The medical certificate shall reflect the nature and period of the employee's incapacity and shall be issued and signed by a medical practitioner, traditional healer or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.
- 8.7.8 If it is not reasonably practicable for an employee who lives on an employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of clause 8.7.7 unless the employer provides reasonable assistance to the employee to obtain the necessary medical certificate.

## 8.8 Termination of employment

### 8.8.1 *Notice periods—*

The notice periods applicable to both employers and employees in the Industry will be as follows:

- During two month probationary period – one hour's notice.
- Up to one year's employment (probationary period included) – one week's notice.
- More than one year of employment (probationary period included) – two weeks' notice.

These notice periods are applicable provided that this shall not affect the right of an employer or employee to terminate a contract of service without any notice for any cause recognised by law as sufficient.

- 8.8.2 An employer and employee may agree in writing to provide for a longer period of notice, and failure to comply with such arrangement shall be a contravention of this clause.
- 8.8.3 An employer and employee may terminate a contract of employment without notice by paying to the employee or paying or forfeiting to the employer, as the case may be, in lieu of notice, an amount equal to not less than wages for one hour, one week or two weeks, as the case may be, or for such longer period as may be agreed upon by the employer and his employee.
- 8.8.4 The notice referred to above shall not run concurrently with any period of annual leave or to the extent of six weeks' absence owing to illness in any one year.

## 8.9 Absenteeism

No employee may absent himself from his work during the hours in which the establishment is open without the express permission of his employer except on account of illness and/or injuries or for causes beyond the control of such employee. An employee shall, within 24 hours of his failure to report for work, cause his employer to be notified thereof in the most expeditious manner available.

## 8.10 Short time, dismissals based on operation requirements and severance pay

### 8.10.1 *Short time*

- 8.10.1.1 When, by reason of slackness of trade, shortage of raw materials or a general breakdown of plant or machinery caused by accident or other unforeseen emergency, an employer is unable to employ his employees for the number of ordinary hours of work per week usually worked in his establishment, the employer may, subject to the provisions of this clause, employ his employees on short time during, but not exceeding, the period of such slackness of trade, shortage of raw materials or general breakdown of plant or machinery: Provided that, where practically possible, notice regarding the implementation of short time shall be given to the trade union representative in writing prior to the date on which short time becomes effective. When short time is worked, the work available shall be distributed among the employees in any section.
- 8.10.1.2 An employee who on any day reports for duty at the usual starting time of the establishment and for whom no work is available shall be paid in respect of such day an amount of not less than four hours' wages, unless he was notified by his employer previously that his services would not be required on the day in question.

**8.10.2 Dismissals based on operational requirements**

When an employer contemplates dismissing one or more employees for reasons based on operational requirements, subject thereto that short time of less than 35 hours per week had been worked over a continuous period of at least one week, the employer shall comply with the Labour Relations Act, 1995 (Act 66 of 1995), as well as the Basic Conditions of Employment Act, 1997 (Act 75 of 1997), insofar as this Agreement is silent on those issues which are covered by the aforementioned Acts.

**8.10.3 Severance pay**

Severance pay of one week's normal remuneration for each completed year of service is payable: Provided that during the first and last year of service, 10 months' or more service shall be regarded as completed year of service.

**8.11 New entrant employee**

A new entrant employee who enters the Industry for the first time from the date on which this Agreement comes into operation, or thereafter, shall be remunerated at not less than the minimum rate prescribed in the Agreement prior to the date on which this Agreement comes into operation, for a period of 26 weeks and thereafter the weekly remuneration of the said new entrant employee shall be increased to the minimum rate prescribed in this Agreement or when a new wage increase comes into operation, whichever date is the earlier.

**8.12 Trade union representative leave**

8.12.1 For the purpose of attending training courses and/or seminars and/or meetings arranged by the trade unions which are parties to this Agreement, trade union representatives shall be entitled to seven days' paid leave per annum and senior trade union representatives to ten days' paid leave per annum with effect from the date of the coming into operation of this Agreement, subject to the following conditions:

8.12.1.1 The leave cycle shall commence on 1 July of each year. Leave not taken by a senior trade union representative and/or a trade union representative shall accrue to the newly elected senior trade union representative and/or trade union representative during any one leave cycle. Leave will not be cumulative or be transferable from one employer to another.

8.12.1.2 The trade union shall make the training course and/or seminar content and/or agenda of meetings available to the employer at least seven days in advance.

8.12.1.3 Prior arrangements shall be made by the trade union with an employer for the release of key personnel. Not more than 50% of elected senior trade union representatives and/or trade union representatives at any particular establishment shall attend the training course and/or seminar and/or meeting on any particular day.

8.12.1.4 The number of trade union representatives elected at any particular establishment shall be in the ratio of not more than one to 30 employees.

8.12.1.5 The names of the senior trade union representatives and/or trade union representatives and/or trade union representatives elected shall be conveyed to the employer by the senior trade union representative, in writing, immediately after their names are known.

8.12.1.6 The trade union shall furnish the employer with written proof that the training course and/or seminar and/or meeting for which purpose the paid leave was granted was attended by the particular senior trade union representatives and/or trade union representatives.

**8.13 Maternity leave**

8.13.1 Any female employee going on confinement shall be entitled to maternity leave for a period not exceeding six months with a guarantee of re-employment after the aforementioned period on the same terms and conditions of employment as at the date on which the maternity leave was granted, subject to the following conditions:

8.13.1.1 The employee on confinement shall before or on the expiry date of the six-month period notify her employer whether or not she will recommence employment.

8.13.1.2 Proof of the confinement shall be submitted to the employer on the employee's return to work in the form of a birth certificate or death certificate, in the case of a still birth, or medical certificate in the case of a miscarriage.

8.13.1.3 the employer may extend the six-month guarantee period upon receipt of a valid medical certificate from a registered medical practitioner advising the employee not to return to work for medical reasons.

8.13.1.4 The employer shall be permitted to employ a temporary employee in the same category as the employee who has been granted maternity leave on a temporary contract agreement for the period of absence of the employee who has been granted maternity leave.

8.13.1.5 During the period referred to above, all the provisions of the agreements administered by the Council shall apply to the temporary employee.

8.13.1.6 During the contract period the employer may, subject to the Code of Good Practice contained in Schedule 8 of the Act, or for any other reason recognised in law, terminate the contract of temporary employment prior to the contract's expiry date.

8.13.1.7 Any female employee going on confinement shall notify her employer 16 weeks prior to the date of such confinement.

#### 8.14 Family responsibility leave

8.14.1 An employee who has been employed with an employer for longer than four months shall be entitled to three days' paid leave per annum at full pay, on submission of the necessary proof, when the employee's child is born or when a child is sick, or upon the death of the employee's spouse, life partner, parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling and a further one day's paid leave per annum at full pay, on submission of the necessary proof upon the death of the employee's spouse, life partner, parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

8.14.2 An employee's unused entitlement to leave in terms of this clause shall lapse annually and may not be accrued.

#### 8.15 Study leave

Study leave may be granted by employers only to permanent, full-time employees subject to the following conditions:

8.15.1 Approval for study leave shall be granted at the employer's discretion, which approval shall not be withheld unreasonably.

8.15.2 Study leave, if granted by the employer, shall be for a maximum of two subjects per annum.

8.15.3 Study leave, if granted by the employer, shall be limited for two days of paid study leave per subject, namely the last working day prior to the date of the exam and on the day of the exam.

8.15.4 The result of each exam shall be presented by the employee to the employer as soon as it becomes available.

8.15.5 If an employee fails a subject, the leave granted to the employee for that subject shall be refunded by the employee to the employer at a rate of one day's pay per failed subject.

#### 8.16 Pro forma fixed-term contract of employment—ANNEXURE A

8.16.1 An employer who intends to employ an employee for a fixed period of employment shall enter into a written fixed-term contract of employment with the employee. A copy of the contract shall be forwarded to the Council for registration by the Council.

8.16.2 The employer shall advise the employee and the Council, in writing, whenever there is a change to any of the terms and conditions of the contract.

8.16.3 The period of the contract may be extended only under such terms and conditions as determined by the Council.

8.16.4 The employer shall give the employee and the Council two weeks' prior written notification of the date of termination of the contract.

#### 8.17 Pro forma indefinite-period contract of employment—ANNEXURE B

8.17.1 An employer who employs five or more employees shall enter into a contract of employment with each employee.

8.17.2 The employer shall notify the employee, in writing, whenever there is a change to any of the terms and conditions of the contract. The notification of change shall form an addendum to the contract.

#### 8.18 Pro forma certificate of service—ANNEXURE C

Every employer shall issue an employee with a certificate of service on termination of the employee's contract of employment.

### 9. GENERAL

#### 9.1 Work under an incentive scheme

9.1.1 Any employer who wishes to introduce an incentive scheme shall set up a joint committee consisting of representatives from management and the establishment's employees which, after consultation with the trade unions which are party to this Agreement and whose members are involved, may agree upon the terms of any such scheme.

9.1.2 The terms of any such incentive scheme and any subsequent alteration thereto which may have been agreed upon by the committee shall be reduced to writing and be signed by the members of the committee and shall not be varied by the committee or terminated by either party unless the party wishing to vary or terminate the scheme has, in writing, given the other party such notice as may be agreed upon by the parties when entering into such a scheme.

**9.2 Temporary employment services and/or labour brokers**

- 9.2.1 The temporary employment service and/or labour broker and the employer shall, jointly and severally, be liable if the temporary employment service and/or labour broker, in respect of any of its employees, contravenes any of the provisions of this Agreement.
- 9.2.2 A temporary employment service and/or labour broker who supplies labour shall remunerate all occupation skills levels of employees as prescribed in Schedule 2 or Schedule 3 of this Collective Agreement. All the provisions of this Collective Agreement shall mutatis mutandis apply.

**9.3 Outwork**

- 9.3.1 No employer shall require or allow any of this employees to undertake work in the Industry anywhere other than in his establishment except when such work is in completion of an order placed with such an employer in premises owned or occupied by the person for whom the work is undertaken.
- 9.3.2 No employee engaged in the Industry shall solicit or take orders for or undertake any work in connection with the Industry on his own account for sale or on behalf of any other person or establishment, whether for remuneration, reward or not, while in the employ of an employer in the Industry.
- 9.3.3 No employer who is a member of an employers' organisation that is party to this Agreement shall give out work in connection with the Industry, either in whole or in part, other than to an establishment which has been accepted as a member of the employers' organisation which is a party to this Agreement, and which is registered with the Bargaining Council.

**9.4 Provision of tools**

Work benches, clamps, handscrews, gluepots and all brushes shall be provided by the employer. The employer shall at his expense insure against loss or destruction by fire or as a result of burglary of the premises the tools of his employees normally used by them. Every employee shall be obliged to submit, when required, an inventory of the tools in his possession and shall further submit such information as may be required from time to time by the insurers in respect of the said tools, and shall keep his tools locked in a toolbox.

**9.5 Employment of children and forced labour**

No establishment shall employ any person in contravention of Chapter 6 of the Basic Conditions of Employment Act, 1997 (Act 75 of 1997).

**9.6 Working employers**

All working employers shall observe hours of work, payment of Holiday Bonus Fund contributions at the prescribed foremen's rate of pay, payment of Provident Fund contributions, additional Provident Fund contributions, payment of Council levies and payment of wages for public holidays.

**9.7 Prohibited employment**

Notwithstanding anything to the contrary in this Agreement, no provision which prohibits the engagement or employment of an employee on any class of work or on any conditions shall be deemed to relieve the employer from paying the remuneration and observing conditions which he would have had to pay or observe had such engagement or employment not been prohibited.

**9.8 Employment of trade union members**

No person shall be prohibited from working in the Industry, because of his trade union affiliation or non-affiliation.

**9.9 Trade union representatives on the Council and committees of a national character in the Industry**

Every employer shall grant to any of his employees who are representatives on the Council, or on committees of the trade unions who are party to the Council, every reasonable facility to attend to their duties in connection with meetings held by these bodies.

**9.10 Subscriptions to trade unions**

Every employer shall deduct from the wages of those of his employees who are members of a trade union party to this Agreement, union subscriptions in terms of their constitutions and pay such union subscriptions to the concerned union as prescribed by the trade union concerned.

**9.11 Council levies**

- 9.11.1 For the purpose of assisting the Council to meet its expenses, every employer and every employee in the Industry shall pay to the Council an amount as prescribed in Schedule 1 of this Agreement.
- 9.11.2 Every employer and every employee in the Industry shall pay to the Council a dispute resolution levy as prescribed in Schedule 1 of this Agreement, for the maintenance of a dispute resolution system as required by the Act.

**9.12 Exhibition of Agreement and notices**

- 9.12.1 Every employer on whom the Collective Agreement is binding shall keep a copy of the Collective Agreement available in the workplace at all times.

9.12.2 Every employer shall display in his establishment in a place readily accessible to his employees a notice of the official hours of work specifying the starting and finishing time of work for each day of the week, the meal interval, and the forenoon and afternoon tea intervals.

**9.13 Administration and enforcement of Agreement**

The Council shall be the body responsible for the administration and enforcement of this Agreement, and may issue expressions of opinion and rulings not inconsistent with the provisions hereof for the guidance of employers and employees in the Industry.

**9.14 Agents**

The Council or the General Secretary shall appoint specified persons as agents to assist in giving effect to the terms of this Agreement.

**9.15 Provisions declared ultra vires**

Should any provisions of this Agreement be declared ultra vires by any competent court of law, the remaining provisions of this Agreement shall be deemed to be the Agreement and shall remain in operation for the unexpired period of this Agreement.

**9.16 Protective clothing**

Every employer shall supply protective clothing to each employee as specified in terms of the Occupational Health and Safety Act, 1993, which shall remain the property of the employer but, when such clothing is delivered to the employee concerned, he shall become responsible for the cleaning and maintenance of the protective clothing.

**9.17 Compulsory retirement age**

Any employee in the Industry shall retire at the age of 65 years, unless otherwise agreed by the employer and the employee.

**9.18 Late/non-payment and allocation of contributions and levies**

All levies and contributions payable in terms of this Agreement shall be paid to the Council monthly by not later than the tenth day of the month following the month to which they relate.

An employer who is in arrears with any payments, having been warned in writing by the Council to forward the outstanding amounts within seven days of the date of such warning, may be required by the Council to pay the amounts weekly on such terms and conditions as determined by the Council from time to time.

Should any amount due to the Council not be received by the Council by the tenth day of the month following the month to which they relate, the employer shall pay interest on such amount or on such lesser amount as remains unpaid, calculated at the rate of 15% per annum or part thereof from such tenth day until the day upon which payment is actually received by the Council.

The Council shall have the right to allocate contributions and levies received, on behalf of employees from employers, to the Funds of the employees concerned as the Council deems appropriate from time to time.

**9.19 Audit and accounting**

The Council shall ensure that proper books of account and records are kept in respect of each of the Funds administered by it, and that an annual audit of each of the Funds is performed in accordance with the provisions of the Act and the Council's Constitution.

## 10. EXEMPTIONS

**10.1 Exemption and Arbitration Board**

An exemptions body and an independent appeal body is hereby established to consider all applications for exemptions from the provisions of this Agreement and to hear and decide, as soon as possible and according to the prescribed criteria, any appeal against—

- 10.1.1 the Bargaining Council's refusal of a party's or non-party's application for an exemption from the provisions of this Collective Agreement; and
- 10.1.2 the withdrawal of an exemption by the Bargaining Council.

**10.2 Administration**

- 10.2.1 Any person bound by this Collective Agreement may apply for exemption from any of the provisions of this Agreement.
- 10.2.2 An application for exemption shall be in writing on the Bargaining Council's prescribed application form, fully motivated, and sent to the General Secretary of the Bargaining Council.
- 10.2.3 Whenever an employer applies for an exemption he or she shall consult with the affected workforce through their trade union representatives or, where there are no trade union representatives, with the affected workforce itself as to the need for the exemption and its effect on the affected employees and shall include in the application written proof of such consultation and written proof of the views expressed by the affected workforce during the consultation in this regard.

- 10.2.4 The Bargaining Council shall issue to every person to whom exemption has been granted by either the Bargaining Council or the independent appeal body, a notice of exemption, setting out the following:
- 10.2.4.1 The full name of the person(s) or establishment concerned;
  - 10.2.4.2 the exact provision(s) of this Collective Agreement from which the exemption has been granted;
  - 10.2.4.2 the conditions subject to which the exemption was granted;
  - 10.2.4.3 the duration of the exemption; and
  - 10.2.4.4 the date from which the exemption shall operate.
- 10.2.5 The Bargaining Council shall ensure that—
- 10.2.5.1 all notices for exemptions are issued to the applicants;
  - 10.2.5.2 a copy of each notice is retained by the Bargaining Council.
- 10.2.6 The Bargaining Council may, on good cause shown, give the holder of an exemption 30 days' notice of its intention to apply to the independent appeal body for the withdrawal of the exemption.
- 10.2.7 The following processes and criteria shall be considered in regard to an application for exemption from the provisions of any collective agreement concluded in the Bargaining Council:
- In considering an application for exemption or an appeal against a refusal of exemption, the Bargaining Council or the independent appeal body shall consider all recommendations submitted to it, the views expressed by the Bargaining Council, the employer(s) and the affected workforce, as well as any other representations received in relation to that application and the possible effect of the exemption on competitors, employees and others;
- 10.2.8 the exemption may not contain terms and conditions that would have an unreasonable detrimental effect on the fair, equitable and uniform application in the Industry of any collective agreement concluded in the Bargaining Council;
- 10.2.9 no exemption may be granted for an indefinite period or as a total (blanket) exemption.

## 11. HOLIDAY FUNDS BONUS

- 11.1 Every employer shall pay over monthly to the Council, on the specified form, by not later than the tenth day of the month following the month concerned in respect of every employee Holiday Bonus Fund moneys as prescribed in Schedule 1.
- 11.2 Guarantees submitted in respect of Holiday Bonus Fund
- 11.2.1 Every employer who supplies the Council with an acceptable guarantee for the total of his estimated annual commitments under this clause shall, without in any way limiting his liability towards his employees, be granted an exemption from making payment to the Council in the manner specified; provided that the exemption shall be subject to such terms and conditions made applicable thereto by the Council from time to time.
  - 11.2.2 Every employer shall submit a monthly statement as specified in clause 11.1 above in respect of all his employees. Should the services of any employee be terminated during the month, a statement as prescribed together with the amount due in respect of Holiday Bonus Fund moneys for the period employed between October of the current year and September the following year shall be submitted to the Council. Should the services of no employees be terminated during the month, the Council shall be notified on the specified form.
  - 11.2.3 The employer shall submit to the Council not later than 10 November of each year a statement in the form prescribed reflecting all particulars of all employees who are in the employ of the employer as at 30 September and who are to be paid by him in terms of this clause.
  - 11.2.4 By not later than 23 December of each year, the employer shall submit to the Council a statement as prescribed reflecting the actual moneys paid out in respect of the Holiday Bonus Fund to all his employees together with payment of moneys not paid out.
- 11.3 Holiday Bonus Fund moneys shall be paid to employees between 7 December and 13 December of each year. Holiday Bonus Fund moneys shall be paid to employees whose contracts of employment have been terminated during the contribution year, within two months after such termination.
- 11.4 Holiday Bonus Fund moneys shall be paid to the employee by means of electronic transfer to the employee's bank account or by cash cheque or by Council cheque drawn in favour of the employee.
- 11.5 **Administration of the Fund**
- 11.5.1 The Holiday Bonus Fund shall be administered by the Council and all expenses incurred in connection with the administration of the Holiday Bonus Fund shall form a charge against the Council.



- 11.5.2 All moneys paid to the Holiday Bonus Fund shall be invested as provided for in terms of section 53 (5) of the Act and any interest accruing from such investment shall accrue to the general funds of the Council in consideration of the Council's Administration of the Fund. All payments from the Holiday Bonus Fund shall be by cheque drawn on the Fund's account and such cheques shall be signed by three persons duly authorised by the Council. The Council shall keep a record of each employee in respect of whom payments are made in terms of this clause and the amount paid to the employee.
- 11.5.3 The Holiday Bonus Fund shall be paid to employees concerned to serve as a holiday bonus on the following basis: Each employee shall be paid a holiday bonus equal to the amount deposited into the Holiday Bonus Fund in respect of him during the year ending on the last week of September each year.
- 11.5.4 Any employee employed continuously during the year from the first week in October of the previous year to the last week in September of the current year shall receive a holiday bonus during December of that year of not less than two weeks' normal wages. Any shortfall shall be paid to the employees by the employer.
- 11.5.5 Holiday bonuses which remain unclaimed for a period of two years from the date on which they become payable shall accrue to the general funds of the Council: Provided that the Council shall be liable for payment from the Council's general funds of any holiday bonuses due and claimed during a further period of three years after such accrual to the Council's general funds: Provided further that should the Council be dissolved within any or either of the periods mentioned herein, such moneys shall finally accrue to the general funds of the Council three months after the date of such dissolution.

## 12. REMUNERATION

### 12.1 Wages

No employer shall pay and no employee shall accept wages lower than those prescribed in Schedule 2 or Schedule 3 of this Agreement.

### 12.2 Set-off of wages

12.2.1 No employee shall, while in the employ of an employer, give to, and no such employer shall receive from such employee, any gift, bonus, loan guarantee or refund either in cash or in kind which will in effect amount to a set-off of the wages which must in terms of this Agreement be paid to such employee.

12.2.2 No employee shall be required as part of this contract of service to board or lodge with his employer, or at any place nominated by his employer, or to purchase any goods or hire property from his employer.

### 12.3 Hourly rate

All work performed by employees shall be paid for at an hourly rate, which hourly rate shall be determined by dividing the actual weekly wage by 44 or by such lesser hour ordinarily worked by the establishment.

### 12.4 Basis of payment

Notwithstanding anything to the contrary contained in this Agreement, payment for all work done shall be at not less than the rates of wages prescribed for the actual occupation skills level of the operation or operations performed.

### 12.5 Employees engaged in more than one occupation skills level

An employee who is employed during any one day on work for which different wage rates are prescribed shall be paid for all the hours worked on such day at the higher or highest wages prescribed for such work.

### 12.6 Wage payment procedure

Employers may elect to pay wages by means of electronic transfer to employees' bank accounts or by means of cash only. Wages paid in cash shall be paid directly to the employee.

12.6.1 The following provisions shall be applicable to the electronic transfer of wages:

12.6.1.1 Wages shall be deposited into employees' bank accounts on pay day each week. Employers shall pay for two withdrawals per week from the employee's bank account to a maximum of R7,00 per week for existing employees and for one withdrawal to a maximum of R3,50 per week for newly engaged employees.

12.6.1.2 Employees shall be handed pay slips every pay day which shall reflect the name and address of the employer and the name of the employee. Pay slips shall also reflect the amount of money deposited into the employee's bank account and how such an amount was arrived at.

12.6.2 The following provisions shall be applicable to the cash payment of wages:

Wages shall be paid to employees on pay day each week. All cash shall be handed to employees in sealed envelopes endorsed with the name and address of the employer and the name of the employee, and shall contain a statement reflecting the amount of money contained therein and how such amounts were arrived at.

**General provisions:**

- 12.6.3 The pay day of every establishment shall be on Friday each week. Where Friday is a non-working day, the pay day shall be the last working day preceding that Friday.
- 12.6.4 No premium for the training of the employee shall be charged or accepted by the employer: Provided that this clause shall not apply to training schemes to which the employer is legally required to contribute.
- 12.6.5 No wage deductions of any kind shall be made from the amount due to an employee other than the following:
- 12.6.5.1 Any deduction for which an employer is legally or by order of any competent court required or permitted to make;
  - 12.6.5.2 with the written consent of the employee, deductions for life assurance, medical schemes or pension funds/provident funds;
  - 12.6.5.3 deductions for contributions or subscriptions to the employees' trade union(s);
  - 12.6.5.4 deductions in terms of this Agreement or any other agreement administered by the Council.

**12.7 Remuneration for overtime and work on a Sunday**

- 12.7.1 All time worked in excess of the ordinary weekly working hours of the establishment, other than time worked on a Sunday, up to and not exceeding 10 hours per week, shall be regarded as overtime and an employee shall be paid for such work at a rate of one and a half times his hourly rate for such hours.
- 12.7.2 For all overtime worked exceeding 10 hours per week and all time worked on a Sunday, and employee shall be remunerated at a rate of double his hourly rate for such hours.
- 12.7.3 Any time worked on a Sunday may not be used to make up for ordinary time lost.

**12.8 Remuneration for work on public holidays**

Any employee who works on a paid public holiday shall be remunerated for the hours worked on that day at his normal rate of pay in addition to the hours paid for that paid public holiday and shall further be paid an allowance of 33% of his hourly rate of pay for all those hours worked on such a day.

**12.9 Remuneration for time worked in**

For any time worked in, by agreement between an employer and an employee, in lieu of normal office working time that will be lost owing to the closure of the factory owing to religious holidays, or any other reason, an employee shall be paid his ordinary rate of pay, provided that the time expected to be lost shall be worked in during the two weeks prior to such closure.

**12.10 Payment of shift allowance**

Where an employee is employed between 18:00 and 06:00, his employer shall pay him his ordinary rate of pay, plus a 17,5% allowance, of his hourly rate of pay for each hour or part of an hour worked between these times. This allowance will provide for meal and transport costs.

**12.11 Set-off against annual weekly wage increase**

Should a performance agreement be concluded at an establishment, such a performance agreement may be used as a set-off against annual wage increases, subject to union approval and/or notification to the Council.

**12.12 Subsistence allowance**

An employer shall, in addition to any other remuneration due, pay his employee who, on any journey undertaken in the performance of his duties, is absent from his place of residence and his employer's establishment for any period extending over one or more nights, a subsistence allowance of not less than that prescribed in Schedule 2 or Schedule 3 of this Agreement.

**CHAPTER 2****COUNCIL BENEFIT FUNDS****1. ESTABLISHMENT AND CONTINUATION OF COUNCIL BENEFIT FUNDS**

The following Funds are hereby continued:

- 1.1 The Furniture Bargaining Council Provident Fund (hereinafter referred to as the Provident Fund), established and amalgamated in terms of the Agreements published under Government Notices Nos. R. 44 of 13 January 1961, R. 495 of 24 March 1961 and R. 3043 of 4 January 1991, as amended and extended, is continued in accordance with the provisions of Chapter 2.
- 1.2 The Furniture Bargaining Council Death and Disability Scheme (hereinafter referred to as the D.D.S.), established in terms of the Agreement published under Government Notice No. R. 1866 of 3 July 1992, as amended and extended, is continued in accordance with the provisions of Chapter 2.
- 1.3 The Furniture Bargaining Council Sick Benefit Society (hereinafter referred to as Furnmed Sick Benefit Society and NUFAWSA Sick Benefit Society), established and amalgamated in terms of the Agreements published under Government Notices Nos R. 44 of 13 January 1961, R. 495 of 24 March 1961 and R. 3043 of 4 January 1991, as amended and extended, is continued in accordance with the provisions of Chapter 2A.

## 2. ADMINISTRATION OF PROVIDENT FUND AND D.D.S

- 2.1 The Funds shall be administered by the office of the Council or a committee duly elected by the Council. The provisions of the Council's Constitution relating to the election of a chairman and a vice-chairman, their period of office and the calling and conducting of meetings of the Council and the right of alternates to take the place of representatives shall mutatis mutandis apply in case of a committee.
- 2.2 The Funds shall be administered in accordance with rules specified for this purpose by the Council, and such rules shall not be inconsistent with the provisions of the Agreement, the Act, or any other law and shall, inter alia, specify—
  - 2.2.1 the Funds' benefits and the qualifications attached thereto;
  - 2.2.2 the procedure for lodging and the payment of claims;
  - 2.2.3 any other matters which the Council may decide.
- 2.3 The Council may make new rules, or alter or repeal any existing rules, and particulars of all amendments thereto shall be lodged with the Registrar of Labour Relations.
- 2.4 The Council shall appoint a General Secretary who may appoint other staff as may be necessary for the administration of the Funds.
- 2.5 The Council and/or committee(s) may refuse and/or withhold any or all benefits from any member and/or his dependants who, in its opinion, have acted in a manner calculated to or reasonably likely to injure the interests of the Funds or their members: Provided that such a member shall be given the opportunity of submitting an appeal to an independent body against the decision of the Council, whose decision shall be final.
- 2.6 In the event of an appointed committee being unable to perform its duties for any reason, the Council shall perform the committee's duties and exercise its powers.
- 2.7 Any disputes concerning the interpretation, meaning or intention of any of the provisions of this agreement or concerning the administration of the Funds which an appointed committee is unable to settle shall be referred to the Council for a decision.
- 2.8 No members of the Council, members of the committees, the General Secretary, officers and employees of the Funds shall be liable for the debts and liabilities of the Funds/schemes.
- 2.9 No members of the Council, members of the committees, the General Secretary and officers and employees of the Funds shall be held responsible for any act which may result in loss to the Funds, where such act was done in good faith, and they are hereby indemnified by the Funds against all losses and expenses incurred by them in or about bona fide discharge of their duties.
- 2.10 No members of the Council, members of the committees, the General Secretary and officers and employees of the Funds shall be held responsible for any contributions deducted and any contributions due and payable by any employer not paid into the Funds upon sequestration or liquidation of such employer's estate or at all.
- 2.11 All expenses incurred in connection with the administration of the Funds concerned shall be determined by the Council and charged against the Funds.

## 3. OPERATION OF PROVIDENT FUND AND D.D.S.

- 3.1 The Funds shall consist of—
  - 3.1.1 all Provident Fund contributions and Additional Provident Fund contributions paid into the Funds;
  - 3.1.2 all interest derived from the investment of any moneys of the Funds; and
  - 3.1.3 all other moneys to which the Funds may become entitled.
- 3.2 All moneys accruing to the Funds shall be deposited to the credit of the Funds in a separate account with a registered bank within three working days after receipt thereof.
- 3.3 The moneys of the Funds shall be used for payment of benefits and expenditures in accordance with the rules of the Funds.
- 3.4 When benefits become payable, the amount due from the Funds shall be paid to beneficiaries by cheque, electronic transfer or cash.
- 3.5 All cheque payments from the Funds shall be signed by three persons duly authorized by the Council.
- 3.6 Any moneys not required to meet current payment of expenditure shall be invested only in terms of section 53 (5) of the Act.
- 3.7 All employees and all employers in the Industry, including working employers who do not contribute to either the Furnmed Sick Benefit Society or the NUFAWSA Sick Benefit Society shall pay an Additional Provident Fund contribution as prescribed in Schedule 1 of this agreement.

#### 4. AUDITING OF PROVIDENT FUND AND D.D.S.

- 4.1 Auditors as defined in the Act shall be appointed by the Council and shall audit the accounts of the Funds at least annually. The auditors shall, by not later than 30 June of each year and within six months after the end of each financial year, prepare financial statements, including at least statements of income and expenditure for the previous financial year and balance sheets showing its assets, liabilities and financial position as at the end of the previous financial year.
- 4.2 The audited statements and the balance sheets of the Funds shall thereafter lie for inspection at the office of the Council and copies thereof, duly certified by the auditor and countersigned by the Chairman of the Council, together with any report made by the auditor thereon, shall be lodged with the Registrar of Labour Relations no later than by the end of June, following the period of covered by such statements and balance sheets.

#### 5. EXPIRY OF COLLECTIVE AGREEMENT

- 5.1 Upon the expiry of this collective agreement or any extension thereof, the Council in office at the time or the trustee or trustees appointed by the Registrar of Labour Relations shall continue to administer the Funds for a period of at least two years in order to pay out benefits due to the beneficiaries and, subject to the approval of the Registrar of Labour Relations, any money standing to the credit of the Funds after the said period of at least two years shall accrue to the general funds of the Council.
- 5.2 If upon expiry of the said period of at least two years, the affairs of the Council have already been wound up and its assets distributed, the balance of the Funds shall be distributed in terms of the provisions of the Council's Constitution.

#### 6. LIQUIDATION OF PROVIDENT FUND AND D.D.S.

- 6.1 Upon the expiry of this agreement or any extension thereof and, in the event of no subsequent agreement being negotiated for the purpose of continuing the operations of the Funds within two years from the expiry of this agreement or any extension thereof, the Funds shall be liquidated by the Council in terms of clause 5 of this Chapter.
- 6.2 In the event of the Council in office at the time being unable to administer and/or liquidate the Funds in terms of this clause, and/or being unable or unwilling to discharge its duties, or a deadlock arising thereon which renders the administration of the Funds impracticable or undesirable in the opinion of the Registrar of Labour Relations, he may appoint a trustee or trustees to carry out the duties of the Council and such trustee or trustees shall possess all the powers of the Council for such purposes.
- 6.3 In the event of the dissolution of the Council or in the event of its ceasing to function during any period in which this Agreement is binding in terms of the Act, the Funds shall continue to be administered by the Council in office at the time.
- 6.4 Subject to the provisions of clauses 6.1 and 6.2 hereof, upon the expiry of the Agreement, the Funds shall be liquidated in terms of clause 5 of this Chapter by the Council in office at the time or the trustee or trustees appointed by the Registrar of Labour Relations.

#### 7. SPECIAL PROVISIONS IN RESPECT OF PROVIDENT FUND AND D.D.S.

##### 7.1 The Provident Fund

- 7.1.1 The objectives of this Fund shall be to provide benefits to members and all dependants and all beneficiaries as determined by the rules of the Fund.
- 7.1.2 Membership of the Fund shall be compulsory for all employees for whom wages are prescribed in this Agreement.
- 7.1.3 Membership shall consist of—
  - 7.1.3.1 all employees, other than casual employees, in the Industry for whom wages are prescribed in the Collective Agreement; and
  - 7.1.3.2 subject to the approval of the Council, such other persons as are employed in the Industry who elect to become members and in respect of whom their employers have consented to make the contributions prescribed in Schedule 1.
- 7.1.4 Membership shall cease when a member leaves the Industry and has received all his benefits in terms of the rules of the Fund.

##### 7.2 The D.D.S.

###### 7.2.1 Objectives of the Scheme

This Scheme's objectives shall be to provide benefits for a member and/or the dependants of the member in the event of the death of the member or his dependants and for the disablement of the member, as defined in the Scheme's rules.

7.2.2 Special provisions applicable to members who were formerly members of the Transvaal Furniture Workers' Mortality Association and the Transvaal Bedding Workers' Mortality Benefit Association and the former Transvaal Furniture Workers' Burial Society and the Transvaal Workers' Burial Society and who retired from the Industry owing to old age or ill health or who reached the age of 65 years on or before 1 October 1998 shall be entitled to benefits as prescribed in the former Mortality Association and Burial Society Agreements.

**7.2.3 Membership**

7.2.3.1 Membership of the Scheme shall be compulsory for all employees, other than casual employees in the Industry, for whom wages are prescribed in this Collective Agreement.

7.2.3.2 Persons other than those referred to in 7.2.3.1 who are directly engaged or employed in the Industry may be admitted as members of the Scheme at the discretion of the Council, and the rules of the Scheme shall mutatis mutandis apply to any person so admitted.

**7.2.4 Termination of membership**

7.2.4.1 Membership of the Scheme shall terminate immediately when a member leaves the Industry.

7.2.4.2 Membership of the Scheme shall not cease where the cessation of contributions is due to a member attaining the age of 65, or the inability of the member to work is due to ill health or owing to short time.

**7.2.5 Contributions**

A weekly amount shall be deducted from the employees' contributions to the Provident Fund and a weekly amount from the employers' contributions to the Provident Fund and shall be diverted to the Death and Disability Scheme. The provident Fund shall make provision for the Death and Disability Scheme's insurance premium administration costs as well as the Provident Fund's administration costs.

**8. BENEFITS INALIENABLE**

- 8.1 The benefits provided for by the Funds referred to in this chapter shall not be transferable and any member who attempts to assign, transfer, pledge or hypothecate his rights may forthwith cease to be entitled to any benefits whatsoever, and membership of the Funds in respect of himself and his dependants may be terminated by the Council: Provided that a member's Provident Fund benefits may, with the approval of the Council, be transferred to another registered, recognised provident/pension fund.
- 8.2 Save as provided in clause 8.3, no benefit or right to any benefit shall be capable of being ceded, transferred, assigned or otherwise made over, or pledged or hypothecated. No contributions made by a member or on his behalf shall be liable to be attached or be subject to any form of execution under a judgment or order of a court of law except to any other Fund administered by the Council.
- 8.3 On receipt of written proof from the trade unions which are parties to this Agreement that a member of the trade union is, in terms of the provisions of the trade union's constitution, indebted to the trade union for any outstanding subscriptions and/or fines, the Council shall have the right to deduct such amount(s) from the member's own contributions and pay such amount(s) to the trade union concerned.

**9. WITHHOLDING OF BENEFITS**

An employee who is a member of any of the Funds of the Council who is entitled to benefits shall at the absolute discretion of the Council, be deprived of any benefits from any of the Funds in the event of such employee's making a false statement or in any way attempting to obtain benefits fraudulently or dishonestly.

**10. PAYMENT OF LEVIES AND CONTRIBUTIONS**

- 10.1 Every employer shall forward monthly the levies and contributions prescribed in Schedule 1 to this Agreement, together with return(s) in the form(s) specified by the Council from time to time, to reach it by not later than the tenth day of the month following the month during which the employee's deductions were required to be made. Interest on late payment will be charged at a rate of 15% per annum. The return(s) shall be certified by the employer or an authorised representative as true and correct.
- 10.2 If, in any particular month, no employees are employed, a NIL return, duly signed by the employer or the authorised representative, shall be submitted to the Council.

**11. AMENDMENT TO THE RULES**

The Council shall have the power to prescribe, alter and amend the Fund's rules and to make, amend and alter the rules governing the administration of the funds. Such rules or any amendments thereof shall not be inconsistent with the provisions of any Collective Agreement entered into between the parties or the provisions of any other legislation. A copy of the rules and any arrangements thereof shall be transmitted to the Registrar of Labour Relations.

**CHAPTER 2A****PARTY BENEFIT FUNDS****1. ESTABLISHMENT OF PARTY BENEFITS FUNDS**

The furniture Bargaining Council Sick Benefit Society is hereby continued as the following two Sick Benefit Societies herein referred to as—

- 1.1 the Furnmed Sick Benefit Society
- 1.2 the NUFAWSA Sick Benefit Society

**2. PARTIES TO THE FUNDS**

- 2.1 The parties to the Furnmed Sick Benefit Society are—
  - FBUMA
  - CMAPA
  - CEPPWAWU
- 2.2 The parties to the NUFAWSA Sick Benefit Society are—
  - FBUMA
  - CMAPA
  - NUFAWSA

**3. ADMINISTRATION OF THE FUNDS**

- 3.1 The trustees of the Funds referred to in clauses 1.1 and 1.2 above shall have the right to appoint administrators for their Funds.
- 3.2 The trustees of the Funds shall consist of 50% trustees nominated by the union concerned and 50% of the trustees nominated by the employers' associations concerned. Designated alternates may take the place of trustees.
- 3.3 The benefits, contributions, rules and all other matters coincidental to the administration of the Funds shall be determined by the trustees of the Funds by majority vote. The benefits, contributions and rules shall not be inconsistent with this Agreement, the Act, or any other legislation and shall be lodged with the Registrar of Labour Relations.
- 3.4 Should the Council be appointed by either of the Funds as the Fund's Administrator, the General Secretary of the Council or any of his staff delegated for this purpose shall be responsible for the property administration of such Fund.
- 3.5 The trustees of the Fund(s) may refuse and/or withhold any or all benefits from any member and/or his dependants who, in its opinion, have acted in a manner calculated or reasonably likely to injure the interests of the Fund(s) or their members: Provided that such member shall be given the opportunity of submitting an appeal against the decision of the trustees to an independent body whose decision shall be final.
- 3.6 Any disputes concerning the interpretation, meaning or intention of any of the provisions of the Fund(s) or concerning the administration of the Funds which the trustees are unable to resolve shall be referred to an independent person or body for a final and binding decision.
- 3.7 Should any of the Funds be administered by the Council, the Fund's-trustees and employees of the Council shall not be liable for the debts and liabilities of the Fund(s).
- 3.8 Should any of the Funds be administered by the Council, the Fund's-trustees and employees of the Council shall not be held responsible for any act which may result in loss to the Fund(s), where such act was done in good faith, and they shall be indemnified by the Fund(s) against all losses and expenses incurred by them in the course of their duties.
- 3.9 Should the Council be the administrators or be the collecting agent for any of the Funds, it shall not be held responsible for any contributions deducted and any contributions due and payable by any employer and/or member not paid to the Council upon sequestration or liquidation of any employer.
- 3.10 Should the Council be administrators or be the collecting agent for any of the Funds, all expenses incurred in connection with the administration or collection of contributions for the Fund(s) shall be charged against such Fund(s).

**4. OPERATION OF THE FUNDS**

- 4.1 The Funds shall consist of—
  - 4.1.1 all contributions paid to the Funds;
  - 4.1.2 all income derived from the investment of any moneys or assets of the Funds; and
  - 4.1.3 all other moneys to which the Funds may become entitled.

- 4.2 Should the council be the administrator of the Fund(s), all moneys accruing to the Fund(s) shall be deposited to the credit of the Fund(s) in a separate account with a registered bank within three working days after receipt thereof.
- 4.3 Should the Council be the administrator of the Fund(s), the moneys of the Fund(s) shall be used for payment of benefits and expenditure in accordance with the rules of the Fund(s).
- 4.4 Should the Council be the administrator of the Fund(s) when benefits become payable, the amount due from the Fund(s) to beneficiaries shall be paid by cheque, or be transferred electronically or be paid in cash.
- 4.5 Should the Council be the administrator of the Fund(s), and payments from the Fund(s) are made by cheque, such cheques shall be signed by two trustees of the Fund(s) or any other person(s) nominated by the trustees for this purpose and countersigned by the General Secretary or any person(s) nominated by him.
- 4.6 Should the Council be the administrator of the Fund(s), any moneys held by the Fund(s) not required to meet current benefit payments and expenditure shall be invested in terms of section 53 (5) of the Act.

#### **5. AUDITING OF THE FUNDS**

- 5.1 Auditors as defined in the Act shall be appointed by the Council to audit the accounts of the Funds at least once annually and by not later than 30 June of each year, and within six months after the end of each financial year, to prepare financial statements, including at least a statement of income and expenditure for the previous financial year and a balance sheet showing its assets, liabilities and financial position as at the end of the previous financial year.
- 5.2 Should the Council be the administrator of the Fund(s), the audited statements and the balance sheets of the Funds shall thereafter lie for inspection at the office of the Council and copies thereof, duly certified by the auditor and countersigned by the trustees of the Fund(s), together with any report made by the auditor thereon, shall be lodged with the Registrar of Labour Relations not later than 30 June of the following year of the period covered by such statements and balance sheets.

#### **6. EXPIRY OF THE COLLECTIVE AGREEMENT**

- 6.1 Upon the expiry of this Collective Agreement or any extension thereof, the trustees in office at the time or the trustees appointed by the Registrar of Labour Relations shall continue to administer the Fund(s) for a period of at least two years in order to pay out benefits due to the beneficiaries and, subject to the approval of the Registrar of Labour Relations any moneys standing to the credit of the Fund(s) after the said period of at least two years shall accrue to the general funds of the Council.
- 6.2 If upon expiry of the said period of at least two years, the affairs of the Council have already been wound up and its assets distributed, the balance of the Fund(s) shall be distributed in terms of the provisions of the Council's Constitution.

#### **7. LIQUIDATION OF THE FUNDS**

- 7.1 Upon the expiry of this Collective Agreement or any extension thereof and, in the event of no subsequent agreement being negotiated for the purpose of continuing the operations of the Fund(s) within two years from the expiry of this Collective Agreement or any extension thereof, the Fund(s) shall be liquidated by the Fund(s) trustees in terms of clause 7 of this Chapter.
- 7.2 In the event of the Fund(s) trustees in office at the time being unable to administer and/or liquidate the Fund(s) in terms of this clause, and/or being unable or unwilling to discharge their duties, or a deadlock arising which renders the administration of the Fund(s) impracticable or undesirable in the opinion of the Registrar of Labour Relations, he may appoint a trustee or trustees to carry out the duties of the trustees and such trustee or trustees shall possess all the powers entrusted to the trustees for such purposes.
- 7.3 In the event of the dissolution of the Council or in the event of its ceasing to function during any period in which this Collective Agreement is binding in terms of the Act, the Fund(s) shall continue to be administered by the trustees in office at the time.

#### **8. BENEFITS INALIENABLE**

- 8.1 The benefits provided for by the Fund(s) referred to in this Chapter shall not be transferable and any member who attempts to assign, transfer, pledge or hypothecate his rights shall forthwith cease to be entitled to any benefits whatsoever, and membership of the Fund(s) in respect of himself and his dependants shall be terminated.
- 8.2 No benefit or right to any benefit shall be capable of being ceded, transferred, assigned or otherwise made over, or pledged or hypothecated, nor shall any contribution made by a member or on his behalf be liable to be attached or be subject to any form of execution under a judgment or an order of a court of law.

#### **9. WITHHOLDING OF BENEFITS**

An employee who is a member of any of the Fund(s) set out in this Chapter and who is entitled to benefits, shall at the absolute discretion of the trustees of the Fund(s) concerned be deprived of any benefits from any of the Fund(s) in the event of such employee's making a false statement or in any way attempting to obtain benefits fraudulently or dishonestly.

## 10. PAYMENT OF CONTRIBUTIONS

- 10.1 Every employer shall forward monthly the required employee and employer contributions prescribed in Schedule 1 to this Agreement, together with return(s) in the form(s) specified to reach the Council not later than the tenth day of the month following the month during which the employee's deductions were required to be made. Interest on late payments shall be charged at 15% per annum. The return(s) shall be certified by the employer or his authorised representative as being true and correct.
- 10.2 If, in any particular month, no employees are employed, a NIL return, duly signed by the employer or his authorised representative, shall be submitted to the Council.

## 11. AMENDMENTS TO THE RULES

The trustees of the Fund(s) shall have the power to prescribe, alter and amend any rules for the administration of the Fund(s) and to make, amend and alter the rules governing the administration of the funds: Provided that such rules or amendments thereof shall not be inconsistent with provisions of any Collective Agreement entered into between the parties or the provisions of any other legislation. A copy of the rules and any amendments thereof shall be submitted to the Registrar of Labour Relations.

## 12. SPECIAL PROVISIONS IN RESPECT OF THE FUNDS

### 12.1 The Furnmed Sick Benefit Society

#### 12.1.1 Objectives of the Fund. The objectives of the Fund shall be—

- 12.1.1.1 to assist members and their registered dependants with the costs of medical services as may be specified in the Fund's rules, to be determined from time to time, which arise from illness, injury and/or accident;
- 12.1.1.2 to assist members and their registered dependants with the costs of medication and/or other medical goods needed for the treatment of illness, injury and/or accident, subject to the rules of the Fund;
- 12.1.1.3 to take such measures and do such things as the Fund's trustees may deem necessary for the prevention of illness, injury and accidents and for the improvement and promotion of the general health of members, dependants and persons employed or engaged in the Industry;
- 12.1.1.4 to contract with any individual or group of hospitals, clinics, or convalescent homes for the care of ill, injured or convalescent members and their registered dependants;
- 12.1.1.5 to contract with any other person(s), body, institution or authority in respect of medical services as may be specified in the rules from time to time;
- 12.1.1.6 to do all such things as are necessary, incidental or conducive to the general welfare and health of members and their registered dependants and to the attainment of the aforementioned objectives.

#### 12.1.2 *Membership*

##### 12.1.2.1 *Voluntary membership*

Employees who are employed in the Industry and for whom wages are not specified in this Agreement may be admitted as voluntary members of the Furnmed Sick Benefit Society in terms of the Furnmed Sick Benefit Society's rules. Such employees shall be employed by an employer who is a member of an employers' organisation which is party to this Agreement. The provisions of this Agreement which are applicable to the Furnmed Sick Benefit Society as well as the rules of the Furnmed Sick Benefit Society shall mutatis mutandis apply to any such voluntary members of the Furnmed Sick Benefit Society.

##### 12.1.2.2 *Continuation membership*

Employees who were voluntary or compulsory members of the Furnmed Sick Benefit Society, immediately prior to permanent retirement from the Industry owing to old age (65 years or more of age) or to permanent disability as substantiated by a medical certificate(s), or dependant widows/widowers of deceased continuation members may be admitted as continuation members of the Furnmed Sick Benefit Society in terms of the Furnmed Sick Benefit Society's rules. The provisions of this Agreement which are applicable to the Furnmed Sick Benefit Society as well as the rules of the Furnmed Sick Benefit shall mutatis mutandis apply to any such continuation members of the Furnmed Sick Benefit Society.



12.1.2.3 *Compulsory membership*

CEPPWAWU members and all other employees who are employed in the Industry and for whom wages are prescribed in this Agreement and who are employed by an employer who is a member of an employers' organisation which is party to this Agreement, but excluding members of the Furnmed Sick Benefit Society who are referred to in clauses 12.1.2.1 and 12.1.2.2 above and excluding employees who are members of the National Union of Furniture and Allied Workers of South Africa, shall be deemed to be compulsory members of the Furnmed Sick Benefit Society and membership of the Furnmed Sick Benefit Society shall be regarded as a condition of their employment, unless otherwise decided by the trustees of the Furnmed Sick Benefit Society. The provisions of this Agreement which are applicable to the Furnmed Sick Benefit Society as well as the rules of the Furnmed Sick Benefit Society shall mutatis mutandis apply to such compulsory members of the Furnmed Sick Benefit Society.

12.1.3 *Termination of membership*

Membership of this Society shall terminate within one month of a member's leaving the Industry.

12.1.4 *Reserves of the Furnmed Sick Benefit Society*

If at any time the amount of moneys to the credit of the Furnmed Sick Benefit Society drops below the average of one month's contributions, the payment of benefits shall cease and shall not be resumed until the amount of moneys to the credit of the Furnmed Sick Benefit Society exceeds the aggregate of two months' contributions.

12.1.5 *Right of recourse*

If it is established that a member has ceased to be a member of the Furnmed Sick Benefit Society, and the Society has in error or contractually paid for any medical expenses incurred by such member and/or his registered dependants, the Fund trustees shall have the right to deduct the amount(s) from the member's own Provident Fund contributions and transfer the amount(s) due to the Society.

12.2 **The NUFAWSA Sick Benefit Society**

12.2.1 The NUFAWSA Sick Benefit Society may be administered by the Council or the Council may act as the collecting agent for the contributions which are payable to this Society.

12.2.2 The trustees of the NUFAWSA Sick Benefit Society shall determine what contributions should be paid and to whom such contributions will be paid.

12.2.3 The Council shall have the right when acting as an administrator or collecting agent for the Society's contributions to determine an administration fee and to deduct such an administration fee from contributions collected or to claim such a fee from the Society.

12.2.4 Objectives of the Fund. The objectives of the Fund shall be—

12.2.4.1 to assist members and their registered dependants with the costs of medical services as may be specified in the Fund's rules to be determined from time to time, which arise from illness, injury and/or accident;

12.2.4.2 to assist members and their registered dependants with the costs of medication and/or other medical goods needed for the treatment of illness, injury and/or accident, subject to the rules of the Fund;

12.2.4.3 to take such measures and do such things as the Fund's trustees may deem necessary for the prevention of illness, injury and accidents and for the improvement and promotion of the general health of members, dependants and persons employed or engaged in the Industry;

12.2.4.4 to contract with any individual or group of hospitals, clinics, or convalescent homes for the care of ill, injured or convalescent members and their registered dependants;

12.2.4.5 to contract with any other person(s), body, institution or authority in respect of medical services as may be specified in the rules from time to time;

12.2.4.6 to do all such things as are necessary, incidental or conducive to the general welfare and health of members and their registered dependants and to the attainment of the aforementioned objectives.

12.2.5 *Membership*

12.2.5.1 *Voluntary membership*

Employees who are employed in the Industry and for whom wages are not prescribed in this Agreement may be admitted as voluntary members of the NUFAWSA Sick Benefit Society, in terms of the NUFAWSA Sick Benefit Society's rules. Such employees shall be employed by an employer who is a member of an employers' organisation which is party to this Agreement and be registered members of NUFAWSA. The provisions of this Agreement which are applicable to the NUFAWSA Sick Benefit Society as well as the rules of the NUFAWSA Sick Benefit Society shall mutatis mutandis apply to any such voluntary members.

**12.2.5.2 Continuation membership**

Employees who were voluntary or compulsory members of the NUFAWSA Sick Benefit Society immediately prior to permanent retirement from the Industry owing to old age (65 years or more of age) or to permanent disability as substantiated by a medical certificate(s), or dependant widow/widowers of deceased continuation members may be admitted as continuation members of the NUFAWSA Sick Benefit Society in terms of NUFAWSA Sick Benefit Society's rules. The provisions of this Agreement which are applicable to the NUFAWSA Sick Benefit Society as well as the rules of the NUFAWSA Sick Benefit Society shall mutatis mutandis apply to any such continuation members of the NUFAWSA Sick Benefit Society.

**12.2.5.3 Compulsory membership**

Employees who are employed in the Industry and for whom wages are prescribed in this Agreement and who are members of the National Union of Furniture and Allied Workers of South Africa and who are employed by an employer who is a member of an employers' organisation which is party to this Agreement, but excluding members of the NUFAWSA Sick Benefit Society who are referred to in clauses 12.2.5.1 and 12.2.5.2 above, shall be deemed to be compulsory members of the NUFAWSA Sick Benefit Society and membership of the NUFAWSA Sick Benefit Society shall be regarded as a condition of their employment, unless otherwise decided by the Trustees of the NUFAWSA Sick Benefit Society. The provisions of this Agreement which are applicable to the NUFAWSA Sick Benefit Society as well as the rules of the NUFAWSA Sick Benefit Society shall mutatis mutandis apply to such compulsory members of the NUFAWSA Sick Benefit Society.

**12.2.6 Termination of membership**

Membership of this Society shall terminate within one month of a member's leaving the Industry.

**12.2.7 Reserves of the NUFAWSA Sick Benefit Society**

If at any time the amount of moneys to the credit of the NUFAWSA Sick Benefit Society drops below the average of one month's contributions, the payment of benefits shall cease and shall not be resumed until the amount of moneys to the credit of the NUFAWSA Sick Benefit Society exceeds the aggregate of two months' contributions.

**12.2.8 Right of recourse**

If it is established that a member has ceased to be a member of the NUFAWSA Sick Benefit Society, and the Society has in error or contractually paid for any medical expenses incurred by such member and/or his registered dependants, the Fund trustees shall have the right to deduct the amount(s) from the member's own Provident Fund contributions and transfer the amount(s) due to the Society.

**CHAPTER 3****NEGOTIATING PROCEDURES AND DISPUTE SETTLEMENT PROCEDURES****1. Preamble**

- 1.1 The procedures set out in this Agreement shall be adopted to deal with all disputes arising within the Council's scope.
- 1.2 Wage negotiations in respect of employees who are employed by employers who are members of the Curtain Makers and Allied Products' Association shall be conducted separately from wage negotiations of the Furniture, Bedding and Upholstery Sectors as and when agreed to by the parties concerned.

**2. Procedure for the negotiation of collective agreements**

- 2.1 Any party of the Bargaining Council may introduce proposals for the conclusion or amendment of a collective agreement in the Bargaining Council.
- 2.2 The proposals must be submitted at least two months prior to the effective date of the amendments concerned. The proposals must be submitted to the General Secretary in writing and must identify the other parties to the proposed agreement.
- 2.3 Within seven days of the submission of the proposals, the General Secretary must serve copies of the proposals on the other parties to the council.
- 2.4 Within 21 days of submission of the proposals or at any other time that all the parties agree to, the General Secretary must call a special meeting of the executive committee to consider the proposals and to decide on a process for negotiating the proposals, including—
  - 2.4.1 the introduction of counter-proposals;
  - 2.4.2 whether the negotiations should be concluded by the Bargaining Council, the executive committee or any other committee appointed by the Bargaining Council;
  - 2.4.3 the possible appointment of a mediator to facilitate the negotiations; and

- 2.4.4 the timetable for the negotiations.
- 2.5 If no negotiation process is agreed upon—
  - 2.5.1 the General Secretary must appoint a mediator to facilitate negotiations if it was so agreed upon and to conclude a collective agreement;
  - 2.5.2 the Bargaining Council must meet at least twice within 30 days of the meeting to negotiate on the proposals and any counter proposals, unless a collective agreement has been concluded;
  - 2.5.3 the mediator must facilitate the negotiations at those meetings and facilitate the negotiations for the conclusion of a collective agreement, unless otherwise agreed to by the parties.
- 2.6 If no collective agreement is concluded in the course of this process or the procedure contemplated in this clause—
  - 2.6.1 any of the parties of or both the parties to the Bargaining Council may—
    - 2.6.1.1 refer a dispute to arbitration as contemplated in clause 3 of this Chapter; or
    - 2.6.1.2 resort to a strike or a lock-out that conforms with the provisions of the Act; or
  - 2.6.2 any party to the dispute whose members are engaged in essential services may request that the dispute in respect of the employers and the employees engaged in those services be resolved through arbitration as contemplated in clause 3 of this Chapter.
- 2.7 In the circumstances contemplated in subclause 2.6.1.1, the General Secretary must appoint any independent arbitrator, including any panellist, to arbitrate the dispute.
- 2.8 If the parties to a dispute disagree on an arbitrator for their dispute, the General Secretary shall appoint any other arbitrator to arbitrate the dispute referred to the General Secretary in terms of this Council's Collective Agreement.
- 2.9 During a strike or lock-out as contemplated in subclause 2.6.1.2, the parties to the dispute must attend every meeting convened by a conciliator, mediator and/or arbitrator to resolve the dispute.
- 2.10 If any party to the dispute fails to attend without any good cause shown, the members of that party—
  - 2.10.1 if they participate in a strike, will forfeit the protection they would have enjoyed in terms of the Act;
  - 2.10.2 if they are engaged in a lock-out, will forfeit the protection they would have enjoyed in terms of the Act.

### 3. Disputes between parties to the Bargaining Council

Any dispute arising between the parties to the Bargaining Council other than disputes referred to in clauses 2 and 4 of Chapter 3 shall be subject to arbitration and shall be dealt with as follows:

- 3.1 The party or parties who claim that a dispute exists must refer the dispute in writing to the General Secretary of the Bargaining Council within 30 calendar days from the date the dispute arose.
- 3.2 The written referral must reflect the following information:
- 3.3 The details of the party or parties referring the dispute;
- 3.4 the details of the party or parties with whom the referring party is in dispute;
- 3.5 the nature of the dispute;
- 3.6 the date the dispute arose;
- 3.7 the outcome the referring party requires.
- 3.8 The referral must reach the General Secretary of the Bargaining Council together with proof from the party or parties who refer the dispute satisfying the General Secretary that a copy of the referral has been served on all other parties to the dispute.
- 3.9 The General Secretary shall appoint an independent arbitrator, which may include a panellist, within 14 calendar days of receiving the written referral and proof that a copy of the referral has been served on all other parties to the dispute.
- 3.10 The arbitrator may conciliate and/or arbitrate the dispute in terms of the Act as if it were one of those disputes referred to in the Act and must hand down either a settlement in the case of a conciliation or a ruling in the case of an arbitration, within seven calendar days of the conciliation or arbitration being finalised.
- 3.11 The settlement or ruling referred to in clause 3.10 above shall be final and binding on the parties to the dispute.
- 3.12 The total cost of the above-mentioned process shall be paid by the Council's General Fund.
- 3.13 The process as described in this clause may be deviated from only if a future collective agreement determines a different process or by agreement between the parties to the dispute.

### 4. All other disputes

- 4.1 All other disputes, excluding the disputes referred to in clauses 2 and 3 above, must be referred to this Bargaining Council and shall be subjected to conciliation and/or arbitration and shall be dealt with in terms of the Act and the prevailing rules of the CCMA, on condition that such disputes fall within the scope of this Bargaining Council. Such disputes shall be dealt with as follows:

- 4.1.1 The party or parties who claim that a dispute exists must refer the dispute in writing to the Bargaining Council in accordance with the provisions of the Act and the rules of the CCMA.
- 4.1.2 The party referring the dispute must complete the referral on the prescribed referral form of the Bargaining Council.
- 4.2 The referral must reach the Bargaining Council together with proof from the party or parties who refer the dispute satisfying the Bargaining Council that a copy of the referral has been served on all other parties to the dispute.
- 4.3 The General Secretary or any delegated official shall refer the dispute to a member of the Council's panel of conciliators and/or arbitrators after receiving the written referral and proof that a copy of the referral has been served on all other parties to the dispute.
- 4.4 The arbitrator may conciliate and/or arbitrate the dispute in terms of the Act and the rules of the CCMA and must attempt to hand down either a settlement in the case of a conciliation or a ruling in the case of an arbitration.
- 4.5 A Council panellist may be appointed to both the conciliation and the arbitration panels and a panellist shall be eligible for reappointment if the Council so wish, unless he or she indicated otherwise in writing to the General Secretary.
- 4.6 A fund shall be established by the Bargaining Council to meet the expenses incurred during this dispute resolution process.
- 4.7 The fund referred to above may be funded by—
  - 4.7.1 Regularly applying for subsidies to the governing body of the CCMA as prescribed;
  - 4.7.2 the Council charging fees for performing any of these functions for which it is accredited and which functions it is allowed to perform in terms of the Act;
  - 4.7.3 instituting a dispute resolution levy which will be payable by the employers and employees in the Industry.
- 4.8 All expenses incurred through the dispute resolution process shall be paid by the fund referred to in clause 4.6.
- 4.9 The provisions of clause 4 of Chapter 2 of this Agreement regarding financial control of funds shall apply to this fund.

## 5. General

- 5.1 Functions to be performed by the Council in terms of this Agreement shall be performed by the General Secretary. The General Secretary may delegate any of his functions and responsibilities.
- 5.2 Expenses incurred through conciliation and/or arbitration proceedings may be charged in any manner, but at a reasonable rate to be determined by the Council. A commissioner who presides in any conciliation or arbitration proceedings at this Council is hereby empowered to impose any fee, fine or penalty allowed or prescribed either by the Act, the CCMA rules or as such commissioner may reasonably deem fit.
- 5.3 The Council shall establish and maintain panels of arbitrators and conciliators to carry out the arbitration and conciliation functions in terms of this Agreement. The Council may at any stage decide to remove a person from a panel for whatever reason it considers appropriate including, but not limited to, incapacity or misconduct. Any other independent accredited conciliator or arbitrator may be used if good cause can be shown.
- 5.4 Any notice or service required in terms of this Agreement may be given by telefax, hand delivery, registered post, telegram or telex.
- 5.5 The Council may be a party to a dispute which is processed in terms of this Agreement.
- 5.6 Expressions and phrases in this Collective Agreement, unless the context otherwise indicates, have the same meaning as those defines in the Labour Relations Act 1995.

## 5.7 Referral of disputes

All disputes which may be referred to a bargaining council in terms of the Act, and which fall within this Council's registered scope, shall be referred to this Council in accordance with the Act and the rules of the CCMA.

## 5.8 Lodging of complaints

All complaints with regard to non-compliance with this Agreement shall be lodged with this Council. The Council shall investigate all such complaints and may take whatever steps it deems necessary to resolve such complaints. In this regard, without limiting the powers of the Council or the powers of agents/ designated agents of the Council, the powers specifically reflected in sections 33 and 33A of the Act shall be utilised to resolve such complaints in the most amicable way. This may include the conciliation and/ or arbitration procedures in terms of the Act and the rules of the CCMA.

**5.9 Compliance orders**

Without limiting the powers of the Council, the Council may issue compliance orders, which call upon an establishment, a person or a party to act in accordance with or comply in a specific manner and within a specific time period with the provisions of this Collective Agreement.

**5.10 Appointment of an independent agency**

In the event of an accredited agency being appointed as contemplated in clause 5.3 above to conciliate or arbitrate any of the disputes of the Council for whatever reason, such disputes shall nevertheless be conducted in accordance with this Agreement.

**CHAPTER 4****A. OCCUPATION SKILLS LEVELS—FURNITURE, BEDDING AND UPHOLSTERY SECTORS****1. Unskilled employees**

Work at this level is of a manual and/or repetitive nature. Minimum skill is required and limited discretion and limited judgement applies. The employee will work under direct supervision.

***Nature of work performed:***

All types of manual labour of a repetitive nature.

***Some job titles:***

Truck assistant, cleaner, machine feeder, packer, stacker, sand paperer, operating a filling machine, securing mattress panels to springs, tea persons, other non-production operations, etc.

**2. Semi-skilled employees**

Employees at this level will have limited skills training and are required to exercise limited discretion in performing tasks.

Employees work under direct supervision.

They will have a basic understanding of work flow and sectional output, meeting required quality standards.

***Nature of work performed:***

- Setting up and/or operating continuous processing machines.
- Clerical staff e.g. storeman, despatch clerk, etc.

***Some job titles***

Spray painting, silk screening, upholstering basic furniture, e.g. occasional chairs, dining-room/kitchen chairs, studio couches, repetitive welding in a jig, sandblasting, drivers, assemblers, etc.

**3. Skilled employees**

Employees at this level either have a recognised tertiary qualification or have gained competence through experience.

The employee is required to exercise a considerable degree of discretion and will be able to read technical drawings where necessary.

The employee must accept responsibility for meeting production outputs at an acceptable quality level.

***Qualifications and nature of work performed:***

- All artisans who obtained a recognised artisan qualification.
- Technical staff who obtained a recognised technical qualification equivalent to at least M + 3.
- Using a computer to construct working drawings and production schedules.

**4. Chargehand**

Employees at this level will have a broad knowledge of the discipline that they supervise. They may be working chargehands or supervisory chargehands. They must be competent and trained in people management skills and will be responsible for outputs in the section within acceptable parameters.

They will be required to exercise analytical skills with a relevant high level of decision making.

**5. Foremen/supervisors**

Employees at this level will have experience in more than one discipline with competency in people management skills (e.g. motivation, discipline, safety and security, etc.)

They will be able to work from complex drawings and will be able to interpret and apply technical skills. They will be versed in on-the-job training. Employees at this level will regularly meet output targets maintaining an acceptable quality standard.

**B. OCCUPATION SKILLS LEVELS—CURTAINING SECTOR****1. Unskilled employee**

- (i) Cleans in factory, folds and packs away fabric and remnants.
- (ii) Makes teas, light lunches, cleans staff tea rooms.
- (iii) Pulls up curtain tapes to size and attaches hooks and trims to size.
- (iv) Uses as iron, steam-iron or presser and also cleans fabrics.
- (v) Loads and unloads goods.

**2. Semi-skilled employee**

- (i) Checks for flaws, calculates cutting sizes, makes tickets and cuts fabric.
- (ii) Prepares, covers and decorates pelmets.
- (iii) Machines frills, borders, piping, zips, swags and tails.
- (iv) Acts as storeman.
- (v) Machines, joins patterned fabric, attaches tapes, marks and pleats headings.
- (vi) Joins and hems plain fabric, overlocks and blind stitches plain and patterned fabrics.
- (vii) Cuts fabric previously marked and marks and cuts lining.
- (viii) Measures, marks and trims curtains and other items to size and shapes.
- (ix) Drives a light delivery vehicle, but does not fit curtains.
- (x) Stitches by hand on any items, including pelmets.
- (xi) Fits products associated with window treatment under the supervision of a fitter and cuts and covers rails, rods and battens.
- (xii) Prepares pelmets under the supervision of a pelmet maker.

**3. Skilled employee**

- (i) Prepares patterns, marks and cuts swags and tails.
- (ii) Fits curtains and associated products.

***Chargehand***

Supervises sections of the curtain-making process.

***Foreman/supervisor***

Supervises the entire curtain-making process.

**SCHEDULE 1****CONTRIBUTIONS, LEVIES AND REGISTRATION FEE PAYABLE TO THE COUNCIL****1. HOLIDAY BONUS FUND**

The amount payable by the employer shall be calculated on the ordinary hours worked by the employee and on the hours which would ordinarily have been worked by the employee on paid public holidays and shall be determined as follows:

- 1.1 15% of the employee's weekly wages if the employee has lost 20 minutes or less of the full possible number of normal hours that the employee could have worked in any specific pay week.
- 1.2 10% of the employee's weekly wages if the employee has lost between 21 minutes and 60 minutes of the full possible number of normal hours that the employee could have worked in any specific pay week.
- 1.3 5% of the employee's weekly wages if the employee has lost more than 60 minutes of the full possible number of normal hours that the employee could have worked in any specific pay week.
- 1.4 15% of a foreman's prescribed minimum weekly wage for working employers.
- 1.5 No Holiday Bonus Fund contributions are payable on wages payable for overtime wages/and allowances. Overtime worked during any pay week shall be utilised to make up for any shortfall in ordinary hours and overtime shall be regarded as those weekly hours which are worked in excess of the establishment's ordinary hours of work.
- 1.6 Holiday Bonus Fund contributions are payable on all paid public holiday hours.

**2. PROVIDENT FUND (payable only when more than 16 hours' wages per week have been paid):**

- 2.1 ***Employees in Industry:*** 6% of normal weekly wage from the employee per week plus an equal amount from the employer.
- 2.2 ***Working employers:*** 12% of a foreman's prescribed weekly wage.

**3. ADDITIONAL PROVIDENT FUND** (payable only when more than 16 hours' wages per week have been paid);

All employees in the Industry and employers in the Industry, including working employers who do not contribute to either Furnmed Sick Benefit Society or NUFAWSA Sick Benefit Society shall pay an additional Provident Fund contribution as follows:

- 3.1 Employees in Industry: R35,00 per week.
- 3.2 Employers in Industry: R50,00 per week.
- 3.3 Working employers in Industry: R85,00 per week.

**4. SICK BENEFIT SOCIETIES**

**4.1 FURNMED SICK BENEFIT SOCIETY** (payable only when more than 16 hours' wages per week have been paid):

- 4.1.1 Member: R35,00 per week by the employee and R50,00 per week by the employer.
- 4.1.2 Adult dependants: R20,00 per week, per adult dependant, by the employee only.
- 4.1.3 Minor dependants: R20,00 per week, per minor dependant, by the employee only.
- 4.1.4 Extraordinary dependants: R85,00 per week, per extraordinary dependant, by the employee only.

**4.2 NUFAWSA SICK BENEFIT SOCIETY** (payable only when more than 16 hours' wages per week have been paid):

- 4.2.1 Member plus one to three dependants: R62,00 per week by the employee and R50,00 per week by the employer.
- 4.2.2 Fourth and fifth dependants: R12,50 per week, per dependant, by the employee only.
- 4.2.3 Sixth and more dependants: R92,00 per week, per dependant, by the employee only.
- 4.2.4 Extraordinary dependants: R92,00 per week, per extraordinary dependant, by the employee only.

**4.3** Increases in employer and/or employee contributions payable to the Furnmed Sick Benefit Society and the NUFAWSA Sick Benefit Society shall be negotiated annually.

**5. COUNCIL LEVIES:** These levies shall be payable only when more than 16 hours' wages per week have been paid and shall amount to R4,50 per week by the employer and R4,50 per week by the employee.

The Council levies shall be increased annually by the average percentage of the Industry's wage increases.

**6. DISPUTE RESOLUTION LEVIES:** These levies shall be payable only when more than 16 hours' wages per week have been paid and shall amount to R0,00 per week by the employer and R0,00 per week by the employee.

**7. REGISTRATION FEE**

Every employer who registers with this Council shall pay a registration fee of R250,00 per establishment upon registration.

**SCHEDULE 2**

**SPECIFIED MINIMUM WEEKLY WAGE INCREASES, MINIMUM WAGE RATES AND SUBSISTENCE ALLOWANCE  
(for all areas excluding the Free State Province)**

**1. Specified minimum weekly wage increases and minimum weekly wage rates:**

Sectors	Occupation Skills Level (See Chapter 4)	Occupation Skills Level Code	Minimum weekly wage increases effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006	Minimum weekly wage rates effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006
Furniture, Bedding and Upholstery	Unskilled employees (All unskilled employees employed in the Industry on 1 July 2001 and thereafter) .....	05	R38,00	R365,00

Sectors	Occupation Skills Level (See Chapter 4)	Occupation Skills Level Code	Minimum weekly wage increases effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006	Minimum weekly wage rates effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006
	Unskilled employees (All unskilled employees employed in the Industry before 1 July 2001)	05	R39,00	R365,00
	Semi-skilled employees.....	04	R45,00	R591,00
	Skilled employees ...	03	R45,00	R635,00
	Chargehands .....	02	R45,00	R685,00
	Foremen / Supervisors .....	01	R45,00	R685,00
Curtaining.....	Unskilled employees	05	R24,00	R365,00
	Semi-skilled employees .....	04	R31,00	R516,79
	Skilled employees ...	03	R36,00	R587,30
	Chargehands .....	02	R38,00	R645,25
	Foremen / Supervisors .....	01	R38,00	R645,25

**2. Subsistence allowance**

A minimum subsistence allowance of R35,00 per night is payable.

**SCHEDULE 3**

**SPECIFIED MINIMUM WEEKLY WAGE INCREASES, MINIMUM WAGE RATES SUBSISTENCE ALLOWANCE AND FULL WEEK BONUSES (for the Free State Province)**

**1. Specified minimum weekly wage increases and minimum weekly wage rates:**

Sectors	Occupation Skills Level (See Chapter 4)	Occupation Skills Level Code	Minimum weekly wage increases effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006	Minimum weekly wage rates effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006
Furniture, Bedding and Upholstery	Unskilled employees	05	R20,02	R377,67
	Semi-skilled employees .....	04	R24,96	R470,72
	Skilled employees ...	03	R32,81	R618,83



Sectors	Occupation Skills Level (See Chapter 4)	Occupation Skills Level Code	Minimum weekly wage increases effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006	Minimum weekly wage rates effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006
	Chargehands .....	02	R35,20	R663,87
	Foremen / Supervisors .....	01	R35,20	R663,87
Curtaining.....	Unskilled employees	05	R20,02	R377,67
	Semi-skilled employees .....	04	R24,96	R470,72
	Skilled employees ...	03	R32,81	R618,83
	Chargehands.....	02	R35,20	R663,87
	Foremen / Supervisors .....	01	R35,20	R663,87

## 2. Subsistence allowance

A minimum subsistence allowance of—

- 2.1 R160,00 per day is payable, where the employee pays for his own food and accommodation; or
- 2.2 R65,00 per day is payable, where the employer pays for the employees' accommodation only.

## SCHEDULE 3 continued

## 3. Full-week bonuses:

Sectors	Occupation Skills Level (See Chapter 4)	Occupation Skills Level Code	Minimum weekly full week bonuses increase effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006	Minimum weekly full-week bonuses effective for parties as from 1 July 2006 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 1 July 2006
All sectors .....	Unskilled employees	05	R 8,15	R 38,04
	Semi-skilled employees .....	04	R10,97	R 45,11
	Skilled employees ...	03	R13,36	R51,38
	Chargehands .....	02	R14,33	R53,27
	Foremen / Supervisors .....	01	R14,33	R53,27

**Note 1:** Full-week bonuses, in cash, are to be paid weekly to employees where an employee has worked the maximum ordinary hours possible in any specific pay week.

**Note 2:** Full-week bonuses shall not be subject to any levy or benefit calculations but must be added to the employee's weekly wage and Holiday Bonus Fund for the purpose of taxation.

Agreement signed at Johannesburg this 13th day of April 2006.

**P. NTIMANE**

Chairman

**P. LUNGA**

Vice-chairman

**W.A. JANSE VAN RENSBURG**

General Secretary

**ANNEXURE A**

**PRO FORMA**

**SERVICE CONTRACT**

**(Fixed-term contract of employment)**

It is hereby agreed that a contract be entered into between

.....

Address: .....

.....

*(hereinafter referred to as THE EMPLOYER)*

**AND**

.....

ID Number: .....

*(hereinafter referred to as THE EMPLOYEE)*

NOW THEREFORE THE PARTIES HAVE AGREED TO THE FOLLOWING TERMS AND CONDITIONS OF EMPLOYMENT:

**1. JOB TITLE AND DUTIES**

The EMPLOYEE shall be employed as .....

The EMPLOYEE shall be expected to carry out satisfactorily all the tasks and duties normally associated with the position in which he is employed. The EMPLOYEE agrees and undertakes to obey all reasonable and lawful orders and instructions, which may be given by any person employed by the EMPLOYER who is in a managerial or supervisory position. The EMPLOYEE confirms that he/she is capable and competent to perform the duties for which he/she has been employed, and that he/she has the necessary skills and knowledge to perform competently and to the satisfaction of the EMPLOYER.

**2. COMMENCEMENT DATE**

The EMPLOYEE shall commence his/her employment on .....

and shall terminate such employment on .....

on completion of the contract/project or phase of the contract/project in which event the employment period will not exceed the time for the completion of the contract/project/phase.

**2.1 CONTRACT/PROJECT/PHASE** .....

.....

**2.2 ESTIMATED TIME OF COMPLETION** .....

As agreed, your employment will not continue after the date mentioned above. You have specifically been informed that you should have no expectation of your contract being extended, renewed or in any way reviewed after this date. The maximum period of this fixed-term contract may not exceed a period of THIRTEEN WEEKS.

**3. NOTIFICATION OF TERMINATION OF THE CONTRACT**

The EMPLOYER shall give the EMPLOYEE at least two weeks' notice, in writing, of the termination date of this contract.

**4. PROBATIONARY PERIOD**

The EMPLOYEE is appointed on a probationary period of two weeks from the date of commencement of employment. During this period the EMPLOYER will evaluate the EMPLOYEE'S performance, skill, conduct, compatibility and knowledge of job functions. Any failure by the EMPLOYEE to comply with or meet the above conditions or standards during or at the conclusion of the probationary period shall be sufficient reason for the EMPLOYER to terminate the EMPLOYEE'S services by giving the EMPLOYEE one hour's notice.

**5. REMUNERATION**

The EMPLOYEE'S basic weekly wage shall be R..... per week and payment shall be made weekly in arrears. The EMPLOYEE'S wages shall be paid either by cash or be paid by electronic transfer to the EMPLOYEE'S account at a financial institution of his/her choice.

**6. WAGE INCREASES**

The EMPLOYEE shall be entitled to any increase in weekly wage rates as stipulated in the Industry's Collective Agreement during the contract period.

**7. HOURS WORKED**

The EMPLOYEE'S ordinary hours of work shall be ..... hours per day, and shall be from ..... to ..... Mondays to Thursday and from ..... to ..... on Fridays and from ..... to ..... on Saturdays.

The EMPLOYEE shall be entitled to the following breaks during any one day:

Morning tea .....	From .....	to .....	(paid time)
Lunch.....	From .....	to .....	(unpaid time)
Afternoon tea.....	From .....	to .....	(paid time)

**8. SHIFT WORK**

The EMPLOYEE may be required to work shifts and be paid in terms of the Industry's Collective Agreement for such shift work.

**9. OVERTIME**

The EMPLOYEE agrees to work overtime whenever required by the EMPLOYER owing to operational requirements during the week, over weekends and/or on public holidays at the request of the EMPLOYER, subject to 24 hours' notice to the employee. It is also agreed that in the event of an emergency it shall be compulsory for the EMPLOYEE to work emergency overtime without any notice.

Remuneration for overtime worked will be paid to the employee in terms of the Industry's Collective Agreement. It is agreed that the EMPLOYEE will not be expected to work more than ten hours overtime per week.

**10. PUBLIC HOLIDAYS**

The public holidays proclaimed in terms of the Public Holidays Act, 1994, shall be recognised as paid public holidays, except where a public holiday falls on a day, which is not a normal working day.

When a public holiday falls on a Sunday, the following Monday shall be a paid holiday. The EMPLOYEE shall be entitled to payment for any public holiday during any period of absence owing to illness, injury or during annual closure or any period of paid leave.

**11. SICK LEAVE**

The EMPLOYEE shall be entitled to sick leave as prescribed in the Industry's Collective Agreement.

**12. FAMILY RESPONSIBILITY LEAVE**

The provisions of the Industry's Collective Agreement shall apply.

**13. WAGE DEDUCTIONS**

The EMPLOYER shall make all wage deductions as prescribed in the Industry's Collective Agreement, including trade union subscriptions.

Employer and employee contributions that are payable to the Bargaining Council in terms of the Industry's Collective Agreement shall be recorded on the Council's prescribed monthly return form and shall clearly reflect the employee as being a "fixed-term contract worker".

**14. GENERAL****14.1 Safety, health and security**

The EMPLOYEE agrees to observe and obey all safety, health and security rules and regulations as prescribed by the EMPLOYER.

**14.2 Disciplinary code and grievance procedure**

The EMPLOYEE agrees to comply with the EMPLOYER'S disciplinary code and grievance procedure.

**14.3 Bargaining Council Registration**

14.3.1 The EMPLOYER is registered with the FURNITURE BARGAINING COUNCIL.

**14.3.2 Address of the Bargaining Council**

The address of the Bargaining Council is—5th Floor, Rennie House  
 19 Ameshoff Street  
 Braamfontein, 2001  
 Tel: (011) 242-9200  
 Fax: (011) 339-5410

14.3.3 The parties agree that all the terms and conditions of employment are either—

- specified in this contract; or
- those conditions of employment not specified shall be in terms of the EMPLOYER'S rules, regulations and procedures and the Industry's Collective Agreement and, in the event of the Employment Contract, the Bargaining Council's Collective Agreement and the EMPLOYER'S rules, regulations and procedures being silent on any specified point, the relevant sections of the Labour Relations Act, 1995, or the Basic Conditions of Employment Act, 1997, shall apply.

This contract shall be the entire contract between the parties and no variation, alteration and/or addition shall be of any force or effect unless reduced to writing and signed by both parties.

Signed at ..... this ..... day of ..... 20 .....

EMPLOYEE..... Interpreter .....

WITNESSES 1. .... 2. ....

EMPLOYERS .....

WITNESSES 1. .... 2. ....

**ANNEXURE B  
 PRO FORMA  
 CONTRACT OF EMPLOYMENT  
 (Indefinite period)**

It is hereby agreed that a contract be entered into between

.....  
 Address: .....  
 .....  
*(hereinafter referred to as THE EMPLOYER)*

**AND**

.....  
 ID Number: .....  
*(hereinafter referred to as THE EMPLOYEE)*

NOW THEREFORE THE PARTIES HAVE AGREED TO THE FOLLOWING TERMS AND CONDITIONS OF EMPLOYMENT:

**1. JOB TITLE AND DUTIES**

The EMPLOYEE shall be employed as .....

The EMPLOYEE shall be expected to carry out satisfactorily all the tasks and duties normally associated with the position in which he is employed. The EMPLOYEE agrees and undertakes to obey all reasonable and lawful orders and instructions, which may be given by any person employed by the EMPLOYER who is in a managerial or supervisory position. The EMPLOYEE confirms that he/she is capable and competent to perform the duties for which he/she has been employed, and that he/she has the necessary skills and knowledge to perform competently and to the satisfaction of the EMPLOYER. It is expressly agreed by the EMPLOYEE that should the work as set out in the job description be unavailable he/she will be prepared to perform any other suitable work which falls within his/her abilities: Provided that such work shall be without loss of remuneration.

**2. COMMENCEMENT DATE**

The EMPLOYEE shall commence his/her employment on .....

**3. PROBATIONARY PERIOD**

The EMPLOYEE is appointed on a probationary period of two months from the date of commencement of employment. During this period the EMPLOYER will evaluate the EMPLOYEE'S performance, skill, conduct, compatibility and knowledge of job functions. Any failure by the EMPLOYEE to comply with or meet the above conditions or standards during or at the conclusion of the probationary period shall be sufficient reason for the EMPLOYER to terminate the EMPLOYEE'S services by giving the EMPLOYEE one hour's notice.

**4. REMUNERATION**

The EMPLOYEE'S basic weekly wage shall be R..... per week and payment of wages shall be made weekly in arrears. The EMPLOYEE'S wages shall be paid either by cash or be paid by electronic transfer to the EMPLOYEE'S account at a financial institution of his/her choice.

**5. WAGE INCREASES**

Wage increases shall be based on the EMPLOYEE'S individual performance as well as on the overall financial performance of the EMPLOYER'S undertaking during the preceding financial year. Such granting of increases (when applicable) shall be entirely at the discretion of the EMPLOYER. The EMPLOYEE agrees that any increases granted in terms of this clause may be set off against any increase that may become due and payable according to any wage regulating measure or the Industry's Collective Agreement.

**6. HOURS OF WORK**

The EMPLOYEE'S ordinary hours of work shall be ..... hours per day, and shall be from ..... to ..... Mondays to Thursday and from ..... to ..... on Fridays and from ..... to ..... on Saturdays.

The EMPLOYEE shall be entitled to the following breaks during any one day:

Morning tea ..... From ..... to ..... (paid time)

Lunch..... From ..... to ..... (unpaid time)

Afternoon tea..... From ..... to ..... (paid time)

**7. SHIFT WORK**

The EMPLOYEE may be required to work shifts and shall be paid for these shifts as prescribed in the Industry's Collective Agreement.

**8. OVERTIME**

The EMPLOYEE agrees to work overtime whenever required by the EMPLOYER owing to operational requirements during the week, over weekends and on public holidays at the request of the EMPLOYER, subject to 24 hours' notice to him/her. It is also agreed that in the event of an emergency it will be compulsory for the EMPLOYEE to work emergency overtime without any notice.

Remuneration for overtime worked will be as prescribed in the Industry's Collective Agreement. Except where the Bargaining Council has granted an exemption, it is agreed that the EMPLOYEE shall not be expected to work overtime of more than ten hours per week.

**9. PUBLIC HOLIDAYS**

Public holidays proclaimed in terms of the Public Holidays Act, 1994, shall be recognised as paid public holidays, except where a public holidays falls on a day which is not a normal working day. The provisions for payment for work performed on a public holiday as prescribed in the Industry's Collective Agreement will be applicable.

When a public holiday falls on a Sunday, the following Monday shall be a public holiday. The EMPLOYEE shall be entitled to payment for any public holiday that falls during any period of absence owing to illness, or during the Industry's annual closure or any period of paid leave.

**10. ANNUAL LEAVE**

The EMPLOYEE shall be entitled to 15 consecutive working days' paid vacation leave at the end of each year. Such leave shall be taken in accordance with the prescribed leave rules and regulations and at a time agreed to by the EMPLOYER at his/her discretion. The EMPLOYEE may be required to take such leave during the annual shut-down period as determined by the Bargaining Council.

**11. SICK LEAVE**

An EMPLOYEE shall be entitled to payment for sick leave as prescribed in the Industry's Collective Agreement.

**12. MATERNITY LEAVE**

The provisions of the Industry's Collective Agreement shall apply.

**13. FAMILY RESPONSIBILITY LEAVE**

The provisions of the Industry's Collective Agreement shall apply.

**14. WAGE DEDUCTIONS**

The EMPLOYER shall make wage deductions as prescribed by any Act and as prescribed by the Industry' Collective Agreement.

**15. TERMINATION OF EMPLOYMENT**

The EMPLOYEE'S contract of employment may be terminated in terms of the Industry's Collective Agreement.

**16. DATE OF RETIREMENT**

The EMPLOYEE shall retire at the age of 65 years, unless otherwise agreed to in writing between the employer and the employee.

**17. GENERAL**

**17.1 Safety, health and security**

The EMPLOYEE agrees to observe and obey all safety, health and security rules and regulations as prescribed by the EMPLOYER.

**17.2 Disciplinary code and grievance procedure**

The EMPLOYEE agrees to comply with the EMPLOYER'S disciplinary code and grievance procedure.

**17.3 Registration**

17.3.1 The EMPLOYER is registered with the FURNITURE BARGAINING COUNCIL

**17.3.2 Address of the Bargaining Council**

The address of the Bargaining Council is— 5th Floor, Rennie House  
 19 Ameshoff Street  
 Braamfontein, 2001  
 Tel: (011) 242-9200  
 Fax: (011) 339-5410

17.3.3 The parties agree that all the terms and conditions of employment are either—

- Specified in this contract; or
- those conditions of employment not specified shall be in terms of the EMPLOYER'S rules, regulations and procedures and the Bargaining Council's Collective Agreement and, in the event of the Employment Contract, the Bargaining Council's Collective Agreement and the EMPLOYER'S rules, regulations and procedures being silent on any specified point, the relevant sections of the Labour Relations Act, 1995, or the Basic Conditions of Employment Act, 1997, shall apply.

This contract shall be the entire contract between the parties and no variation, alteration and/or addition shall be of any force or effect unless reduced to writing and signed by both parties.

Signed at ..... this ..... day of ..... 20.....

EMPLOYEE ..... Interpreter .....

WITNESSES 1. .... 2. ....

EMPLOYER .....

WITNESSES 1. .... 2. ....

**ANNEXURE C  
 CERTIFICATE OF SERVICE**

I.....  
 (Full name)

in my capacity as

.....  
 (Designation)

of

.....  
 (Full name of employer)

physical address .....

in the Furniture, Bedding and Upholstery Industry, Greater Northern Region,  
declare that

.....  
(Full name of employee)

.....  
(ID No)

was in employment

from ..... until .....

as

.....  
(Type of work/occupation)

Reason for termination of employment .....

On termination of service this employee was earning: R .....

..... (amount in words)

per hour  per day  per week  per fortnight  per month  per year

.....  
Employer's signature

Establishment's stamp

**NOTES:**

This is only a model and not a prescribed form. Completing a document on another form containing the same information is sufficient compliance with this Collective Agreement.

**No. R. 833**

**18 August 2006**

LABOUR RELATIONS ACT, 1995

CANCELLATION OF GOVERNMENT NOTICE

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL: DISPUTE RESOLUTION COLLECTIVE AGREEMENT**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (7) of the Labour Relations Act, 1995, cancel Government Notice No. R. 1174 of 15 August 2003 with effect from 18 August 2006.

**M. M. S. MDLADLANA**

Minister of Labour

**No. R. 833**

**18 Augustus 2006**

WET OP ARBEIDSVERHOUDINGE, 1995

INTREKKING VAN GOEWERMENSKENNISGEWING

**METAAL- EN INGENIEURSNIYWERHEDE BEDINGINGSRAAD: GESKILBESLEGTINGS KOLLEKTIEWE OOREENKOMS**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, trek hierby kragtens artikel 32 (7) van die Wet op Arbeidsverhoudinge, 1995, Goewermentskennisgewing No. R. 1174 van 15 Augustus 2003 en, met ingang van 18 Augustus 2006.

**M. M. S. MDLADLANA**

Minister van Arbeid

No. R. 836

18 August 2006

## LABOUR RELATIONS ACT, 1995

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL: RE-ENACTMENT, AMENDMENT AND EXTENSION OF DISPUTE RESOLUTION COLLECTIVE AGREEMENT TO NON-PARTIES**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby, in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Metal and Engineering Industries Bargaining Council, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry, with effect from 28 August 2006, and for the period ending 31 March 2010.

**M. M. S. MDLADLANA**

Minister of Labour

No. R. 836

18 Augustus 2006

## WET OP ARBEIDSVERHOUDINGE, 1995

**METAAL- EN INGENIEURNYWERHEDE BEDINGINGSRAAD: GESKILBESLEGTINGS KOLLEKTIEWE OOREENKOMS NA NIE PARTYE**

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, dat die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn en wat in die Metaal- en Ingenieursnywerhede Bedingingsraad aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 28 Augustus 2006, en vir die tydperk wat op 31 Maart 2010 eindig.

**M. M. S. MDLADLANA**

Minister van Arbeid

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL****DISPUTE RESOLUTION AGREEMENT**

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ANNEXURE A: RULES FOR CONCILIATING AND ARBITRATING DISPUTES IN THE METAL AND  
ENGINEERING INDUSTRIES BARGAINING COUNCIL

EXPLANATORY SCHEDULES

SCHEDULE 1

H.J. SMITH

20 July 2006

**SCHEDULE**

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL DISPUTE RESOLUTION AGREEMENT**

in accordance with the provisions of the Labour Relations Act, No. 66 of 1955, made and entered into by and between the—

**Association of Electric Cable Manufacturers of South Africa**  
**Association of Metal Service Centres of South Africa**  
**Babelegi Metal Industries' Association**  
**Border Industrial Employers' Association**  
**Bright Bar Association**  
**Cape Engineers' and Founders' Association**  
**Consolidated Association of Employers of South Africa (CAESAR)**  
**Constructional Engineering Association (South Africa)**  
**Covered Conductor Manufacturers' Association**  
**Electrical Engineering and Allied Industries' Association**  
**Electrical Manufacturers Association of South Africa (EMASA)**  
**Electronics and Telecommunication Industries' Association**  
**Federated Employers' Organisation of South Africa (FEOSA)**  
**Ferro Alloy Producers' Association**  
**Gate and Fence Association**  
**Hand Tool Manufacturers' Association (HATMA)**  
**Iron and Steel Producers' Association of South Africa (ISPA)**  
**KwaZulu-Natal Engineering Industries' Association**  
**Lift Engineering Association of South Africa**  
**Light Engineering Industries' Association of South Africa**  
**Materials Handling Association**  
**National Employers' Association of S.A. (NEASA)**  
**Non-Ferrous Metal Industries' Association of South Africa**  
**Plastics Convertors' Association of South Africa**  
**Plumbers and Engineers Brassware Manufacturers' Association**  
**Port Elizabeth Engineers' Association**  
**Pressure Vessel Manufacturers' Association of South Africa**  
**Radio, Appliance and Television Association of South Africa (RATA)**  
**Refrigeration and Airconditioning Manufacturers' and Suppliers' Association (RAMSA)**  
**Sheetmetal Industries' Association of South Africa**  
**S.A. Electro-Plating Industries' Association**  
**S.A. Engineers' and Founders' Association**  
**S.A. Fasteners Manufacturers' Association**  
**S.A. Industrial Refrigeration and Airconditioning Contractors' Association (SARACCA)**  
**S.A. Post Tensioning Association (SAPTA)**  
**S.A. Pump Manufacturers' Association**  
**S.A. Reinforced Concrete Engineers' Association (SARCEA)**  
**S.A. Valve and Actuators Manufacturers' Association (SAVAMA)**  
**S.A. Wire and Wire Rope Manufacturers' Association**

(hereinafter referred to as the "employers" or the "employers' organisations"), of the one part and the—

**Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU)**

**Metal and Electrical Workers' Union of South Africa**

**MWU Solidarity**

**United Association of S.A. (UASA)**

**National Union of Metalworkers of South Africa (NUMSA)**

**S.A. Equity Workers' Association (SAEWA)**

(hereinafter referred to as the "employees" or the "trade unions") of the other part, being the parties to the Metal and Engineering Industries Bargaining Council.

### 1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed in the Iron, Steel, Engineering and Metallurgical Industry—
  - (a) by all employers who are members of the employers' organisations and by all employees who are members of the trade unions;
  - (b) throughout the Republic of South Africa.
- (2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall apply to—
  - (a) apprentices or learners only to the extent to which the provisions are not inconsistent with the provisions of the Manpower Training Act, 1981, or the Skills Development Act, No. 97 of 1998, or any contract entered into or any conditions fixed thereunder; and
  - (b) trainees under training in terms of section 30 of the Manpower Training Act, 1981, or section 19 of the Skills Development Act, No. 97 of 1998, only in so far as the provisions are not inconsistent with the provisions of the Act or any conditions fixed thereunder.
- (3) Notwithstanding the provisions of clauses 1 (1) (a) and 2, this Agreement shall not apply to employers and employees who are not members of the employers' organisations and trade unions, respectively.

### 2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 31 March 2010.

### 3. DEFINITIONS

Unless the context or this Agreement indicates otherwise any expressions, words or phrases used in this Agreement shall have the same meaning as those defined in the Labour Relations Act, No. 66 of 1995, and any reference to an Act shall include any amendment to such Act, further—

"Act" means the Labour Relations Act, 1995 (Act 66 of 1995), and includes any regulations made in terms of the Act;

"Commission" means the Commission for Conciliation, Mediation and Arbitration;

"Council" means the Metal and Engineering Industries Bargaining Council registered in terms of section 29 of the Act, and functions performed by the Council in terms of this Agreement shall be performed by the CEO who, in turn, may delegate any of his/her functions as set out in this Agreement;

"council commissioner" means an individual appointed by the Council to resolve disputes;

"dispute" includes an alleged dispute and means any situation where—

- (i) two or more parties are unable to reach agreement on a matter of mutual interest between them, and one or more of those parties advise the Council in writing that they are in dispute; or
- (ii) the Council, by way of its agents or any other person so appointed by the Council, declares a dispute against an employer and/or employee for failure to comply with the provisions of one or more of the Council's Agreements, and notification of declaration of a dispute shall be contained in a compliance order issued to the employer and/or employee in respect of the identified contraventions; or
- (iii) a dispute in terms of the Labour Relations Act, Act No. 66 of 1995, is declared.

"Electrical Contracting Industry" means the industry in which employers and employees are associated for the design, preparation (other than manufacture for resale), erection, repair and maintenance of all electrical installations forming an integral and permanent portion of buildings, including any cable jointing and electrical wiring associated therewith;

"Electrical Engineering Industry" means—

- (a) the manufacture and/or assembly from component parts of electrical equipment, namely generators, motors, converters, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, transformers, furnace equipment, signalling equipment, radio or electronic equipment (including monitors) and other equipment utilising the principles used in the operation of radio and electronic equipment (the latter equipment to include, but not be limited to, television), incandescent lamps and electric cables and domestic electrical appliances, and includes the manufacture of component parts of the aforementioned equipment;

- (b) subject to (c) hereunder, the installation, maintenance, repair and service of the equipment referred to in paragraph (a) above, in the Provinces of the Transvaal and Natal, but does not include the Electrical Contracting Industry;
- (c) the installation, maintenance, repair and service of television sets and monitors within the Republic of South Africa other than the Province of the Cape of Good Hope, but excluding in respect of the whole of the Republic of South Africa, the installation, maintenance, repair and service of monitors primarily intended for use in accounting and/or data processing and/or business procedures;

**“employer”** means any person whomsoever (including a temporary employment service as defined in section 198 (1) of the Act) who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person whomsoever in any manner to assist him in the carrying on or conducting of his business;

**“establishment”** means any premises wherein or whereon the Industry, or part thereof, as herein defined, is carried on;

**“General Engineering and Manufacturing Engineering and Metallurgical Industries”** means the industries concerned with the maintenance, fabrication, erection or assembly, construction, alteration, replacement or repair of any machine, vehicle (other than a motor vehicle) or article consisting mainly of metal (other than precious metals) or parts or components thereof and structural metal work, including steel reinforcement work and the manufacture of metal goods principally from such iron and/or steel and/or other metals (other than precious metals) and/or alloys and/or the finishing of metal goods, but does not include the Motor Industry (as defined).

**“Industry”** means the Iron, Steel, Engineering and Metallurgical Industry;

**“Iron, Steel, Engineering and Metallurgical Industry”** means—

- (a) the industry concerned with the production of iron and/or steel in the Republic of South Africa;
- (b) the Industry concerned with the production of alloys and/or the processing and/or recovery and/or refining of metals (other than precious metals) and/or alloys from dross and/or scrap and/or residues in the Republic of South Africa;
- (c) the General Engineering and Manufacturing Engineering and Metallurgical Industries in the Republic of South Africa;
- (d) the building and/or alteration and/or repair of boats and/or ships, including the scraping, chipping or scaling and/or painting of their hulls and general woodwork undertaken in connection with ship repairs in the Republic of South Africa;
- (e) the Electrical Engineering Industry;
- (f) the Lift and Escalator Industry in the Republic of South Africa;
- (g) the Plastics Industry in the Republic of South Africa.

**“Lift and Escalator Industry”** means the manufacture and/or assembly and/or installation and/or repair of electrical lifts and escalators;

**“Motor Industry”** means—

- (a) assembling, erecting, testing, remanufacturing, repairing, adjusting, overhauling, wiring, upholstering, spraying, painting and/or reconditioning carried on in connection with—
  - (i) chassis and/or the bodies of motor vehicles;
  - (ii) internal combustion engines and transmission components of motor vehicles;
  - (iii) the electrical equipment connected with motor vehicles, including radios;
- (b) automotive engineering;
- (c) repairing, vulcanising and/or retreading tyres;
- (d) repairing, servicing and reconditioning batteries for motor vehicles;
- (e) the business of parking and/or storing motor vehicles;
- (f) the business conducted by filling and/or servicing stations;
- (g) the business carried on mainly or exclusively for the sale of motor vehicles or motor vehicle parts and/or spares and/or accessories (whether new or used) pertaining thereto whether or not such sale is conducted from premises which are attached to a part of an establishment in which the assembly or repairs of motor vehicles is carried out;
- (h) the business of motor graveyards;
- (i) the business of assembly establishments;
- (j) the business of manufacturing establishments in which vehicle parts and/or spares and/or accessories and/or components thereof are manufactured;
- (k) vehicle body building; and

for the purposes of this definition—

“**automotive engineering**” means the reconditioning of internal combustion engines, or parts thereof for use in motor vehicles in establishments mainly or exclusively so engaged, whether such establishment is engaged in the dismantling and repair of motor vehicles or not;

“**motor vehicles**” means any wheeled conveyance propelled by mechanical power (other than steam) or electrically, and designed for haulage and/or for the transportation of persons and/or goods and/or loads, and includes trailers and caravans, but does not include any equipment designed to run on fixed tracks, trailers designed to transport loads of 27 273 kg or over, or aircraft;

“**vehicle body building**” means any or all of the following activities carried on in a vehicle body building establishment:

- (a) The construction, repair or renovation of cabs and/or bodies and/or any superstructure for any type of vehicle;
- (b) the manufacture or repair of component parts for cabs and/or bodies and/or any superstructure and the assembling, adjusting and installation of parts in cabs, bodies or on the superstructure of vehicles;
- (c) fixing cabs and/or bodies and/or any superstructure to the chassis of any type of vehicle;
- (d) coating and/or decorating cabs and/or bodies and/or any superstructure with any preservative or decorative substance;
- (e) equipping, furnishing and finishing off the interior of cabs and/or bodies and/or superstructures;
- (f) building trailers, but not including the manufacture of wheels or axles therefor;
- (g) all operations incidental to or consequent upon the activities referred to in paragraphs (a), (b), (c), (d), (e) and (f);

“**vehicle**” does not include an aircraft and, for the purposes of this definition

“**Motor Industry**” shall not include the following:

- (a) The manufacture of motor vehicle parts and/or accessories and/or spares and/or components in establishments laid out for and normally producing metal and/or plastic goods of a different character on a substantial scale;
- (b) the assembling, erecting, testing, repairing, adjusting, overhauling, wiring, spraying, painting and/or reconditioning of agricultural tractors except where carried on in establishments rendering similar service in respect of motorcars, motor lorries, or motor trucks;
- (c) the manufacture and/or maintenance and/or repair of—
  - (i) civil and mechanical engineering equipment and/or parts thereof whether mounted on wheels or not;
  - (ii) agricultural equipment or parts thereof; or
  - (iii) equipment designed for use in factories and/or workshops;
  - (iv) motor vehicle or other vehicle bodies and/or superstructures and/or parts or components thereof made of steel plate of 3,175 mm thickness or thicker when carried on in establishments laid out for and normally engaged in the manufacture and/or maintenance and/or repair of civil and/or mechanical engineering equipment on a substantial scale; and for the purposes of (i), (ii) and (iii) above, equipment shall not be taken to mean motor cars, motor lorries and/or motor trucks;

“**party to dispute**” means—

- (i) the Council; and/or
- (ii) any or all of the employers' organisations and/or trade unions listed as members of this Council; and/or
- (iii) any employers' organisation and/or trade union not listed as a member of this Council; and/or
- (iv) any employer and/or employee and/or any of the organisations referred to in (ii) or (iii) hereof acting on their behalf;

“**Plastics Industry**” means the industry concerned with the conversion of thermoplastic and/or thermosetting polymers, including the compounding or recycling thereof, or the manufacture of articles or parts of articles wholly or mainly made of such polymers into rigid, semi-rigid or flexible form, whether blown, moulded, extruded, cast, injected, formed, calendered, coated, compression moulded or rotational moulded, including in-house printing on such plastics by the manufacturers, and all operations incidental to these activities;

“**plastics**” means any one of the group of materials which consist of or contains a an essential ingredient an organic substance of a large molecular mass and which, while solid in the finished state, at some stage in its manufacture has been or can be forced, i.e. cast, calendered, extruded or moulded into various shapes by flow, usually through the application, singly or together, of heat and pressure, including the recycling or compounding thereof, but only where such compounding and/or recycling is as a result of the conversion for manufacture by the same employer, but excludes all extrusions into mono- and multi-filament fibres and other activities falling under the scope of the National Textile Bargaining Council;

“**precious metals**” means the precious metals gold, silver, platinum and/or palladium, and/or any alloy containing the said precious metals or any of these in such proportion with any other metals as to be the greater part in value of such alloy;

“**Rules**” means the rules for conciliating and arbitrating disputes in the Metal and Engineering Industries Bargaining Council.

#### 4. DISPUTE RESOLUTION

##### PREAMBLE

- (a) Subject to paragraph (c) below; the procedures set out in this Agreement shall be utilised to deal with all disputes arising within the Council's jurisdiction as defined in clause 1 above.
- (b) Different processes shall be utilised for different types of disputes, as set out below. In the event of a dispute over which section should be applied, the dispute shall be processed in accordance with clause 4.2.1 below. Notwithstanding this Agreement, parties may agree to meet whenever they mutually deem it necessary for the purpose of resolving a dispute. They may give consideration at their own cost to privately appointing a mediator or an arbitrator or referring the dispute to any other process, as agreed between them.
- (c) Notwithstanding paragraph (a) above, employers and employees may, through a collective agreement establish their own dispute procedure which does not necessitate their having to refer disputes to the Council, even though the parties fall within the Council's jurisdiction.
- (d) If at any stage after a dispute has been referred to the Council, it becomes apparent that the dispute ought to have been resolved through private dispute resolution in terms of a collective agreement or in terms of a private agreement between the parties to the dispute, the Council may refer the dispute back to the referring parties for processing in terms of their private dispute resolution procedure.
- (e) The Council is, in terms of section 127 (5) of the Labour Relations Act, No. 66 of 1995, accredited to conciliate and arbitrate disputes.

##### 4.1 *Negotiating procedure*

- (a) Where any party to the Council wishes to initiate negotiations for the amendment of any existing agreement or the introduction of a new agreement, that party shall submit its proposals in writing to the CEO of the Council at the address listed in Schedule 1 to the Rules.
- (b) The CEO shall immediately arrange for the proposal to be circulated to all interested parties and shall take steps to arrange a negotiating meeting within 45 days of receipt of the proposal. Where the CEO, in consultation with the President of the Council, decides that the proposal relates to the negotiation of an Industry matter, the date of the first negotiating meeting shall be decided at the next meeting of the Council's Management Committee, and such negotiating meeting shall be held within 30 days of that Management Committee meeting.
- (c) Further negotiating meetings may be held by agreement between the parties, who may also agree on any procedures, documentation, or any other matters for the purposes of assisting the negotiations.
- (d) If the negotiations have not been resolved in terms of paragraph (b) above, or as otherwise agreed between the parties, any party to those negotiations may declare a dispute by notice in writing to the Council and must satisfy the Council that a copy of the referral has been served on all other parties to the dispute. Industry disputes shall be processed in accordance with clause 4.1.1 below.

##### 4.1.1 *Disputes about negotiations*

- (a) In the event that the CEO, in consultation with the President of the Council, decides that a dispute declared in terms of clause 4.1 (d) above is an Industry matter, he/she shall arrange for the Management Committee to meet within 14 days of the declaration of such dispute, for the purposes of considering the matter.
- (b) The Management Committee shall use its best endeavours to settle the dispute and shall meet as often as it deems necessary for this purpose. In the course of its deliberations the Committee may give consideration to the following:
  - (i) Appointing a subcommittee to meet within a specified number of days for the purpose of attempting to resolve the dispute, or recommending to the Management Committee a process by which the dispute can be resolved;
  - (ii) referring the dispute to conciliation in terms of the Act and the Rules for conciliating and arbitrating disputes attached as Annexure A hereto. This shall be compulsory in the case of a dispute involving a non-party to the Council;
  - (iii) referring the dispute to arbitration in terms of the Act and the Rules;
  - (iv) instructing the CEO to issue a certificate stating that the dispute remains unresolved.

- (c) Subject to this Agreement, if the dispute has not been settled within 30 days from the date on which the dispute was referred to the Council, and if the parties have not within the period agreed on a process to resolve the dispute, any party to the dispute shall be entitled to pursue whatever means are available in the Act to process that dispute.

#### 4.2 Dispute settlement procedures

Disputes which are within the Council's jurisdiction in terms of section 51 of the Act and which do not fall within the scope of clause 4.1 above, shall be dealt with in terms of the Act in conjunction with the Rules attached as Annexure A.

##### 4.2.1 *Disputes about the interpretation or application of the Council's Collective Agreements*

- (a) In the event of a dispute arising relating to the interpretation or application of a Collective Agreement in terms of section 24 (2) of the Act, it shall be processed in terms of the Rules set out in Annexure A.
- (b) This section excludes demarcation disputes which are referred to in section 62 of the Act and which are to be referred to the Commission.
- (c) A party wishing to refer such a dispute, may refer the dispute in writing, setting out the details of the dispute to the Council if—
- (i) the collective agreement does not provide for a procedure;
  - (ii) the procedure provided for in the collective agreement is inoperative;
  - (iii) any party to the collective agreement has frustrated the resolution of the dispute in terms of the collective agreement.

##### 4.2.2 *Enforcement of Collective Agreements by the Council*

- (1) Notwithstanding any other provision, the council may monitor and enforce compliance with its collective agreements in terms of this clause or a collective agreement concluded by the parties to the Council.
- (2) For the purposes of this clause the collective agreement shall be deemed to include—
- (a) any condition of employment of any employee covered by a collective agreement; and
  - (b) the rules of any fund or scheme established by the Council.
- (3) The Council may refer any unresolved dispute concerning compliance with any provision of a collective agreement to arbitration by an arbitrator appointed by the Council.
- (4) If a party to an arbitration in terms of this clause that is not a party to the Council objects to the appointment of an arbitrator in terms of subsection (3), the Commission, on request by the Council must appoint an arbitrator.
- (5) An arbitrator conducting an arbitration in terms of this clause shall have the powers of a commissioner in terms of section 142 of the Act, read with the changes required by the context.
- (6) Part E of the Rules, read with the changes required by the context, shall apply to any arbitration conducted in terms in this clause.
- (7) An arbitrator acting in terms of this clause may determine any dispute concerning the interpretation or application of a collective agreement.
- (8) An arbitrator conducting an arbitration in terms of this clause may make a appropriate award, including—
- (a) ordering any person to pay any amount owing in terms of a collective agreement;
  - (b) imposing a fine for a failure to comply with a collective agreement in accordance with paragraph (12) and Tables One and Two as set out hereunder;
  - (c) charging a party an arbitration fee;
  - (d) ordering a party to pay the costs of the arbitration;
  - (e) confirming, varying or setting aside a compliance order issued by a designated agent;
  - (f) any award contemplated in section 138 (9) of the Act.

- (9) Interest on any amount that a person is obliged to pay in terms of a collective agreement shall accrue from the date on which the amount was due and payable at the rate prescribed in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975), unless the arbitration award provides otherwise.
- (10) An award in an arbitration conducted in terms of this clause shall be final and binding and may be enforced in terms of section 143 of the Act.
- (11) If an employer upon whom a fine has been imposed in terms of this clause files an application to review and set aside an award made in terms of paragraph (8), any obligation to pay a fine shall be suspended pending the outcome of the application.
- (12) The maximum fines that may be imposed by an arbitrator acting in terms of this clause shall be subject to variation by notice of the Minister as published in the *Gazette*. A notice in terms of this paragraph may specify the maximum fine that may be imposed—
  - (a) for a breach of a collective agreement—
    - (i) not involving a failure to pay any amount of money;
    - (ii) involving a failure to pay any amount of money; and
  - (b) for repeated breaches of the collective agreement contemplated in subparagraph (a).

4.2.2.1 Arbitration in terms of clause 4.2.2 above

- (1) The maximum fine that may be imposed by an arbitrator—
  - (a) for a failure to comply with a provision of a collective agreement not involving a failure to pay any amount of money shall be the fine determined in terms of Table One; and
  - (b) involving a failure to pay an amount due in terms of a collective agreement, shall be the greater of the amounts determine in terms of Table One and Table Two.

**TABLE ONE: MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT**

No previous failure to comply .....	R100 per employee in respect of whom the failure to comply occurs
A previous failure to comply in respect of the same provision	R200 per employee in respect of whom the failure to comply occurs
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provisions within three months	R300 per employee in respect of whom the failure to comply occurs
Three previous failures to comply in respect of the same provisions within three years	R400 per employee in respect of whom the failure to comply occurs
Four or more previous failures to comply in respect of the same provision within three years	R500 per employee in respect of whom the failure to comply occurs

**TABLE TWO: MAXIMUM PERMISSIBLE FINE INVOLVING AN UNDERPAYMENT**

No previous failure to comply .....	25% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provisions within three years	50% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within a year, or two previous failures to comply in respect of the same provision within three years	75% of the amount due, including any interest owing on the amount at the date of the order
Three previous failures to comply in respect of the same provisions within three years	100% of the amount due, including any interest owing on the amount at the date of the order
Four or more previous failures to comply in respect of the same provision within three years	200% of the amount due, including any interest owing on the amount at the date of the order

## 5. GENERAL

1. The Council shall establish and maintain a record of all arbitration awards given under its jurisdiction, which shall be available to all parties within the Industry.
2. The Council shall establish and maintain panels of sufficient conciliators and arbitrators to carry out the conciliation and arbitration functions in terms of this Agreement. The Council may at any stage decide remove a person from a panel for whatever reason it considers appropriate including, but not limited to, incapacity or serious misconduct.
3. Without in any way detracting from the rights and obligations emanating from this Agreement, it shall be interpreted and applied in a manner that promotes effective dispute resolution.

## 6. EXEMPTIONS

### 6.1 General

- (1) Any person bound by this Agreement may apply for exemption.
- (2) The authority of the Council is to consider applications for exemptions and grant exemptions.
- (3) Where additional and/or outstanding information is requested in respect of an exemption application and such information is not received within a period of 90 days the applicant shall be informed that the application will lapse.

### 6.2 Fundamental principles for consideration

- (1) All applications must be in writing and fully motivated and sent to the Regional Office of the Council for the area in which the applicant is located.
- (2) In scrutinising an application for exemption the Council shall consider the views expressed by the employer and the workforce, together with any other representations received in relation to that application.
- (3) The employer shall consult with the workforce, through a trade union representative or, where no trade union is involved, with the workforce itself, and shall include the views expressed by the workforce in the application.
- (4) Where the views of the workforce differ from those of the employer, the reasons for the views expressed shall be submitted with the application.
- (5) Where an agreement between the employer and the workforce has been reached, the signed written agreement shall accompany the application.
- (6) The exemption shall not contain terms that would have an unreasonably detrimental effect on the fair, equitable and uniform application of this Agreement in the Industry.
- (7) An application for exemption shall not be considered if the contents of the application are covered by an arbitration award binding the applicant.

### 6.3 Urgent applications

- (1) In cases of urgent applications, details may be faxed or delivered to the Council in the region where the applicant is located.
- (2) The Council or Chairperson and Vice Chairperson shall consider the application, make a decision and communicate that decision to the applicant without delay.
- (3) The applicant shall be expected to put forward a substantive explanation as to the urgency of the application.

### 6.4 Process

- (1) The Council shall issue to every person to whom exemption has been granted an exemption licence, setting out the following:
  - (a) The full name of the persons or enterprise concerned;
  - (b) the provisions of this Agreement from which the exemptions has been granted;
  - (c) the conditions subject to which exemption is granted;
  - (d) the period of the exemption;
  - (e) the date from which the exemption shall operate; and
  - (f) the area in which the exemption applies.
- (2) The council shall ensure that—
  - (a) all exemption licenses issued are numbered consecutively;
  - (b) an original copy of each licence is retained by the Council;
  - (c) a copy of the exemption licence is sent to the applicant.
- (3) Unless otherwise specified in the licence of exemption, any exemption from this Agreement shall be valid only in the region of the Council in which the application was made.
- (4) The Council may withdraw the exemption at its discretion.



**6.5 Appeals**

- (1) An independent body, referred to as the Independent Exemptions Appeal Board (the Board), shall be appointed and shall consider any appeal against an exemption granted or refused by the Council, or a withdrawal of an exemption in respect of parties and non-parties.
- (2) The Council Secretary shall, on receipt of an appeal against a decision of the Council, submit such appeal to the Independent Exemptions Appeal Board for consideration and finalisation.
- (3) In considering an appeal the Board shall consider the recommendations of the Council and any further submissions by the employers or employees and shall take into account the criteria set out above and also any other representations received in relation to the application.
- (4) Should the appeal be successful an exemption licence shall be issued in terms of clause 6.4 (1) and (2) above and shall be subject to clauses 6.4 (3) and (4)."

Signed for and on behalf of the parties at Johannesburg this 31st day of May 2006.

**D. A. CARSON**

Member

**J. PIETERSE**

Member

**A. SMITH**

Chief Executive Officer

**ANNEXURE A****RULES FOR CONSILIATING AND ARBITRATING DISPUTES IN THE METAL AND ENGINEERING INDUSTRIES  
BARGAINING COUNCIL****Arrangement of Rules****PART A: SERVING AND FILING DOCUMENTS**

1. Council addresses at which documents must be filed
2. How to calculate time periods
3. How to serve documents on other parties
4. How to file documents with the Council
5. Documents and notices sent by registered post
6. How to seek condonation for documents served late

**PART B: CONCILIATION OF DISPUTES**

7. How to refer a dispute to the Council for conciliation
8. What notice the Council must give of a conciliation hearing
9. The Council may seek to resolve dispute before conciliation hearing
10. What happens if a party fails to attend or is not represented at conciliation

**PART C: CON-ARB**

11. Conduct of con-arb in terms of section 191 (5A) of the Act

**PART D: ARBITRATION OF DISPUTES**

12. Referral of a dispute to arbitration
13. When parties may be directed to file statements
14. When parties may be directed to hold a pre-arbitration conference
15. What notice the Council must give of an arbitration hearing
16. How to postpone an arbitration

**PART E: RULES THAT APPLY TO CONCILIATIONS, ARBITRATIONS AND CON-ARBS**

17. Who may represent a party at the Council
18. How to joint or substitute parties to proceedings
19. How to correct the citation of a party
20. When the Council may consolidate disputes
21. Disclosures of documents
22. What happens if a party fails to attend proceedings before the Council

**PART F: APPLICATIONS**

23. How to bring an application
24. How to apply to vary or rescind arbitration awards or rulings
25. How to refer a dismissal dispute to the Labour Court

**PART G: PRE-DISMISSAL ARBITRATIONS**

26. How to request a pre-dismissal arbitration in terms of section 188A of the Act

**PART H: GENERAL**

27. Unrepresented applicants without postal addresses and fax numbers
28. Condonation for failure to comply with the Rules
29. Recordings of Council proceedings
30. How to have a subpoena issued
31. Payment of witness fees
32. Taxation of Bills of Cost
33. What words mean in these rules

**PART A****SERVING AND FILING DOCUMENTS****1. Council addresses at which documents must be filed**

1. The addresses, e-mail addresses, telephone and telefax numbers of the offices of the Council are listed in Schedule One.
2. Documents may be filed with the Council only at those addresses or telefax numbers listed in Schedule One.

**2. How to calculate time periods**

1. For the purpose of calculating any period of time in terms of these Rules—

- (a) a day means any day of the week including Saturdays, Sundays and public holidays but excludes the days from the 16th of December to the 7th of January, both days inclusive.

**Example 1**

Rule 5 refers to seven days of the date the document was posted. If the document was posted on a Friday then the seven days would include the next Saturday and Sunday.

**Example 2**

Rule 5 refers to seven days of the date the document was posted. If the date of postage was on a Friday, the 12th of December, the first four days would be counted (the days before the 16th) and final three days would be counted from the 7th of January—in other words the period would run from 12 December to the 10th of January

- (b) the first day is excluded and the last day is included, subject to subrule (2).

**Example 3**

Rule 8 refers to a 14 days' notice period for conciliation. If notices was faxed on Thursday 10 October, the conciliation must be scheduled on Friday, 25 October or any day thereafter, within the 30 day period.

2. The last day of any period must be excluded if it falls on a Saturday, Sunday, public holiday or on any day between 16 December to 7 January.
3. **How to serve documents on other parties**
  1. A party must serve a document on the other parties to the dispute—
    - (a) by handing a copy of the document to—
      - (i) the person if that person is a party to the dispute;
      - (ii) a person authorised in writing to accept service on behalf of a party to the dispute;
      - (iii) a person who appears to be at least 16 years old and in charge of a party's place of residence, business or employment;
    - (b) by e-mailing, faxing or telexing a copy of the document to that party;
    - (c) by sending a copy of the document by registered post or telegram to the last-known address of the party or to any address chosen by the party to receive service.
4. **How to file documents with the Council**
  1. A party must file documents with the Council—
    - (a) by handling the document in at an office of the Council; or
    - (b) by sending a copy of the document by registered post to the Council; or
    - (c) by faxing the document to the Council; or
    - (d) by e-mailing the document to the Council.
  2. A document is filed with the Council when—
    - (a) the document is handed to the office of the Council; or
    - (b) a document sent by registered post is received by the Council; or
    - (c) the transmission of a fax is completed; or
    - (d) when e-mail notification is received that the e-mail was successfully transmitted.
  3. The Council may serve awards or rulings on parties by e-mail. The original awards or ruling will be kept at the Council's offices.
5. **Documents and notices sent by registered post**

Any document sent by registered is presumed, unless the contrary is proved, to have been received by the person to whom it was sent seven days after it was posted.
6. **How to seek condonation for documents served late**
  1. This rule applies to any document, including a referral or an application, served outside of a time period prescribed in the Act or these Rules.
  2. A party must apply for condonation, in terms of Rule 23, when serving the document on the Council.
  3. An application for condonation must set out the grounds for seeking condonation and must include details of the following:
    - (a) The degree of lateness;
    - (b) the reasons for the lateness and degree of fault;
    - (c) the referring parties' prospect of succeeding with the referral and obtaining the relief sought against the other party;
    - (d) any prejudice to the other parties; and
    - (e) any other relevant factors.

**PART B****CONCILIATION OF DISPUTES**

7. **How to refer a dispute to the Council for conciliation**
  1. A party must refer a dispute to the Council for conciliation by completing the Council's referral form and serving it on the Council.
  2. The referring party must—
    - (a) sign the referral form;
    - (b) attach written proof that the referral form was served on the other parties to the dispute;
    - (c) if the referral form is filed late, attach an application for condonation in accordance with Rule 6.
  3. The Council must refuse to accept a referral until subrule 2 has been complied with.

**8. What notice the Council must give of a conciliation hearing**

The Council must give the parties at least 14 days' notice in writing of a conciliation hearing, unless the parties agree to a shorter period of notice. The Council shall give notice by fax, registered post or e-mail, depending on the information provided by the parties.

**9. The Council may seek to resolve dispute before a conciliation hearing**

The Council of a council commissioner may contact the parties by telephone or by other means prior to the commencement of the conciliation in order to seek to resolve the dispute.

**10. What happens if a party fails to attend or is not represented at conciliation**

If a party to a dispute fails to attend in person or be represented at a conciliation, the council commissioner may deal with it in terms of Rule 22.

**PART C****CON-ARB****11. Conduct of con-arb in terms of section 191 (5A) of the Act**

1. The Council must give the parties at least fourteen days' notice in writing that a matter has been scheduled for con-arb in terms of section 191 (5A) of the Act.
2. A party that intends to object to a dispute's being dealt with in terms of section 191 (5A) must serve a written notice on the Council and the other party at least seven days prior to the scheduled date in terms of Rule 11.1.
3. Rule 11.2 shall not apply to a dispute concerning—
  - (a) the dismissal of an employee for any reason related to probation; or
  - (b) an unfair labour practice relating to probation.
4. If the respondent party fails to appear or be represented at a hearing scheduled in terms of Rule 11.1, the Council commissioner must conduct the con-arb on the date specified in the notice issued in terms of Rule 11.1 or adjourn the proceedings until a later date.
5. Rule 11.4 shall apply irrespective of whether a party has lodged a notice of objection in terms of Rule 11.2.
6. The provisions of the Act and these Rules that are applicable to conciliation and arbitration, respectively, apply, with the changes required by the context, to con-arb proceedings.
7. If the arbitration does not commence on the dates specified in terms of the notice in Rule 11.1 the Council must schedule the matter for arbitration either in the presence of the parties or by issuing a notice in terms of Rule 23.

**PART C****ARBITRATION OF DISPUTES**

**[Part D does not apply to arbitrations in respect of failure to comply with the provisions of a collective agreement in terms of section 33A (4) of the Act]**

**12. Referral of a dispute to arbitration**

1. The Council may immediately schedule a dispute for arbitration if the dispute remains unresolved after conciliation, and the Council has jurisdiction to arbitrate the dispute, unless the applicant indicates that he/she does not want the dispute to proceed to arbitration.
2. An applicant may indicate that he/she does not want the dispute to proceed to arbitration by—
  - (a) completing the relevant provision in the referral form;
  - (b) not signing the relevant provision on the Certificate of outcome;
  - (c) any other form of communication.
3. If an applicant has indicated on the Certificate of Outcome that he/she does not wish to refer the dispute to arbitration, and he/she subsequently decides to refer the dispute to arbitration, the applicant must complete a form referring the dispute to arbitration, serve a copy of the form on the employer and file the form with the Council with proof of service.
4. If the referral form submitted in terms of Rule 12.3 is filed with the Council more than 90 days after the Certificate of Outcome has been issued, the applicant will have to apply to the Council for condonation in terms of Rule 6.
5. If an applicant has indicated on the referral form, or on the Certificate of Outcome or in any other communication that he/she wants the dispute to proceed to arbitration, and he/she subsequently decides not to proceed to arbitration, he/she must notify the Council of his/her intention more than seven days prior to the scheduled date of arbitration.

**13. When parties may be directed to file statements**

1. The Council or a council commissioner may direct—
  - (a) the referring party in an arbitration to file a statement of case within a specified time period; and
  - (b) the other parties to file an answering statement within a specified time period.
2. A statement in terms of Rule 13.1 must—
  - (a) set out the material facts upon which the party relies and the legal issues that arise from the material facts;
  - (b) be filed within the time-period specified with the Council or council commissioner.

**14. When parties may be directed to hold a pre-arbitration conference**

The parties to an arbitration must hold a pre-arbitration conference dealing with the matters referred to in Rule (2) if directed to do so by the Council or a council commissioner.

**15. What notice the council must give of an arbitration hearing**

The Council must give the parties at least 14 days' notice in writing of an arbitration hearing, unless the parties agree to a shorter period.

**16. How to postpone an arbitration**

1. The Council must postpone an arbitration without the parties appearing if—
  - (a) all the parties to the dispute agree in writing to the postponement; and
  - (b) the written agreement for the postponement is received by the Council more than seven days prior to the scheduled date of the arbitration; and
  - (c) there are compelling reasons to postpone.
2. Any party may apply in terms of Rule 23 to postpone an arbitration, by serving an application on the other parties to the dispute and filing a copy with the Council before the scheduled date of the arbitration.

**PART E****RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS AND CON-ARBS****17. Who may represent a party at the Council**

1. A party may appear in person at any proceedings before the Council or be represented by—
  - (a) a legal practitioner;
  - (b) a member, official or office bearer of a registered trade union of which the party was a member at the time the dispute arose;
  - (c) an official or office-bearer of a registered employers' organisation, or registered employers' federation that the party was a member at the time of the dispute arose;
  - (d) a director, employee, trustee or partner in a partnership of that party;
  - (e) if proceedings are brought or opposed by more than one party, another party to the dispute.
2. Notwithstanding Rule 17.1 (a), above, if the dispute is about the fairness of a dismissal and a party, has alleged that the reason for the dismissal relates to the employees' conduct or incapacity, the parties are not entitled to be represented by practising lawyers in the proceedings unless—
  - (a) the council commissioner and the other parties consent;
  - (b) the council commissioner concludes that it is unreasonable to expect the party to deal with the dispute without legal representation, after considering—
    - (i) the nature of the questions of law raised by the dispute;
    - (ii) the complexity of the dispute;
    - (iii) the public interest; and
    - (iv) the comparative ability of the opposing parties or their representatives to deal with the dispute.

**18. How to join or substitute parties to proceedings**

1. The Council or a council commissioner may joint any number of persons as parties in proceedings, if the right to relief depends on substantially the same question of law or fact.
2. A council commissioner may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.
3. A council commissioner may make an order in terms of Rule 18.2—
  - (a) of the council commissioner's own accord;
  - (b) on application by a party; or

- (c) if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.
4. An application in terms of this Rule must be made in terms of Rule 23.
  5. If, in any proceedings, it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Council for an order substituting that person for an existing party, and a council commissioner may make such order or give appropriate directions as to the further procedure in the proceedings.
  6. An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.
  7. Subject to any order made in terms of Rules 18.2 and 18.2, a joinder or substitution in terms of this Rule does not affect any steps already taken in the proceedings.
19. **How to correct the citation of a party**  
If a party to any proceedings has been incorrectly or defectively cited, the Council may, on application and on notice to the parties concerned, correct the error or defect. The application must be made in terms of Rule 23.
20. **When the Council may consolidate disputes**  
The Council or a council commissioner, of its own accord or on application, may consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.
21. **Disclosure of documents**  
Any party may request a council commissioner to make an order requiring any other party to the dispute to disclose all relevant documents.
22. **What happens if a party fails to attend proceedings before the Council**
  1. If a party to a dispute fails to attend in person or be represented at any proceedings before the Council, and that party—
    - (a) has referred the dispute to the Council, a council commissioner may dismiss the matter by issuing a written ruling; or
    - (b) has not referred the matter to the Council, the council commissioner may—
      - (i) continue with the proceedings in the absence of that party; or
      - (ii) adjourn the proceedings to a later date.
  2. A council commissioner must be satisfied that the party has been properly notified of the date, time and venue of the proceedings, before making any decision in terms of Rule 22.1.
  3. If a matter is dismissed, the Council must send a copy of the ruling to the parties.

## PART F

### APPLICATIONS

23. **How to bring an application**
  1. An application must be brought on notice to all persons who have an interest in the application.
  2. The party bringing the application must sign the notice of application and must state—
    - (a) the title of the matter;
    - (b) the case number assigned to the matter by the Council;
    - (c) the relief sought;
    - (d) the address at which the party delivering the document will accept delivery of all documents and proceedings;
    - (e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen days after the application has been delivered to it;
    - (f) that the application may be heard in the absence of a party that does not comply with paragraph (e); hereof;
    - (g) a schedule listing the documents that are material and relevant to the application.
  3. The application must be supported by an affidavit. The affidavit must clearly and concisely set out—
    - (a) the names, description and addresses of the parties;
    - (b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;
    - (c) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;

- (d) if the application is filed outside the relevant time period, grounds for condonation in accordance with Rule 6; and
  - (e) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these Rules.
4. The application must be served on all the parties to the application and on all the parties to the original dispute. Proof of service on these parties must accompany the application that is filed with the Council.
  5. (a) Any party opposing the application may deliver a notice of opposition and an answering affidavit within fourteen days from the day on which the application was served on that party.
  - (b) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by Rules 3.3 and 3.4 respectively.
  6. (a) The party initiating the proceedings may deliver a replying affidavit within seven days from the day on which any notice of opposition and answering affidavit are served on it;
  - (b) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.
  7. A council commissioner may permit the affidavits referred to in this Rule to be substituted by a written statement.
  8. In an urgent application, a council commissioner may—
    - (a) dispense with the requirements of this Rule; and
    - (b) only grant an order against a party that has had reasonable notice of the application.
  9. (a) The Council may allocate a date for a hearing of the application once a replying affidavit has been delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first;
  - (b) The Council must notify the parties of the date, time and place of the hearing of the application;
  - (c) Applications may be heard on a motion roll on a day determined by the Council.
  10. Notwithstanding this Rule, a council commissioner may determine an application in any manner he/she deems fit. A council Commissioner may consider the application on written submissions only.
- 24. How to apply to vary or rescind arbitration awards or rulings**
1. An application for the variation or rescission of an arbitration award or ruling must be made within fourteen days of the date on which the applicant became aware of—
    - (a) the arbitration award or ruling; or
    - (b) a mistake common to the parties to the proceedings.
  2. A ruling made by a council commissioner, which has the effect of a final order, will be regarded as a ruling for the purposes of this Rule.
- 25. How to refer a dismissal dispute to the Labour Court**
1. An application in terms of section 191 (6) of the Act to refer a matter to the Labour Court, must be made within fourteen days of the dispute being certified unresolved in conciliation.
  2. Notwithstanding Rule 25.1 a party that requests arbitration may not thereafter make an application in terms of section 191 (6).
  3. The application must state the grounds on which a party relies in requesting that the dispute be referred to the Labour Court.
  4. If any party to the dispute objects to the matter being referred to the Labour Court, that party must state the grounds for the objection within seven days of receipt of the application.
  5. The Council must notify the parties of its decision in terms of section 191 (8) within fourteen days of receiving the objection.

## PART G

### PRE-DISMISSAL ARBITRATIONS

**26. How to request a pre-dismissal arbitration in terms of section 188A**

1. An employer requesting the Council to conduct a pre-dismissal arbitration, must do so by delivering a completed referral form to the Council.
2. The employee must sign the referral form consenting to pre-dismissal arbitration. If an employee has consented in terms of section 188A (4) (b)<sup>1</sup>, the referral form does not have to be signed by the employee, but the copy of the contract containing the consent must be attached to the form.
3. When filing the referral form, the employer must pay the prescribed fee to the Council. Payment of the fee may be made only by—
  - (a) bank-guaranteed cheque; or

- (b) electronic transfer into the bank account of the Council.
- 4. Within fourteen days of receiving a request in terms of Rule 26.1 and payment of the prescribed fee, the Council must notify the parties to the pre-dismissal arbitration of when and where the pre-dismissal arbitration will be held.
- 5. Unless the parties agree otherwise, the Council must give the parties at least fourteen days' notice of the commencement of the pre-dismissal arbitration.
- 6. The Council is required to refund a fee paid in terms of Rule 26.3 only if the Council is notified of the resolution of the matter prior to issuing a notice in terms of Rule 26.4.

## **PART H**

### **GENERAL**

#### **27. Unrepresented applicants without postal addresses and fax numbers**

- 1. An unrepresented applicant who intends to refer a dispute to the Council and who does not have a postal address or fax number must hand-deliver the referral form to the Council.
- 2. If a referral form is received by hand delivery by an unrepresented applicant, the Council must provide the applicant with a case number and written instructions to contact the Council by telephone or in person, within seven days of the date of referral, in order for the Council to notify the applicant of the details of the hearing.
- 3. The administrator who notifies the applicant of the hearing in terms of Rule 27.2 must record on the case file and on the case management system that the applicant has been notified of the details of the hearing.
- 4. The record made in terms of Rule 27.3 will constitute proof that the applicant was notified of the hearing.

#### **28. Condonation for failure to comply with the Rules**

The Council or a council commissioner may condone any failure to comply with the time frames in these rules, on good cause shown.

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<sup>1</sup>Only an employee whose earnings exceed the amount determined by the Minister in terms of section 6 (3) of the Basic Conditions of Employment Act may consent to pre-dismissal arbitration in a contract of employment.

#### **29. Recordings of Council proceedings**

- 1. The Council must keep a record of—
  - (a) any evidence given in an arbitration hearing;
  - (b) any sworn testimony given in any proceedings before the Council; and
  - (c) any arbitration award or ruling made by a council commissioner.
- 2. The record may be kept by legible hand-written notes or by means of an electronic recording.
- 3. A party may request a copy of the transcript of a record or a portion of a record kept in terms of Rule 29.2 on payment of the costs of the transcription.
- 4. After the person who makes the transcript of the record has certified that it is correct, the record must be returned to the Council.
- 5. The transcript of a record certified as correct in terms of Rule 29.4 shall be presumed to be correct, unless the Labour Court decides otherwise.

#### **30. How to have a subpoena issued**

- 1. Any party who requires the Council or a council commissioner to subpoena a person in terms of section 142 (1) of the Act, must file a completed subpoena form, requesting a subpoena together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary.
- 2. A party requesting the Council to waive the requirement for the party to pay witness fees in terms of section 142 (7) (c) must set out the reasons for the request in writing at the time of requesting the Council to issue a subpoena in respect of that witness.
- 3. An application in terms of Rule 30.1 must be filed with the Council at least ten days before the arbitration hearing, or as directed by the council commissioner hearing the arbitration.
- 4. The Council or a council commissioner may refuse to issue a subpoena if—
  - (a) the party does not establish why the evidence of the person is necessary;
  - (b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
  - (c) the Council or a council commissioner is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.



5. A subpoena must be served on the witness subpoenaed—
  - (a) by the person who has requested the subpoena or by the Sheriff, at least seven days before the scheduled date of the arbitration;
  - (b) if so directed by the Council, accompanied by payment of the prescribed witness fees for one day in accordance with the tariff of allowances published by notice in the *Gazette* in terms of section 142 (7) of the Act and the witnesses' reasonable travel costs.
6. Sub-rules 4 (c) and 5 (b) do not apply if the Council in terms of section 142 (7) (c) has waived the requirement for the party to pay witness fees.

### 31. Payment of witness fees

1. A witness subpoenaed in any proceedings in the Council must be paid a witness fee in accordance with the tariff of allowances published by notice in the *Gazette* in terms of section 142 (7) of the Act.
2. The witness fee must be paid by—
  - (a) the party who requested the Council to issue the subpoena; or
  - (b) the Council, if the issue of the subpoena was not requested by a party or if the Council waives the requirement to pay witness fees in terms of section 142 (7) (c).
3. Notwithstanding Rule 31.1, the council commissioner may, in appropriate circumstances, order that a witness receive no fee or only part of the prescribed fee.

### 32. Taxation of bills of cost

1. The basis on which a council commissioner may make an order as to costs in any arbitration is regulated by section 138 (10) of the Act.
2. The Council may appoint taxing officers to perform the functions of a taxing officer in terms of these Rules.
3. The taxing officer must tax any bill of costs for services rendered in connection with proceedings in the Council on Schedule A of the prescribed Magistrate's Courts tariff, in terms of the Magistrates' Courts Act, No. 32 of 1944, unless the parties have agreed to a different tariff.
4. At the taxation of any bill of costs, the taxing officer may call for any book, document, paper or account that in the taxing officer's opinion is necessary to properly determine any matter arising from the taxation.
5. Any person requesting a taxation must complete a referral form requesting taxation and must satisfy the taxing officer—
  - (a) of that party's entitlement to be present at the taxation; and
  - (b) that the party liable to pay the bill has received notice of the date, time and place of the taxation.
6. Notwithstanding Rule 32.4, notice need not be given to a party—
  - (a) who failed to appear or to be represented at the hearing; or
  - (b) who consented in writing to the taxation taking place in that party's absence.
7. Any decision by a taxing officer shall be subject to review by the Labour Court.

### 33. What words means in these rules

Any expression in these Rules that is defined in the Labour Relations Act, 1995 (No. 66 of 1995), has the same meaning as in that Act and—

"Act" means the Labour Relations Act, 1995 (Act No. 66 of 1995), and includes any regulation made in terms of that Act,"

"chief executive officer" means the chief executive officer of the Council (CEO);

"con-arb" means proceedings held in terms of section 191 (5A), where an arbitration commences immediately after certification that the dispute remains unresolved in conciliation;

"Council" means the Metal and Engineering Industries Bargaining Council registered in terms of section 29 of the Act;

"council commissioner" means an individual appointed by the council to resolve disputes;

"deliver" means serve on other parties and file with the Commission;

"file" means to lodge with the Council in terms of Rule 4;

**"Labour Court"** means the Labour Court established by section 151 of the Act and includes any judge of the Labour Court;

**"party"** means any party to proceedings before the Council;

<sup>2</sup> The following words used in the Rules are defined in section 213 of the Act: Dispute, dismissal, employee, employers' organisation, trade union, and workplace.

**"public holiday"** means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994), and includes—

- 1 January, New Year's Day
- 21 March, Human Rights Day
- Easter Friday and Monday
- 27 April, Freedom Day
- 1 May, Workers' Day
- 16 June, Youth Day
- 9 August, National Women's Day
- 24 September, Heritage Day
- 16 December, Day of Reconciliation
- 25 December, Christmas Day
- 26 December, Day of Goodwill;

**"Rules"** means these Rules;

**"taxing officer"** means any competent person appointed by the Secretary in terms of Rule 32.

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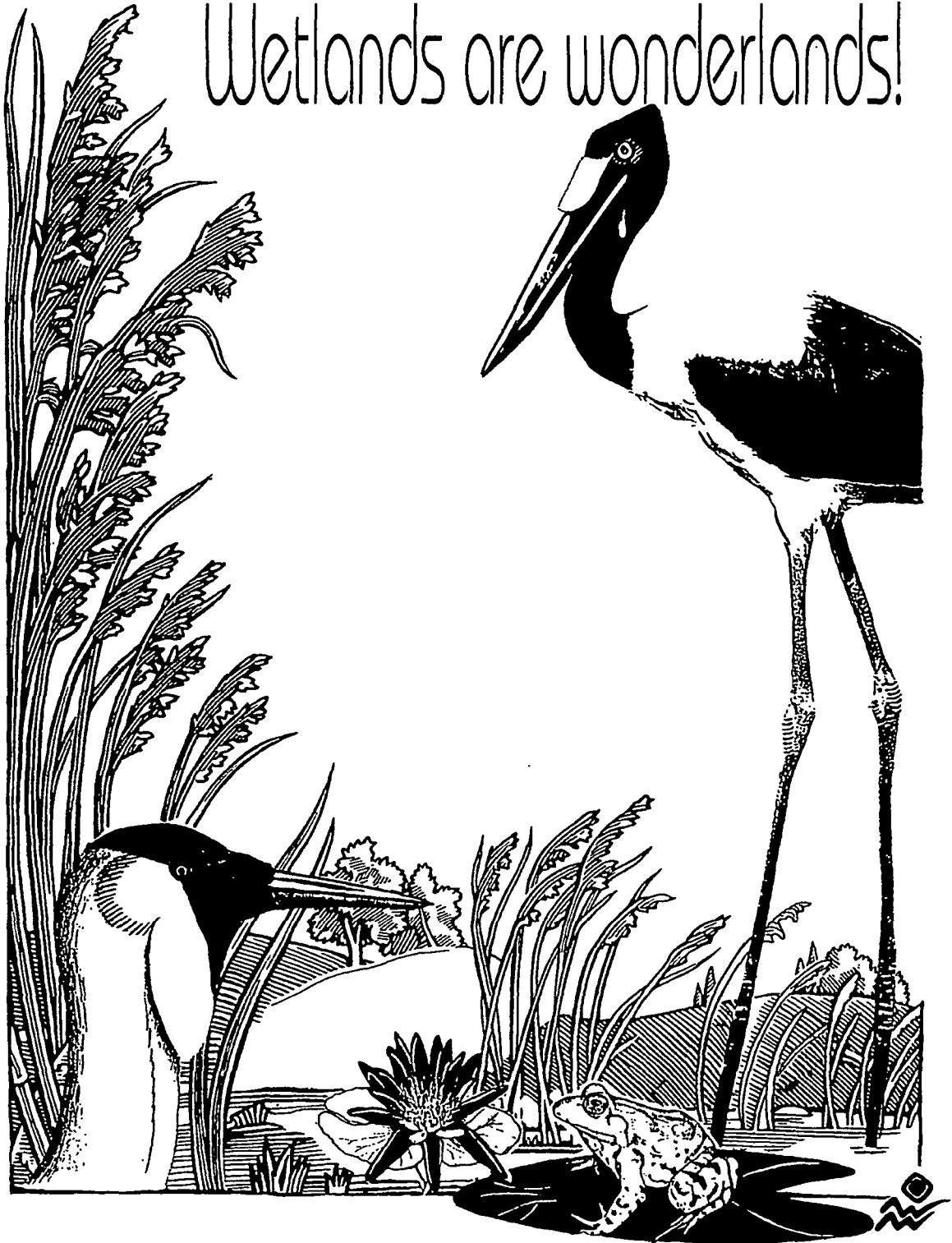
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