

No. R. 448

28 May 2010

LABOUR RELATIONS ACT, 1995**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING
INDUSTRY OF THE WESTERN CAPE: EXTENSION TO NON-PARTIES OF
THE MAIN COLLECTIVE AGREEMENT**

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 Bargaining Council for the Furniture Manufacturing Industry of the Western Cape 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 from7 June 2010.....and for the period ending 30 June 2011.

**MMS MDLADLANA
MINISTER OF LABOUR**

SCHEDULE**BARGAINING COUNCIL FOR THE FURNITURE
MANUFACTURING INDUSTRY OF THE WESTERN CAPE****AGREEMENT**

in accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

Cape Furniture Manufacturers' Association

(hereinafter referred to as the "Employers" or the "Employers' organisation"), of the one part, and the

**National Union of Furniture and Allied Workers of
South Africa**

(hereinafter referred to as the "Employees" or the "trade union") of the other part,

being the parties to the Bargaining Council for the Furniture Manufacturing Industry of the Western Cape.

DIVISION OF AGREEMENT

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PART III

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Annexure	C	-	Hours of work notice required under clause 17(6)
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PART I

PROVISIONS APPLICABLE TO THE FURNITURE MANUFACTURING INDUSTRY THROUGHOUT THE AREAS COVERED BY THE AGREEMENT, UNLESS THE CONTRARY IS STATED

A – Administrative issues

1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed in the Furniture Manufacturing Industry of the Western Cape: -
 - (a) by all Employers who are members of the Employers' organisation and by all Employees who are members of the trade union, and who are engaged and employed in the Industry, respectively; and
 - (b) in the Magisterial Districts of Barkly West, Beaufort West, Bellville, Bredasdorp, Britstown, Caledon, Calvinia, Carnarvon, Ceres, Clanwilliam, De Aar, Fraserburg, Goodwood, Gordonia, Hay, Heidelberg (C.P.), Herbert, Hermanus, Hopefield, Hopetown, Kenhardt, Kimberley, Kuils River, Kuruman, Ladismith, Laingsburg, Malmesbury, Mitchell's Plain, Montagu, Moorreesburg, Namaqualand, Paarl, Piketberg, Prince Albert, Riversdale, Robertson, Simon's Town, Somerset West, Stellenbosch, Strand, Sutherland, Swellendam, The Cape, Tulbagh, Vanrhynsdorp, Victoria West, Vredendal, Wellington, Williston, Worcester, Wynberg, and that portion of the Magisterial District of Postmasburg which, prior to the publication of Government Notice No. 1254 of 27 June 1975, fell within the Magisterial District of Kuruman, but excluding that portion of the Magisterial District of Kuruman which, prior to the publication of Government Notice No. 1314 of 28 August 1964, fell within the Magisterial Districts of Postmasburg, Philipstown and Prieska.
- (2) Notwithstanding the provisions of sub-clause (1), the terms of this Agreement shall: -
 - (a) apply to all Employees in the furniture manufacturing industry and to all the Employers of such Employees;
 - (b) apply to learners in so far as they are not inconsistent with the provisions of the Skills Development Act, 97 of 1998, or any contract entered into or any condition fixed there under.

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation:-

- (1)
 - (a) in respect of parties to this agreement, on the date of signature;
 - (b) in respect of non-parties, on such date as fixed by the Minister of Labour in terms of section 32 of the Act.
- (2) This Agreement shall remain in force for the period ending 30 June 2011.

3. DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act, any references to an Act shall include any amendments to such Act and, unless the contrary intention appears, words importing the masculine gender shall also include the feminine and vice versa.

- (1) Unless inconsistent with the context, the following definitions shall apply to all Parts of this Agreement, and -

"Act" means the Labour Relations Act, No. 66 of 1995;

"Bonus" means -

- (a) any payment in addition to the prescribed or agreed wage of an Employee arising from employment under a bonus incentive scheme which is stipulated as such in the wage register;
- (b) any other special or occasional payment by an Employer to an Employee in excess of the prescribed or agreed wage stipulated by him as such in the wage register and which the Employer can withdraw at will;

"Casual Employee" means an Employee who is employed by the same Employer for not more than 24 hours in any one month;

"Council" means the Bargaining Council for the Furniture Manufacturing Industry of the Western Cape, registered in terms of section 29 of the Labour Relations Act, 1995;

"Employee" for the purpose of this agreement a person who works for, or renders services to any other person, is presumed, regardless of the form of the contract, to be an employee, if any one or more of the following factors are present:

- (a) the manner in which the person works is subject to the control or direction of another person;
- (b) the person's hours of work are subject to the control or direction of another person;
- (c) In the case of a person who works for an organisation, the person forms part of that organisation;
- (d) the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- (e) the person is economically dependent on the other person for whom he or she works or renders services;
- (f) the person is provided with tools of trade or work equipment by the other person; or
- (g) the person only works for or renders services to one person.

If one or more of these factors are present, the person is presumed to be an Employee until the contrary is proved.

"Employer" means a person who employs Employees in the Furniture Manufacturing Industry, including a Labour Broker who supplies Employees to the Furniture Industry;

"Employment" means the total length of all periods of an Employee's service in the Furniture Manufacturing Industry, but excluding a period of broken service in excess of 12 consecutive months;

"Establishment" means any place in which the Furniture Manufacturing Industry is carried on;

"Furniture 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 as well as upholstery and/or re-upholstery and will, inter alia, include the following:

(a) Furniture

Manufacturing, repairing, staining, spraying, polishing, re-polishing, making loose covers and/or cushions, wood machining, veneering laminating, woodturning, carving, assembling, painting, wood bending, veneering and laminating and/or foiling of board used for furniture, and all parts of materials used in the construction of furniture; and further includes repairing, re-upholstering or re-polishing furniture in or in connection with establishments in which the production of furniture or any operation associated with the preparation of any article of furniture for sale, either in whole or in part, is carried on. Including manufacturing, repairing, polishing, re-polishing, staining, spraying of pianos, organs, pool and snooker tables, kitchen cupboards, attached wall cupboards, built-in cupboards, free standing bars or built-in bar counters, cane, wicker or grass furniture, cabinets including cabinets for musical instruments and radios, wireless or television cabinets, bathroom cupboards, cupboard tops and furniture for tea-rooms, restaurants, offices, hotels, hospitals, churches, schools, libraries, other educational institutions, conference centres and theatres but excluding the manufacturing of furniture made mainly of metal and/or plastic materials.

(b) Bedding

The manufacturing, repairing, covering, re-covering of mattress bases, mattresses, spring mattresses, overlays, bolsters, pillows, cushions for studio couches, spring units, box-spring mattresses and studio couches but excluding the manufacturing of bedding made mainly of metal and/or plastic materials.

"Studio Couch" means an article of furniture, which is designed for seating and for conversion into a double bed or two or more beds and of which the frames are constructed mainly of metal and the seating and/or sleeping surfaces consist of mattresses and/or cushions.

(c) Upholstery

The upholstering or re-upholstering of any furniture, or item of furniture, bedding, pelmets and mattress bases.

"Hourly rate" means the rate determined in accordance with the provisions of clause 24 of this Agreement;

"Labour Broker" means any person who, for reward, procures for or provides to a client other persons—

- (a) who render services to, or perform work for, the client; and
- (b) who are remunerated by the Labour Broker.

"Learner" means an Employee serving under a written contract of learnership registered or deemed to be registered under the provisions of the Skills Development Act 97, of 1998;

"Night work" means work performed after 18H00 and before 06H00 the next day;

"Normal retirement age" means the age of 60 years;

"Normal time" means the standard minimum hours that an Employee is required to work on which the Employees basic weekly wage rate is paid;

"Ordinary hours" means the hours between the specified starting and finishing time of work for each day of the week excluding the meal interval;

"Piece-work" means any system according to which payment is based on quantity or output of work done;

"Redundancy" means that a position becomes permanently superfluous as a result of re-organisation or technological change, and that, consequently, there is no foreseeable possibility of Employees who lose their employment through redundancy being re-employed in their previous positions;

"Registrar" means the Registrar of Labour Relations appointed in terms of section 108 of the Labour Relations Act, No. 66 of 1995;

"Remuneration" means any payment in money made or owing to any person which arises in any matter whatsoever out of employment;

"Retrenchment" means the loss of employment as a result of a downturn in the economic affairs of an establishment or as an operational requirement;

"Shop steward" means a member of a Trade Union who is elected to represent the Employees in a workplace;

"Senior Shop Steward" means that shop steward, elected by the Union members from the three or more shop stewards in a plant or establishment, which qualifies for more than two shop stewards, in terms of clause 30 of the Main Collective Agreement and shall be recognized as exercising authority over other shop stewards in such plant or establishment;

"Short time" means a reduction in the number of ordinary working hours in an establishment owing to slackness of trade, shortage of raw materials or a general breakdown of plant or machinery caused by accident or other unforeseen emergency;

"Temporary employment services" means any person who, for reward, procures for or provides to a client other persons—

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

"wage" means that portion of the remuneration payable in money to an Employee in respect of his ordinary hours of work;

4. EXEMPTIONS

- (1) The Council may grant exemption from any or all the provisions of the Agreement for any good and sufficient reason.
- (2) The Council shall fix, in respect of any person granted exemption, the conditions subject to which such exemption is granted and the period during which such exemption shall operate: Provided that the Council may, if it deems fit, after one week's notice in writing has been given to the person concerned, withdraw any license of exemption.
- (3) The Secretary may refer to an independent body to hear and decide, as soon as possible, any appeal brought by a party or non-party subject to this collective agreement against: -
 - (a) the Bargaining Council's refusal of an application for exemption from the provisions of the collective agreement as soon as possible;
 - (b) the withdrawal of such an exemption previously granted by the Bargaining Council;
- (4) The independent body may, having regard to the individual merits of each application, grant an exemption to an Employer or an Employee from this agreement if: -
 - (a) it is fair to both Employer, its Employees and other Employers and Employees in the furniture industry; and
 - (b) it does not undermine the agreement; and
 - (c) it will make a material difference to the viability of an applicant's business; and
 - (d) it will assist to overcome economic hardship occurring during the currency of the agreement and will save unnecessary job losses.
- (5) The Secretary of the Council shall issue to every person granted exemption a license signed by the Chairman and Secretary of the Council setting out -
 - (a) the full name of the person concerned;
 - (b) the provisions of the Agreement from which exemption is granted;
 - (c) the conditions fixed in accordance with the provisions of sub-clause (2) subject to which such exemption is granted;
 - (d) the period for which the exemption shall operate; and
 - (e) the reason for the exemption being granted.
- (6) The Secretary of the Council shall -
 - (a) number consecutively all licenses issued;
 - (b) retain a copy of each license issued; and
 - (c) where exemption is granted to an Employee, forward a copy of the license to the Employer concerned.
- (5) All applications for exemption shall be in writing.

5. EXPENSES OF THE COUNCIL

- (1) For the purpose of meeting the expenses of the Council, every Employer shall deduct R2.00 per week from the wages of each of his Employees for whom a wage is paid.
- (2) To the amount so deducted, as per sub-clause (1), the Employer shall add a like amount and:-
 - (a) forward month by month, and not later than the 15th day of each month, the total sum to the Secretary of the Council.
 - (b) an Employer who is in arrears with payments in terms of paragraph 2 and 2(a) and who fails, after having been warned in writing by the Council to forward the outstanding amounts within seven days of such warning shall, upon being notified by the Council in writing to do so, submit the amounts payable in terms of this clause week by week so as to reach the Secretary not later than the Friday following the pay day of the week in respect of which the amounts are due. An Employer to whom the provisions of this paragraph apply may, upon so being notified by the Council in writing, revert to the payment of amounts payable in terms of this clause on the monthly basis provided for in sub-clause (a).
 - (c) should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of Interest Act, Act No. 55 of 1975, as amended, calculated from such 15th day until the day upon which payment is actually received by the Council:

Provided that the Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance.

In the event of the Council incurring any costs or becoming obliged to pay any collection commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then also be liable forthwith to pay all such costs of whatever nature as between attorney and client and all such collection commission, and the Council shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection commission and interest, and thereafter in reduction of the overdue capital amount.

6. REGISTRATION OF EMPLOYERS

- (1) Every Employer on whom this Agreement is binding and who has not already done so in terms of a previous agreement shall, within one month of the date on which this Agreement becomes binding on him, forward to the Secretary of the Council a duly completed registration form in the form specified in Annexure D to this Agreement, together with the documents specified in such Annexure--

Note. - This Annexure is obtainable from the Secretary of the Council,

P.O. Box 1123, Woodstock, 7915.

- (2) Within seven days of the occurrence of any of the following events, namely-
- (a) any change in the particulars specified in Annexure D to this Agreement; or
 - (b) the sequestration of the Employer's estate or the voluntary surrender thereof; or
 - (c) the provisional or final winding up or the provisional or final placing of the Employer under judicial management; or
 - (d) the acquisition or commencement by the Employer of any other business which is subject to this Agreement; or
 - (e) the transfer or abandonment of the business carried on by the Employer;

every Employer shall furnish the Secretary of the Council with a written statement setting forth full particulars of such change or event.

7. EXHIBITION OF AGREEMENT

- (1) Every Employer on whom this agreement is binding must:-
- (a) keep a copy of the collective agreement affixed in a conspicuous place where it is readily accessible to the Employees at all times;
 - (b) on request give a copy of the collective agreement to:-
 - (i) an Employee who has paid the prescribed fee in regulation 8 of the General Administrative Regulations to the Labour Relations Act, 66 of 1995; or
 - (ii) an Employee who is a Trade Union representative or a member of a workplace forum free of charge, on request.

8. KEEPING OF RECORDS

Every Employer must keep records as required in terms of section 31 of the Basic Conditions of Employment Act, 75 of 1997. These records shall be kept written in a legible and indelible manner.

9. TRADE UNION REPRESENTATIVES ON THE COUNCIL

- (1) Every Employer shall grant to any of his Employees who are representatives on the Council every reasonable facility to attend to their duties in connection with meetings of the Council.
- (2) If more than one Trade Union representative on the Council is from the same Employer, the Employer shall not be expected to pay for more than one of the Employee's lost time while attending to or performing duties as a delegate to the Council.

10. ADMINISTRATION OF AGREEMENT

The Council shall be the body responsible for the administration of this Agreement, and may issue expressions of opinion and rulings not inconsistent with the provisions thereof for the guidance of Employers and Employees.

11. AGENTS

- (1) The Minister shall appoint, at the request of the Council, one or more specified persons as Designated Agents to assist in giving effect to the terms of this Agreement.

The agent shall have the right to: -

- (a) enter, inspect and examine any premises or place in which the Furniture Manufacturing Industry is carried on at any time when he has reasonable cause to believe any person is employed therein; and
 - (b) orally examine, either alone or in the presence of any other person, as the Agent thinks fit, with respect to matters relating to this Agreement, every Employee whom the Agent finds in or about the premises or place and require such Employee to answer questions put to such employee; and
 - (c) require the production of any notice, book, list or document which is by this Agreement required to be kept, exhibited or made, and inspect, examine and copy the same; and
 - (d) require the production of and inspect, examine and copy all pay sheets or books wherein an account is kept of actual wages paid to an Employee.
- (2) The Agent, when entering, inspecting or examining any such place shall, on request show his certificate of authority, and may take with him an interpreter.
- (3) Every person upon whom the provisions of this Agreement are binding shall grant the Agent all facilities referred to above.

12. MONTHLY STATEMENT

- (1) All payments to be made to the Council in terms of clauses 5, 31, 33, 34 and 35 of this Agreement and clause 8 of the Provident Fund Agreement published under Government Notice No. R.2016 of 25 November 1994 as amended shall be accompanied by a statement in the form prescribed in Annexure B to this Agreement.
- (2) Any monies received by the Council from an Employer as payment in terms of sub-clause (1) shall, taking into account all amounts then owing to the Council by that Employer, in the sole discretion of the Council, be allocated to and set off: -
 - (a) against such amounts as have, at the date of such payment, been owing to the Council for the longest period of time, regardless of the intention of or any indication given by the said Employer at the time of payment in respect of allocation of such payment; or
 - (b) on a pro rata basis, against any amounts owing to the Council; or
 - (c) first against the Provident Fund contributions and thereafter as per (a) above.

13. NORMAL RETIREMENT AGE

- (1) An Employee entering the Industry may retire at the age of 60 years.

- (2) Every Employer registered with the Council in terms of clause 6 of this Agreement, and every Employee employed in the Industry as at the date on which this Agreement comes into operation, must submit the Employee's identity number and/or alternatively other acceptable documentary proof of the Employee's age to the Council.

14. WEEKLY RETURN OF EMPLOYEES

- (1) Every Employer shall submit to the Council a statement in the form prescribed in Annexure E to this Agreement, reflecting particulars of Employees engaged, discharged, or who resigned during any one week, not later than the Friday following the pay-day of the week to which the statement relates.

15. DISPUTE RESOLUTION PROCEDURE

- (1) In the event of a dispute arising about the interpretation or application of the collective agreement the parties to the dispute must:-
 - (a) first refer the dispute to the Council for conciliation, if the dispute remains unresolved, any party to the dispute may request that the dispute be resolved through arbitration.
 - (b) The party who refers the dispute to the Council must satisfy it that a copy of the referral has been served on all the other parties to the dispute;
- (2) If a dispute is referred to the Council, the Council must attempt to resolve the dispute:-
 - (a) through conciliation; and
 - (b) if the dispute remains unresolved after conciliation, the Council must arbitrate the dispute if:-
 - (i) the Labour Relations Act requires arbitration and any party to the dispute has requested that it be resolved through arbitration; or
 - (ii) all the parties to the dispute consent to arbitration under the auspices of the Council.
- (3) The dispute resolution procedure, as per annexure F deals with the manner in which the Council and its conciliators conduct dispute resolution proceedings.

16. THRESHOLD MEMBERSHIP FOR A SEAT ON THE COUNCIL

- (1) In order for another trade union to have a seat on the Council the respective union must have a minimum membership of twenty percent of the total number of employees employed in the Industry as signed up members.
- (2) In order for another employers organisation to have a seat on the Council the respective employers association must have a minimum membership of twenty percent of the total number of employers in the Industry as signed up members.
- (3) The applicant party must make written application to the Council requesting a seat on the Council and submit to the Secretary of the Council documented proof of membership.

B – Terms and Conditions of Employment

17. HOURS OF WORK

- (1) Save as is otherwise provided in this Agreement, no Employer shall require or permit an Employee, other than foremen, managers, sub-managers, senior managerial, professional, technical or administrative personnel in receipt of a salary of not less than R149736.00 per annum as per Government Gazette No. 30720 of 1 February 2008 –
 - (a) to work for more than 44 hours normal time, excluding meal intervals, in any one working week, comprising of: -
 - (i) Monday, Tuesday, Wednesday, Thursday, Friday.
- (2) The Employer must decide on the firm's ordinary weekly working hours from a range of ordinary weekly working hours from 40 hours to a maximum of 44 hours per week.
- (3) The Employer must inform Employees and the Council of their firm's ordinary weekly working hours and to display them in a conspicuous place within the workplace.
- (4) Should an Employer wish to change the firm's ordinary working hours from what they had notified the Council and their Employees they would be required to apply for an exemption from the Council before implementing any change to their ordinary weekly working hours. The Council may require seventy five per cent of the firm's Employees to support the proposed change to the firm's ordinary weekly working hours.
- (5) All hours worked in excess of a firm's normal weekly working hours must be paid in accordance with the Basic Conditions of Employment Act, 75 of 1997.
- (6) Every Employer shall display in his establishment in a place readily accessible to his Employees a notice in the form prescribed in Annexure C to this Part of the Agreement specifying the starting and finishing time of work for each day of the week, forenoon and afternoon intervals and the meal interval.

18. PAYMENT OF REMUNERATION

- (1)
 - (a) Remuneration shall be paid in cash or electronically deposited into the Employee's bank account and be available to the Employee at normal closing time on pay-day or on termination of employment if this takes place before the ordinary pay-day.
 - (b) Should an Employee be paid in cash and the Employer wishes to change to paying wages by electronic transfer, the Employer must get the consent of the Employee.
- (2) Remuneration due to Employees in terms of this Agreement shall be:

- (a) if paid in cash be handed, in a sealed envelope bearing on the outside the name of the Employer, the address of the Employer, the date of payment, the name or number of the Employee and the amount of money contained therein and how such amount is arrived at; or
- (b) if paid electronically in terms of paragraph 1(a) of this clause, shall be handed a wage advice bearing on the outside the name of the Employer, the address of the Employer, the date of payment, the Employee's bank account details, the name or number of the Employee and the amount of money electronically deposited into the Employee's bank account and how such amount is arrived at.

19. EMPLOYMENT OF MINORS

- (1) No person shall employ a child in the Industry: -
 - (a) who is under 15 years of age; or
 - (b) who is under the minimum school-leaving age in terms of any law, if this is 15 or older.
- (2) No person may employ a child in employment: -
 - (a) that is inappropriate for a person of that age;
 - (b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.
- (3) A person who employs a child in contravention of sub-clause (1) or (2) commits an offence.
- (4) Employment of Children of 15 Years or Older: -
 - (a) Subject to section 43 (2) of the Basic Conditions of Employment Act, 75 of 1997, the Minister may, on the advice of the Council, make regulations to prohibit or place conditions on the employment of children who are at least 15 years of age and no longer subject to compulsory schooling in terms of any law.
 - (b) A person who employs a child in contravention of sub-clause (4)(a) commits an offence.
- (5) Medical Examinations: -

The Minister may, after consulting the Council, make regulations relating to the conduct of medical examinations of children in employment.
- (6) Prohibitions: -
 - (a) It is an offence to: -
 - (i) assist an Employer to employ a child in contravention of this Agreement; or
 - (ii) discriminate against a person who refuses to permit a child to be employed in contravention of this Agreement.

(7) Evidence of Age: -

In any proceedings in terms of this Agreement, if the age of an Employee is a relevant factor for which insufficient evidence is available, it is for the party who alleges that the employment complied with the provisions of this clause to prove that it was reasonable for that party to believe, after investigation, that the person was not below the permitted age in terms of sub-clause (1) and (2) and (4).

(8) Prohibition of Forced Labour

- (a) Subject to the Constitution of the Republic of South Africa, all forced labour is prohibited.
- (b) No person may for his or her own benefit or for the benefit of someone else, cause, demand or impose forced labour in contravention of sub-clause (a).
- (c) A person who contravenes sub-clause (8)(a) or (8)(b) commits an offence.

20. FORENOON AND AFTERNOON INTERVALS

- (1) Every Employee shall be given an interval of 10 minutes both in the forenoon and afternoon each day, which shall be reckoned as time worked. This interval shall be specified on the prescribed form referred to in clause 17(6).

21. ABATEMENT OF WAGES

- (1) No Employee shall, while in the employ of an Employer, give to and no such Employee shall receive from such Employer any gift, bonus, loan, guarantee or refund either in cash or in kind which will in effect amount to abatement of the wages which must in terms of this Agreement be paid to such Employee.
- (2) No Employee shall be required as part of his 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.

22. TERMINATION OF EMPLOYMENT

- (1) Subject to sub-clause (4) hereof, a contract of employment terminable at the instance of a party to the contract may be terminated only on notice of not less than: -
- (a) one week, if the Employee has been employed for six months or less;
 - (b) two weeks, if the Employee has been employed for more than six months but not more than one year;
 - (c) four weeks, if the Employee has been employed for one year or more.
- (2) Notice of termination of a contract of employment must be given in writing: -
- (a) except when it is given by an illiterate Employee;
 - (b) if an Employee who receives notice of termination is not able to understand it, the notice must be explained orally by, or on behalf of, the Employer to the Employee in an official language the Employee reasonably understands.

- (3) Notice of termination of a contract of employment given by an Employer must: -
 - (a) not run concurrently with any period of leave to which the Employee is entitled in terms of clause (30), except sick leave.
- (4) Payment instead of notice: -
 - (a) Instead of giving an Employee notice in terms of sub-clause (1), an Employer may pay the Employee the remuneration the Employee would have received, calculated in accordance with this agreement, if the Employee had worked during the notice period.
 - (b) If an Employee gives notice of termination of employment, and the Employer waives any part of the notice, the Employer must pay the remuneration referred to in sub-clause (4)(a), unless the Employer and Employee agree otherwise in writing.
 - (c) If an Employee fails to give and/or work out their required notice, as per sub-clause (1) hereof, the Employer may claim notice pay from the Employee's annual leave and/or bonus.
- (5) Nothing in this clause affects the right: -
 - (a) of a dismissed Employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 66 of 1995, or any other law; and
 - (b) of an Employer or an Employee to terminate a contract of employment without notice for any cause recognised by law.

23. NIGHT SHIFT WORK

- (1) In this section, "night work" means work performed after 18:00 and before 06:00 the next day.
- (2) An Employer may only require or permit an Employee to perform night work, if so agreed, and if: -
 - (a) the Employee is compensated by the payment of a 15 per cent allowance on their wage rate, in addition to their wage rate, for all time worked during the night shift, or by a reduction of working hours; and
 - (b) transportation is available between the Employee's place of residence and the workplace at the commencement and conclusion of the Employee's shift.
- (3) If a shift worked by an Employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

24. HOURLY RATE

- (1) Notwithstanding anything to the contrary in this Agreement, all work performed by Employees, other than Employees in receipt of a fixed weekly or monthly wage, shall be paid for at an hourly rate, the hourly rate to be determined by

dividing the actual weekly wage by 44 or such lesser number of hours ordinarily worked by an establishment.

- (2) In order to determine the hourly rate of a monthly-paid Employee in order to calculate the overtime pay that may be due to such Employee, his monthly wage shall be divided by 4,333 and thereafter by 44 or such lesser number of hours ordinarily worked by an establishment.
- (3) In determining the actual weekly or monthly wage of any worker engaged in night-shift work there shall be included therein the additional 15 per cent of the wage rate referred to in clause 23.

25. SICK LEAVE

- (1) In this Chapter, "sick leave cycle" means the period of 36 months' employment with the same Employer immediately following: -
 - (a) an Employee's commencement of employment; or
 - (b) the completion of that Employee's prior sick leave cycle.
- (2)
 - (a) During every sick leave cycle, an Employee is entitled to ten (10) days paid sick leave per annum.
 - (b) Should an Employee exhaust the number of paid sick leave days available due to hospitalisation, serious and or chronic illness, such an Employee is entitled to claim further days of paid sick leave, provided that there are days of sick leave available in that Employee's current three (3) year cycle.
In such an event, the number of days over and above the available sick leave balance for that year will be deducted from the future years in the cycle and will mean for such a person, the annual paid sick leave days will be less than ten (10) days per annum for the balance of that three (3) year sick leave cycle."
- (3) Despite sub-clause (2), during the first six months of employment, an Employee is entitled to one day's paid sick leave for every 26 days worked.
- (4) During an Employee's first sick leave cycle, an Employer may reduce the Employee's entitlement to sick leave in terms of sub-clause (2) by the number of days' sick leave taken in terms of sub-clause (3).
- (5) Subject to sub-clause 6, an Employer must pay an Employee for a day's sick leave: -
 - (a) the wage the Employee would ordinarily have received for work on that day; and
 - (b) on the Employee's usual pay day.
- (6) Proof of Incapacity
 - (a) An Employer is not required to pay an Employee in terms of sub-clause (5) if the Employee has been absent from work for more than two consecutive days or on more than two consecutive occasions during an eight week period and, on request by the Employer, does not produce a medical certificate stating that the Employee was unable to work for the duration of the Employee's absence on account of sickness or injury.

- (b) The medical certificate must be issued and signed by a medical practitioner 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.
- (c) An Employer is not required to pay an Employee in terms of sub-clause (5) if the Employee has been absent from work on a Friday, or on a Monday, or on a day before or after a public holiday should the Employee not produce a valid medical certificate covering the days of absence.

26. MATERNITY LEAVE AND TEMPORARY CONTRACT EMPLOYEES

- (1) A female Employee shall be entitled to unpaid maternity leave as provided hereunder:

Provided that the Employee has worked for the same Employer for a period of 12 consecutive months (excluding unpaid leave) immediately preceding such maternity leave: -

- (a) The maternity leave shall be for a period not exceeding six months, commencing one month prior to the expected date of her confinement.
 - (b) During such leave, the Employee shall have a guarantee of re-employment on the same terms and conditions that applied at the date of her going on leave.
 - (c) Should such terms and conditions have been altered during her maternity leave by an amendment to any of the Agreements under the Council's jurisdiction, such new terms and conditions shall then apply.
- (2) The maternity leave with the guarantee of re-employment shall be subject to the following conditions:
 - (a) The Employee on maternity leave shall give her Employer not less than five working days notice of her intention to return to work.
 - (b) Proof of the confinement shall be submitted to the Employer upon the Employee's return to work in the form of a birth certificate, or death certificate in the case of a miscarriage.
 - (c) 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.
 - (d) During the period referred to in sub-clause (2)(c), all the provisions of the Agreements administered by the Council shall apply to the Employer and the temporary Employee.
 - (e) The services of a temporary Employee employed in terms of this clause may be terminated by the Employer or Employee as provided for in clause 22 hereof.

27. SEVERANCE PAY

- (1) On the termination of an Employee's contract of employment as a result of any of the following: -

- (a) Retrenchment;
- (b) short time;
- (c) redundancy.

Such Employee shall receive from his Employer severance pay: Provided that the Employee has served one year's continuous service with such Employer.

- (2) The severance pay payable by the Employer to the Employee pursuant to sub-clause (1) above shall be the sum of: -
 - (a) one week's wages: plus thereafter
 - (b) one additional week's wages for each completed year of service
- (3) Employees whose services are terminated for reasons related to operational requirements shall: -
 - (a) receive first preference should the positions that they previously occupied with the same employer become available within a period of six months following the date of their retrenchment; and
 - (b) On the retrenched employee's re-employment, as stipulated in sub-clause (3)(a) here above, such employee shall not be paid less than their wage rate applicable as at the date of their retrenchment.

28. CASUAL EMPLOYEES

- (1) A casual Employee means an Employee who works less than 24 working hours in a month for an Employer.

29. FAMILY RESPONSIBILITY LEAVE

- (1) This clause applies to an Employee: -
 - (a) who has been in employment with an Employer for longer than four months; and
 - (b) who works for at least four days a week for that Employer.
- (2) An Employer must grant an Employee, during each annual leave cycle, at the request of the Employee, a total of 3 days paid leave and 2 days unpaid leave per annum, which the Employee is entitled to take: -
 - (a) when the Employee's child is born; or
 - (b) when the Employee's child is sick; or
 - (c) when the Employee's spouse or life partner is sick; or
 - (d) in the event of the death of: -
 - (i) the Employee's spouse or life partner; or
 - (ii) the Employee's parent, adoptive parent, grandparent, parent in-law, child, adoptive child, grandchild or sibling.
- (3) Subject to sub-clause (5), an Employer must pay an Employee for a day's family responsibility leave: -
 - (a) the wage the Employee would ordinarily have received for work on

- that day; and
 - (b) on the Employee's usual pay day.
- (4) An Employee may take family responsibility leave in respect of the whole or a part of a day.
- (5) Before paying an Employee for leave in terms of this section, an Employer may require reasonable proof of an event contemplated in sub-clause (1) for which the leave was required.
- (6) An Employee's unused entitlement to leave in terms of this section lapses at the end of the annual leave cycle in which it accrues.

30. TRADE UNION REPRESENTATIVES

- (1) Number of Shop Stewards - In any workplace in which at least 10 members of a representative trade union are employed, those members are entitled to elect from among themselves—
 - (a) if there are 10 members of the trade union employed in the workplace, one trade union representative;
 - (b) if there are more than 30 members of the trade union employed in the work place, two trade union representatives;
 - (c) if there are more than 50 members of the trade union employed in the workplace, two trade union representatives for the first 50 members, plus a further one trade union representative for every additional 50 members up to a maximum of seven trade union representatives;
 - (d) if there are more than 300 members of the trade union employed in the workplace, seven trade union representatives for the first 300 members, plus one additional trade union representative for every 100 additional members up to a maximum of 10 trade union representatives;
 - (e) if there are more than 600 members of the trade union employed in the workplace, 10 trade union representatives for the first 600 members, plus one additional trade union representative for every 200 additional members up to a maximum of 12 trade union representatives; and
 - (f) if there are more than 1 000 members of the trade union employed in the workplace, 12 trade union representatives for the first 1 000 members, plus one additional trade union representative for every 500 additional members up to a maximum of 20 trade union representatives.
- (2) The names/s of the shop steward and/or senior shop steward/s elected in the Employer's establishment shall be conveyed to the Employer in writing by the trade union as soon as they become known.
- (3) The constitution of the representative Trade Union governs the nomination, election, terms of office and removal from office of a trade union representative.
- (4) A trade union representative has the right to perform the following functions:-
 - (a) at the request of an Employee in the workplace, to assist and represent the Employee in grievance and disciplinary proceedings;
 - (b) to monitor the Employer's compliance with the workplace-related provisions of this Agreement, any law regulating terms and conditions of employment and any collective agreement binding on the Employer;

- (c) to report any alleged contravention of the workplace-related provisions of this Act, any law regulating terms and conditions of employment and any collective agreement binding on the Employer to:-
 - (i) the Employer; and
 - (ii) the representative trade union; and
 - (iii) the Council; and
 - (d) to perform any other function agreed to between the representative trade union and the Employer.
- (5) Shop Steward Training - For the purpose of attending training courses and/or training seminars arranged by the trade union which is a party to this Agreement, shop stewards shall be entitled to three days paid leave per annum and senior shop stewards to six days paid leave per annum with effect from the date of the coming into operation of this Agreement, subject to the following conditions: -
- (a) The cycle of shop steward leave shall commence on 1 January of each year. Leave not taken by a shop steward and/or senior shop steward shall accrue to a newly elected shop steward and/or senior shop steward during any one-leave cycle. Shop Steward leave shall not be cumulative nor be transferable from one Employer to another or from one year to another.
 - (b) Shop stewards' leave shall be taken only during the first eight calendar months of the year.
 - (c) The trade union shall make the training course and/or training seminar content available to the Employer at least seven days in advance.
 - (d) Prior arrangements shall be made by the trade union with an Employer for the release of the senior shop steward and/or shop stewards. Not more than 50 percent of elected senior shop stewards and/or shop stewards at any particular Employer's firm shall attend the training course and/or training seminar on any particular day.
 - (e) A senior shop steward and/or shop stewards from any one Employer's firm shall not be required to attend a training course and/or training seminar on/over consecutive days.
 - (f) The trade union shall furnish the Employer with written proof that the training course and/or training seminar, for which purpose the paid leave was granted, was attended by the particular senior shop steward and/or shop stewards.

31. HOLIDAYS AND HOLIDAY AND BONUS FUND

- (1) All public holidays as specified in the Public Holidays Act, No. 36 of 1994, or as further declared by the President of the Republic of South Africa by publication in the Government gazette, shall be paid public holidays in terms of this agreement, refer to annexure G of this agreement;
- (2) Whenever a public holiday, as referred to in sub-clause (1), falls on a Sunday the following Monday shall be a public holiday, in terms of section 2 (1) of the Public Holidays Act, No. 36 of 1994.
- (3) Every Employer shall grant his Employees annual leave of 15 consecutive paid working days.
- (4) (a) Subject to the provisions of sub-clause (3), all amounts payable in terms of sub-clause (3) shall be paid by the Employer to the Secretary of the Council month by month, and not later than the 15th day of each month following that in respect of which they are due.

- (b) An Employer who is in arrears with payments in terms of paragraph (a) and who fails, after having been warned in writing by the Council, to forward the outstanding amounts within seven days of such warning shall, upon being notified by the Council in writing to do so, submit the amounts in terms of this clause week by week so as to reach the Secretary not later than the Friday following the pay-day of the week in respect of which the amounts are due. An Employer to whom the provisions of this paragraph have been applied may, only upon being notified by the Council in writing, revert to the payment of amounts payable in terms of this clause on the monthly basis in terms of paragraph (a).
- (c) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of Interest Act, No. 55 of 1975, as amended, calculated from such 15th day until the day upon which the payment is actually received by the Council:

Provided that the Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance. In the event of the Council incurring any costs or becoming obliged to pay any collection commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then also be liable to forthwith pay all such costs of whatever nature as between attorney and client and all such collection commission, and the Council shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection commission and interest, and thereafter in reduction of the overdue capital amount.

- (d) Amounts payable in terms of sub-clause (3) hereof shall be paid by the Employer in addition to any wage or overtime pay payable to an Employee in terms of this Agreement, and shall not be deducted from the wages or overtime pay of such Employee.
- (e) The Council shall keep a record of each Employee in respect of whom payments are made in terms of sub-clause (3) hereof into the Cape Furniture Holiday and Bonus Fund and of the amount paid to the Cape Furniture Holiday and Bonus Fund in respect of the Employee.
- (f) The Cape Furniture Holiday and Bonus Fund shall be utilised for the purpose of distribution to Employees of holiday pay.
- (g) The Council shall from time to time invest on fixed deposit or on call with a bank or registered building society any of the money belonging to the Cape Furniture Holiday and Bonus Fund surplus to its requirements, 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.
- (h) Moneys due to Employees who cannot be traced and who have not claimed payment within a period of two years from the date on which the moneys become payable shall accrue to the funds of the Council.
- (i) A public accountant who shall be appointed by the Council and whose remuneration shall be decided by the Council, shall audit the accounts of

the Fund at least once annually and not later than 31 March in each year and prepare a statement showing: -

- (i) all moneys received: -
 - (a) in terms of sub-clause (3) hereof; and
 - (b) from any other source; and
- (ii) expenditure incurred under all headings during the 12 months ended 31 October preceding, together with a balance sheet showing the assets and liabilities of the Fund as at that date. True copies of the audited statement and balance sheet, countersigned by the Chairman of the Council, and of the auditor's report thereon shall thereafter lie for inspection at the office of the Council. Certified copies of the statement, balance sheet and auditor's report shall as soon as possible, but not later than four months after the close of the period covered thereby, be transmitted by the Council to the Director-General of Labour.

- (j) In the event of the expiry of the Agreement or any extension or renewal thereof and a subsequent agreement providing for the continuation of the Fund not being negotiated within a period of 12 months from the date of such expiry or the Fund not being transferred by the Council within such period to any other fund constituted for the same purpose as that for which the original Fund was created, the Fund shall be liquidated. The Fund shall, during the said period of 12 months or until such time as it is transferred to any other fund referred to above or continued by a subsequent agreement, be administered by the Council.
- (k) 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 section 59 of the Act, the Registrar of the Labour Court may appoint a liquidator from Employers and Employees in the Industry on the basis of equal representation on both sides and the Fund shall continue to be administered by such committee.

Any vacancy occurring on the committee may be filled by the Registrar from Employers or Employees, as the case may be, so as to ensure an equality of Employer and Employee representatives on the committee.

In the event of such committee being unable or unwilling to discharge its duties or a deadlock arising thereon which renders the administration of the Fund impracticable or undesirable in the opinion of the Registrar, he may appoint a trustee or trustees to carry out the duties of the committee and such trustee or trustees shall possess all the powers of the committee for such purpose. If there is no Council in existence, the Fund shall, upon the expiry of the Agreement, be liquidated by the committee functioning in terms of this sub-clause, or the trustee or trustees, as the case may be, in the manner set forth in paragraph (l) and if upon the expiry of the Agreement the affairs of the Council have already been wound up and its assets distributed, the balance of this Fund shall be distributed as provided for in the Council's constitution as if it formed part of the general funds of the Council.

- (l) Upon liquidation of the Fund in terms of paragraph (j) the moneys remaining to the credit of the Fund after the payment of all claims against the Fund, including administration of liquidation expenses, shall be paid into the general funds of the Council.

- (m) The Council shall from time to time invest on fixed deposit or on call with a bank or registered building society any of the money belonging to the Cape Furniture Holiday and Bonus Fund surplus to its requirements, and any interest accruing from such investment
- (4) Holiday and Bonus Fund Contributions for Employers who have previously not been registered with the Council and for Employers who continued to pay the Holiday and Bonus Fund in accordance with the collective agreement published in Government gazette R6810 number 21187 dated 19 May 2000.
 - (a) As at the date of signature hereof or at a date as set by Minister of Labour for non-parties, no employer is to reduce the percentage utilised for calculating their employees' holiday and bonus fund.
 - (b) The following holiday and bonus fund provisions will apply: -
 - (i) Every employer shall pay in respect of every employee a holiday and bonus fund contribution calculated on the remuneration earned by the employee during that period as follows:
 - (a) Should the employee have worked the normal hours of an establishment for the said period, or should the employee have worked less than such hours and provided that the time lost by the employee does not exceed 1 hour, the holiday bonus shall be 12½ per cent of his remuneration during that period;
 - (b) should the time lost by the employee for the said period exceed 1 hour, for any reason except short time, the holiday bonus shall be equal to 10 per cent of his actual remuneration during that period;
 - (c) should the time lost by the employee for the said period exceed 4 hours, the holiday bonus shall be equal to 7½ per cent of his actual remuneration during that period;
 - (ii) For the purposes of this sub-clause, any period of absence due to short-time, public holidays, family responsibility leave or illness where the employee receives sick pay in terms of the sick leave provision, shall be deemed to be time worked.
 - (iii) For the purposes of sub-clause (b)(i), remuneration shall be calculated as follows:-

The total actual remuneration earned for all time worked, being ordinary and overtime hours worked, including payment for,

 - (a) paid holidays; and
 - (b) family responsibility leave, and
 - (c) illness where the employee receives sick pay in terms of the sick leave provision,
 - (d) but excluding payment made in terms of an incentive scheme and illness where the employee does not receive sick pay; plus
 - (iv) The total amount of any remuneration the employee would have earned during any time he was required not to work upon the request or instruction of his employer, including any remuneration an employee would have earned during any period of absence owing to short time.
 - (v) All amounts payable in terms of this sub-clause shall be paid by the employer to the Secretary of the Council month by month, and not later than the 15th day of each month following that in respect of which they are due.

32. SUBSISTENCE ALLOWANCE

- (1) Whenever the work of an Employee precludes him from returning to his normal place of residence for his night's rest, he shall be paid, in addition to his ordinary remuneration, a subsistence allowance of not less than: -
- (a) where it is necessary for the Employee to obtain a bed: R55,00; or
 - (b) where it is necessary for the Employee to obtain an evening meal and a bed: R110,00.

33. TRADE UNION CONTRIBUTIONS

- (1) Every Employer shall each week deduct from the wages of each of his Employees who is a member of the trade union which is a party to this Agreement such contribution as may be payable by such Employee to that trade union. The amounts so deducted shall be as determined in the constitution of the trade union concerned: Provided that no contribution shall be made in respect of any week if the earning of the member for such week do not exceed (two fifths) of his wage per week.

The contributions so collected shall be paid to the Secretary of the Trade Union not later than the 15th day of each month following that in respect of which they were due.

- (2) (a) An Employer who is in arrears with payments in terms of sub-clause (1) and who fails, after having been warned in writing by the Trade Union, to forward the outstanding amounts within seven days of such warning shall, upon being notified by the Trade Union in writing to do so, submit the amounts payable in terms of this clause week by week so as to reach the Secretary of the Trade Union not later than the Friday following the pay-day of the week in respect of which the amounts are due.
An Employer to whom the provisions of this paragraph apply may, upon so being notified by the Trade Union in writing, revert to the payment of amounts payable in terms of this clause on the monthly basis provided for in sub-clause (1).
- (b) Should any amount due in terms of this clause not be received by the Trade Union by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of Interest Act, Act No. 55 of 1975, as amended, calculated from such 15th day until the day upon which payment is actually received by the Trade Union:

Provided that the Trade Union shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance, in the event of the Trade Union incurring any costs or becoming obliged to pay any collection commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then also be liable to forthwith pay all such costs of whatever nature as between attorney and client and all such collection commission, and the Trade Union shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection

commission, and interest, and thereafter in reduction of the overdue capital amount.

3. The Council will not be responsible to collect or hear a dispute relating to the non-payment by an Employer of Trade Union contributions.
4. The Trade Union, in their sole discretion, may refer any disputes relating to the non-payment of Trade Union member contributions to the Commission for Conciliation Mediation and Arbitration (CCMA), Labour Court and or the Civil or Criminal Courts.

34. LEVIES PAYABLE BY EMPLOYERS WHO ARE MEMBERS OF THE EMPLOYERS' ASSOCIATION

- (1) Every Employer who is a member of the Cape Furniture Manufacturers' Association shall forward any levy due and payable by members of the Association in terms of its constitution to the Secretary of the Council by not later than the 15th day of each month following that in respect of which such levies fall due.
- (2) (a) An Employer who is in arrears with payments in terms of sub-clause (1) and who fails, after having been warned in writing by the Council, to forward the outstanding amounts within seven days of such warning, shall upon being notified by the Council in writing to do so, submit the amounts payable in terms of this clause week by week so as to reach the Secretary not later than the Friday following the pay-day of the week in respect of which the amounts are due.
An Employer to whom the provisions of this paragraph have been applied may, only upon being notified by the Council in writing, revert to the payment of amounts payable in terms of this clause on the monthly basis provided for in terms of sub-clause (1).
- (b) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of interest Act, Act No. 55 of 1975, as amended, calculated from such 15th day until the day upon which payment is actually received by the Council: Provided that the Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance.
In the event of the Council incurring any costs of becoming obliged to pay any collection commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then be liable to forthwith pay all such collection commission, and the Council shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection commission and interest, and thereafter in reduction of the overdue capital amount.

35. PROVIDENT FUND CONTRIBUTIONS

- (1) Every Employee under the jurisdiction of this Agreement shall be member of the Provident Fund of the Furniture Industry of the Western Cape (hereinafter referred to as the "Fund") as published under Government Notice No. R. 2016 of 25 November 1994 and as amended thereafter, and shall contribute to the Fund

in respect of each week of his employment an amount equivalent to a percentage of his normal wage per week as determined by the Provident Fund Management Committee and reflected in annexure "H" hereto:

Provided that no contribution shall be made in respect of any week if the earning of the member for such week do not exceed (two fifths) of his wage per week.

- (2) Every Employer of Employees mentioned in sub-clause (1) above shall contribute to the Fund in respect of each week a sum equal to the contributions made by his Employees.
- (3) Employers must deduct from the remuneration of their employees, at the request of the Council and or Provident Fund, an employee's weekly premium towards the repayment of a housing loan granted to the employee by the Provident Fund.
- (4) All amounts payable in terms of sub-clauses (1), (2) and (3) shall be paid by the Employer to the Secretary of the Council month by month, and not later than the 15th day of each month following that in respect of which they are due.
- (5) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of interest Act, Act No. 55 of 1975, as amended, calculated from such 15th day until the day upon which payment is actually received by the Council: Provided that the Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance.

In the event of the Council and or the Provident Fund incurring any costs of becoming obliged to pay any collection costs or commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then be liable to forthwith pay all such collection costs and or commission, and the Council shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection commission and interest, and thereafter in reduction of the overdue capital amount.

36. TIME OFF WORK TO ATTEND TRAINING OR FURTHER EDUCATION COURSES

- (1) Every Employer shall grant every Employee with reasonable opportunity for skills enrichment training provided that scheduling of any such training shall be determined at plant level by both the Employer and the Employee.
- (2) The following critical points should be considered by the consulting parties, (the relevant Employer and relevant Employee), being:-
 - (a) reasonable opportunity for training
 - (b) consideration of operational requirements
 - (c) time off being unpaid
 - (d) proof of registration for training course
 - (e) reasonable notice
 - (f) a limit to the number of Employees off work at any one time.

37. AGENCY SHOP

- (1) An employer must deduct an agency fee from the wages of employees identified in this agreement who are not members of the representative trade union, and who are not compelled to become members of the aforementioned union, but are eligible for membership thereof; and
- (2) For the purposes of this section, "representative trade union" means a registered trade union, or two or more registered trade unions acting jointly, whose members are a majority of the employees employed: -
 - (a) by an employer in a workplace; or
 - (b) by the members of an employers' organisation in a sector and area in respect of which the agency shop agreement applies.
- (3) The agency shop agreement is binding on employees who are not members of the representative trade union, the National Union of Furniture and Allied Workers of South Africa.
- (4) The agency fee must be equivalent to: -
for employees :-
 - (a) the amount of twenty rand (R20) per week;
 - (b) if the subscription of the representative trade union is calculated as a percentage of an employee's salary, then twenty rand (R20) per week; or
 - (c) if there are two or more registered trade union party to the agreement, the amount of twenty rand (R20) per week would apply for employees :-
- (5) The amount deducted by the employer from the wages of the employee must be paid to the Council along with all other contributions by the 15th day of the month following that in which it became due.
- (6) The Council must collect the agency fee and pay it over to the representative trade union/s on a monthly basis.
- (7) No agency fee deducted may be: -
 - (a) paid to a political party as an affiliation fee; or
 - (b) contributed in cash or kind to a political party or a person standing for election to any political office; or
 - (c) used for any expenditure that does not advance or protect the socio-economic interests of employees.
- (8)
 - (a) Despite the provisions of any law or contract, an employer may deduct the agency fee from the wages of an employee without the employee's authorisation.
 - (b) Despite sub-clause (3) a conscientious objector may request the employer to pay the amount deducted from that employee's wages into a fund administered by the Department of Labour.
- (9) The provisions of sections 98 and 100 (b) and (c) of the Act apply, read with the changes required by the context, to the separate account referred to in sub-clause (6).
- (10) In the Registrar's office any person may inspect the auditor's report, in so far as it relates to an account referred to in sub-clause (6).

- (11) The registrar must provide a certified copy of, or extract from, any of the documents referred to in sub-clause (6) to any person who has paid the prescribed fees.
- (12) An employer or employers' organisation that alleges that a trade union is no longer a representative trade union in terms of sub-clause (2) must give the trade union written notice of the allegation, and must allow the trade union 90 days from the date of the notice to establish that it is a representative trade union.
- (13) If, within the 90-day period, the trade union fails to establish that it is a representative trade union, the employer must give the trade union and the employees covered by the agency shop agreement 30 days' notice of termination, after which the agreement will terminate.
- (14) If an agency shop agreement is terminated, the provisions of sub-clause (6) apply until the money in the separate account is spent.
- (15) Notwithstanding the provisions of sub-clause (3) here above employees will be exempted from the agency shop provision for the duration of this agreement if: -
 - (a) another trade union, at the date of signing of this agreement by the parties, or on the extension hereof by the Minister of Labour to non-parties, enjoy a majority membership of fifty percent plus one;
 - (b) should another trade union's membership drop below fifty percent plus one the exemption from the agency shop provision shall become null and void and the agency shop shall apply, subject to the employer following the procedures outlined in sub-clauses 12 and 13 here above.

38. BARGAINING LEVY

- (1) A bargaining levy is payable by an employer who is not a member of the representative employers association, although such an employer is eligible for membership thereof but is not compelled to be a member thereof.
- (2) For the purposes of this section, "representative employers association" means a registered employers association, or two or more registered employers associations acting jointly, whose members are a majority of the employers in the furniture manufacturing industry.
- (3)
 - (a) The bargaining levy agreement is binding on employers who are not members of the representative employers association, being the Cape Furniture Manufacturers Association; and
 - (b) The bargaining levy must be equivalent to the amount of one hundred and fifty rand (R150) per month; and
 - (c) The amount payable by the employer must be paid to the Council along with all other contributions by the 15th day of the month following that in which it became due; and
 - (d) The Council must on a monthly basis pay the bargaining levy over to the representative employers association.
- (4) No bargaining levy payable may be: -
 - (a) paid to a political party as an affiliation fee; or
 - (b) contributed in cash or kind to a political party or a person standing for election to any political office; or

- (c) used for any expenditure that does not advance or protect the socio-economic interests of employers.
- (5) In the Registrar's office any person may inspect the auditor's report, in so far as it relates to an account referred to in sub-clause (3).
- (6) The Registrar must provide a certified copy of, or extract from, any of the documents referred to in sub-clause (3) to any person who has paid the prescribed fees.
- (7) An employer or employers' organisation that alleges that the employer's association is no longer a representative employers' association in terms of sub-clause (2) must give the employers' association written notice of the allegation, and must allow the employers' association 90 days from the date of the notice to establish that it is a representative employers' association.
- (8) If, within the 90-day period, the employers' association fails to establish that it is a representative employers' association, the employer must give the employers' association and the employers covered by the bargaining levy agreement 30 days' notice of termination, after which the agreement will terminate.
- (9) If the bargaining levy agreement is terminated, the provisions of sub-clause (3)(d) apply until all the bargaining levies due up till date of termination of the agreement has been received and paid in accordance with sub-clause (3)(d).
- (10) An Employer who is in arrears with payments in terms of sub-clause (1) and who fails, after having been warned in writing by the Council, to forward the outstanding amounts within seven days of such warning, shall upon being notified by the Council in writing to do so, submit the amounts in terms of this clause week by week so as to reach the Secretary not later than the Friday following the pay-day of the week in respect of which the amounts are due. An Employer to whom the provisions of this paragraph have been applied may, only upon being notified by the Council in writing, revert to the payment of amounts payable in terms of this clause on the monthly basis provided for in terms of sub-clause (1).
- (11) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of Interest Act, Act No. 55 of 1975, as amended, calculated from such 15th day until the day upon which the payment is actually received by the Council: Provided that the Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance.
- (12) In the event of the Council incurring any costs or becoming obliged to pay any collection commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then also be liable to forthwith pay all such costs of whatever nature as between attorney and client and all such collection commission, and the Council shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection commission and interest, and thereafter in reduction of the overdue capital amount."

PART II

39. MEDICAL ILL HEALTH BENEFIT FUND

- (1) An amount of ten rand per week is payable by the Employer, only for employees that are members of the Trade Union NUFAWSA.
- (2) The amount deducted by the employer from the wages of the employee must be paid to the Council along with all other contributions by the 15th day of the month following that in which it became due.
- (3) The Council must collect the medical ill health benefit and pay it over to the Trade Union on a monthly basis.
- (4) An Employer who is in arrears with payments in terms of sub-clause (1) and who fails, after having been warned in writing by the Council, to forward the outstanding amounts within seven days of such warning, shall upon being notified by the Council in writing to do so, submit the amounts in terms of this clause week by week so as to reach the Secretary not later than the Friday following the pay-day of the week in respect of which the amounts are due. An Employer to whom the provisions of this paragraph have been applied may, only upon being notified by the Council in writing, revert to the payment of amounts payable in terms of this clause on the monthly basis provided for in terms of sub-clause (1).
- (5) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the Employer shall forthwith be liable for and be required to pay interest on such amount or on such lesser amount as remains unpaid at the rate prescribed by the Prescribed Rate of Interest Act, Act No. 55 of 1975, as amended, calculated from such 15th day until the day upon which the payment is actually received by the Council: Provided that the Council shall be entitled in its absolute discretion to waive payment of such interest or part thereof in any individual instance.
- (6) In the event of the Council incurring any costs or becoming obliged to pay any collection commission by reason of the failure of the Employer to make any payment on or before the due date, the Employer shall then also be liable to forthwith pay all such costs of whatever nature as between attorney and client and all such collection commission, and the Council shall be entitled in its absolute discretion to allocate any payment by the Employer firstly in satisfaction of such costs, collection commission and interest, and thereafter in reduction of the overdue capital amount."

40. WAGE INCREASE

Employees employed in the Furniture Industry, who did not receive a wage increase in the year 2009, must receive: -

- (a) a wage increase of eight (8%) per cent on actual wages.
- (b) the wage increase, effective from Wednesday 8th July 2009, for party members and for non-party members at the date of extension of this agreement to non-parties, or at a date as fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act 66 of 1995.

PART III

ANNEXURE A

JOB GRADING AND MINIMUM WAGES RATES

A. OCCUPATION SKILLS LEVELS

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.

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. Charge hand

Employees at this level will have a broad knowledge of the discipline that they supervise. They can either be working charge hands or supervisory charge hands.

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. Foreman/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. SPECIFIED MINIMUM WEEKLY WAGE RATES

The wage rates are based on a 44 hour normal hour working week.

Sectors	Occupation Skills Level	Occupation Skills Level Code	Minimum weekly wage rates effective for parties as from 8 July 2009 and for non-parties on such date as may be fixed by the Minister of Labour, but not earlier than 8 July 2008
Furniture, Bedding and Upholstery	Unskilled employees	05	R400-00
	Semi-skilled employees	04	R633-55
	Skilled employees	03	R680-72
	Charge hands	02	R734-32
	Foremen/ Supervisors	01	R734-32

Annexure B

(Reference Normal Range = 4-9)

GRAND TOTAL
GROOT TOTAAL

ANNEXURE C**STARTING, FINISHING AND INTERVAL TIMES**

[Notice required under clause 17 and 20 of Part 1 of the Agreement]

DAY	STARTING TIME	FINISHING TIME	MEAL INTERVAL
MONDAY	..... H .....	..... H .....	..... H
TUESDAY	..... H .....	..... H .....	..... H
WEDNESDAY	..... H .....	..... H .....	..... H
THURSDAY	..... H .....	..... H .....	..... H
FRIDAY	..... H .....	..... H .....	..... H
SATURDAY	..... H .....	..... H .....	..... H

Morning Interval	..... H
Afternoon interval	..... H

ANNEXURE D**BARGAINING COUNCIL FOR THE FURNITURE MANUFACTURING
INDUSTRY OF THE WESTERN CAPE****REGISTRATION AS EMPLOYER**

**The Secretary
Bargaining Council for the Furniture Manufacturing
Industry of the Western Cape
P. O. Box 1123
Woodstock
7915**

Date
.....

Dear Sir

In accordance with clause 6 of Part 1 of the Main Agreement, I hereby furnish you with the following particulars in connection with this business:

- 1. Name under which business is carried on**
.....
- 2. If the business is a company, state registration number**
.....
and date of incorporation
.....
.....
- 3. If the business is a close corporation, state registration number**
.....
and date of incorporation
.....
- 4. If the business is a partnership, a copy of the partnership agreement shall be lodged with this registration form, or where such lodged agreement does not contain the full terms and conditions of the agreement of partnership, the partners shall notify the Council in writing of all terms of the partnership agreement that are not included in the agreement lodged herewith. In the absence of a written agreement of partnership, the Employer shall notify the Council in writing of all the terms of the agreement of partnership.**
- 5. Address(es) at which business is carried on**
.....
- 6. Postal address**
.....
- 7. Telephone number Fax No.**
E-mail

8. Nature of business

.....

9. Full names and home address of proprietor, partners, members, shareholders, managers, directors and secretary:

Full name/s	Identity number	Home address	State whether proprietor, partner, member, shareholder, manager, director or secretary

9. Date business commenced

.....

10. Number of Employees

.....

11. Name of Magisterial District in which business is situated

.....

I,, certify that the information given above is true and correct.

Name.....
Authorised Signatory.....
Date

.....
Date

ANNEXURE F

CONCILIATION AND ARBITRATION GUIDELINES

1. Introduction
 - 1.1 These guidelines deal with the manner in which the Council and its conciliators conduct conciliation proceedings.
2. Purpose of guidelines
 - 2.1 The purpose of these guidelines are -
 - (a) to inform users of the Council's conciliation process of the policies and procedures adopted by the Council in conciliation;
 - (b) to help Conciliators perform their functions; and
 - (c) to promote consistency in the Council's approach to conciliation proceedings.
 - 2.2. These guidelines are drawn from the Commission for Conciliation Mediation and Arbitration's (C.C.M.A.) best practice, the decisions of Commissioners of the CCMA, the courts, and the law.
3. Applications for condonation
 - 3.1 An unfair dismissal dispute must be referred to the Council within 30 days of the date of dismissal. If the 30-day time limit has expired, the dismissed Employee must apply to the Council for condonation, that is, permission to refer the dispute after the 30-day time limit has expired.
 - 3.2 The application must be attached to the dispute referral form and served with it on the other parties to the dispute and lodged with the Council.
 - 3.3 If at any time the Council becomes aware that the dispute was referred outside the 30-day time period, the Council may call on the applicant to apply for condonation.
 - 3.4 The application must include a signed statement that explains the reasons for the delay and deals with each of the considerations set out in paragraph 3.8 below.
 - 3.5 If the applicant requires condonation because he or she did not attend a conciliation meeting scheduled by the Council, the applicant must give reasons for failing to attend.
 - 3.6 The other parties to the dispute must reply to the application within fourteen (14) calendar days of receiving it. This reply must also include a signed statement, which is to be served on the applicant and filed with the Council.
 - 3.7 The applicant may reply to the other party's response within seven (7) calendar days of receiving it. The applicant must serve the reply on the other parties to the dispute and then file it with the Council.
 - 3.8 The Conciliator must consider the application and any representations of the parties and must grant condonation to the applicant if there are good

grounds for doing so. The Conciliator must consider the following: -

- (a) *the degree of lateness.* If the referral is only a few days late, this may weigh in favour of condonation;
- (b) *the degree of fault* of the referring party or his/her authorised representative. If the referral was late due to a circumstance beyond the control of the applicant, this may weigh in favour of condonation;
- (c) *the reasonableness of the explanation.* If the explanation is improbable, this should weigh against condonation;
- (d) *prejudice* to the other parties to the dispute;
- (e) *prospects of success.*

4. Province in which dispute is to be conciliated

- 4.1. A dispute should be conciliated in the province in which the dispute arose.
- 4.2. The Council may arrange for conciliation to be held telephonically if in its opinion the circumstances justify this and it is practicable to do so.

5. Jurisdictional disputes

- 5.1. The policy of the Council is to discourage legal technicalities and to promote dispute resolution in the interests of social justice and labour peace. Accordingly its policy is not to determine jurisdictional disputes at conciliation.
- 5.2. If a party objects to the jurisdiction of the Council the conciliator may-
 - (a) conciliate the dispute on the basis that attendance and participation of all parties is without prejudice; or
 - (b) issue a certificate stating that the dispute has not been resolved.

6. Discretion to assume jurisdiction

- 6.1. If at any time the Council becomes aware that the dispute could have been resolved by another Bargaining Council, an accredited agency or in terms of a collective agreement the Council may, in terms of section 147 of the LRA
 - (a) exercise its discretion to assume jurisdiction;
 - (b) refer the dispute to the appropriate person or body for resolution.
- 6.2. In determining whether or not to assume jurisdiction in terms of section 147, the Council must be guided by whether:
 - (a) the referral is an attempt to by-pass agreed or statutory procedures;
 - (b) substantial injustice will be done by referring the dispute to the appropriate person or body for resolution;
 - (c) the Council has jurisdiction.
- 6.3. If the Council declines jurisdiction it must give the parties brief reasons for its decision and advise the parties as to the appropriate person or body for resolving the dispute.

7. Failure to attend conciliation proceedings

7.1. If the applicant party attends a scheduled conciliation meeting and the responding party does not, the Conciliator may-

- (a) postpone the conciliation; or
- (b) issue a certificate that the dispute has not been resolved.

Before issuing a certificate the Conciliator must be satisfied that the parties have received adequate notice of the place, date and time of the scheduled conciliation.

7.2. If the applicant party does not attend a scheduled conciliation meeting and the responding party does, the Conciliator may-

- (a) postpone the proceedings; or
- (b) dismiss the referral.

Before deciding to dismiss the referral, the Conciliator must be satisfied that the parties have received adequate notice of the place, date and time of the scheduled conciliation. If the referral has been dismissed, the Council must notify the parties that the referral has been dismissed.

7.3. If a referral has been dismissed because a party did not attend a scheduled conciliation, the applicant party may refer the dispute to the Council again under a fresh dispute referral form. If the dispute being referred is about the fairness of a dismissal, and if the 30-day time limit for referral has expired, the party must apply for condonation in terms of paragraph 3 above.

8. Representation at conciliation proceedings

8.1 A party to a dispute may be represented only: -

- (a) by a co-Employee; or
- (b) by a member, an office bearer or official of that party's trade union or Employers' organisation; and
- (c) if the party is a juristic person, by a director or an Employee.

8.2 If a party objects to a representative or the Conciliator is of the opinion that a representative is not authorised, the Conciliator must decide whether that representative may attend.

8.3 A dispute about the status and entitlement of a representative is a factual dispute. The Conciliator may call upon any person to demonstrate why he or she should be admitted as a representative. The Conciliator may request documentation, such as the constitution, pay-slips, the contract of employment, the prescribed form listing the directors of a company, recognition agreements. Representatives must be prepared to tender evidence in support of their status.

9. Applications for postponement

9.1 The Council may, on application, postpone a conciliation hearing only in special circumstances. This policy is based on the fact that the Act emphasises expeditious dispute resolution and postponement inevitably causes delay.

9.2 The Council will not allow matters to be postponed unless –

- (a) there is good reason to do so ;
- (b) the application is in good faith;
- (c) the application is made as soon as practicable; and
- (d) the other parties to the dispute are not unduly prejudiced.

9.3 If a postponement will result in expiry of the 30-day period allowed for conciliation (in s135), the party seeking the postponement must furnish the Council with written proof that the parties have agreed to extend the 30-day period.

10. Impartiality of Commissioners

10.1. A Conciliator must be independent, and must be seen to be independent. The Conciliator should disclose any interest or relationship that is likely to affect their impartiality or which might create a perception of partiality.

10.2 After disclosure, a Conciliator may conciliate if both parties so desire but should withdraw if he or she believes that a conflict of interest exists irrespective of the view expressed by the parties.

10.3 If a party objects to a Conciliator conciliating the dispute, the Conciliator should not withdraw if he or she determines that the reason for the objection is not substantial and he or she can nevertheless act impartially and fairly, and that withdrawal would cause unnecessary delay or would be contrary to the ends of justice.

10.4 Conciliators must conduct themselves in a way to avoid any inference of bias.

11. Conclusion

11.1. These guidelines lay down general principles to guide the Council's Conciliators and staff in the exercise of their powers and functions. These principles are not hard and fast rules and every case presented to the Council must be considered on its merits.

ANNEXURE G**PUBLIC HOLIDAYS**

New Year's Day	–	1 January
Human Rights Day	–	21 March
Good Friday	–	Friday before Easter Sunday
Family Day	–	Monday after Easter Sunday
Freedom Day	–	27 April
Worker's Day	–	1 May
Youth Day	–	16 June
National Women's Day	–	9 August
Heritage Day	–	24 September
Day of Reconciliation	–	16 December
Christmas Day	–	25 December
Day of Goodwill	–	26 December

ANNEXURE H**PROVIDENT FUND CONTRIBUTION**

- (a) Percentage of normal wage per week payable by the Employee is six (6%) percent.
- (b) Percentage of normal wage per week payable by the Employer is six (6%) percent.

Signed at Cape Town, for and on behalf of the parties, this 3rd day of February 2010.

P. Symons
Chairperson

W. Dyers
Vice - Chairperson

T. Miles
Secretary