

No. R. 897

8 September 2005

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)**APPROVAL OF CONSTITUTION OF INSURANCE SECTOR EDUCATION AND
TRAINING AUTHORITY (SETA 13)**

The Minister of Labour has on 1 April 2005 in terms of section 13 (1) of the Skills Development Act, approved the constitution of the INSURANCE SECTOR EDUCATION AND TRAINING AUTHORITY as set out in the Schedule.

SCHEDULE



inseta

INSURANCE SECTOR EDUCATION
AND TRAINING AUTHORITY

Working together for a skilled tomorrow

**Constitution of the Insurance
Sector Education and Training Authority (INSETA)
(Amended July 2005)**

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LEGAL ENTITY

Purpose of the Constitution The purpose of this Constitution is to provide an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the South African workforce.

Name The name of this Sectoral Education and Training Authority (SETA) is the Insurance SETA, hereinafter referred to as **INSETA**.

Legal Status This is the Constitution of **INSETA** established in accordance with Sections 9 of the Act.

Address The address of this SETA is:

INSETA
11 St. Andrews Road
Oakhurst office Park
North Wing, Ground Floor
Parktown
2193

Tel: (011) 544 2000
Fax: (011) 484 0862
E-Mail: info@inseta.org.za

Legal Personality INSETA is a public entity listed in schedule 3a of the PFMA and will:

- Have a separate identity and existence distinct from its office bearers, constituents and representatives;
- Hold property and assets distinct from its office bearers, constituents and representatives;
- Not be entitled to carry on any business which has for its object the acquisition of gain for itself or its ~~office~~ bearers, representatives or constituents;
- Be required to use its funds solely for the objects for which it has been established or for investment in terms of an investment policy as approved by the National Treasury;
- Shall be entitled to raise funds, generate income and charge fees in accordance with any relevant legislation;
- Be capable at law of suing and being sued, of investing funds and of operating banking and other accounts, of entering into contracts and doing or performing such other acts or things as body corporates may do or perform, subject to the provisions of this constitution and the Act;
- Continue to exist notwithstanding changes in its office bearers, constituents or representatives; and
- Be dissolved in accordance with the requirements of the Act, should dissolution become necessary for any reason.

Period of Existence	INSETA shall, by its certificate of establishment, continue to exist for a period of 60 months in accordance with the Regulations published under Regulation number 20442 dated 7 September 1999 and shall 12 months prior to the expiry of its first certificate, apply for renewal thereof in accordance with the prevailing provisions or regulations of the Act
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Legislative Framework	<p>The Constitution must be read in conjunction with the following legislation and any amendments thereto:</p> <ul style="list-style-type: none"> ▪ Skills Development Act, 1998 (Act No. 97 of 1998). ▪ Skills Development Levies Act, 1999 (Act No. 9 of 1999). ▪ South African Qualifications Authority Act, 1995 (Act No. 58 of 1995). ▪ Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended.
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Process of amending the Constitution	<p>The provisions of this Constitution may be amended only</p> <ul style="list-style-type: none"> ▪ by the decision of at least two thirds of the Council members present at a quorate meeting of the Council; and ▪ if approved by the Minister. <p>There must be at least 30 days notice of a meeting at which an amendment of the Constitution is to be considered.</p> <p>The secretary must send copies of any proposed amendment together with the agenda for the meeting.</p>
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DEFINITIONS

“The Act”	means the Skills Development Act, 1998 (Act No. 97 of 1998), together with any Regulations;
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“Alternate”	means a person appointed to act on behalf of a Council member of INSETA in the absence of the latter;
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“Authority”	means the Insurance Sector Education and Training Authority as defined in the Skills Development Act;
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“Chairperson”	means the Chairperson of the Council as provided for in this Constitution;
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“Chief Executive Officer”	means the Chief Executive Officer of INSETA duly appointed by Council and responsible to Council as per terms and conditions as stipulated in his/her Employment Contract or any other written delegation/decision by Council;
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“Committee”	means a standing committee established by Council or the Executive Management Committee, functioning in accordance with its approved Terms of Reference;
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“Council”	means a Governing body of INSETA;
“Council member”	means a person nominated by their respective stakeholder grouping and appointed in terms of this Constitution;
“Employees”	means a person or persons duly appointed by the Chief Executive Officer as per Council's approved terms and conditions;
“Financial year”	means the period commencing on 1 April each year and ending on the 31st of March of the following year;
“General”	means any expression which is not specifically defined below, but which is defined in the Act shall, unless the contrary intention is apparent from the wording contained herein, bear the meaning assigned to it in the Act;
“Grants”	means <ul style="list-style-type: none"> ■ money that can be claimed back by member organisations for NQF related training and development that has been conducted; ■ block grants as per national process;
“INSETA”	means the Insurance Sector Education and Training Authority;
“Learnerships”	means “learnerships” as defined in the Skills Development Act, 1998 (Act no 97 of 1998) and any amendment thereto;
“Levy”	means “levy” as described in the Skills Development Levies Act, 1999 (Act no 99 of 1999) and any amendment thereto;
“L R A”	Means the Labour Relations Act, No 66 of 1995 and any amendment thereto;
“Levy Paying Entity”	means an organisation that is registered with INSETA as a constituent of a Stakeholder grouping;
“NQF”	means the National Qualifications Framework as established by the SAQA Act, 1995 (Act no 58 of 1995) and any amendment thereto;
“Qualifications”	means “qualifications” as defined in the SAQA Act, 1995 (Act no 58 of 1995) and any amendment thereto;

“Quorate”	means a Council meeting that has a quorum according to this Constitution;
“Relevant Government Department”	means, for the purposes of INSETA, the Department of Labour, the Department of Education: the Financial Services Board and the SA Qualifications Authority;
“SAQA”	means the South African Qualifications Authority established by section 3 of the SAQA Act, 1995 (Act no 58 of 1995);
“Secretary”	means the secretary of the Council appointed in terms of section 10 (l)(j) of the Act;
“sector”	means the insurance sector as determined by the Minister of Labour;
“Sector Skills Plan”	means a plan as defined and required in terms of the Act;
“SETA”	means a Sector Education and Training Authority established under the Skills Development Act;
“Stakeholder”	means an organised employer body, an organised employee body, or trade union registered in terms of the LRA and active in the Sector or special interest group that may be agreed between the INSETA and the Minister from time to time;
“Stakeholder Grouping”	means the groups specified in terms of section 11 of the Act;
“Unit standard”	means registered statements of desired education and training outcomes and their associated assessment criteria together with administrative and other information as specified in these regulations in accordance with SAQA’s definition.

SCOPE AND COVERAGE

Area of Jurisdiction—	<p>INSETA shall have jurisdiction over all skills development and all aspects thereof in the Sector as constituted from time to time and as determined by the Minister of Labour</p> <p>Any undertaking having common interests or associations with the Sector may voluntarily participate in the activities of INSETA under such conditions as may be determined by INSETA.</p> <p>Subject to the agreement of INSETA, persons or bodies of the Sector operating in the states neighbouring South Africa may also voluntarily participate in the activities of INSETA under such conditions as may be determined by INSETA.</p>
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National Economic Sector	The Insurance Sector as defined by the Minister as a discrete National Economic Sector as published in the Government Gazette notice No. R. 316 of 31 March 2005.
Sub-sector	<p>The following sub-sectors are established and included in the Insurance Sector:</p> <ul style="list-style-type: none"> ▪ Short Term Insurance • Long Term Insurance ▪ Healthcare Benefits Administration ▪ Funeral Insurance • Pension Funding ▪ Reinsurance ▪ Unit Trust ▪ Risk Management ▪ Insurance and Pension Funding ▪ Activities auxiliary to Financial Intermediation ▪ And any other sub-sectors defined by the Minister from time to time
Employers	Employers liable to contribute levies in terms of the Skills Development Act.
Functions	The main functions within INSETA are as defined in section 10(1) of the Act and any Regulation or amendment thereto.
Functions delegated	INSETA may delegate any of its powers and functions as necessary to a Committee or a Service Provider with conditions in accordance with its Constitution. The delegation of authority in terms of this Constitution does not relieve INSETA of overall responsibility and accountability for its duties in terms of the Act.
Type of Skills Development	INSETA will facilitate skills development in terms of the National Skills Development Strategy and the Insurance Sector Skills Plan.

ESTABLISHMENT OF COMMITTEES AND STRUCTURES

Establishment of committees and structures	<p>Council may establish any standing committee, ad hoc committee or structure to assist it in the performance of its functions and must determine-</p> <ul style="list-style-type: none"> ▪ the membership of the committee or structure; ▪ its functions; and ▪ its written terms of reference.
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Membership of a committee or structure -	<p>Membership of a committee or structure</p> <ul style="list-style-type: none"> ▪ is to be determined by the role and function that the committee is perform in accordance with the terms of reference of the committee ; and ▪ is not restricted to members of Council.
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MEETING PROCEDURES OF COMMITTEES, OTHER THAN COUNCIL

Ordinary meetings	<p>In respect of meetings, whether in the form of a physical meeting, telephone conference call, video conference, internet meeting or e-mail meeting, of any committee or structure of the Authority, the Chairperson must -</p> <ul style="list-style-type: none"> ▪ give at least 10 working days written notice of the forthcoming meeting to members; and ▪ include an agenda with the notice.
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Special meetings	<p>The Chairperson of any committee or structure may, on grounds of urgency, call a special meeting, whether in the form of a physical meeting, telephone conference call, video conference, internet meeting or e-mail meeting, of that committee or structure on 48 hours' notice.</p>
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Chairperson	<p>The chairperson must preside at meetings of the committee or structure to which he has been appointed. If the chairperson is absent from the meeting then the vice-chairperson must preside at the meeting. If the vice-chairperson is absent then members at the meeting must elect a member from amongst themselves to act as chairperson at that meeting.</p>
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Quorum at meetings	<p>A quorum at a meeting, whether in the form of a physical meeting, telephone conference call, video conference, internet meeting or e-mail meeting, consists of at least half of the total members plus one member. If, within one hour of the time fixed for a scheduled meeting, a quorum is not present, then that meeting must stand adjourned to a day, time and place determined by the chairperson and the members present at the adjourned meeting form a quorum. The Chairperson must notify members who were absent from the scheduled meeting of the adjourned meeting.</p>
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Voting rights and decisions at meetings	<p>Each member has a single vote on any matter before a meeting for its decision. Proxy votes will not be allowed. Any policy decision at a meeting requires the support of at least two thirds of members present. Any operational decision at a meeting requires the support of at least 50% plus one of the members present. Decisions must be made by way of a show of hands or, if at least half the members present so require, by way of closed ballot. In the event of an equality of votes, the chairperson has a casting vote.</p>
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Minutes of meetings

The Chairperson must appoint a person to –

- take minutes of the meeting;
- forward the minutes to the members within two weeks of the meeting; and
- table the minutes at the next meeting, for approval by the members.

The chairperson of the meeting must sign the minutes as confirmation of their correctness.

THE COUNCIL**Representation**

The representation of the interests of employers and employees shall be equal and Council will consist of persons representing:

- organised labour;
- organised employers including small business;
- relevant government departments
- and the Chief Executive Officer of the INSETA (non voting)

If the Minister, after consultation, considers it appropriate for the sector

- any interested professional body;
- any bargaining Council within the jurisdiction of the sector

Members of the Council

INSETA must appoint the number of representatives indicated in the schedule below and as amended from time to time in accordance with the appointment procedure of this Constitution.

Stakeholder Groups	Number of Representatives
Organised Labour	6
Organised Employers	6
Relevant Government Departments	1

Period of appointment

Council members are appointed at its annual general meeting for a period of two years and are eligible for re-appointment.

Responsibilities of Council Members

All representatives elected to Council will be required to:

- Represent the interests of constituents in their discipline, who are registered with INSETA;
- Demonstrate that they fall within the appropriate constituency;
- Demonstrate that they have a sufficient mandate to act on behalf of the constituents they represent;
- Commit time and effort to attending to the affairs of INSETA;
- Demonstrate their involvement in and commitment to the national interests of education and training; and
- Consult regularly with the constituents, whose interests they represent, and provide regular feedback to such constituents.

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Procedure for the Appointment of Council members

The Council shall determine the date and place of the special meeting at which the appointment is to take place.

At least 21 days before the meeting the secretary shall forward to Stakeholders a Notice of a meeting which shall set out the following matters:

- A statement that nominations are required for the appointment of Council members representative of the Stakeholders.
- The number of Council members to be appointed; and
- The closing date for receipt of nominations, which shall be not less than 48 hours before the date of the meeting.

Any Stakeholder shall be entitled to nominate representatives for appointment as a Council member. The nomination of any Stakeholder representatives shall be conducted in accordance with the rules and regulations of that particular Stakeholder.

Each nomination shall be signed on behalf of the nominator and the nominee.

Each retiring Council member shall be eligible for re-appointment.

The secretary shall determine which of the nominations are in order. If only the required number of valid nominations to fill the available positions is received, the nominees shall be declared appointed at the annual general meeting of the Council.

If the nominations received for appointment exceed the number of positions to be filled, an election by ballot shall be held at the meeting. Each Stakeholder present at the meeting may cast their vote. Voting by proxy shall not be permitted. The secretary shall conduct the election and the Chairperson may appoint such persons present at the meeting who are not nominees to act as scrutineers and to assist the secretary in the conduct of the ballot.

If no nominee receives a majority of the votes the nominee who receives the lowest number of votes must be eliminated and a further vote taken on the remaining nominees.

The Chairperson of the meeting shall declare the result of the election.

Removal/ replacement from Council

The Council may remove and or replace a member from the Council for any one of the following:

- ~~on the expiration of a term of office~~
- on the voluntary resignation of the appointee
- on the written request of a Stakeholder
- he/she ceases to be employed within the insurance sector;
- for misconduct or bringing INSETA into disrepute in terms of the Code of Conduct,
- for incapacity,
- for being absent from three consecutive meetings without good cause or apology.

Replacement Procedures	A vacant position on the Council through removal or replacement will be filled in terms of the "Appointment procedure of Council members".
Chairperson and Deputy Chairperson	<p>The Chairperson and Deputy Chairperson must be elected by the appointed members of the Council within one (12) month of the Annual General Meeting.</p> <p>The Chairperson and Deputy Chairperson of the Council shall hold their respective offices until the next annual general meeting and shall be eligible for re-election.</p> <p>Once a new Chairperson and Deputy Chairperson is appointed the current Chairperson and Deputy Chairperson's duties terminate.</p> <p>In the absence of the Chairperson, the Deputy Chairperson will perform the Chairpersons' functions and in the event of both being absent the Council may appoint a temporary Chairperson to perform these functions.</p> <p>If the Chairperson or Deputy Chairperson as the case may be, ceases to hold their positions in terms of "Removal/replacement from Council" then the Council may appoint a Chairperson or Deputy Chairperson as the case may be until the next election.</p> <p>The Chairperson and Deputy Chairperson shall have the authority and powers assigned to them from time to time by the Council.</p>
Chief Executive Officer	<p>The Chief Executive Officer will be responsible for the administrative and secretarial work arising from the functioning of the Council and for performing the duties imposed by the Authority in terms of the Act and this Constitution.</p> <p>All SETA functions as recorded in terms of Section 10 of the Skills Development Act is delegated to the Chief Executive Officer and is authorised to delegate same.</p>
Conduct of members	Council members must perform their functions in good faith, giving full effect to the obligations and spirit of the Act and the Code of Conduct.
Code of conduct	The Council has approved a Code of Conduct for INSETA.
Dispute resolution	Any party to a dispute concerning the interpretation or application of this Constitution may refer the dispute to the Executive Officer of the SETA.
Dispute procedure	<p>The referral must:</p> <ul style="list-style-type: none"> ■ be in writing; ■ adequately describe the dispute; and ■ be delivered to every other party to the dispute by the party referring the dispute. <p>The Executive Officer must, as soon as reasonably practicable, refer the dispute to the Executive Committee, which must endeavour to resolve the</p>

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dispute by conciliation within 30 days of referral of the dispute.

If the Executive Committee fails to resolve the dispute within 30 days of its referral, then any party to the dispute may refer it for arbitration by an arbitrator appointed in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).

The arbitrator must be agreed to by the parties to the dispute with the approval of the Chairperson of the SETA or, failing such agreement or approval, by an arbitrator appointed by the Chairperson of the SETA.

The arbitrator must first attempt to conciliate the dispute. If conciliation is not possible, then the arbitrator must arbitrate the dispute.

The arbitrator must conduct the arbitration in a manner that he or she considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formality.

Within 14 days of the arbitration proceedings:

- the arbitrator must issue a signed arbitration award with reasons; and
- the Executive Officer must provide a copy of the award to every party to the dispute

The arbitration award is final and binding on the parties to the dispute.

The costs of the arbitration must be borne equally by the parties to the dispute. The arbitrator may however make a different and appropriate award of costs if:

- a party to the dispute, without reasonable cause, refuses or fails to attend the arbitration or unduly delays arbitration proceedings; or
- the arbitrator is of the view that a party pursuing or resisting the dispute did so vexatiously or frivolously or had no reasonable prospect of succeeding.

An arbitrator may, at his or her own initiative or as a result of an application by an affected party, vary or rescind an award:

- erroneously sought or made in the absence of any party affected by the award;
- in which there is ambiguity, or any obvious error or omission, but only to the extent of the ambiguity, error or omission; or
- granted as a result of a mistake common to the parties to the proceedings.

Meetings of the Council

The Council must meet at least four (4) times a year.

The secretary must give written notice of meetings together with the agenda to Council members on

- the instructions of the Chairperson;
- at least seven (7) days written notice.

The Chairperson must preside over all meetings. In the event of the Chairperson being absent the Deputy Chairperson must preside. If there is no Deputy Chairperson at the meeting, then the Council must appoint one of the Council members present to preside.

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A decision taken at a meeting cannot be rendered invalid due to

- a vacancy or,
- an unauthorised person attending a meeting.

The Chief Executive Officer's must ensure that proper minutes of all meetings of the Council are taken, distributed and retained.

Any member who has a direct, personal or financial interest in any matter before the meeting must, before the matter is discussed by the meeting, declare such interest to the meeting and the Chairperson must determine whether such member may participate in the consideration of the matter.

Voting rights	Every Council Member shall have one vote at a Council meeting. The Chairperson shall have a second or casting vote.
Voting at Council meetings	Unless the Constitution provides otherwise, every motion submitted at any meeting shall be decided by a majority of votes and voting must be by a show of hands of those Council members present, in which case every Council member present or represented shall have one vote and in the case of an equality of votes the Chairperson shall have a casting vote.
Quorum	<ul style="list-style-type: none"> ■ At least 50% plus one of the appointed Council members must be present before a meeting may begin or continue. ■ If, at the time fixed for a meeting to begin or continue, and for 30 minutes after that time, there is no quorum present, the meeting must be adjourned to the same place at the same time on the corresponding day of the following week unless that day is a public holiday, in which case the meeting must be adjourned to the business day immediately following the public holiday. ■ A meeting that has been adjourned in terms of above may proceed on the date to which it was adjourned with the Council member present at the time called for the meeting constituting a quorum. ■ The Council may adopt general rules of procedure for its meetings. However, in the event of any conflict between those rules and this Constitution, the provisions of this Constitution will prevail.
Special meetings	A special meeting of the Council may be called by the Chairperson at the written request of at least two Council members or when the Chairperson deems it necessary.
Proxies	Voting by proxy is permitted at any general meeting of the Council. Every instrument constituting a proxy must be in writing under the hand of the Council Member or the Council Members Representative and must be deposited with the Chairperson or the Secretary not later than the commencement of the meeting or adjourned meeting.

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- Monitoring effective financial management including the approval of budgets and all capital expenditure, fund raising and income generation;
- Promoting the objectives and interests of INSETA;
- Establishing committees and chambers as is more specifically provided for in sections 12 and 13 (3)(vii) of the Act;
- Terminating the employment of the chief executive officer;
- Approving the Business Plan that is submitted to the Department of Labour for final approval; and
- Approving the annual budget.
- Approving the Annual Financial Statements

Taking over
administration of
INSETA

The Minister may after consultation with the National Skills Authority, by Notice in the gazette, direct the Director-General to appoint an administrator to take over the administration of INSETA as contemplated in section 15 of the Act

THE EXECUTIVE MANAGEMENT COMMITTEE

**Powers and
Duties**

The Executive Management Committee shall be responsible for the management and monitoring of the operational affairs of INSETA. It shall exercise such powers and functions as may be entrusted or delegated to it by the Council and its Terms of Reference as approved by Council. The Executive Committee shall be responsible to and report to the Council.

The Executive Management Committee may appoint such Sub-committees, as it may deem appropriate for the purposes of fulfilling the requirements and objectives entrusted to it

The Executive Committee shall not be entitled to decide questions of general policy but shall be entitled to make recommendations on such matters to Council.

The Executive Management Committee shall consist of the members as appointed by Council according to its Terms of Reference. The Committee may choose to invite the Chairpersons of the EXECUTIVE COMMITTEE Sub-Committees to attend meetings of EXECUTIVE COMMITTEE, should they deem it necessary.

FINANCES AND CORPORATE GOVERNANCE

Financing of
INSETA

INSETA shall be financed from sources as defined in section 14(1) of the Act

Financial
management of
INSETA

INSETA shall conduct and manage its finances in terms of the Public Finance Management Act and all other applicable legislation, and any amendment thereto

Corporate
Governance and
the PFMA

As a schedule 3A public entity, INSETA must comply with all provisions pertaining to sound financial management as detailed in section 14 of the Act and the relevant sections of the PFMA
It is the duty of Council to present a balanced and understandable

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assessment of INSETA's position in communicating with stakeholders. The information must be consistent with the guidelines of openness and substance over form. Communication should address, in a timely manner, material matters of interest and concern to all stakeholders. Reports and communications must be made in the context of society's demands for greater transparency and accountability.

The Council is accountable for ensuring that INSETA has effective internal controls in place aimed at reducing in a cost-effective manner risk or loss. These controls include the proper delegation of responsibilities, effective accounting procedures and the adequate segregation of duties.

**Disclosure of
Interest**

A constituent, representative or employee of INSETA who is directly or indirectly interested in any business of INSETA or the committee of which he is a member, or who holds any office or possesses any property which might cause a conflict of interest or duties or such possible perception must declare such interest or potential conflict.

CERTIFICATION

Signed at Johannesburg for and on behalf of INSETA, duly authorised thereto,

on this _____ day of _____ 200__.

CHAIRPERSON

COUNCIL MEMBER

Signed at _____ on this _____ day of 200__.

MINISTER OF LABOUR