
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF LABOUR

NO. R. 120

08 FEBRUARY 2019

LABOUR RELATIONS ACT, 1995**BUILDING BARGAINING COUNCIL NORTH AND WEST BOLAND:
EXTENSION OF COLLECTIVE AGREEMENT TO NON-PARTIES**

I, **MILDRED NELISIWE OLIPHANT**, 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 **Building Bargaining Council North and West Boland** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry, with effect from the second Monday after the date of publication and for the period ending 31 December 2020.

.....*M N Oliphant*.....
M N OLIPHANT, MP
MINISTER OF LABOUR
DATE: *29/11/2018*.....

UMNYANGO WEZABASEBENZI

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA – 1995

**UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI
NABASEBENZI EMBONINI YEZOKWAKHA ENYAKATHO KANYE
NASENTSHONALANGA YEBOLAND:**

**UKWELULELWA KWESIVUMELWANO SABAQASHI NABASEBENZI
SELULELWA KULABO ABANGEYONA INGXEYENYE YASO**

Mina, **MILDRED NELISIWE OLIPHANT**, uNgqongqoshe Wezabasebenzi, lapha ngokwesigaba 32(2) soMthetho Wobudlelwano kwezabasebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa uMkhandlu Wokuxoxisana Phakathi Kwabaqashi Nabasebenzi Embonini Yezokwakha eNyakatho kanye naseNtshonalanga yeBoland, futhi ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi, ka 1995, esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyomboni kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesisaziso kuze kube mhlaka 31 kuZibandlela 2020.



MN OLIPHANT, MP
UNGQONGQOSHE WEZABASEBENZI
USUKU: 29/11/2018

LABOUR RELATIONS ACT, 1995**CANCELLATION OF GOVERNMENT NOTICE****BUILDING INDUSTRY BARGAINING COUNCIL NORTH AND WEST
BOLAND**

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, hereby, in terms of section 32(7) of the Labour Relations Act, 1995, cancel Government Notice No. R.1307 of 24 November 2017 with effect from the second Monday after the date of publication of this notice.


.....

**M N OLIPHANT, MP
MINISTER OF LABOUR**

DATE: 29/11/2018.....

UMNYANGO WEZABASEBENZI**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995****UKUHOXISWA KWESIVUMELWANO SIKAHULUMENI****UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI
NABASEBENZI EMBONINI YEZOKWAKHA ENYAKATHO
NASENTSHONALANGA YEBOLAND**

Mina, **MILDRED NELISIWE OLIPHANT**, uNgqongqoshe WezabaSebenzi ngokwesigaba 32(7) soMthetho Wobudlelwano KwezabaSebenzi ka-1995 ngihoxisa iSaziso sikaHulumeni esinguNombolo R.1307 somhlaka 24 kuLwezi 2017 kusukela ngoMsombuluko wesibili emva kosuku lokushicilelwa kwalesiSaziso.


.....

MN OLIPHANT, MP

UNGQONGQOSHE WEZABASEBENZI

USUKU: ...29/11/2018.....

SCHEDULE

BUILDING BARGAINING COUNCIL NORTH AND WEST BOLAND

COLLECTIVE AGREEMENT

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

Meesterbouers Assosiasie Groter Boland (MBA Groter Boland)

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

Building Workers Union

(hereinafter referred to as the "employees" or the "trade union") of the other part, being the parties to the Building Bargaining Council North and West Boland.

TABLE OF CONTENTS

1.	SCOPE OF APPLICATION	3
2.	PERIOD OF OPERATION OF AGREEMENT	4
3.	INDUSTRIAL ACTION	4
4.	DEFINITIONS	4
5.	LEVELS OF BARGAINING	26
6.	REGISTRATION OF EMPLOYERS	26
7.	REGISTRATION OF EMPLOYEES	29
8.	EMPLOYMENT STANDARDS	35
9.	CONDITIONS OF SERVICE	39
10.	REMUNERATION	52
11.	WAGE PAYMENT PROCEDURE	58
12.	STORAGE AND PROVISION OF TOOLS	59
13.	FRINGE BENEFITS	60
14.	HOLIDAY FUND	61
15.	RETIREMENT FUNDS	72
16.	SICK LEAVE AND FAMILY RESPONSIBILITY LEAVE BENEFIT FUND FOR THE BUILDING INDUSTRY	80
17.	SAVING FUND	88
18.	AUDIT AND ACCOUNTING	89
19.	EXPENSES OF THE COUNCIL	90
20.	TRADE UNION DEDUCTIONS	96
21.	SPECIAL MEMBERSHIP LEVY: EMPLOYERS	101
22.	GENERAL	101
23.	EXEMPTIONS	108
24.	PROCEDURE FOR THE RESOLUTION OF DISPUTES	112
25.	DISPUTE SETTLEMENT FINE	116
26.	ARBITRATIONS	117
27.	NOTICE BOARD	117
28.	TRAINING FUND OF THE EMPLOYERS' ORGANISATIONS	118
29.	FUNERAL BENEFIT	118
ANNEXURE A: RULES FOR CONCILIATING AND ARBITRATING DISPUTES IN THE BUILDING INDUSTRY BARGAINING COUNCIL (RULES)		125-140

1. SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed -
- (a) by all employers and by all employees engaged or employed in the Building Industry who are members of the employers' organisation and the trade union, respectively;
 - (b) in the Magisterial Districts of Ceres, Montagu, Robertson, Tulbagh and Worcester;
 - (c) Overberg District Municipality excluding Overstrand Local Municipality (which includes Gansbaai, Hangklip, Kleinmond, Hermanus and Stanford);
 - (d) Central Karoo District Municipality (excluding the Magisterial District of Beaufort-West); and
 - (e) West Coast District Municipality (excluding the Magisterial District of Malmesbury).
- (2) Notwithstanding the provisions of sub-clause (1), the terms of this Agreement shall apply to-
- (a) only those classes of employees for whom wages are prescribed in this Agreement;
 - (b) apprentices and learners only in so far as the provisions are not inconsistent with the provisions of the Manpower Training Act, 1981, and the Skills Development Act, 1998, or any conditions fixed there under.
 - (c) labour-only contractors, working partners and working directors, principals and contractors.
- (3) Notwithstanding the provisions of sub-clause (1)(a), the terms of this Agreement shall not apply to -
- (a) clerical employees and administrative staff;

- (b) university students and graduates in building science and construction surveyors and other such persons doing practical work in the completion of their academic training;
- (c) foremen or general foremen;
- (d) non-parties in respect of clauses 1(1) (a) and 2 of this Agreement.

2. PERIOD OF OPERATION OF AGREEMENT

This agreement shall come into operation on the date fixed by the Minister of Labour as the effective date on which the Agreement shall be extended to become binding on non-parties, or the date on which the Minister of Labour declines to extend the Agreement to non-parties, and the Agreement shall remain in force until 31 December 2020.

3. INDUSTRIAL ACTION

No persons bound by the provisions of this Agreement entered into by the parties shall engage or participate in a strike or lockout or any conduct in furtherance of a strike or lockout in respect of any matter regulated by this Agreement for its duration.

4. DEFINITIONS

Any term or expression used in this Agreement which is defined in the Labour Relations Act, No.66 of 1995, shall have the same meaning as in that Act and any reference to an Act shall include any amendment of such Act; further; unless the context otherwise indicates –

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

“application” means an application in writing on a form specified by the Council;

“apprentice” means a person who is registered under a contract of apprenticeship in terms of the Manpower Training Act, 1981;

“approve” or “approval” means written approval;

“Area A” means the **Langeberg local municipality** – which includes: Robertson, McGregor, Montagu, Ashton, Bonnievale;
Breede Valley local municipality – which includes: Worcester, Rawsonville, De Doorns, Touws River;
Witzenberg local municipality – which includes: Tulbagh, Wolseley, Ceres, Prince Alfred Hamlet;
Swellendam local municipality – which includes: Swellendam, Buffelsjagsrivier, Suurbraak, Barrydale, Infanta, Malgas;

“Area B” means the **Saldanha Bay local municipality** – which includes: Port-Owen, St Helena Bay, Stompneus Bay, Paternoster, Vredenburg, Saldanha Bay, Langebaan, Hopefield;

Magisterial District Moorreesburg

Bergrivier local municipality – which includes: Piketberg, Veldrif, Aurora, Porterville, Redelinghuys, Eendekuil, Dwarskersbos;

“Area C” means **Laingsburg local municipality** – which includes: Laingsburg, Matjiesfontein;
Prince Albert local municipality – which includes: Prince Albert, Leeu-Gamka, Klarstroom, Merweville;
Matzikama local municipality – which includes: Doring Bay, Strandfontein, Ebenhaeser, Lutzville, Koekenaap, Vredendal, Vanrhynsdorp, Klawer, Trawal, Papendorp;
Cederberg local municipality – which includes: Clanwilliam, Graafwater, Lamberts Bay, Elands Bay, Citrusdal, Wuppertal;

“Area D” means **Cape Agulhas local municipality** – which includes: Napier, Agulhas, Struis Bay, Proteem, Klipdale, Arniston/Waenhuiskrans, Bredasdorp, Elim;
Theewaterskloof local municipality – which includes: Genadendal, Greyton, Grabouw, Villierdorp, Botrivier, Riversonderend and Caledon.

“Artisan (Painter, Carpet and Floor layer, Water proofer and Crane operator)” means any person who is registered as such in terms of clause 7(4) of this Agreement and who is permitted to perform skilled work as defined.

“Artisan in all other trades” means any person who is registered as such in terms of clause 7(4)(b) of this Agreement and who is permitted to perform skilled work as defined.

“block” means a walling unit, the face dimensions of which exceed either 300 mm in length or 150 mm in height;

“blocklayer” means any person over the age of 15 years who is registered with the Council in terms of clause 7(3)(iv)(ab) of this Agreement, who has been issued with the appropriate registration card by the Council, and who is engaged in the laying of blocks as defined in this Agreement, on any type of construction, or the laying of paving slabs, precast concrete channels and kerbs, but who shall not be permitted to lay bricks of any size or type, except where these are required for bonding purposes;

“builder’s hoist” means an appliance used in connection with building work for raising or lowering material by means of a platform, skip, cage or other receptacle on a fixed guide or guides;

“Building 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 purpose of erecting, completing, renovating, repairing, maintaining or altering buildings and structures and/or making articles for use in the erection, completion or alteration of buildings and structures, whether the work is performed, the material is prepared or the necessary

articles are made on the site of the buildings or structures or elsewhere (provided that such manufacturing activities shall be limited to the specific manufacturing activities that are mentioned in the following trades or subdivisions thereof and shall further be limited to the carrying out of such activities by an employer who is associated with his employees for the purpose of erecting, completing, renovating, repairing, maintaining or altering buildings or structures, for use by him in the conducting of the aforesaid activities), and includes all work executed or carried out by persons therein who are engaged in the following activities or subdivisions thereof, including excavations and the preparation of sites for buildings as well as the demolition of buildings, unless such demolition was not carried out for the purpose of preparing the sites for building operations:

bricklaying, which includes concreting and the fixing of concrete blocks, slabs or plates and glass bricks, the tiling of walls and floors, pointing, paving, mosaic work, facing work in slate, in marble and in composition, drain laying, slating and roof tiling, bituminous work, asphaltting and sheeting, and the erecting of prefabricated structures or garden walls and/or boundary walls with posts, slabs or any other materials;

concrete paving, which includes the laying of concrete on the ground between buildings, as well as concrete paths which are laid on the same site as a building, whether such paving forms an integral part of the structure or not;

french polishing, which includes polishing with a brush or pad and spraying with any composition;

joinery, which includes the manufacture of all articles of joinery, whether or not the fixing of the article in the building or structure is done by the person making or preparing the article used;

masonry, which includes stone cutting and building, also the cutting and building of ornamental stone work, concreting and the fixing or building of precast and/or artificial stone

or marble paving, mosaic work, pointing, wall and floor tiling, operating stoneworking machinery, other than stone polishing machinery, and the sharpening of mason's tools, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

metalwork, which includes the manufacture to specification for installation in specified buildings and the manufacture of stocks, the fixing of steel ceilings, metal windows, metal doors, builder's smithwork, metal frames, metal stairs and architectural metalwork, and the manufacture and/or fixing of drawn metalwork and sheet and extruded metal, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

painting, which includes the process of signwriting and wall decorating, enamelling, graining, marbling, staining, varnishing, glazing, gliding, lining, stencilling, paper-hanging, spraying, wax-polishing, distempering, lime and colour washing and woodwork preservation, and which also

includes paint removal, scraping, the washing and cleaning of painted or distempered walls and the washing and cleaning of woodwork when such removal, scraping, washing and cleaning are preparatory to any of the said processes;

plastering, which includes modelling, granolithic and composition flooring, composition wall covering and polishing, precast or artificial stonework, wall and floor tiling and paving and mosaic work, including the application of asphaltic or bituminous mastics for the purpose of waterproofing on horizontal or vertical surfaces, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

plumbing, which includes lead burning, gas fitting, sanitary and domestic engineering, drainlaying, caulking, ventilating, heating, hot and cold water fitting, fire-prevention equipment installation and the manufacture and fitting of all sheetmetal work, whether or not

the fixing in the building or structure is done by the person making or preparing the article used;

shop, office and bank fitting, which includes manufacture to specification for installation in specified buildings and manufacture of stocks and/or fixing shop fronts, window enclosures, showcases, counters, screens and interior fittings and fixtures;

steel construction, which includes the fixing of all classes of steel or other metal columns, girders, steel joists, or metal in any other form that forms part of a building or structure;

The Building Industry North & West Boland shall exclude activities covered by the Metal and Engineering Industries Bargaining Council as defined in their registered scope of 12 November 1997.

woodworking, which includes carpentry, woodworking, the manufacture of fixtures to specification for installation in specified buildings and the manufacture of stocks, machining, turning, carving, the fixing of corrugated iron, asbestos tile shingling and other roof coverings, sound and acoustic material, cork and asbestos insulation, wood lathing, composition ceilings and wall covering, the plugging of walls, the covering of woodwork with metal, block and other flooring,

including wood, cork, and rubber, and the sandpapering thereof, cork carpeting and any class or kind of linoleum when fixed in any building or structure, and the application of asphaltic saturated felt or fabrics to floors and/or walls and/or roofs, whether or not the fixing in the building or structure is done by the person making or preparing the article used;

"building worker Category 4", means an employee who has duly approved and registered with the Council in terms of clause 7(3)(i) and issued with the appropriate registration card, and who may perform only those facets of skilled work for which he is

registered as indicated on the registration card issued to him, and includes operators of floor sanding machines and operators of stone and terrazzo polishers;

“building worker Category 3”, means an employee who has been duly approved and registered with the Council in terms of clause 7(3)(ii) and issued with the appropriate registration card, and who may perform only those facets of skilled work for which he is registered as indicated on the registration card issued to him, and includes joinery assemblers and joinery machine operators;

“building worker Category 2”, means an employee who has been duly approved and registered with the Council in terms of clause 7(3)(iii) and issued with the appropriate registration card, and who may perform only those facets of skilled work for which he is registered as indicated on the registration card issued to him, and includes blocklayers, glaziers, fork lift drivers and front - end loader operators;

“building worker Category 1”, means an employee who has been duly approved and registered with the Council in terms of clause 7(3)(iv) and issued with the appropriate registration card, and who may perform only those facets of skilled work for which he is registered as indicated on the registration card issued to him, and includes artisans, carpet and floorlayers, artisan waterproofers, ceiling and partition erectors and crane operators;

“carpet layer”, means an employee who is registered as such with the Council and who is engaged in one or more of the following activities: the laying and/or fixing and/or stretching of all types of carpeting and carpet wall covering, including the supervision of employees engaged in carpet fitting and the fitting of carpet wall coverings and general workers;

“ceiling and/or partition erector”, means an employee who is registered as such with the Council and who is engaged in one or more of the following activities: Setting out, levelling and plumbing, cutting and fitting all metal components, cutting and fitting all ceiling boards

and partition panels, fitting doors and locks, cutting and fitting glass, including the supervision of ceiling and partition workers and general workers;

“cleaner”, means an employee engaged on any one more of the following activities: Cleaning and /or washing premises, doors, windows, equipment, tools, machinery, furniture, vehicles, tanks, containers or other articles, including polishing floors, furniture or vehicles, brushing carpets, removing excess waste materials and other cleaning activities incidental to the foregoing;

“Council”, means the Building Bargaining Council North and West Boland, registered in terms of section 29 of the Act;

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

“employer”, means any person whatsoever, including a person acting as a labour broker or temporary employment service, who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person whatsoever in any manner to assist him in the carrying on or conducting of his business, and “employ” and “employment” have corresponding meanings;

“floor layer”, means an employee who is registered as such with the Council and who is engaged in one or more of the following activities: Laying and fixing floors of wood, mosaic, composition rubber or any other similar material, but excluding carpeting, fixing all types of floor and wall coverings in tile or sheet form, including resilient flooring, linoleum, inlaid linoleum, malthoid, asphalt tiles or asphalt-based materials, cork, rubber, vinyl and plastic compositions (but excluding carpeting), the supervision of employment engaged in floor laying or the fixing of floor and wall coverings;

"Former Agreement", means the Agreement published under Government Notice No. R. 1011 of 26 October 2007, as amended, extended or re-enacted;

"A Foreman" shall be an eligible employee if his duties include the following: if he performs the work of an artisan, and is partly employed in a supervisory capacity, maintains discipline and if he is held responsible for the efficiency and production on site.

A Foreman however will not be an eligible employee if his duties are as follow: Always supervising his co-workers on multiple sites, maintaining discipline and if he is held responsible for efficiency and production on site.

If the employer provides an equal or better benefit for pension, sick and holiday fund to his foreman, it will not be necessary to purchase the Council's benefit. Benefits must be given to an eligible employee.

Only one foreman is allowed per building site. A subcontractor can however appoint one foreman for every ten employees on his building site.

"general worker (beginner)" means an employee who is been registered for the first time, who shall be promoted to a Labourer after one year and shall perform the same duties as a general worker.

"Labourer" means an employee who has been registered for a year, who shall be promoted to a general worker after a year, who shall perform the same duties as a general worker.

"Prefabricated Concrete wall Labourer" means an employee, who shall perform the same duties as a general worker with the erecting of prefabricated concrete wall.

"general worker" means an employee who is engaged in any one or more of the following operations:

- (a) In the section of the Industry involved in asphaltting, waterproofing and/or damp-proofing roofs, walls, ceilings, floors and other surfaces:

Attending to the fire and cleaning up;

cutting damp course and placing in position;

mixing asphalt macadam; dumping and placing material at laying site; rolling with hand rollers;

mixing mastic asphalt in pots and rubbing up laid mastic until cold;

applying key coat preparatory to application of finishing coat of mastic asphalt on all vertical and inclined surfaces;

bitumastic treatment to all surfaces.

- (b) in the block or bricklaying section of the Industry;

Cutting toothings and indents for bonding brickwork;

filling in joints between joint of brick and concrete beam;

grouting joints in bricks and tile floors and cleaning off;

laying blocks in the construction of concrete floors and concrete roofs;

laying blocks not bedded in mortar or mastics;

laying loose tiles on surfaces without bedding;

placing into position uprights, slabs and similar walling components, where no plumbing is required;

grouting in joints in walling and paving;

operating a carborundum or tungsten saw or similar equipment;

applying any liquid reviver to brickwork, slasto or similar equipment;

applying tar or similar products to all surfaces;

cutting brick or similar material;

cutting damp course and placing into position;

- jointing and pointing brickwork;
- priming surfaces with bitumastic or waterproofing solutions;
- washing down bricks;
- (c) in the carpet-laying section of the Industry:
- Assisting carpet layers and carpet fitters in all carpet laying operations;
- mixing, applying and spreading adhesives preparatory to the fitting of all types of carpeting;
- straightcutting;
- using rollers or other appliances for the purpose of bedding down carpeting after setting, laying or fitting;
- (d) in the ceilings and partitioning erection section of the Industry:
- Assembling and handling metal components;
- drilling holes;
- erection of scaffolding;
- fitting all forms of hold-down clips to ceiling panels;
- fixing steel spring clips to aluminium covering strips;
- fixing supports to ceiling panels;
- glueing and applying vinyl sheeting to partition panels;
- laying fibreglass;
- placing veneered or plain or vyanide/vynalast-cladded panels of chipboard, gypsum or asbestos-cement manufacture in position and pressing the holding cover strips in position;
- using pop riveters and specialised ceiling and/or partition tools;
- (e) in the concreting section of the Industry:
- Floating concrete;

- laying, levelling and screeding concrete and operating a concrete vibrator, under supervision;
- mixing concrete by hand;
- operating a concrete or mortar mixer or any similar machine;
- shovelling materials into or removing them from mortar or concrete mixing machine;
- sieving sand and mixing mortar or concrete by hand with shovels;
- (f) in the floor and wall-covering section of the Industry:
- Assisting flooring artisans and floor layers in all floor-laying operations;
- mixing, applying and spreading adhesives preparatory to the setting out of floor blocks, tiles, sheeting and similar materials;
- straightcutting;
- using rollers or other appliances for the purpose of bedding down flooring materials after setting or laying;
- (g) in the painting, decorating and glazing section of the Industry:
- All work preparatory to the application of Kenitex or similar materials;
- applying solution to cement tiles on roofs, using a block brush;
- assisting skilled employees in grain filling preparatory to polishing wood surfaces with fabric;
- cleaning down teak or other hard woods by using solvent steel wools;
- cleaning glass after glazing;
- cleaning completed frames in preparation for puttying;
- kneading putty to correct consistency;
- painting joints and backs of stone with waterproofing compound;

painting or spraying asphaltic and/or other composition sheeting and roofs with bituminous-based aluminium paint;

preparing roofs, including scraping and wirebrushing, prior to painting;

preservative;

use of abrasives of all kinds by hand, including rubbing compounds on preparatory work in painting and spraying;

washing down new galvanized surfaces prior to painting and treating new galvanized surfaces with blow lamp, or paint solvent or oxidizing agents;

applying limewash and cement wash to all surfaces;

applying decorative bitumastic to pipes;

applying chemical adhesive to corrugated iron roofs by means of a paint brush;

applying carbolineum;

applying paint to roofs;

applying anti-corrosive paints to structural steel work and tanking;

knotting or painting nailheads on ceiling;

painting unpainted steel girders with a primer paint;

sanpapering between coats;

stopping or puttying woodwork, walls and ceilings;

applying black putty for glazing and cleaning off excess tags therefrom;

sandblasting, pickling or otherwise preparing structural surfaces prior to coating or applying protective coatings to such surfaces by brush or spray;

(h) in the metal-work section of the Industry:

Bending and/or body-forming metal by machine;

coupling steel windows and door frames, under supervision;

drilling or punching and tapping metal by power or hand machines;

- fixing lugs to steel windows and door frames;
- operating a power-driven grinding machine on metal;
- filling by hand;
- (i) in the plastering section of the Industry:
 - Bagging down walls and ceiling;
 - filling moulds with a facing mixture or concrete mixture, using a shovel;
 - rubbing the face with a piece of sacking;
 - laying and levelling concrete, operating a concrete vibrator, and assisting in screeding;
 - raking out brick joints and preparing surfaces for plastering;
 - setting up moulds, and stripping casings and castings;
 - stopping joints of moulds with plaster of Paris by hand or with the use of a piece tin, under supervision;
 - tamping the filling in moulds;
 - cement-washing all surfaces;
 - operating a rotating solid disc-type machine for screeding cement or granolithic floors when such machine is used preparatory to further finishing;
 - slushing surfaces preparatory to plastering;
- (j) in the structural carpentry, roofing and scaffold erecting sections of the Industry:
 - Assisting skilled employees in placing steel props and fixing to bearers and adjusting to heights;
 - cutting roofing tiles with tile handcutting machine;
 - cutting scaffold poles and props;
 - erecting scaffolding under supervision;
 - fixing asphalt sheeting to sides of steel and wood frames;

fixing hoop iron, steel or wire stiffeners to strengthen shuttering;
hoisting shuttering and placing in position, but not fixing;
stripping shuttering;
tying roof tiles with wire;
wedging up wood props;
fixing terracotta and cement roofing tiles;
fixing decking plates;
dismantling and/or re-assembling, excluding lining up, preconstructed buildings or structures under supervision;
applying solution to cement tiles or roofs, using a block brush;
fixing cork and other insulating materials;

(k) in the joinery and shopfitting sections of the Industry:

Application of sealer coats to joinery;
assisting skilled employees in the application of glue to tenons or wood surfaces prior to clamping or pressing;
glueing and/or fixing facings to panels or frames in factory/workshop;
operating automatic or manual presses;
placing and fixing in position egg-crating, fillets or acoustic material in recesses formed by frames, in factory/workshop;
cleaning mortices;
fixing steel spring clips to aluminium cover strips;

(l) in the steelwork, steel construction or steel re-inforcing sections of the Industry:

Binding or tying with wire steel reinforcing materials and cutting, bending, assembling, erecting and fixing such materials;
erecting steel formwork and columns, excluding lining up, plumbing and levelling;

hosting steel and laying in position;

sorting, selecting, assembling, elementary tying in securing restressing cables or reinforcement.

(m) in the plumbing and drainlaying section of the Industry:

Cutting, screwing, bending and threading of piping and steel rods by hand under supervision, excluding copper;

caulking of joints in drains;

manually digging trenches, holes, etc;

(n) in the stonework, masonry and monumental masonry section of the Industry:

Attending swing saws, assisting in setting stone and fixing saw blades for the purpose of the operation of swing saws and polishing machinery and/or working grindstone machinery;

grouting in joint and filling backs of stonework after fixing;

operating swing saws, stone polishing machinery and compressors for stonework;

painting joints and backs of stone with waterproofing compound;

working jack-hammers or using hammer and punch for splitting stone or drilling dowel holes;

operating a dunter, including a hand dunter, turning lathe, circular saws (in respect of monumental work), stone-polishing machinery, including hand-polishing equipment, letter-cutting machines, swing-and-frame saws, under supervision;

sharpening tools;

(o) in all sections of the Industry:

Assisting skilled employees or higher-graded workers wherever necessary, but not performing such higher-graded work;

baling waste or scrap metal by hand or machine;

carrying mortar, bricks, stone, concrete or other materials;

cutting, drilling, chasing and plugging in brick and concrete;

breaking, chipping, compacting, loosening or ramming earth, concrete, rock, sand, soil, stone or other materials by means of a power-driven hand-held tool or device such as earth-hammer, paving breaker, rockdrill or scabbler;

oiling and greasing machinery;

removing stains and cement on stone, artificial stone, slate, terracotta or similar surfaces with carborundum blocks or rubbing machines;

scrubbing down and cleaning, using steel wire brushes or scrubbing brushes;

cladding roofs with grass;

gauging sand, stone and cement;

cutting up scrap metal by hand;

repetitive cutting of rough materials on site with power tools;

cooking or otherwise preparing or serving meals;

delivering or collecting messages, letters, parcels or goods on foot or by means of a bicycle, tricycle or hand-propelled vehicle;

making, maintaining or drawing fires or removing ashes, refuse or waste;

making or serving tea or similar beverages;

cutting down, uprooting, removing or destroying trees or vegetation;

manually demolishing or breaking up buildings, walls or other structures;

manually hauling, pulling or pushing wheelbarrows, trolleys or other vehicles;

opening and closing valves or cocks, including control valves or cocks for pumps

removing, emptying, cleaning or replacing sanitary pails or cleaning sewerage pipes or points;

performing any other work of an unskilled nature not elsewhere specified or apportioned to any other class or grade of employee, but excluding the activities included in the definition of "cleaner";

"glazier" means an employee who is engaged in the final fitting and fixing of glass into frames, and who is registered with the Council as such and who has been issued with a registration card;

"guard" means an employee who is engaged in patrolling premises and guarding property where building work is being performed;

"Industry" means the Building Industry;

"labour-only contract" means a contract, agreement, arrangement or understanding in terms of which an employer undertakes to do the work for which he is to be paid only for the provision of his own labour and/or that of his employees, if any, and where such employer is not responsible for the payments to manufacturers or merchants who in the ordinary course of their business supply material to the Building Industry, for all the material to be used in the execution of such work;

"labour-only contractor" means a contract, agreement, arrangement or understanding in terms of which an employer undertakes to do the work for which he is to be paid only for the provision of his own labour and/or that of his employees, if any, and where such employer is not responsible for the payment to manufacturers or merchants who in the ordinary course of their business supply material to the Building Industry, for all the material to be used in the execution of such work, and include the concept of any group of employees being shifted in an organized manner from one

building site to another irrespective of whether or not they are working for an owner-builder as defined;

“learner building worker Category 4, 3, 2 or 1” means an employee who has been duly approved and registered with the council in terms of clause 7(2) and issued with the appropriate registration card and who may perform skilled work for an employer who has entered into an employment agreement with the Council in terms of clause 7(2), in any of the skilled trades designated in terms of the Manpower Training Act, 1981, and in the trades of blocklayer, carpet layer, ceiling and/or partition erector, floor layer, glazier, roofer and waterproofer;

“member” for the purposes of the Benefit Funds, means any person who contributes to Benefit Funds controlled by the Council, in order to obtain a benefit under the rules for himself or for his dependants in accordance with the rules, who has submitted the duly completed application for membership to the Council and who has been accepted as a member of the Fund;

“overtime” means all time worked outside or in excess of the ordinary hours of work specified in clause 9(1);

“piece-work” means any system of work under which the minimum wage to which an employee is entitled is calculated solely on the quantity or output of work done irrespective of the time spent on such work;

“probationary learner building worker” means a person other than a minor who is registered with the Council as a probationary learner building worker in terms of clause 7(2) and who has been issued with the appropriate registration card by the Council, valid for a maximum of 28 consecutive working days, and who is engaged in the service of an employer who has entered into an employment agreement with the Council in terms of clause 7(2);

“**roofer**” means an employee who is an artisan who is responsible for the setting out of a roof from drawings or otherwise, who determines the positions of battens, slates, tiles, sheets and other roofing material, including shingles, thatch, etc., who may fix flashings, gutters and downpipes to roofs, who is in charge of and supervises the work of others engaged in roof construction and who is paid wages not less than that prescribed in clause 10(1)(h)(1);

“**rules**” means the rules determined by the Council from time to time in terms of this Agreement in respect of the administration of the Benefit Funds operated by the Council in terms of this Agreement;

“**Secretary**” means the Secretary of the Council and includes any official nominated by the Council to act for the Secretary;

“**skilled work**” means work of a skilled nature which is normally and customarily performed by a person who has served a contract of apprenticeship or a period of training in terms of the Manpower Training Act, 1981, in any of the trades designated in terms of the Act, including the work of a carpet layer, ceiling and/or partition erector, floor layer, waterproofer or roofer as defined, and furthermore, without in any way limiting the ordinary meaning of the expression “skilled work”, includes the following activities:

Asphalting: Supervision of all asphalting operations;

bricklaying: Marking and setting out from plans; laying of preconstructed stone blocks, grille blocks, face and other bricks, glass bricks, capping and sill tiles, all brickwork corners, plumbing angles; tuck pointing and installation of prefabricated brick panel walls on site;

metal working: Marking and setting out; setting up and supervising machines; hand welding and brazing; drilling and tapping by hand; final filing and/or assembly; fixing of builders' smith and founder work, metal frames and stairs, and architectural metal work;

painting: Applying paint, varnish, texture coating, resin-bonded coating and other similar material to all surfaces; paperhanging and signwriting;

plastering: Modelling and model-making; mould-making; preparing preliminary ruling screed's; rendering materials to surfaces; granolithic work; screeds to floors to receive finished covering such as blocks and vinyl floors tiles, sheeting, etc.;

plumbing and drainlaying: Marking out, setting out; final fixing of assembled piping and fixtures; soldering and brazing on site; supervising laying of pipes to falls;

shopfitting: All operations under shop joining, plus assembling and fixing of shopfronts, shop, office and bank fittings;

shop joinery: Marking and setting out; manufacturing, assembling, planning, finishing and fixing finished woodwork;

steel work: Supervision of bending, placing and fixing in position of steel reinforcement and steel construction materials;

stone and monumental masonry: Drawing, designing and setting out of letters and enrichments; cutting and carving of letters by hand and pneumatic hammer; final surfacing and finishing, excluding polishing, of stone or substitute material by hand to size; setting up machines; setting stone on mortar bed; marking out; fixing of pre-cast or artificial stone or marble;

structural carpentry: Marking out, setting out, fabricating, levelling, plumbing, cutting, adjusting, securing, lining up and fixing materials;

tiling: Setting and fixing of tiles, mosaics, or other similar materials;

waterproofing: Supervision of waterproofing workers and general workers engaged on waterproofing or dampproofing operations;

wood machining: Setting up machines; supervising machines;

“*structure*” includes walls, boundary, garden and retaining walls and monuments;

“*task work*” means any system of work under which the minimum quantity or output of work to be done in a specified time is fixed as a condition for the payment of the wage specified in clause 10(1);

“*wage*” means that portion of remuneration payable in money to an employee in terms of clause 10(1) in respect of the ordinary hours laid down in clause 9(1): Provided that if an employer regularly pays an employee in respect of such ordinary hours of work an amount higher than that prescribed in clause 10(1) it shall mean such higher amount;

“*working day*” means any day other than Saturday, Sunday, any public holiday or the annual leave period as prescribed in clause 9(6) of this Agreement in respect of which the ordinary hours of work laid down in clause 9(1) apply;

“*working employer*” or “*partner*” means any employer or any partner who is an employer and who himself performs any work included in the definition of “Building Industry”;

“*working week*” means the customary pay week of an establishment.

5. LEVELS OF BARGAINING

The Council shall be the forum for negotiating all matters pertaining to this Agreement.

6. REGISTRATION OF EMPLOYERS

- (1) Every employer in the Industry to whom this Agreement is applicable shall ensure that he is registered with the Council.

- (2) An employer shall register with the Council by furnishing the required particulars to the Council on the prescribed form with a administration fee of R250.00, and shall warrant thereon that application has been made for registration with the South African Revenue Services for employee tax and value-added tax (if applicable), registration with the Unemployment Insurance Fund and registration under the Compensation of Occupational Injuries and Diseases Act.
- (3) Every employer shall notify the Council in writing of any change in the particulars furnished on registration or of ceasing operations in the Industry within 14 days of such change or of ceasing operations.
- (4) A certificate of registration signed by either the Chairman or the Secretary of the Council shall be issued to each employer registered.
- (5) An employer who does not pay to the Council the levies and contributions payable by him and his employee, on the due date (maximum two weeks) as determined in this Agreement, shall pay interest to the Council at the prime rate charged by the Council's bank calculated from the due date to date of payment, which interest shall accrue to the general funds of the Council.
- (6) Where a partnership, company or close corporation is operating as a labour-only contractor with working partners, directors or members, the partnership, company or close corporation shall upon registration nominate in writing one of the working partners, directors or members to be the responsible person for assuring that the partnership, company or close corporation complies with all the provisions of the Agreement in respect of the working partners, directors or members.
- (7) Subject to the provisions of the Basic Conditions of Employment Act, 1997, every employer shall keep the following records in respect of every employee in his employment:

- The Bargaining Council number;
- the identity number, full name and residential address;
- the employee`s occupation and status;
- the banking details of the employee;
- the tax number of the employee;
- a record of normal and overtime worked;
- a record of remuneration paid and the calculation thereof, including all deductions.

Foreigners

Problems are encountered with the employment of foreigners.

The Department of Home Affairs provided the following important information:

- Employers must ensure that non-SA citizens have valid work permits or asylumseeker documents.
- Always check the expiration date. Remind employees in advance that they must obtain a new permit/asylum seeker document before the expiry date.
- If you become aware of an employee who works without a valid permit/asylum seeker document, you must still follow a FAIR PROCEDURE and refer the employee to the Department of Home Affairs.
- This will involve giving the employee notice of a formal hearing, having a formal hearing and suspending the employee's services until he or she can provide a valid work permit/asylum seeker document.
- In addition, the Department of Home Affairs emphasizes that the law requires that a minimum of 60% of your employees must be SA citizens.
- Department of Home Affairs has indicated: Non-compliant companies will be fined heavily and have their licenses reviewed, while managers and owners could be jailed for up to two years if the department decides to take legal action.

7. REGISTRATION OF EMPLOYEES

(1) General

- (a) No person may be employed in the Building Industry unless he has been registered with the Council in the manner specified in this Agreement.
- (b) The Council shall issue to each registered employee a Bargaining Council identity card, and the employee shall be required to retain that card at all times whilst engaged in work in the Building Industry.
- (c) The Council shall bear the initial costs of the Bargaining Council identity card, but the employee shall be liable for the costs of the replacement of any lost identity card.

- (d) If, at any stage, the employer, in conjunction with the trade union, is of the opinion that a registered employee, who at that time has been registered with the Council for less than three years, is not performing his duty to an acceptable level of proficiency, the employer may at his own cost require that the employee undergo a qualifying trade test under section 28 of the Manpower Training Act, 1981. Should the employee be unable to meet the proficiency level for which he was registered, the Council shall re-register that employee in accordance with the result of the section 28 trade test.
- (2) Probationary learner building worker and learner building worker**
- (a) A registered employer may employ any person, other than a minor or a person eligible for indentureship as an apprentice in terms of the Manpower Training Act, 1981, as a probationary learner building worker or a learner building worker, after such person has been registered by the Council in the specified manner.
- (b) Upon receipt of the specified application form, the Council shall register the learner in the appropriate employee category and enter the learner's name in a register. The learner shall then be entitled to perform work in the designated trade in respect of which he has been registered.
- (c) The learner shall be entitled to undergo training under the auspices of the Building Industries Training Board, or any other accredited training institution approved by the Council and his employer.
- (d) A probationary learner building worker shall be registered as a learner building worker Category 4 after he has been employed as such for a maximum of 28 consecutive calendar days (4 weeks) and has provided the Council with a letter of reference from an employer who shall employ him as a learner building worker Category 4;

- (e) A learner building worker Category 4 shall be registered as a learner building worker Category 3 –
- (i) on having been employed in his trade with an employer as a learner building worker Category 4 for a minimum of 31 weeks and a maximum of 41 weeks;
and
 - (ii) on having attended a recognized training institution for instruction in his trade;
and
 - (iii) on having passed all the modules of phase one of the course content for his trade.
- (f) A learner building worker Category 3 shall be registered as a learner building worker Category 2 -
- (i) On having been employed in his trade with an employer as a learner building worker Category 3 for a minimum of 39 weeks and a maximum of 49 weeks;
and
 - (ii) on having attended a recognized training institution for instruction in his trade;
and
 - (iii) on having passed all the modules of phase two of the course content for his trade.
- (g) A learner building worker Category 2 shall be registered as a learner building worker Category 1-
- (i) on having been employed in his trade with an employer as a learner building worker Category 2 for a minimum of 39 weeks and a maximum of 49 weeks;
and
 - (ii) on having attended a recognized training institution for instruction in his trade;
and

- (iii) on having passed all the modules of phase three of the course content for his trade.
- (h) A learner building worker Category 1 shall be registered as an artisan -
 - (i) on having been employed in his trade with an employer as a learner building worker Category 1 for a minimum of 39 weeks and a maximum of 49 weeks; and
 - (ii) on having attended a recognized training institution for instruction in his trade; and
 - (iii) on having passed a minimum of 100% of the course content for his trade; and
 - (iv) on having completed his PPCs (Production Performance Criteria) with an employer or at a recognized training institution; and
 - (v) on having passed a category B trade test for his trade at an accredited trade test centre.
- (i) The learner building worker shall be entitled to payment of wages in accordance with the wage specified in respect of his category in terms of clause 10(1) of this Agreement.
- (3) Building workers**
- (a) A person in a specified category shall be registered as a building worker in that category in the following circumstances:
 - (i) In respect of Category 4, any person who-
 - (aa) is deemed to be qualified to work as an operator of a hoist or a dumper driver or a manufacturing worker;
 - (ab) has been registered as a learner building worker Category 4 and has failed to qualify for registration as a learner building worker Category 3;
 - (ii) in respect of Category 3, any person who-

- (aa) is deemed to be qualified to work as an operator of a floor sanding machine or as an operator of a stone and terrazzo polisher; or
- (ab) has been registered as a learner building worker Category 3 and has failed to qualify for registration as a learner building worker Category 2;
- (iii) in respect of Category 2, any person who has
 - (aa) been registered as joinery assembler in terms of the provisions of this Agreement of the Council; or
 - (ab) completed a contract of learnership in terms of this Agreement as a joinery assembler and has passed a trade test approved and recognized by the Council; or
 - (ac) been registered as a learner building worker Category 2 and has failed to qualify for registration as a learner building worker Category 1;
- (iv) in respect of Category 1, any person who-
 - (aa) is deemed to be qualified to work as a fork-lift operator; or front-end loader operator; or;
 - (ab) has been registered as a blocklayer or glazier in terms of the provisions of this Agreement of the Council; or
 - (ac) has completed a contract of learnership in terms of this Agreement in the trade of block layer or glazier and has passed a trade test approved and recognized by the Council; or
 - (ad) has been registered as a learner building worker Category 1, and passed a trade test.
- (b) Application for registration in any of the above categories shall be made to the Council in the manner determined by the Council.

- (c) A building worker Category 1 shall not be registered as an artisan unless he has passed the requisite trade test.
- (d) The Council shall register the building worker in a register, and the building worker shall be entitled to perform those facets of skilled work that fall within the modules for which he has obtained a proficiency level within the trade category in respect of which he has been registered.
- (e) the building worker shall be entitled to payment of wages in accordance with the wage prescribed in respect of his category in terms of clause 10(1) of this Agreement.

(4) Artisan

(a) Artisan: Painter, Carpet and Floor layer, Waterproofer an Crane operator

Any person who has either -

- (i) been registered as an artisan in terms of the provisions of this Agreement of the Council; or
- (ii) been employed in the Building Industry either within or outside the area of jurisdiction of the Council as a skilled worker, and has achieved a level of competency equivalent to that required of an artisan and who has passed a trade test approved and recognized by the Council; or
- (iii) been employed outside the area of jurisdiction of the Council as a skilled worker and furnishes the Council with such documentary and other proof as the Council may deem necessary to substantiate the applicant's competency; shall upon application to the Council in the manner specified by the Council be registered as an artisan.

(b) Artisan in all other trades:

Any person who has either -

- (i) been registered as an artisan in terms of the provisions of this Agreement of the Council; or
- (ii) been employed in the Building Industry either within or outside the area of jurisdiction of the Council as a skilled worker, and has achieved a level of competency equivalent to that required of an artisan and who has passed a trade test approved and recognized by the Council; or
- (iii) been employed outside the area of jurisdiction of the Council as a skilled worker and furnishes the Council with such documentary and other proof as the Council may deem necessary to substantiate the applicant's competency; shall upon application to the Council in the manner specified by the Council be registered as an artisan.

8. EMPLOYMENT STANDARDS

(1) Employment of minors

No persons under the age of 15 years shall be employed in the Industry.

(2) Trial period of employees

- (a) The employees for whom wages are specified in clause 10(1) (a) up to and including (d) of this Agreement, shall upon employment in the Industry with any employer engaged in the Industry, be subject to a trial period of 42 working hours, not necessarily consecutive.
- (b) Notwithstanding anything to the contrary contained in this Agreement, the employee concerned shall, during the trial period referred to in subclause (2)(a) hereof, be entitled only to the wage prescribed in clause 10(1) of this Agreement in respect of all hours worked, without any employer contributions to the Holiday Fund or any other benefit fund of the Council.

- (c) During the trial period referred to in subclause (2)(a) hereof, the employer's employer shall not be compelled to issue the benefit stamp of the Council to the employee concerned.
- (d) All categories of employees, except those employees referred to in clause (2)(a), are subject to a probation period of 10 working days, before confirmation of appointment.

If any employee does not comply with these requirements, the employer shall deal with the case as prescribed in schedule 8(8) of the Labour Relations Act, No. 66 of 1995.

(3) Prohibited employment

- (a) No employer shall require or permit any person other than a registered artisan, probationary learner building worker, learner building worker, building worker, an apprentice registered with the Building Industry Training Board or a foreman, to perform skilled work in the Industry.
- (b) No employer, foreman, artisan, or any other employee employed in a supervisory capacity by an employer shall instruct, require or permit any employee, other than those referred to in subclause (3)(a) hereof, to perform skilled work.
- (c) No employee, other than those referred to in subclause (3)(a) hereof, shall perform skilled work in the Industry.
- (d) Notwithstanding anything to the contrary in this Agreement, no provision which prohibits the engagement or employment of an employee in any category of work or on any conditions shall be deemed to relieve the employer

from paying the remuneration and observing the conditions which he would have had to pay or observe, had such engagement or employment not been prohibited, and the employer shall continue to pay such remuneration and observe such conditions as if such engagement had not been prohibited.

(4) Prohibition of piece-work and task work

- (a) The giving out by an employer or the performance by an employee or any group of persons of work on a piece-work and/or task-work basis is prohibited.
- (b) Notwithstanding the provisions of subclause (4)(a), it shall be permissible, by mutual agreement between any individual employer and his employees, or any group of persons other than apprentices, to introduce and to operate a system of incentive payments: Provided that as a result of the introduction and operation of such system the remuneration and other monetary benefits accruing to the employees shall not be less than those specified in this Agreement: Provided further that the other provisions of this Agreement are adhered to in every respect.

(5) Labour-only contractors

- (a) No labour-only contractor shall undertake work in the Building Industry in terms of a labour-only contract unless he is registered with the Council as an employer, or if he is not an employer and if he were an employer.
- (b) Compliance by employers, subcontracting and use of temporary employment services:
 - (1) The Council shall keep a register of employers in good standing with the Council which shall be generally made known and be available to any person on request.

- (2) An employer shall be in good standing with the Council for purposes of subclause (1) if the employer is registered with the Council in accordance with clause 6 and unless the employer has failed to comply with a compliance order and/or pay a penalty imposed in terms of clause 25 and clause 26 of this Agreement.
- (3) No person shall enter into an agreement to subcontract Building Industry work to another person unless, at the time of entering into the agreement, both persons are employers in good standing with the Council: Provided that, where persons conclude an agreement to subcontract such work on an indefinite basis or for longer than 12 months, the parties to such agreement shall be in good standing with the Council and shall be held jointly and severally liable if the subcontractor, in respect of any of its employees, fails to meet any obligations that it has under this Agreement.
- (4) No person shall enter into an agreement to utilize a temporary employment service for work in connection with the Building Industry unless, at the time of entering into the agreement, both the person and the temporary employment service are employers in good standing with the Council: Provided that, where persons conclude such an agreement on an indefinite basis or for longer than 12 months, the parties to such agreement shall be in good standing with the Council each time that the services of the temporary employment service are utilized under the agreement. The provisions of section 198 of the Act, shall apply to any person who enters an agreement to utilize a

temporary employment service for work in connection with the Building Industry.

- (c) Contractors must provide the necessary information of his/hers sub-contractor's on a prescribed form, that is available at the Council's offices.

(6) Individuals or Organisations

No individual or organization may enter an agreement aimed at contracting of Building Industry work with a main contractor, developer, contractor labour, labour broker, project manager or specialist contractor, if such a person is not in good standing with the Council.

Each contractor or employer must have a compliance- and registration certificate from the Building Bargaining Council North and West Boland. An individual or organization that enters into a Building Industry contract with a main contractor, developer, labour contractor, labour broker, project manager or specialist contractor, which is not in good standing with the Council, shall be held jointly and severally liable for their employees, if they fail to comply with any of the terms and conditions of this Collective Agreement.

9. CONDITIONS OF SERVICE

(1) Ordinary hours of work

- (a) No employee shall ordinarily be required to work more than the following hours:

Category	Daily hours	Weekly hours
Guards	12 hours	45 hours
Drivers	10 hours	45 hours
All other employees	9 hours	45 hours

- (b) With the exclusion of guards, ordinary hours shall be between 07:00 and 19:00 daily, Monday to Friday. Guards shall be required to work no more than six (6) consecutive days in any week.
- (c) **Paid working time:** The daily paid working time of an employee shall commence when the employee starts working at his actual place of work or job site, and shall end when the employee stops working at his actual place of work or job site, and shall exclude all travelling time to and from the actual place of work or job site: Provided that if the employee, on the instructions of the employer, has to move to another place of work or job site after his daily paid working time has already commenced, such travelling time shall be deemed to be time worked by the employee.

An employee, that assist a vehicle driver and accompany him during a trip, on instruction of the employer, must be paid in full for the same hours worked as worked by the vehicle driver. This clause is only appropriate if the trip is more than one and a half hour in the morning before normal work hours and/if more than one an a half hour in the evening after normal working hours.

- (d) As provided in this clause, no employer shall require or permit an employee to work, and no working employer or his partner shall perform any duties of the employees for whom wages are prescribed in this Agreement and no employee whilst in the employ of an employer shall, for remuneration or not solicit, undertake or perform building work normally undertaken by the Building Industry on a Saturday or on a Sunday without permission of the council.

(2) Intervals

- (a) Every employee shall be entitled to daily meal and/or rest intervals totalling no more than sixty (60) minutes, which shall not form part of ordinary working hours, and shall be at such times as agreed with his employer.

(b) No employer shall require an employee to work more than five (5) continuous hours without an interval.

(3) Shift work

An employer may require his employees to work in shifts, provided that no employee shall be required to work more than one 8-hour or 12-hour shift during any period of 24 hours.

(4) Overtime

(a) All time worked in excess of the number of ordinary hours of work on any day shall be overtime, or as the agreed working hours determine by a contract of service.

Overtime shall be dealt with according to the Basic Condition of Employment Act of 75 of 1997 as prescribed in Article 10 of the Act.

(b) An employer may request, which request shall not be unreasonably rejected, an employee to work overtime not exceeding four (4) hours per day, Monday to Friday, and not exceeding eight (8) hours on Saturdays or Sundays:

(c) An employee who is engaged in a continuous process of work shall be obliged to work until that process is completed, and shall be paid at overtime rates, as specified in this Agreement.

(5) Public holidays

The public holidays proclaimed in terms of the Public Holidays Act, 1994, shall be recognized as paid public holidays. Employees who work on public holidays shall be entitled to the wage specified by clause 10(4), except that the public holidays falling within the annual leave period specified in clause 9(6) of this Agreement shall be included in the fringe benefits.

Public holidays are exchangeable.

(6) Annual leave

- (a) The closing period of the building industry starts at 17:00 and will re-open at 08:00 on the following periods:

PERIOD	CLOSING DATE	RE-OPENING DATE
From the date of commencement to 31 October 2019	14 December 2018	11 January 2019
For the period 1 November 2019 to 31 October 2020	13 December 2019	10 January 2020

- (b) If building work is required, employers will be allowed to make prior arrangements with the Council in order to work, during the official period of leave. If there are employees working during this period, employees will be paid at normal pay rates, except Saturdays and Sundays who will be paid as prescribed by the Basic Conditions of Employment Act of 1997. No building work will be allowed between 16:00 on the 24th December until 08:00 on 8th January.
- (c) Guards and other employees who had to work during the above period shall be granted leave by agreement with their employers equal to the period worked during the annual shut-down.

(7) Sick leave

An employee shall be entitled to sick leave in accordance with the provisions of the Sick Leave Fund for the Building Industry and clause 16 of this Agreement, and to payment for the period of such sick leave in terms thereof.

(8) Termination of contract of employment

- (a) An employer or employee who intends terminating a contract of employment shall -
- (i) During the employee's first 24 hours in the employment of the employer, be entitled to terminate such contract without any notice period;
 - (ii) If the employee has worked for the employer for four weeks or less, give the other party five working days' notice of termination of such contract;
 - (iii) If the employee has worked for the employer for longer than four weeks, give the other party two weeks notice of termination of such contract.
- (b) If any written contract of employment provides for a period of notice of equal duration for both parties which is longer than that prescribed in this clause, notice shall, in accordance with such contract, be given over such longer period: Provided that no agreement may require or permit an employee to give a period of notice longer than that required of the employer.
- (c) Notice of termination of a contract of employment must be given in writing, except when it is given by an illiterate employee.
- (d) If an employee who receives notice of termination is not able to understand the notice, it must be explained orally by, or on behalf of, the employer to the employee in an official language the employee reasonably understands.
- (e) Notice of termination of a contract of employment given by an employer may-

- (i) not be given during any period of leave to which the employee is entitled in terms of this Collective Agreement, and
 - (ii) not run concurrently with any period of leave to which the employee is entitled in terms of this Collective Agreement, except sick leave.
- (f) Notice in terms of subclause (8)(a)(ii) and (iii) may be given on any working day before 12 noon, and shall commence as from 08:00 on the following working day.
- (g) Notwithstanding the provisions of this clause, either party shall be entitled to terminate the contract of employment without notice by making payment in lieu of the requisite notice.
- (h) In the event of an employee's absconding, or not making the appropriate payment in lieu of notice, and where the employer has proven such, the employer shall be entitled to deduct the appropriate notice pay from any moneys due in terms of the Holiday Fund.
- (i) Nothing in this clause shall affect the right of an employer or employee to terminate a contract of employment without notice for any reason recognized by law as sufficient.
- (j) A contract of employment shall be automatically terminated if an employee is absent from work without the employer's consent for a continuous period of five calendar days, unless such absence is due to circumstances beyond his control.
- (k) Nothing in this clause affects the right of a dismissed employee to dispute the lawfulness or fairness of the dismissal in terms of Chapter VIII of the Labour Relations Act, 1995, or any other law.
- (9) **Lay-off and suspension**

- (a) An employer shall be entitled to lay off an employee temporarily -
- (i) on account of inclement weather;
 - (ii) on account of a shortage of materials, due to circumstances beyond the control of the employer; and
 - (iii) on account of a temporary shortage of work: Provided that one day's notice is given, and that such notice includes the reason for the lay-off, and the period of the lay-off where possible: Provided further that the employer shall not be liable to pay the employee any remuneration during such lay-off.
- (b) An employee may be laid off for a continuous period not exceeding 20 working days: Provided that at the end of such period the employee is given the option of being retrenched according to the procedure outlined in clause 9(10), or being laid off for a further continuous period of 20 working days, whereupon the option is repeated. The laying off of an employee for a continuous period of 20 working days shall be limited to a cycle of two lay-offs per annum.
- (c) No employer shall unilaterally suspend an employee from work for any period as a disciplinary measure without giving the employee a fair hearing.
- (d) Any notice of a laying off given in terms of this clause shall be given by the employer in writing and shall clearly indicate the initial period of the lay-off, and when the employees should again report to the employer for further instructions/negotiations, and shall also clearly specify that after the first initial period of the specific lay-off the employee shall have the option of being retrenched or laid off further specified period.

(10) Retrenchment

- (a) An employer who proposes retrenchment shall, by no later than ten (10) working days before the proposed date of notice of the termination of any employee's services, provide any of the trade union parties of which prospective retrenchees may, to his knowledge, be members, with the following information in writing:
- (i) The number of employees who may be retrenched, together with their names, duration of service, Council Holiday Fund numbers, and job categories;
 - (ii) the proposed date of implementation of retrenchment;
 - (iii) the reasons for the proposed retrenchment, including all alternatives which the employer has considered and the reasons for their rejection;
 - (iv) the proposed date for consultations with the trade union(s) and/or employee(s) likely to be affected;
 - (v) the proposed severance pay;
 - (vi) the employer's proposals for assistance to retrenchee, including the possibility of re-employment.
- (b) In the event that an employee likely to be affected by the proposed retrenchment is not a union member, the information referred to in subclause (10) (a) above shall be forwarded directly to that employee.
- (c) The trade union(s) and/or the employee(s) shall provide the employer with a written response to its retrenchment proposals no later than three (3)

working days before the proposed date of consultation, which shall include all its proposals in respect of the retrenchment.

- (d) The employer shall attempt to reach consensus with the trade union(s) and/or employee(s) on the retrenchment proposals through consultation: Provided that should consensus not be reached before the expiry of the ten (10) day period referred to in subclause (10) (a) above, the employer shall be entitled to implement its retrenchment proposals.
- (e) The employer shall be entitled to implement its retrenchment proposals at any stage if the trade union(s) and/or employee(s) do(es) not provide written responses or refuse(s) and/or fail(s) to consult with the employer in accordance with this clause.
- (f) An employee who is retrenched in terms of this clause shall be entitled to a severance payment as provided for in terms of Section 41 of the Basic Conditions of Employment Act, 75 of 1997 [one week of that employee's current remuneration (basic wage plus the employer's contributions to the employee's benefit fund provided for in this Agreement) per completed year of continuous service with his employer.]

(11) Maternity leave

An employee is entitled to maternity leave as prescribed by the Basic Conditions of Employment Act of 1997.

- (a) An employee is entitled to at least four consecutive months' maternity leave.
- (b) An employee may commence maternity leave -
 - (i) at any time from four weeks before the expected date of birth, unless otherwise agreed; or

- (ii) on a date from which a medical practitioner or a midwife certifies that it is necessary for the employee's health or that of her unborn child.
- (c) No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- (d) An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child, is entitled to maternity leave for six weeks after the miscarriage or stillbirth whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- (e) An employee must notify an employer in writing, unless the employee is unable to do so, of the date on which the employee intends to –
 - (i) commence maternity leave; and
 - (ii) return to work after maternity leave.
- (f) Notification in terms of paragraph (e) must be given -
 - (i) at least four weeks before the employee intends to commence maternity leave; or
 - (ii) if it is not reasonably practicable to do so, as soon as reasonably practicable.
- (g) The payment of maternity benefits will be determined by the Minister subject to the provisions of the Unemployment Insurance Act, 1966 (Act No. 30 of 1966).
- (h) No benefits will be paid by the Council Sick Fund in respect of maternity leave.

(12) Family responsibility leave

An employee is entitled to family responsibility leave as prescribed by the Basic Conditions of Employment Act of 1997.

- (a) This subclause applies to an employee -
 - (i) who has been in employment with an employer for longer than four months; and
 - (ii) who works for at least four days a week for that employer.
- (b) An employer must grant an employee, during each annual leave cycle, at the request of the employee, three days paid leave, which the employee is entitled to take -
 - (i) when the employee's child is born;
 - (ii) when the employee's child is sick; or
 - (iii) in the event of the death of -
 - (a) the employee's spouse of life partner; or
 - (b) the employee's parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.
- (c) Subject to paragraph (e) the Council Sick Fund must pay an employee for a day's family responsibility leave -
 - (i) the wage the employee would ordinarily have received for work on that day; and
 - (ii) on the employee's usual pay day.
- (d) An employee may take family responsibility leave in respect of the whole or a part of the day.
- (e) Before paying an employee for leave in terms of this subclause, an employer may require reasonable proof of an event contemplated in paragraph (b) for which the leave was required.

- (f) 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.
- (g) Notwithstanding subsection (b) employees will be entitled to an additional 7 days family responsibility leave, without payment, with the necessary evidence, subject to subsection (e) provided that no disciplinary action against employees will be taken.

(13) Compressed working week

Employers may introduce the compressed working week concept subject to the provisions of the Basic Conditions of Employment Act, 1997, and subject to having obtained the written approval of the Council.

(14) Averaging of working hours

Employers may introduce the averaging of working hours concept subject to the provisions of the Basic Conditions of Employment Act, 1997, and subject to having obtained the written approval of the Council.

(15) Reducing of working hours

If it becomes impossible to work the normal working hours per week, due to work shortages in the Industry, employees will be expected to work shorter hours.

(16) Training period

Employees shall be paid 50% of their normal wages during training, with full benefits payable. Should an employee be absent during the training period, benefits will only be paid for the total number of days he or she has attended the classes.

10. REMUNERATION

(1) Basic wage:

The basic wage in the Industry shall be as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area	Area	Area	Area
	'A'	'B'	'C'	'D'

	R	R	R	R
	per	per	per	per
	hour	hour	hour	hour
(a) (1) Cleaner	21,20	21,20	21,20	21,20
(2) Cleaner (New)	21,20	21,20	21,20	21,20
(b) (1) Beginner Labourer/Prefabricated Concrete wall Labourer	21,20	21,20	21,20	21,20
(2) Beginner Labourer/Prefabricate Concrete wall Labourer (New)	21,20	21,20	21,20	21,20
(c) (1) Labourer	21,20	21,20	21,20	21,20
(2) Labourer (New)	21,20	21,20	21,20	21,20
(d) (1) General Worker	22,92	22,92	21,20	22,23
(e) Builder worker & Leaner Category 4	25,22	25,22	23,33	24,45
(f) Builder worker & Leaner Category 3	27,73	27,73	25,66	26,90
(g) Builder worker & Leaner Category 2	30,51	30,51	28,23	29,61
(h) Builder worker & Leaner Category 1	33,56	33,56	31,06	32,55
(i) Artisan: Carpet/Floor layer, Crane Operator, Painter, and Water proofer	36,92	36,92	35,82	35,82
(j) (1) Artisan in all others trades	40,61	40,61	39,39	39,39
(2) Artisan in all others trades	44,68	44,68	43,32	43,32
(3) Artisan in all others trades	49,13	49,13	47,66	47,66
(4) Artisan in all others trades	54,06	54,06	52,43	52,43
(5) Artisan in all others trades	59,46	59,46	57,67	57,67
(6) Artisan in all others trades	65,40	65,40	63,44	63,44
(7) Artisan in all others trades	71,94	71,94	69,79	69,79

(8) Artisan in all others trades	79,13	79,13	76,77	76,77
	per day	per day	per day	per day
(k) Guards (full time) Per day (9 hours)	190,80	190,80	190,80	190,80
	per day	per day	per day	per day
(l) Drivers of motor vehicles and operators which are required to be in possession of a code: Per day (9 hours)				
(1) B licence	226,97	226,97	209,98	220,08
(2) C1 licence	249,58	249,58	230,96	242,16
(3) C or EB of EC1 licence	274,59	274,59	254,10	266,40
(4) EC licence	332,26	332,26	322,31	322,31

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per hour	per hour	per hour	per hour
(a) (1) Cleaner	22,47	22,47	22,47	22,47
(2) Cleaner (New)	22,47	22,47	22,47	22,47

(b) (1) Beginner Labourer/Prefabricated				
Concrete wall Labourer	22,47	22,47	22,47	22,47
(2) Beginner Labourer/Prefabricate				
Concrete wall Labourer (New)	22,47	22,47	22,47	22,47
(c) (1) Labourer	22,47	22,47	22,47	22,47
(2) Labourer (New)	22,47	22,47	22,47	22,47
(d) (1) General Worker	24,29	24,29	22,48	23,56
(e) Builder worker & Leaner Category 4	26,73	26,73	24,73	25,92
(f) Builder worker & Leaner Category 3	29,39	29,39	27,20	28,52
(g) Builder worker & Leaner Category 2	32,34	32,34	29,92	31,38
(h) Builder worker & Leaner Category 1	35,57	35,57	32,92	34,51
(i) Artisan: Carpet/Floor layer, Crane Operator, Painter, and Water proofer	39,13	39,13	37,97	37,97
(j) (1) Artisan in all others trades	43,05	43,05	41,75	41,75
(2) Artisan in all others trades	47,36	47,36	45,92	45,92
(3) Artisan in all others trades	52,08	52,08	50,52	50,52
(4) Artisan in all others trades	57,30	57,30	55,57	55,57
(5) Artisan in all others trades	63,02	63,02	61,14	61,14
(6) Artisan in all others trades	69,33	69,33	67,25	67,25
(7) Artisan in all others trades	76,26	76,26	73,98	73,98
(8) Artisan in all others trades	83,88	83,88	81,37	81,37
	per day	per day	per day	per day
(k) Guards (full time) Per day (9 hours)	202,25	202,25	202,25	202,25
	per day	per day	per day	per day
(l) Drivers of motor vehicles and				

operators which are required to be in possession of a code: Per day (9 hours)				
(1) B licence	240,59	240,59	222,57	233,28
(2) C1 licence	264,55	264,55	244,82	256,69
(3) C or EB of EC1 licence	291,07	291,07	269,35	282,38
(4) EC licence	352,19	352,19	341,65	341,65

Provided that the aforementioned wages shall not be less than those prescribed in terms of the Manpower Training Act, 1981, or the Skills Development Act, 1998:

Provided further that the wages specified above for drivers/plant operators shall be payable if such employees have worked 42 hours in any week. If such employees have, however, worked less than 42 normal hours in any week, their wages for that week shall be calculated as follows: The above specified wages divided by 42 hours, multiplied by the actual number of normal working hours worked.

(2) Higher wages

Nothing in this clause shall prevent an employer from paying more than the basic wage specified in subclause (1) thereof: Provided that no party to this Agreement or any employee shall be entitled to embark upon a strike or lock-out to compel an employer to pay more than the basic wage specified in this Agreement.

(3) Overtime

(a) An employer shall pay an employee who works overtime in accordance with clause 9(4)(a), as follows:

(i) In respect of overtime worked -

on Monday to Friday, inclusive, one and a half times his hourly wage in respect of each hour or part of an hour so worked in any week;

- (ii) in respect of overtime worked -
on Saturday prior to 17:00, one and a half times his hourly wage in respect of each hour or part of an hour so worked in any week;
- (iii) in respect of overtime worked –
 - (aa) after 17:00 on Saturday;
 - (ab) on Sunday and up to the normal starting time on Monday;
 - (ac) during the leave periods prescribed in clause 9(6) –two times his hourly wage in respect of each hour or part of an hour so worked in any week.

(4) Public holidays

- (a) An employee who is not required to work on a public holiday proclaimed as such in terms of the Public Holidays Act, 1994, which would normally be a working day, shall receive his normal daily basic wage in respect of that public holiday.
- (b) An employee who is required to work on a public holiday which would normally be a working day shall, in addition to the payment in terms of subclause (4)(a), be paid his ordinary basic wage in respect of all hours worked on that day.
- (c) An employee required to work on a public holiday which falls on a Saturday or a Sunday shall be remunerated at two times his hourly wage in respect of each hour or part of an hour so worked.

(5) Shift work

An employee who works any shift other than the shift during the ordinary hours of work shall receive the basic wage payable under clause (10)(1), plus seven and a half percent (7,5%): Provided that the provisions of this subclause shall not apply to guards.

(6) Dangerous work

Provisions in respect of dangerous work must be applied as prescribed by the Occupational Health and Safety Act.

(7) Accommodation

- (a) An employee who, in the performance of his duties, is required to work away from his ordinary place of residence at a place of work so situated that such employee is unable to return to his normal place of residence daily, shall in respect of every night he spends away from his ordinary place of residence, be afforded suitable sleeping facilities, suitable bath facilities, separate toilet facilities, cooking facilities and hot water. The place of residence should be well ventilated with windows and doors, and should have a solid floor (not a soil floor). It should be free of charge to the employee. All transport required shall be provided free of charge by the employer.
- (b) In respect of each night that such an employee spends away from his usual place of residence a living away allowance will be paid to the employee as follows:

PERIOD PER NIGHT	GREATER-BOLAND	WEST-BOLAND
From the date of commencement of this Agreement to 31 October 2019	R49.50	R88.00
For the period 1 November 2019 to 31 October 2020	R54.45	R96.80

11. WAGE PAYMENT PROCEDURE**(1) Payment of wages**

- (a) An employee shall receive payment of his wages at the time and place stipulated by his employer: Provided that payment shall be made -
- (i) at weekly, fortnightly or monthly intervals;

- (ii) in cash, by cheque or by means of electronic bank transfer, as agreed between the employer and the employee;
 - (iii) by no later than the close of business on the final working day of each pay interval.
- (b) With the exception of payment by means of electronic bank transfers, and employee's remuneration shall be paid on the site where he is employed, or at the office or workshop of the employer.
- (c) An employee whose services are terminated shall receive payment of the appropriate wage on or before the date of termination of his services.
- (d) Every employer shall provide each of his employees with a payslip indicating the employer's name, the name and occupation of the employee, and the period for which payment is made. The payslip shall indicate the calculation of the employee's gross remuneration, employer contributions to benefit funds, deductions, overtime payments, allowances and net remuneration.
- (e) All payments made in cash shall be enclosed in a sealed envelope.
- (f) An employer shall, at the time of payment of an employee's remuneration, provide him with the fringe benefits of the Council to which such employee is entitled.
- (2) Deductions from wages**
- (a) An employer shall be entitled to make deductions from an employee's wages -
 - (i) in respect of employee contributions in respect of the Retirement Funds – clause (15), Savings Fund – clause (17), expenses of the Council – clause (19), trade union subscriptions – clause (20), as specified by this Agreement;
 - (ii) if he is entitled or required to do so by law.
 - (iii) in respect of any other matter, with the employee's written consent.

12. STORAGE AND PROVISION OF TOOLS

- (1) Every artisan, learner building worker, building worker or apprentice shall be required, at all times, to be in possession of such tools as are necessary to perform the designated category of work in respect of which he is registered, as specified by the Council from time to time, and shall further be required to maintain such tools in good working order and condition at all times, and shall ensure that all his tools are permanently marked with his name.
- (2) Each employee shall be required to provide his own toolbox for storage of his tools when not in use, which shall be capable of being securely locked.
- (3) An employer shall provide a suitable place to store an employee's toolbox at each site, and shall ensure that such place is locked at all times. This provision shall not apply to jobbing work.
- (4) An employer shall insure the tools of an employee against loss by fire or theft.
- (5) If an employer fails to provide a lock-up in terms of subclause (3), or if an employer after normal working hours fails to keep a lock-up securely locked in terms of subclause (3), or if an employer fails to insure the tools of an employee against loss by fire or theft, such employer shall, if an employee loses his tools as a result of such action or omission, be liable for the loss of such tools and shall pay the Council the amount determined by the Council as the value of the tools lost, but only if the employee has complied with subclauses (1) and (2).

13. FRINGE BENEFITS

- (1) Every employee who works the full contracted number of normal working hours on a normal working day or who is entitled to be off duty on a public holiday that falls on a normal working day shall be entitled to receive benefits in terms of this Agreement, and shall for the purposes of this Agreement be deemed to be an eligible employee: Provided that an employee who works for an employer on any normal working day,

but is prevented from working the full normal working hours owing to circumstances beyond his control, or for any good reason accepted by his employer, shall also be deemed to be an eligible employee in respect of that day: Provided further that an employee who has been laid off in terms of clause 9(9) and (10) shall not be entitled to benefits. An employee who is not present for the first hour of a working day, due to circumstances beyond his control, shall also be deemed to be an eligible employee.

- (2) An employer shall purchase fringe benefits in the specified form from the Council for the purposes of making contributions specified in this Agreement in respect of eligible employees.
- (3) The Council shall keep a record in respect of these fringe benefits as purchased by the employer in respect of each employee in its employ. The employer shall indicate the purchase of such fringe benefits on the employee's wage envelope.
- (4) The Council may in its discretion issue separate fringe benefits in respect of each of the fund provided for in this Agreement, and may combine any such fringe benefits.
- (5) It is also provided that if an employer and the employees contract to work a compressed week, for example, to work all hours for a week in four days, the employee is eligible for benefits for 5 days.
- (6) Employers who pay more than the prescribed wages will be obligated to purchase the fringe benefit that is applicable to those wages.
- (7) If an employee fails to qualify for sick leave benefits because an employer has neglected or failed to pay contributions owing to him, such an employer shall be liable to pay an amount of money equal to that would have been payable to the employee as prescribed in the Basic Conditions of Employment Act (Act No. 75 of 1997) section 22(5)(a) and (b).

14. HOLIDAY FUND

(1) The Holiday Fund is hereby continued and shall be continued to be administered by the Council for the purposes of providing eligible employees with leave pay for the period of annual leave in terms of clause 9(6) of the Agreement. Holiday Fund payout at the end of the year shall be for fifteen (15) working days. Moneys contributed to the Fund by employers shall be invested as provided for in terms of section 53(5) of the Act.

(2) **Contributions by the employer:**

(a) An employer shall contribute an amount to the holiday fund on behalf of an eligible employee for each day that the employee remains in his/her employ (a contribution day), which amount shall be calculated as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	10,90	10,90	10,90	10,90
(ii) clause 10 (1) (a) (2)	10,90	10,90	10,90	10,90
(iii) clause 10 (1) (b) (1)	10,90	10,90	10,90	10,90
(iv) clause 10 (1) (b) (2)	10,90	10,90	10,90	10,90
(v) clause 10 (1) (c) (1)	10,90	10,90	10,90	10,90

(vi) clause 10 (1) (c) (2)	10,90	10,90	10,90	10,90
(vii) clause 10 (1) (d)	11,79	11,79	10,91	11,43
(viii) clause 10 (1) (e)	12,97	12,97	12,00	12,58
(ix) clause 10 (1) (f)	14,26	14,26	13,20	13,84
(x) clause 10 (1) (g)	15,69	15,69	14,52	15,23
(xi) clause 10 (1) (h)	17,26	17,26	15,97	16,74
(xii) clause 10 (1) (i)	18,99	18,99	18,42	18,42
(xiii) clause 10 (1) (j) (1)	20,88	20,88	20,26	20,26
(xiv) clause 10 (1) (j) (2)	22,98	22,98	22,28	22,28
(xv) clause 10 (1) (j) (3)	25,27	25,27	24,51	24,51
(xvi) clause 10 (1) (j) (4)	27,80	27,80	26,96	26,96
(xvii) clause 10 (1) (j) (5)	30,58	30,58	29,66	29,66
(xviii) clause 10 (1) (j) (6)	33,64	33,64	32,63	32,63
(xix) clause 10 (1) (j) (7)	37,00	37,00	35,89	35,89
(xx) clause 10 (1) (j) (8)	40,69	40,69	39,48	39,48
(xxi) clause 10 (1) (k)	10,90	10,90	10,90	10,90
(xxii) clause 10 (1) (l) (1)	12,97	12,97	12,00	12,58
(xxiii) clause 10 (1) (l) (2)	14,26	14,26	13,20	13,84
(xxiv) clause 10 (1) (l) (3)	15,69	15,69	14,52	15,23
(xxv) clause 10 (1) (l) (4)	18,99	18,99	18,42	18,42

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020
----------------------	------------------------------------

	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per	per	per	per
	day	day	day	day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	11,56	11,56	11,56	11,56
(ii) clause 10 (1) (a) (2)	11,56	11,56	11,56	11,56
(iii) clause 10 (1) (b) (1)	11,56	11,56	11,56	11,56
(iv) clause 10 (1) (b) (2)	11,56	11,56	11,56	11,56
(v) clause 10 (1) (c) (1)	11,56	11,56	11,56	11,56
(vi) clause 10 (1) (c) (2)	11,56	11,56	11,56	11,56
(vii) clause 10 (1) (d)	12,49	12,49	11,56	12,12
(viii) clause 10 (1) (e)	13,75	13,75	12,72	13,33
(ix) clause 10 (1) (f)	15,12	15,12	13,99	14,67
(x) clause 10 (1) (g)	16,63	16,63	15,39	16,14
(xi) clause 10 (1) (h)	18,29	18,29	16,93	17,75
(xii) clause 10 (1) (i)	20,12	20,12	19,53	19,53
(xiii) clause 10 (1) (j) (1)	22,14	22,14	21,47	21,47
(xiv) clause 10 (1) (j) (2)	24,36	24,36	23,62	23,62
(xv) clause 10 (1) (j) (3)	26,78	26,78	25,98	25,98
(xvi) clause 10 (1) (j) (4)	29,47	29,47	28,58	28,58
(xvii) clause 10 (1) (j) (5)	32,41	32,41	31,44	31,44
(xvii) clause 10 (1) (j) (6)	35,66	35,66	34,58	34,58

(xix) clause 10 (1) (j) (7)	39,22	39,22	38,05	38,05
(xx) clause 10 (1) (j) (8)	43,14	43,14	41,85	41,85
(xxi) clause 10 (1) (k)	11,56	11,56	11,56	11,56
(xxii) clause 10 (1) (l) (1)	13,75	13,75	12,72	13,33
(xxiii) clause 10 (1) (l) (2)	15,12	15,12	13,99	14,67
(xxiv) clause 10 (1) (l) (3)	16,63	16,63	15,39	16,14
(xxv) clause 10 (1) (l) (4)	20,12	20,12	19,53	19,53

- (b) Every employer shall pay the specified contribution to the Council on the employee's normal pay day, and shall on that day endorse and issue the employee with the specified fringe benefits indicating the amount of the contribution made.
- (3) Public holidays as proclaimed under the Public Holidays Act, 1994, will be pro-rata included into the holiday fund. Moneys contributed to the Fund by employers shall be invested as provided for in terms of section 53(5) of the Act.

The following paid holidays will be pro-rata included into the fringe benefits system:

From the date of commencement of this Agreement to 31 October 2019

1. 17 December 2018 - Day of Reconciliation
2. 25 December 2018 - Christmas Day
3. 26 December 2018 - Day of Goodwill
4. 01 January 2019 - New Year's Day
5. 21 March 2019 - Human Rights Day
6. 19 April 2019 - Good Friday
7. 22 April 2019 - Family Day

- | | | | |
|-----|-------------------------------------|---|--------------|
| 8. | 01 May 2019 | - | Workers Day |
| 9. | 17 June 2019 | - | Youth Day |
| 10. | 9 August 2019 | - | Women's Day |
| 11. | 24 September 2019 | - | Heritage Day |
| 12. | Election date still to be announced | | |

For the period 1 November 2019 to 31 October 2020

- | | | | |
|-----|-------------------|---|-----------------------|
| 1. | 16 December 2019 | - | Day of Reconciliation |
| 2. | 25 December 2019 | - | Christmas Day |
| 3. | 26 December 2019 | - | Day of Goodwill |
| 4. | 01 January 2020 | - | New Year's Day |
| 5. | 10 April 2020 | - | Good Friday |
| 6. | 13 April 2020 | - | Family Day |
| 7. | 27 April 2020 | - | Freedom Day |
| 8. | 01 May 2020 | - | Workers Day |
| 9. | 16 June 2020 | - | Youth Day |
| 10. | 10 August 2020 | - | Women's Day |
| 11. | 24 September 2020 | - | Heritage Day |
- (a) Employers shall pay their employees for each public holiday that fall in the work period, as defined by the Basic Conditions of Employment Act no. 75 of 1997, in that specific pay week.
- (b) Employers can only claim the funds back from the Building Bargaining Council, if their employee's benefits are up to date and sufficient. If an employer's benefits are not up to date, and not sufficient, the employer will be held responsible to pay their employees for each public holiday. The Council will only deal with claims from employers.

- (c) Employers are obliged to purchase a benefit for each employee on each public holiday, except on the following public holidays:

PERIOD	DATES
From the date of commencement of this Agreement to 31 October 2019	17 December 2018 25 December 2018 26 December 2018 1 January 2019
For the period 1 November 2019 to 31 October 2020	16 December 2019 25 December 2019 26 December 2019 1 January 2020

These public holidays fall under the annual holiday fund.

(4) **Contributions by the employer:**

- (a) An employer shall contribute an amount to the holiday fund for the public holidays on behalf of an eligible employee for each day that the employee remains in his/her employ (a contribution day), which amount shall be calculated as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
Employees for whom wages are prescribed	R per day	R per day	R per day	R per day

in-				
(i)	clause 10 (1) (a) (1)	8,72	8,72	8,72
(ii)	clause 10 (1) (a) (2)	8,72	8,72	8,72
(iii)	clause 10 (1) (b) (1)	8,72	8,72	8,72
(iv)	clause 10 (1) (b) (2)	8,72	8,72	8,72
(v)	clause 10 (1) (c) (1)	8,72	8,72	8,72
(vi)	clause 10 (1) (c) (2)	8,72	8,72	8,72
(vii)	clause 10 (1) (d)	9,43	9,43	8,73
(viii)	clause 10 (1) (e)	10,38	10,38	9,60
(ix)	clause 10 (1) (f)	11,41	11,41	10,56
(x)	clause 10 (1) (g)	12,55	12,55	11,61
(xi)	clause 10 (1) (h)	13,81	13,81	12,78
(xii)	clause 10 (1) (i)	15,19	15,19	14,74
(xiii)	clause 10 (1) (j) (1)	16,71	16,71	16,21
(xiv)	clause 10 (1) (j) (2)	18,38	18,38	17,82
(xv)	clause 10 (1) (j) (3)	20,21	20,21	19,61
(xvi)	clause 10 (1) (j) (4)	22,24	22,24	21,57
(xvii)	clause 10 (1) (j) (5)	24,46	24,46	23,73
(xviii)	clause 10 (1) (j) (6)	26,91	26,91	26,10
(xix)	clause 10 (1) (j) (7)	29,60	29,60	28,71
(xx)	clause 10 (1) (j) (8)	32,56	32,56	31,58
(xxi)	clause 10 (1) (k)	8,72	8,72	8,72
(xxii)	clause 10 (1) (l) (1)	10,38	10,38	9,60
(xxiii)	clause 10 (1) (l) (2)	11,41	11,41	10,56
(xxiv)	clause 10 (1) (l) (3)	12,55	12,55	11,61

(xxv) clause 10 (1) (l) (4)	15,19	15,19	14,74	14,74
-----------------------------	-------	-------	-------	-------

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed				
in-				
(i) clause 10 (1) (a) (1)	8,48	8,48	8,48	8,48
(ii) clause 10 (1) (a) (2)	8,48	8,48	8,48	8,48
(iii) clause 10 (1) (b) (1)	8,48	8,48	8,48	8,48
(iv) clause 10 (1) (b) (2)	8,48	8,48	8,48	8,48
(v) clause 10 (1) (c) (1)	8,48	8,48	8,48	8,48
(vi) clause 10 (1) (c) (2)	8,48	8,48	8,48	8,48
(vii) clause 10 (1) (d)	9,16	9,16	8,48	8,89
(viii) clause 10 (1) (e)	10,08	10,08	9,33	9,77
(ix) clause 10 (1) (f)	11,09	11,09	10,26	10,76
(x) clause 10 (1) (g)	12,20	12,20	11,29	11,83
(xi) clause 10 (1) (h)	13,42	13,42	12,42	13,02
(xii) clause 10 (1) (i)	14,76	14,76	14,32	14,32
(xiii) clause 10 (1) (j) (1)	16,23	16,23	15,75	15,75

(xiv) clause 10 (1) (j) (2)	17,86	17,86	17,32	17,32
(xv) clause 10 (1) (j) (3)	19,64	19,64	19,05	19,05
(xvi) clause 10 (1) (j) (4)	21,61	21,61	20,96	20,96
(xvii) clause 10 (1) (j) (5)	23,77	23,77	23,06	23,06
(xviii) clause 10 (1) (j) (6)	26,15	26,15	25,36	25,36
(xix) clause 10 (1) (j) (7)	28,76	28,76	27,90	27,90
(xx) clause 10 (1) (j) (8)	31,63	31,63	30,69	30,69
(xxi) clause 10 (1) (k)	8,48	8,48	8,48	8,48
(xxii) clause 10 (1) (l) (1)	10,08	10,08	9,33	9,77
(xxiii) clause 10 (1) (l) (2)	11,09	11,09	10,26	10,76
(xxiv) clause 10 (1) (l) (3)	12,20	12,20	11,29	11,83
(xxv) clause 10 (1) (l) (4)	14,76	14,76	14,32	14,32

(b) Every employer shall pay the specified contribution to the Council on the employee's normal pay day, and shall on that day endorse and issue the employee with the specified fringe benefits indicating the amount of the contribution made.

(5) The Council shall determine a date before the commencement of the annual leave period in terms of clause 9(6) upon which eligible employees shall receive payment of the amount standing to their credit in the Holiday Fund: Provided that no payment shall be made from the Holiday Fund-

(a) in respect of fringe benefits issued by an employer after 31 October of each year, which shall be deemed to have been issued in respect of the following year;

- (b) subject to subclause (9) prior to the date determined by the Council in terms of this clause.
- (6) In the event of an eligible employee's death, all amounts to his credit in the Holiday Fund shall be paid to his duly appointed nominee, if any. Should no nominee survive the employee, or should a surviving nominee fail to claim payment within twelve (12) months of the date of the employee's death, the amount to his credit shall be paid to his estate.
- (7) Subject to subclause (6) above, the amount standing to an employee's credit in the Holiday Fund shall not be transferable.
- (8) Notwithstanding this expiry or cancellation of this Agreement, the Council shall continue to administer the Holiday Fund until such time as it is liquidated or transferred to any other fund created for the purpose of providing annual leave pay to employees.
- (9) In the event of the Council being wound up or dissolved, the Holiday Fund shall continue to be administered by the MBA Groter-Boland before the winding up of the Council. In the event of the MBA Groter-Boland being unable to fulfil its duties for any reason, the parties shall appoint a trustee or trustees to carry out their duties, and for this purpose such trustee or trustees shall have the same powers as the committee.
- (10) In the event of there being no Council in existence at the time of the expiry of this Agreement, the Holiday Fund shall be liquidated by the MBA Groter-Boland or trustees appointed in terms of subclause (9) above.
- (11) In the event of liquidation of the Holiday Fund in terms of subclause (9) or subclause (10) above, the balance of the moneys remaining after payment of all claims against the Holiday Fund, including administration and liquidation expenses shall be paid into

the fund of the MBA Groter-Boland. In the event of the Council's, having been wound up before the liquidation of the Holiday Fund, the balance of the moneys shall be distributed to the MBA Groter-Boland, immediately prior to such dissolution.

15. RETIREMENT FUNDS

- (1) The pension fund known as the Building Industry Pension Fund and the provident fund known as the Building Industry Provident Fund ("the Retirement Funds") are hereby continued and shall be continued to be administered by the Council in accordance with the provisions of the Act for the purpose of providing retirement benefits to employees in respect of whom contributions are made in terms of this clause, and the Council shall further be entitled to establish any other like fund or scheme which it deems fit for this purpose.
- (2) For the purpose of achieving the objects of this clause the Council shall be entitled to enter into any agreements it deems fit and shall further be entitled to make rules in respect of the operation and administration of any fund established in terms of this clause, which may be amended from time to time.
- (3) All employees to whom this Agreement relates, shall in the manner determined by the Council from time to time, elect to join either the Pension Fund or the Provident Fund, and such decisions shall be final.
- (4) ***Contributions by the employer:***
 - (a) Every employer shall contribute an amount to the Retirement Fund on behalf of each eligible employee in respect of each contribution day that the employee remains in his/her employ, which shall be calculated as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	19,15	19,15	19,15	19,15
(ii) clause 10 (1) (a) (2)				
(iii) clause 10 (1) (b) (1)	19,15	19,15	19,15	19,15
(iv) clause 10 (1) (b) (2)				
(v) clause 10 (1) (c) (1)	19,15	19,15	19,15	19,15
(vi) clause 10 (1) (c) (2)				
(vii) clause 10 (1) (d)	20,70	20,70	19,15	20,07
(viii) clause 10 (1) (e)	22,77	22,77	21,07	22,08
(ix) clause 10 (1) (f)	25,04	25,04	23,17	24,29
(x) clause 10 (1) (g)	27,55	27,55	25,49	26,74
(xi) clause 10 (1) (h)	30,30	30,30	28,04	29,39
(xii) clause 10 (1) (i)	33,34	33,34	32,34	32,34
(xiii) clause 10 (1) (j) (1)	36,67	36,67	35,57	35,57
(xiv) clause 10 (1) (j) (2)	40,34	40,34	39,12	39,12
(xv) clause 10 (1) (j) (3)	44,37	44,37	43,03	43,03
(xvi) clause 10 (1) (j) (4)	48,82	48,82	47,34	47,34

(xvii) clause 10 (1) (j) (5)	53,69	53,69	52,08	52,08
(xviii) clause 10 (1) (j) (6)	59,06	59,06	57,28	57,28
(xix) clause 10 (1) (j) (7)	64,96	64,96	63,02	63,02
(xx) clause 10 (1) (j) (8)	71,46	71,46	69,32	69,32
(xxi) clause 10 (1) (k)	19,15	19,15	19,15	19,15
(xxii) clause 10 (1) (l) (1)	22,77	22,77	21,07	22,08
(xxiii) clause 10 (1) (l) (2)	25,04	25,04	23,17	24,29
(xxiv) clause 10 (1) (l) (3)	27,55	27,55	25,49	26,74
(xxv) clause 10 (1) (l) (4)	33,34	33,34	32,34	32,34

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	17,93	17,93	17,93	17,93
(ii) clause 10 (1) (a) (2)				
(iii) clause 10 (1) (b) (1)	17,93	17,93	17,93	17,93
(iv) clause 10 (1) (b) (2)				
(v) clause 10 (1) (c) (1)	17,93	17,93	17,93	17,93

(vi) clause 10 (1) (c) (2)				
(vii) clause 10 (1) (d)	19,38	19,38	17,94	18,81
(viii) clause 10 (1) (e)	21,33	21,33	19,73	20,68
(ix) clause 10 (1) (f)	23,45	23,45	21,70	22,76
(x) clause 10 (1) (g)	25,81	25,81	23,88	25,04
(xi) clause 10 (1) (h)	28,39	28,39	26,27	27,54
(xii) clause 10 (1) (i)	31,23	31,23	30,30	30,30
(xiii) clause 10 (1) (j) (1)	34,35	34,35	33,32	33,32
(xiv) clause 10 (1) (j) (2)	37,80	37,80	36,64	36,64
(xv) clause 10 (1) (j) (3)	41,56	41,56	40,32	40,32
(xvi) clause 10 (1) (j) (4)	45,72	45,72	44,35	44,35
(xvii) clause 10 (1) (j) (5)	50,29	50,29	48,79	48,79
(xviii) clause 10 (1) (j) (6)	55,33	55,33	53,66	53,66
(xix) clause 10 (1) (j) (7)	60,85	60,85	59,04	59,04
(xx) clause 10 (1) (j) (8)	66,93	66,93	64,94	64,94
(xxi) clause 10 (1) (k)	17,93	17,93	17,93	17,93
(xxii) clause 10 (1) (l) (1)	21,33	21,33	19,73	20,68
(xxiii) clause 10 (1) (l) (2)	23,45	23,45	21,70	22,76
(xxiv) clause 10 (1) (l) (3)	25,81	25,81	23,88	25,04
(xxv) clause 10 (1) (l) (4)	31,23	31,23	30,30	30,30

- (b) Every employer shall pay the specified contribution to the Council on the employee's normal pay day, and shall on that day endorse and issue the

employee with the Council's fringe benefits indicating the amount of the contribution made.

- (c) If an employee fails to qualify for death, disability and/or funeral benefits in terms of the Pension or Provident Fund because an employer has neglected or failed to pay contributions owing to him/her in respect of the employee's membership, such employer shall be liable to pay such employee or his/her beneficiary an amount of money equal to the death, disability and/or funeral benefits that would have been payable to the employee under the rules of the applicable fund had the contributions been paid by the employer.
- (5) Subject to an eligible employee's right to nominate a beneficiary to receive any amounts which may become due to him in terms of the Retirement Funds in the event of his death before retirement, any pension/provident benefits accruing to an employee in terms of this Agreement shall not be transferable, and may not be ceded or pledged.
- (6) In the event of the Council's being dissolved, wound up or ceasing to operate during the currency of this Agreement, the parties shall appoint a trustee or trustees before such dissolution or winding up to perform the functions set out in this clause, which trustee or trustees shall have all the powers vested in the Council for this purpose.
- (7) ***Contributions by employees:***
- (a) Every employer shall deduct a retirement fund contribution amount on behalf of each eligible employee in respect of each day that the employee remains in his / her employ, which shall be calculated as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.
----------------------	--

	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	5,79	5,79	5,79	5,79
(ii) clause 10 (1) (a) (2)				
(iii) clause 10 (1) (b) (1)	5,79	5,79	5,79	5,79
(iv) clause 10 (1) (b) (2)				
(v) clause 10 (1) I (1)	5,79	5,79	5,79	5,79
(vi) clause 10 (1) I (2)				
(vii) clause 10 (1) (d)	6,26	6,26	5,79	6,07
(viii) clause 10 (1) I	6,88	6,88	6,37	6,68
(ix) clause 10 (1) (f)	7,57	7,57	7,01	7,34
(x) clause 10 (1) (g)	8,33	8,33	7,71	8,08
(xi) clause 10 (1) (h)	9,16	9,16	8,48	8,89
(xii) clause 10 (1) (i)	10,08	10,08	9,78	9,78
(xiii) clause 10 (1) (j) (1)	11,09	11,09	10,75	10,75
(xiv) clause 10 (1) (j) (2)	12,20	12,20	11,83	11,83
(xv) clause 10 (1) (j) (3)	13,41	13,41	13,01	13,01
(xvi) clause 10 (1) (j) (4)	14,76	14,76	14,31	14,31
(xvii) clause 10 (1) (j) (5)	16,23	16,23	15,75	15,75
(xviii) clause 10 (1) (j) (6)	17,85	17,85	17,32	17,32
(xix) clause 10 (1) (j) (7)	19,64	19,64	19,05	19,05

(xx) clause 10 (1) (j) (8)	21,60	21,60	20,96	20,96
(xxi) clause 10 (1) (k)	5,79	5,79	5,79	5,79
(xxii) clause 10 (1) (l) (1)	6,88	6,88	6,37	6,68
(xxiii) clause 10 (1) (l) (2)	7,57	7,57	7,01	7,35
(xxiv) clause 10 (1) (l) (3)	8,33	8,33	7,71	8,08
(xxv) clause 10 (1) (l) (4)	10,08	10,08	9,78	9,78

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed				
in-				
(i) clause 10 (1) (a) (1)	8,49	8,49	8,49	8,49
(ii) clause 10 (1) (a) (2)				
(iii) clause 10 (1) (b) (1)	8,49	8,49	8,49	8,49
(iv) clause 10 (1) (b) (2)				
(v) clause 10 (1) (c) (1)	8,49	8,49	8,49	8,49
(vi) clause 10 (1) (c) (2)				
(vii) clause 10 (1) (d)	9,18	9,18	8,50	8,91
(viii) clause 10 (1) (e)	10,11	10,11	9,35	9,80

(ix) clause 10 (1) (f)	11,11	11,11	10,28	10,78
(x) clause 10 (1) (g)	12,22	12,22	11,31	11,86
(xi) clause 10 (1) (h)	13,45	13,45	12,45	13,04
(xii) clause 10 (1) (i)	14,79	14,79	14,35	14,35
(xiii) clause 10 (1) (j) (1)	16,27	16,27	15,78	15,78
(xiv) clause 10 (1) (j) (2)	17,90	17,90	17,36	17,36
(xv) clause 10 (1) (j) (3)	19,69	19,69	19,10	19,10
(xvi) clause 10 (1) (j) (4)	21,66	21,66	21,01	21,01
(xvii) clause 10 (1) (j) (5)	23,82	23,82	23,11	23,11
(xviii) clause 10 (1) (j) (6)	26,21	26,21	25,42	25,42
(xix) clause 10 (1) (j) (7)	28,82	28,82	27,96	27,96
(xx) clause 10 (1) (j) (8)	31,71	31,71	30,76	30,76
(xxi) clause 10 (1) (k)	8,49	8,49	8,49	8,49
(xxii) clause 10 (1) (l) (1)	10,11	10,11	9,35	9,80
(xxiii) clause 10 (1) (l) (2)	11,11	11,11	10,28	10,78
(xxiv) clause 10 (1) (l) (3)	12,22	12,22	11,31	11,86
(xxv) clause 10 (1) (l) (4)	14,79	14,79	14,35	14,35

16. SICK LEAVE AND FAMILY RESPONSIBILITY LEAVE

BENEFIT FUND FOR THE BUILDING INDUSTRY

- (1) The Sick Leave and Family Responsibility Leave Benefit Fund for the Building Industry ("the Fund") is hereby continued and shall continue to be administered by the Council for the purposes of recompensing employees during periods of absence from work owing to incapacity, and paying gratuities to employees in the event of

permanent disability, and the recompensing of employees during period of absence owing to family responsibility leave, in accordance with the rules of the Fund.

- (2) The Fund shall be administered by the Council in accordance with the rules which it may make from time to time for this purpose ("the Rules") and all moneys of the Fund shall be administered, invested and paid out in accordance with the Rules, the Constitution of the Council and section 53(5) of the Act. Copies of the Rules should be submitted to the Director-General-Labour and shall be available for inspection at the offices of the Council.

(3) **Contributions by the employer:**

- (a) Every employer shall contribute an amount to the Fund on behalf of each eligible employee in respect of each contribution day for which the employee remains in his/her employ, which amount shall be calculated as follows:

From the date of commencement to this Agreement to 31 October 2019

Category of employee	From the date of commencement to this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	2,67	2,67	2,67	2,67
(ii) clause 10 (1) (a) (2)	2,67	2,67	2,67	2,67
(iii) clause 10 (1) (b) (1)	2,67	2,67	2,67	2,67
(iv) clause 10 (1) (b) (2)	2,67	2,67	2,67	2,67

(v) clause 10 (1) (c) (1)	2,67	2,67	2,67	2,67
(vi) clause 10 (1) (c) (2)	2,67	2,67	2,67	2,67
(vii) clause 10 (1) (d)	2,89	2,89	2,67	2,80
(viii) clause 10 (1) (e)	3,18	3,18	2,94	3,08
(ix) clause 10 (1) (f)	3,49	3,49	3,23	3,39
(x) clause 10 (1) (g)	3,84	3,84	3,56	3,73
(xi) clause 10 (1) (h)	4,23	4,23	3,91	4,10
(xii) clause 10 (1) (i)	4,65	4,65	4,51	4,51
(xiii) clause 10 (1) (j) (1)	5,12	5,12	4,96	4,96
(xiv) clause 10 (1) (j) (2)	5,63	5,63	5,46	5,46
(xv) clause 10 (1) (j) (3)	6,19	6,19	6,00	6,00
(xvi) clause 10 (1) (j) (4)	6,81	6,81	6,61	6,61
(xvii) clause 10 (1) (j) (5)	7,49	7,49	7,27	7,27
(xviii) clause 10 (1) (j) (6)	8,24	8,24	7,99	7,99
(xix) clause 10 (1) (j) (7)	9,06	9,06	8,79	8,79
(xx) clause 10 (1) (j) (8)	9,97	9,97	9,67	9,67
(xxi) clause 10 (1) (k)	2,67	2,67	2,67	2,67
(xxii) clause 10 (1) (l) (1)	3,18	3,18	2,94	3,08
(xxiii) clause 10 (1) (l) (2)	3,49	3,49	3,23	3,39
(xxiv) clause 10 (1) (l) (3)	3,84	3,84	3,56	3,73
(xxv) clause 10 (1) (l) (4)	4,65	4,65	4,51	4,51

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed				
in-				
(i) clause 10 (1) (a) (1)	2,83	2,83	2,83	2,83
(ii) clause 10 (1) (a) (2)	2,83	2,83	2,83	2,83
(iii) clause 10 (1) (b) (1)	2,83	2,83	2,83	2,83
(iv) clause 10 (1) (b) (2)	2,83	2,83	2,83	2,83
(v) clause 10 (1) (c) (1)	2,83	2,83	2,83	2,83
(vi) clause 10 (1) (c) (2)	2,83	2,83	2,83	2,83
(vii) clause 10 (1) (d)	3,06	3,06	2,83	2,97
(viii) clause 10 (1) (e)	3,37	3,37	3,12	3,27
(ix) clause 10 (1) (f)	3,70	3,70	3,43	3,59
(x) clause 10 (1) (g)	4,07	4,07	3,77	3,95
(xi) clause 10 (1) (h)	4,48	4,48	4,15	4,35
(xii) clause 10 (1) (i)	4,93	4,93	4,78	4,78
(xiii) clause 10 (1) (j) (1)	5,42	5,42	5,26	5,26
(xiv) clause 10 (1) (j) (2)	5,97	5,97	5,79	5,79
(xv) clause 10 (1) (j) (3)	6,56	6,56	6,37	6,37
(xvi) clause 10 (1) (j) (4)	7,22	7,22	7,00	7,00
(xvii) clause 10 (1) (j) (5)	7,94	7,94	7,70	7,70

(xviii) clause 10 (1) (j) (6)	8,74	8,74	8,47	8,47
(xix) clause 10 (1) (j) (7)	9,61	9,61	9,32	9,32
(xx) clause 10 (1) (j) (8)	10,57	10,57	10,25	10,25
(xxi) clause 10 (1) (k)	2,83	2,83	2,83	2,83
(xxii) clause 10 (1) (l) (1)	3,37	3,37	3,12	3,27
(xxiii) clause 10 (1) (l) (2)	3,70	3,70	3,43	3,59
(xxiv) clause 10 (1) (l) (3)	4,07	4,07	3,77	3,95
(xxv) clause 10 (1) (l) (4)	4,93	4,93	4,78	4,78

- (b) Every employer shall pay the specified contribution to the Council on the employee's normal pay day.

(4) Benefits

- (a) During every sick leave cycle, an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks as prescribed by the Basic Conditions of Employment Act, 1997.
- (b) Despite paragraph (a), during the first six months of employment, an employee is entitled to one day's paid sick leave for every 26 days worked, as prescribed by the Basic Conditions Employment Act, 1997.
- (c) During an employee's first sick-leave cycle, an employer may reduce the employee's entitlement to sick leave in terms of subclause (a) by the number of days' sick leave taken in terms of subclause (b), as prescribed by the Basic Conditions of Employment Act, 1997.
- (d) Subject to clause 23 of the Basic Conditions of Employment Act, 1997, an employer must pay an employee for a day's sick leave-

- (i) the wage the employee would ordinarily have received for work on that day; and
 - (ii) on the employee's usual pay day.
- (e) An agreement may reduce the pay to which an employee is entitled in respect of any day's absence in terms of this clause if-
 - (i) the number of days of paid sick leave is increased at least commensurately with any reduction in the daily amount of sick leave pay; and
 - (ii) the employee's entitlement to pay-
 - (aa) for any day's sick leave is at least 75 percent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; and
 - (ab) for sick leave over the sick leave cycle is at least equivalent to the employee's entitlement in terms of paragraph (b).
- (f) Benefits shall be paid in respect of normal working days and in respect of the public holidays referred to in clause 9(5) of this Agreement, should the public holiday referred to fall on a normal working day.
- (g) Notwithstanding the provisions of subclause (4) (a), (b), (c), (d), (e) and (f), a member shall be entitled to benefits from the Fund only if he has been certified by a medical practitioner as being unable to work owing to sickness or accident.

Rules of the Sick fund:

An employee shall receive payment in respect of each working day on which he is absent during a cycle of 36 months, commencing on 1 November 2018 owing to illness or accident.

The maximum number days is payable in a cycle of 36 months shall be 30 days.

A member shall be entitled to benefits from the Fund only if 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 has certified him as being unable to work owing to sickness or accident.

The Fund must pay an employee for a day's sick leave owing to sickness or injury the wage the employee ordinarily has receive for work on that day.

- (h) Subject to the Rules of the Fund, an employee shall not be entitled to sick pay-
- (i) if he/she is absent form work owing to an accident which is compensable under the Compensation for Occupational Injuries and Diseases Act, 1993;
 - (ii) if his/her absence from work is related to the use of alcohol of illegal substances, or if he/she is incapacitated through sickness owing to his/her own negligence or misconduct;
 - (iii) if he/she fails to observe the instructions of a medical practitioner, or in the opinion of that practitioner, has aggravated his/her condition or retarded his/her recovery through his/her own actions;
 - (iv) if he/she suffers from injury in respect of which a third party is liable to or does pay compensation to him/her;
 - (v) while he/she undergoes treatment prescribed by any person other than a registered medical practitioner;
 - (vi) if he/she fails to provide the Council with any relevant information which it may require;
 - (vii) is he/she is found by the Council to be fit to resume his/her employment or to be permanently disabled, in which event he/she shall cease to be entitled to sick pay from a date fixed by the Council for this purpose.
 - (viii) If she takes maternity leave.

- (ix) If he/she is unemployed or failed to contribute to the Fund.
- (i) If at any time the amount to the credit of the Fund drops below R100 000,00 payment shall cease and shall not be resumed until the amount to the credit of the Fund exceeds the amount of R200 000,00.
- (j) The Fund shall be entitled to recover any amount paid to an employee-
 - (i) in consequence of false information furnished to the Fund by or on behalf of that employee;
 - (ii) if the employee fails to notify the Fund timeously of any change of circumstances which could lead to the amount of benefits being reviewed or withdrawn, in which event the Fund may claim any money overpaid to the employee from him.
- (k) An employee who is eligible for benefits in terms of this clause shall be entitled to receive from the Fund a full benefit specified for his employee category in terms of this Agreement, in respect of every five (5) consecutive working days which he is unable to work on account of sickness or injury.

(l) *Family responsibility leave*

- (i) An employee shall receive payment in respect of three days' family responsibility leave at 100% of his prescribed rate of pay during a cycle of one year commencing on 1 January every year, and only in the following circumstances:
 - (aa) When the employee's child is born;
 - (bb) when the employee's child is sick;
 - (cc) in the event of the death of the employee's spouse, life partner, parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling.

- (ii) Application for these benefits must be made on the Council's official application form and shall be subject to the submission of the necessary documentary proof, as deemed appropriate by the Council to substantiate the benefit claim.
- (m) In the event of expiration of this Agreement, the dissolution or winding up of the Council or a cessation of its operation, the provision of clause 14(8) and (9) relating to the Holiday Fund shall apply equally to this Fund.

17. SAVING FUND

- (1) The Saving Fund is hereby continued and shall be continued to be administered by Council.
- (2) **Contribution:** Every employer shall, on each pay day deduct from the wages due every day to each eligible employee the contribution calculated as follows:
- (3) Every employer shall pay the contributions referred to in subclause (2) to the Council on the employee's normal pay day, and issue the employee with the Council's fringe benefits, indicating the amount of the contribution made.
- (4) The contribution referred to in subclause (3) shall be credited to the employee in the Saving Fund.
- (5) The Council may recover the costs of the administration of the Saving Fund (as determined by the Council from time to time).
- (6) The Council shall, at a date to be determined by the Council each year, pay the employee, together with any money due to him from the Holiday Fund (clause 14), the moneys standing to his credit in the Saving Fund less amounts deducted, if any, in terms of subclause (7).
- (7) The Council shall be entitled to deduct from the amount standing to the credit of any employee in the Saving fund, any amount outstanding (to maximum of a R100,00) in

respect of trade union subscriptions payable by such employee who is a member of the trade union which is a party to this Agreement, and the amounts so deducted shall be paid over by the Council to the trade union concern.

- (8) Notwithstanding this expiry or cancellation of this Agreement, the Council shall continue to administer the Saving Fund until such time as it is liquidated or transferred to any other fund created for the purpose of providing annual leave pay to employees.
- (9) In the event of the Council's being wound up or dissolved, the Saving Fund shall continue to be administered by a committee appointed for that purpose by the parties before the winding up of the Council, which committee shall consist of an equal number of employer and employee representatives. In the event of such committee being unable to fulfil its duties for any reason, the parties shall appoint a trustee or trustees to carry out its duties, for this purpose such trustee or trustees shall have the same powers as the committee.
- (10) In the event of there being no Council in existence at the time of the expiry of this Agreement, the Saving Fund shall be liquidated by the committee or trustees appointed in terms of subclause (9) above.
- (11) In the event of liquidation of the Saving Fund in terms of subclause (8) or subclause (9) above, the balance of the moneys remaining after payment of all claims against the Saving Fund, including administration and liquidation expenses, shall be paid into the general funds of the Council. In the event of the Council's having been wound up before the liquidation of the Saving Fund, the balance of the moneys shall be distributed in equal shares between the parties to the Council immediately prior to its dissolution.

18. AUDIT AND ACCOUNTING

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

19. EXPENSES OF THE COUNCIL

(1) *Contributions by the employer:*

- (a) Every employer shall contribute an amount to the Council in respect of each eligible employee for each contribution day that the employee remains in his/her employ, which amount shall be calculated as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	4,57	4,57	4,57	4,57
(ii) clause 10 (1) (a) (2)	4,57	4,57	4,57	4,57
(iii) clause 10 (1) (b) (1)	4,57	4,57	4,57	4,57
(iv) clause 10 (1) (b) (2)	4,57	4,57	4,57	4,57
(v) clause 10 (1) (c) (1)	4,57	4,57	4,57	4,57
(vi) clause 10 (1) (c) (2)	4,57	4,57	4,57	4,57

(vii) clause 10 (1) (d)	4,94	4,94	4,57	4,79
(viii) clause 10 (1) (e)	5,43	5,43	5,03	5,27
(ix) clause 10 (1) (f)	5,97	5,97	5,53	5,80
(x) clause 10 (1) (g)	6,57	6,57	6,08	6,38
(xi) clause 10 (1) (h)	7,23	7,23	6,69	7,01
(xii) clause 10 (1) (i)	7,95	7,95	7,72	7,72
(xiii) clause 10 (1) (j) (1)	8,75	8,75	8,49	8,49
(xiv) clause 10 (1) (j) (2)	9,63	9,63	9,33	9,33
(xv) clause 10 (1) (j) (3)	10,59	10,59	10,27	10,27
(xvi) clause 10 (1) (j) (4)	11,65	11,65	11,30	11,30
(xvii) clause 10 (1) (j) (5)	12,81	12,81	12,43	12,43
(xviii) clause 10 (1) (j) (6)	14,09	14,09	13,67	13,67
(xix) clause 10 (1) (j) (7)	15,50	15,50	15,04	15,04
(xx) clause 10 (1) (j) (8)	17,05	17,05	16,54	16,54
(xxi) clause 10 (1) (k)	4,57	4,57	4,57	4,57
(xxii) clause 10 (1) (l) (1)	5,43	5,43	5,03	5,27
(xxiii) clause 10 (1) (l) (2)	5,97	5,97	5,53	5,80
(xxiv) clause 10 (1) (l) (3)	6,57	6,57	6,08	6,38
(xxv) clause 10 (1) (l) (4)	7,95	7,95	7,72	7,72

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per	per	per	per
	day	day	day	day
Employees for whom wages are prescribed				
In-				
(i) clause 10 (1) (a) (1)	4,84	4,84	4,84	4,84
(ii) clause 10 (1) (a) (2)	4,84	4,84	4,84	4,84
(iii) clause 10 (1) (b) (1)	4,84	4,84	4,84	4,84
(iv) clause 10 (1) (b) (2)	4,84	4,84	4,84	4,84
(v) clause 10 (1) (c) (1)	4,84	4,84	4,84	4,84
(vi) clause 10 (1) (c) (2)	4,84	4,84	4,84	4,84
(vii) clause 10 (1) (d)	5,23	5,23	4,84	5,08
(viii) clause 10 (1) (e)	5,76	5,76	5,33	5,58
(ix) clause 10 (1) (f)	6,33	6,33	5,86	6,14
(x) clause 10 (1) (g)	6,97	6,97	6,45	6,76
(xi) clause 10 (1) (h)	7,66	7,66	7,09	7,44
(xii) clause 10 (1) (i)	8,43	8,43	8,18	8,18
(xiii) clause 10 (1) (j) (1)	9,27	9,27	9,00	9,00
(xiv) clause 10 (1) (j) (2)	10,20	10,20	9,89	9,89
(xv) clause 10 (1) (j) (3)	11,22	11,22	10,88	10,88
(xvi) clause 10 (1) (j) (4)	12,35	12,35	11,97	11,97

(xvii) clause 10 (1) (j) (5)	13,58	13,58	13,17	13,17
(xviii) clause 10 (1) (j) (6)	14,94	14,94	14,49	14,49
(xix) clause 10 (1) (j) (7)	16,43	16,43	15,94	15,94
(xx) clause 10 (1) (j) (8)	18,07	18,07	17,53	17,53
(xxi) clause 10 (1) (k)	4,84	4,84	4,84	4,84
(xxii) clause 10 (1) (l) (1)	5,76	5,76	5,33	5,58
(xxiii) clause 10 (1) (l) (2)	6,33	6,33	5,86	6,14
(xxiv) clause 10 (1) (l) (3)	6,97	6,97	6,45	6,76
(xxv) clause 10 (1) (l) (4)	8,43	8,43	8,18	8,18

(b) Every employer shall pay the specified amount to the Council on the employee's normal pay day.

(2) ***Special levy by the employee:***

(a) Every employer may on each pay day deduct from the wages due every day to each eligible employee the amount that is specified below:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
Employees for whom wages are prescribed	R per day	R per day	R per day	R per day

in-				
(i)	clause 10 (1) (a) (1)	4,57	4,57	4,57
(ii)	clause 10 (1) (a) (2)	4,57	4,57	4,57
(iii)	clause 10 (1) (b) (1)	4,57	4,57	4,57
(iv)	clause 10 (1) (b) (2)	4,57	4,57	4,57
(v)	clause 10 (1) (c) (1)	4,57	4,57	4,57
(vi)	clause 10 (1) (c) (2)	4,57	4,57	4,57
(vii)	clause 10 (1) (d)	4,94	4,94	4,57
(viii)	clause 10 (1) (e)	5,43	5,43	5,03
(ix)	clause 10 (1) (f)	5,97	5,97	5,53
(x)	clause 10 (1) (g)	6,57	6,57	6,08
(xi)	clause 10 (1) (h)	7,23	7,23	6,69
(xii)	clause 10 (1) (i)	7,95	7,95	7,72
(xiii)	clause 10 (1) (j) (1)	8,75	8,75	8,49
(xiv)	clause 10 (1) (j) (2)	9,63	9,63	9,33
(xv)	clause 10 (1) (j) (3)	10,59	10,59	10,27
(xvi)	clause 10 (1) (j) (4)	11,65	11,65	11,30
(xvii)	clause 10 (1) (j) (5)	12,81	12,81	12,43
(xviii)	clause 10 (1) (j) (6)	14,09	14,09	13,67
(xix)	clause 10 (1) (j) (7)	15,50	15,50	15,04
(xx)	clause 10 (1) (j) (8)	17,05	17,05	16,54
(xxi)	clause 10 (1) (k)	4,57	4,57	4,57
(xxii)	clause 10 (1) (l) (1)	5,43	5,43	5,03
(xxiii)	clause 10 (1) (l) (2)	5,97	5,97	5,53
(xxiv)	clause 10 (1) (l) (3)	6,57	6,57	6,08

(xxv) clause 10 (1) (l) (4)	7,95	7,95	7,72	7,72
-----------------------------	------	------	------	------

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area	Area	Area	Area
	'A'	'B'	'C'	'D'
	R	R	R	R
	per	per	per	per
	day	day	day	day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	4,84	4,84	4,84	4,84
(ii) clause 10 (1) (a) (2)	4,84	4,84	4,84	4,84
(iii) clause 10 (1) (b) (1)	4,84	4,84	4,84	4,84
(iv) clause 10 (1) (b) (2)	4,84	4,84	4,84	4,84
(v) clause 10 (1) (c) (1)	4,84	4,84	4,84	4,84
(vi) clause 10 (1) (c) (2)	4,84	4,84	4,84	4,84
(vii) clause 10 (1) (d)	5,23	5,23	4,84	5,08
(viii) clause 10 (1) (e)	5,76	5,76	5,33	5,58
(ix) clause 10 (1) (f)	6,33	6,33	5,86	6,14
(x) clause 10 (1) (g)	6,97	6,97	6,45	6,76
(xi) clause 10 (1) (h)	7,66	7,66	7,09	7,44
(xii) clause 10 (1) (i)	8,43	8,43	8,18	8,18

(xiii) clause 10 (1) (j) (1)	9,27	9,27	9,00	9,00
(xiv) clause 10 (1) (j) (2)	10,20	10,20	9,89	9,89
(xv) clause 10 (1) (j) (3)	11,22	11,22	10,88	10,88
(xvi) clause 10 (1) (j) (4)	12,35	12,35	11,97	11,97
(xvii) clause 10 (1) (j) (5)	13,58	13,58	13,17	13,17
(xviii) clause 10 (1) (j) (6)	14,94	14,94	14,49	14,49
(xix) clause 10 (1) (j) (7)	16,43	16,43	15,94	15,94
(xx) clause 10 (1) (j) (8)	18,07	18,07	17,53	17,53
(xxi) clause 10 (1) (k)	4,84	4,84	4,84	4,84
(xxii) clause 10 (1) (l) (1)	5,76	5,76	5,33	5,58
(xxiii) clause 10 (1) (l) (2)	6,33	6,33	5,86	6,14
(xxiv) clause 10 (1) (l) (3)	6,97	6,97	6,45	6,76
(xxv) clause 10 (1) (l) (4)	8,43	8,43	8,18	8,18

(b) Every employer shall pay the specified amounts to the Council as prescribed in sub-clause (1) hereof.

20. TRADE UNION DEDUCTIONS

(1) Trade union member subscriptions:

(a) Every employer shall, on each pay day, deduct from the wages due every week to each eligible employee who is a member of the trade union which is party to this Agreement, the amount specified below:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.
----------------------	--

	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	3,00	3,00	3,00	3,00
(ii) clause 10 (1) (a) (2)	3,00	3,00	3,00	3,00
(iii) clause 10 (1) (b) (1)	3,00	3,00	3,00	3,00
(iv) clause 10 (1) (b) (2)	3,00	3,00	3,00	3,00
(v) clause 10 (1) (c) (1)	3,00	3,00	3,00	3,00
(vi) clause 10 (1) (c) (2)	3,00	3,00	3,00	3,00
(vii) clause 10 (1) (d)	3,00	3,00	3,00	3,00
(viii) clause 10 (1) (e)	3,00	3,00	3,00	3,00
(ix) clause 10 (1) (f)	3,00	3,00	3,00	3,00
(x) clause 10 (1) (g)	3,00	3,00	3,00	3,00
(xi) clause 10 (1) (h)	3,00	3,00	3,00	3,00
(xii) clause 10 (1) (i)	3,00	3,00	3,00	3,00
(xiii) clause 10 (1) (j) (1)	3,00	3,00	3,00	3,00
(xiv) clause 10 (1) (j) (2)	3,00	3,00	3,00	3,00
(xv) clause 10 (1) (j) (3)	3,00	3,00	3,00	3,00
(xvi) clause 10 (1) (j) (4)	3,00	3,00	3,00	3,00
(xvii) clause 10 (1) (j) (5)	3,00	3,00	3,00	3,00
(xviii) clause 10 (1) (j) (6)	3,00	3,00	3,00	3,00

(xix) clause 10 (1) (j) (7)	3,00	3,00	3,00	3,00
(xx) clause 10 (1) (j) (8)	3,00	3,00	3,00	3,00
(xxi) clause 10 (1) (k)	3,00	3,00	3,00	3,00
(xxii) clause 10 (1) (l) (1)	3,00	3,00	3,00	3,00
(xxiii) clause 10 (1) (l) (2)	3,00	3,00	3,00	3,00
(xxiv) clause 10 (1) (l) (3)	3,00	3,00	3,00	3,00
(xxv) clause 10 (1) (l) (4)	3,00	3,00	3,00	3,00

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per	per	per	per
	day	day	day	day
Employees for whom wages are prescribed				
in-				
(i) clause 10 (1) (a) (1)	3,00	3,00	3,00	3,00
(ii) clause 10 (1) (a) (2)	3,00	3,00	3,00	3,00
(iii) clause 10 (1) (b) (1)	3,00	3,00	3,00	3,00
(iv) clause 10 (1) (b) (2)	3,00	3,00	3,00	3,00
(v) clause 10 (1) (c) (1)	3,00	3,00	3,00	3,00
(vi) clause 10 (1) (c) (2)	3,00	3,00	3,00	3,00
(vii) clause 10 (1) (d)	3,00	3,00	3,00	3,00

(viii) clause 10 (1) (e)	3,00	3,00	3,00	3,00
(ix) clause 10 (1) (f)	3,00	3,00	3,00	3,00
(x) clause 10 (1) (g)	3,00	3,00	3,00	3,00
(xi) clause 10 (1) (h)	3,00	3,00	3,00	3,00
(xii) clause 10 (1) (i)	3,00	3,00	3,00	3,00
(xiii) clause 10 (1) (j) (1)	3,00	3,00	3,00	3,00
(xiv) clause 10 (1) (j) (2)	3,00	3,00	3,00	3,00
(xv) clause 10 (1) (j) (3)	3,00	3,00	3,00	3,00
(xvi) clause 10 (1) (j) (4)	3,00	3,00	3,00	3,00
(xvii) clause 10 (1) (j) (5)	3,00	3,00	3,00	3,00
(xviii) clause 10 (1) (j) (6)	3,00	3,00	3,00	3,00
(xix) clause 10 (1) (j) (7)	3,00	3,00	3,00	3,00
(xx) clause 10 (1) (j) (8)	3,00	3,00	3,00	3,00
(xxi) clause 10 (1) (k)	3,00	3,00	3,00	3,00
(xxii) clause 10 (1) (l) (1)	3,00	3,00	3,00	3,00
(xxiii) clause 10 (1) (l) (2)	3,00	3,00	3,00	3,00
(xxiv) clause 10 (1) (l) (3)	3,00	3,00	3,00	3,00
(xxv) clause 10 (1) (l) (4)	3,00	3,00	3,00	3,00

(b) Every employer shall pay the amount referred to in subclause (1)(a) to the Council on the employee's normal pay day.

(2) Agency shop agreement

- (a) The trade union which is a party to this Agreement and the employer's party to this Agreement hereby conclude an agency shop agreement in terms of section 25 of the Act.
- (b) In terms of the agency shop agreement referred to in paragraph (a) hereof, every employer shall on each pay day deduct from the wages due every week to each eligible employee who is not a member of the trade union which is a party to this Agreement, an amount equal to that specified in subclause (1)(a) of this clause.
- (c) Every employer shall pay the amount referred to in subclause (2)(b) to the Council on the employee's normal pay day, and shall on that day endorse and issue the employee with the Council's fringe benefits indicating the amount deducted.
- (3) The Council shall, each month, pay over to the trade union all moneys collected in respect of fringe benefits purchased by the employers in terms of subclauses (1)(b) and (2)(b) above, less a collection fee, as determined by the Council from time to time on gross sales, which amount shall accrue to the general funds of the Council.
- (4) The trade union which is a party to the concluded agency shop agreement shall keep separate account of the moneys collected in terms of subclause (2) hereof as prescribed in section 25(3)(c) of the Act and shall at all times in respect of the said moneys comply with the provisions of section (25)(3)(d) of the Act.
- (5) Notwithstanding anything to the contrary contained in this clause, employees who are not members of the representative trade union shall not be compelled to become members of that trade union.

21. SPECIAL MEMBERSHIP LEVY: EMPLOYERS

- (1) Every employer, to whom this agreement applies, shall pay an amount of R1,70 per day for each normal workday, in respect of each eligible employee in his/her employment during that normal working day.
- (2) The Council shall each month pay over to the employer's organisations all moneys paid to the Council in terms of subclause (1) above, less a collection fee which shall be determined from time to time by the Council on gross collections, which amount shall accrue to the general funds of the Council.

22. GENERAL

(1) Exhibition of Agreement

- (a) The parties agree that the English version of this Agreement shall determine the meaning and intention of the parties.
- (b) Copies of this Agreement, in English, shall be available for inspection by any person during working hours at the offices of the Council.
- (c) The first copy of this Agreement is freely available. The second copy will be available at R5,00 per copy.
- (d) Each party to this Agreement shall receive two free copies of the Agreement and Constitution.

(2) Value Added Tax

All monetary values quoted in this Agreement, except for the monetary values quoted in clause 19, which are inclusive of value-added tax, are exclusive of value-added tax.

(3) Shelter and ablution facilities

- (a) At any site where building operations are being carried out employers shall provide suitable accommodation -

- (i) to serve as shelter for employees during wet weather; and/or
 - (ii) to serve as a change room: Provided that the provisions of this clause shall not apply to jobbing work and on sites where fewer than ten (10) employees are employed or where the circumstances peculiar to the site or the nature of the work in progress do not permit accommodation for a change room.
- (b) Such accommodation shall be any lockable shed, room or similar place constructed of walls and a roof composed of concrete, brickwork, wood, iron or any combination thereof or any other material approved by the Council, the whole to be so constructed as to provide a place for employees to change their clothes, to wash and to take shelter.
- (c) Such accommodation shall include clothes lockers or similar lock-up facilities in which employees can safely store changes of clothing and other personal possessions while at work.
- (d) An employer shall provide proper and adequate sanitary accommodation on each job, which shall at all times be maintained in a hygienic and proper condition, and shall further conform to the legislation of the local authority in whose area the job is situated.

(4) Trade union access

Officials of the trade union party to this Agreement shall in the ordinary course of their duties have access to building sites and workshops during working hours, but shall not be allowed to interfere with the continued performance of work by or approach any employee without the prior consent of the employer or his duly authorized representative, which consent shall not unreasonably be withheld.

(5) Contracts of employment

- (a) A contract of employment, whether concluded before or after the coming into operation of this Agreement, may not permit an employee to be paid remuneration that is less than that specified by this Agreement, or permit an employee to be treated in a manner, or to be granted any benefit, that is less favourable than that specified by this Agreement, or to waive the application of any provision of this Agreement.
- (b) A provision in any contract that purports to permit or grant any payment, treatment, benefit, waiver or exclusion prohibited by subclause (5)(a) shall be invalid.

(6) Agents and designated agents

- (1)(a) The Council may appoint one or more persons as an agent or agents to -
 - (i) assist in monitoring compliance with this Agreement and enforce compliance with it;
 - (ii) endeavour to prevent disputes taking place between employees and their employers;
 - (iii) endeavour to settle disputes that have arisen between employees and their employers;
- (b) An agent, subject to the written authorization of the Secretary and only in so far as these powers concern only persons who are working within the jurisdiction of the activities of the Council -
 - (i) enter any premises or place in which the Industry is carried on at any time when he has reasonable cause to believe that any person is employed therein;
 - (ii) question, in the presence of or apart from others as he deem fit, any employer or employee regarding matters relating to this Agreement;

- (iii) require the production of, inspect, examine or copy such books, time sheets, records or documents as may be necessary for ascertaining whether the provisions of this Agreement are being complied with.
- (c) When exercising the powers conferred upon him by subclause (6)(b), an agent may be accompanied by an interpreter.
- (d) Every employer who, or employers' organisation or trade union which is party to the Council and any person who is a member of such employers' organisation or trade union shall grant the agent all facilities to enable him to exercise the powers conferred upon him in terms of subclause (6)(b) and (c).
- (e) The Council may also apply to the Minister of Labour for an agent to be appointed as a designated agent.
- (f) A designated agent appointed by the Minister in terms of section (33)(1) of the Act to attempt to resolve a dispute or to investigate any alleged contraventions and for the purpose of routine inspection to enforce compliance with this Agreement, may -
 - (i) subpoena for questioning any person who may give information or whose presence at the conciliation or arbitration proceedings may help to resolve the dispute;
 - (ii) subpoena any person who is believed to have possession or control of any book, document or object relevant to the resolution of the dispute, to appear before the designated agent to be questioned or to produce that book, document or object;
 - (iii) administer an oath or accept affirmation from any person called to give evidence or to be questioned;

- (iv) at any reasonable time, but only after obtaining the necessary written authorization -
 - (aa) enter and inspect any premises on or in which any book, document or object relevant to the resolution of the dispute is to be found or is suspected on reasonable grounds of being there;
 - (ab) examine, demand the production of, or seize any book, document or object that is on or in those premises and that is relevant to the resolution of the dispute; and
 - (ac) take a statement in respect of any matter relevant to the resolution of the dispute from any person on the premises who is willing to make a statement;
 - (ad) inspect and retain for a reasonable period, any of the books, documents or objects that have been produced to, or seized by the designated agent.
- (2) A subpoena issued or any purpose in terms of subclause (1) must be signed by the Secretary of the Bargaining Council and must -
 - (a) specifically require the person named in it to appear before the designated agent;
 - (b) sufficiently identify the book, document or object to be produced; and
 - (c) state the date, time and place at which the person is to appear.
- (3) The written authorization referred to in subclause (1)(d) -
 - (a) if it relates to residential premises, may be given only by a judge of the labour Court, with due regard to section 14 of the Constitution, and then only on application by the designated agent setting out under oath or affirmation the following information:

- (i) the nature of the dispute;
 - (ii) the relevance of any book, document or object on the premises;
 - (iii) the presence of any book, document or object on the premises; and
 - (iv) the need to enter, inspect or seize the book, document or object;
- (b) in all other cases, may be given by the Secretary of the Council.
- (4) The owner or occupier of any premises that a designated agent is authorised to enter and inspect, and every person employed by that owner or occupier, must provide facilities that a designated agent requires to enter those premises and to carry out the inspection or seizure.
- (5) The appointed person must issue a receipt for any book, document or object seized in terms of subclause (1).
- (6) The law relating to privilege, as it applies to a witness subpoenaed to give evidence or to produce a book, document or object before a court of law, applies equally to the questioning of any person or to the production or seizure of any book, document or object in terms of this clause.
- (7) The appointed person must pay the specified witness fee to each person who appears before him in response to a subpoena issued.
- (8) A person commits contempt of the designated agent –
- (a) if, after having been subpoenaed to appear before him, the person without good cause does not attend at the time and place stated in the subpoena;
 - (b) if, after having appeared in response to a subpoena, that person fails to remain in attendance until excused by the designated agent;
 - (c) by refusing to take the oath or to make an affirmation as a witness when a designated agent so requires.

- (d) by refusing to answer any question fully and to the best of that person's knowledge, subject to subsection (6);
 - (e) if the person, without good cause, fails to produce the book, document or object specified in the subpoena to a designated agent;
 - (f) if the person wilfully hinders a designated agent in performing any function conferred by and in terms of the Act;
 - (g) if the person insults, disparages or belittles a designated agent, or prejudices or improperly influences an investigation or improperly anticipates the designated agent's recommendations;
 - (h) by wilfully interrupting the conciliation or arbitration proceedings or misbehaving in any offensive manner during those proceedings;
 - (i) by doing anything else in relation to the designated agent which, if done in relation to a court of law, would have been contempt of court.
- (9) A designated agent may refer any contempt to the Labour Court for an appropriate order.
- (10) A designated agent may refuse to investigate a complaint submitted by an employee later than 17 weeks after the dispute had arisen: Provided that the employer of such employee be assessed for the full period of non-compliance, including interest in terms of this Agreement.
- (11) A designated agent may refuse to investigate a complaint submitted by a trade union, if such trade union has not first attempted to settle the alleged dispute directly with the employer party.

23. EXEMPTIONS

- (1) In terms of section 32 of the Labour Relations Act, No. 66 of 1995, the Council hereby establishes an independent body to be known as the "Exemptions Board" to hear and decide any appeal brought against –
 - (a) the Council's refusal of a non-party's application for exemption from the provisions of this Agreement;
 - (b) the withdrawal of such an exemption by the Council.
- (2) Any party to this Agreement or any member of a party to this Agreement may apply to the Council for exemption from any of the terms of this Agreement.
- (3) The Council shall consider an application for exemption received from a party or a member of a party to the Agreement, following the receipt of the application, within 30 days in terms of section 32(3)(dA) of the Labour Relations Act, No. 66 of 1995.
- (4) Applications for exemption referred to the Council in terms of subclause (2) or (3) shall be considered by the Council in accordance with the exemption criteria set out in subclause (13), and the applicant/s shall be advised, in writing, of the Council's decision within five (5) normal working days following the meeting at which the applications were considered.
- (5) The Council shall, subject to the exemption criteria, only grant exemption on good cause shown and may determine such period and conditions of examination as it deems fit, with the proviso that all exemptions granted shall lapse on 31 October of every year and may only be extended for a further period by the Council on application for such extension by the applicant.
- (6) Any non-party to which this Agreement has been extended in terms of section 32 of the Act, may apply to the Council for exemption from any of the terms of this Agreement.

- (7) Subclauses (3) up to and including (5), shall mutatis mutandis apply to any application for exemption received from a non-party.
- (8) Within 14 consecutive days after having been advised of the Council's decision regarding an application for exemption, the non-party who feels aggrieved by the Council's decision may submit a written appeal against the Council's decision to the Secretary of the Council. Such appeal must be fully reasoned.
- (9) The Secretary of the Council shall submit the appeal, together with the Council's decision regarding the application for exemption, to the Exemptions Board, who shall as soon as possible, and not later than 30 days in terms of section (32)(3)(e) of the Labour Relations Act, No. 66 of 1995, after the appeal is lodged, hear and decide the matter with reference to the exemption criteria set out in subclause (13).
- (10) Once the Exemptions Board has decided to uphold the appeal and grant an exemption, it shall issue a certificate and advise the applicant(s) within ten (10) normal working days of the date of the decision, clearly specifying -
- (a) the terms of the exemption; and
 - (b) the reporting requirements by the applicant and monitoring re-evaluation processes.
- (11) When the Exemptions Board decides against granting an exemption of part of an exemption requested, it shall advise the applicant (s) within ten (10) normal working days of the date of such decision and shall provide the reason or reasons for the decision not to grant and exemption.
- (12) All applications for exemptions referred to in this clause shall be addressed to the Secretary of the Council and shall -
- (a) be in writing on an application form provided by the Council;
 - (b) indicate the period of time for which the exemption is required;

- (c) indicate clearly the clauses or subclauses of this Agreement from which exemption is applied for;
- (d) be fully reasoned and motivated and include proof that the exemption applied for has been discussed between the employer, his employees and their respective representatives and also include the responses resulting from such consultations, whether in support of or against the applications indicate possible substitutive provisions;
- (e) indicate the specific workplaces and employees in respect of which the exemption is applied for;
- (f) include details of the total work force of the employer concerned.

(13) Exemption criteria

The Exemptions Board and the Council shall consider all applications of exemptions referred to in terms of this clause with reference to the following criteria:

- (a) The extent of consultation with and the petition for or against granting the exemptions as provided by employers or employees who are to be affected by the exemption if granted.
- (b) infringement of basic conditions of employment rights;
- (c) that a competitive advantage is not created by the exemption;
- (d) that exemption from any employee benefit fund or training provision be viewed in relation to the alternative comparable bona fide benefit or provision including the cost to the employee, transferability, administration management and cost, growth and stability;
- (e) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Building Industry;

- (f) the exemption policy of the Council in respect of Government subsidised, low-cost labour intensive and community participation building construction projects adopted by the Council on 4 February 1997;
- (g) the Site Specific Agreement of Understanding between the Council and Saldanha Steel Projects signed on 28 January 1997;
- (h) the reality that the majority of employers at any time engaged in the Building Industry within the Council's area of jurisdiction as well as the majority of members or the employers party to the Council, represent the category micro to medium enterprises and employ between one and 20 employees;
- (i) any special economic or other circumstances that exist that warrant the granting or the exemption;
- (j) cognisance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy.

24. PROCEDURE FOR THE RESOLUTION OF DISPUTES

- (1) Any alleged infringements of the provisions of this Agreement shall be resolved *mutatis mutandis* in the manner specified in clause 25.4 of the Constitution of the Council.
- (2) Any person may refer a dispute about the interpretation or application, including enforcement, of this Agreement or any other disputes to the Secretary of the Council for resolution in terms of this Clause and the Council's Constitution.
- (3) The Secretary may require a designated agent to investigate the dispute.
- (4) The designated agent must investigate the facts surrounding the dispute and if the agent has reason to believe that the Agreement or the Act has been breached, the

agent may endeavour to secure compliance with the Agreement or Act through conciliation.

- (5) The designated agent must submit, within five (5) working days, a written report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps. The Secretary may extend the aforementioned period when necessary,
- (6) If in the course of performing a designated agent's duties, an agent discovers what appears to be a breach of the Agreement or the Act, the agent –
 - (a) may investigate the alleged breach;
 - (b) may endeavour to secure compliance with the Agreement or the Act; and
 - (c) must submit a report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- (7) On receipt of the report, the Secretary may -
 - (a) require the designated agent to make further investigations; or
 - (b) if further conciliation is indicated, appoint a conciliator from the Council's panel of conciliators; or
 - (c) issue a compliance order; or
 - (d) refer the dispute to arbitration in terms of this Agreement and the Council's Constitution.
- (8) If a conciliator is appointed, the Secretary must decide the date, time and venue of the conciliation meeting and must serve notices of these particulars on the parties to the dispute.
- (9) If the dispute is referred to arbitration, the Secretary must appoint an arbitrator from the panel of arbitrators.

- (10) The Secretary, in consultation with the arbitrator, must decide the date, time and venue of the arbitration hearing.
- (11) The Secretary must serve notices of the date, time and venue of the arbitration on the parties to the dispute and any other person who may have a legal interest in the outcome of the arbitration.
- (12) The arbitrator must -
 - (a) endeavour to conciliate the dispute; and
 - (b) if the dispute remains unresolved, resolve the dispute through arbitration.
- (13) The arbitrator must conduct the arbitration in a manner that he considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- (14) Subject to the arbitrator's discretion as to the appropriate form of the proceedings, a party to the dispute, including the Council, may give evidence, call witnesses, question witnesses of any other party, and address concluding arguments to the arbitrator.
- (15) The arbitrator may suspend the arbitration proceedings and attempt to resolve the dispute through conciliation if the Council and the parties to the dispute consent to this.
- (16) In any arbitration proceedings, a party to the dispute may appear in person or be represented by a legal practitioner, a co-employee or a member, office bearer or official of that party's trade union or employer's organisation and, if the party is a juristic person, by a director or employee.
- (17) If the party who referred the dispute to the council fails to appear in person or to be represented at the arbitration proceedings, the arbitrator may dismiss the matter.

CONTINUES ON PAGE 130 - PART 2



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Regulation Gazette

No. 10910

Regulasiekoerant

Vol. 644

8 February
Februarie 2019

No. 42218

PART 2 OF 2

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5843



9 771682 584003



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

- (18) If a party, other than the party who referred the dispute to the Council, fails to appear in person or be represented at the arbitration proceedings, the arbitrator may -
- (a) continue with the arbitration proceedings in the absence of that party; or
 - (b) adjourn the arbitration proceedings to a later date.
- (19) Within 14 days of the conclusion of the arbitration proceedings -
- (a) the arbitrator must issue an arbitration award with reasons, signed by the arbitrator; and
 - (b) the Council must serve a copy of that award on each party to the dispute; and
 - (c) file the original of that award with the Registrar of the Labour Court.
- (20) On good cause shown, the Secretary of the Council may extend the period in which the arbitration award and the reasons are to be served and filed.
- (21) The arbitrator may make any appropriate award that gives effect to the Agreement, which award shall be final and binding.
- (22) The arbitrator may not include an order for costs in the arbitration award unless a party, or the person who represented that party during any stage of the dispute resolution proceedings, acted in a frivolous or vexatious manner.
- (23) Notwithstanding the provisions of subclause (21) an arbitrator may on his own initiative or as a result of an application by an affected party, vary or rescind an award -
- (a) erroneously sought or made in the absence of any party affected by the award;
 - (b) in which there is ambiguity, or an obvious error or omission, by only to the extent of the ambiguity, error or omission; or
 - (c) granted as a result of a mistake common to the parties to the proceedings.
- (24) The Secretary may apply to make the arbitration award an order of the Labour Court under section 158(1) of the Act.

- (25) The provisions of this dispute procedure stand in addition to any other legal remedy through which the Council may enforce the Agreement.
- (26) The Secretary of the Council may delegate all or any of the duties and/or functions conferred on him in this clause to another employee of the Council.

25. DISPUTE SETTLEMENT FINE

- (1) If it is found that an employer does not comply with the provisions of this Agreement, the Council may impose a fine as set out in paragraph 1(a) according to the Basic Conditions Act of 75 of 1997 as prescribed in Schedule 2 of the Act.

(a) MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT

No previous failure to comply	R300 per employee in respect of whom the failure to comply occurs.
A previous failure to comply in respect of the same provision	R600 per employee in respect of whom the failure to comply occurs.
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years	R900 per employee in respect of whom the failure to comply occurs
Three previous failures to comply in respect of the same provision within three years	R1 200 per employee in respect of whom the failure to comply occurs
Four previous failures to comply in respect of the same provision within three years	R1 500 per employee in respect of whom the failure to comply occurs

(b) MAXIMUM PERMISSIBLE FINE INVOLVING AN UNDERPAYMENT

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

- (c) If the amount due by the employer to the employees of the Council is less than two thousand rand (R2 000,00), the Council may demand immediate payment of this money from the employer.

26. ARBITRATIONS

- (1) If an employer is found guilty of not complying with the provisions of this Agreement, the Council may request the arbitrator to impose a fine on the employer as required by clause 26.
- (2) Notwithstanding subclause (1), the Council may request the arbitrator for an expense award.

27. NOTICE BOARD

- (1) Every employer should, when building, display a notice board of 60 cm by 45 cm, or a notice board that has been approved by the council, at a prominent place to which the public have access. On the board in letters of at least 75 mm high should be the name and address of the employer.
- (2) In the event of failure to display an acceptable notice board an employer will be given ten (10) days to display such board. If there is further non-compliance by the employer a fine of at least five hundred rand (R500,00) can be imposed.

28. TRAINING FUND OF THE EMPLOYERS' ORGANISATIONS

- (1) Every employer who is a party to this Agreement shall, on each pay day, pay to the Council an amount of R1,50 per week in respect of each eligible employee in his/her employee during that contribution week.
- (2) The Council shall each month pay over to the employer's organisations all moneys paid to the Council in terms of subclause (1) above, less a collection fee which shall be determined from time to time by the Council on gross collections, which amount shall accrue to the general funds of the Council.

29. FUNERAL BENEFIT

- (1) The funeral benefit fund, administered by the Council, for the purpose of providing a funeral benefit to new eligible employees, namely Cleaners, Beginner Prefabricated concrete wall Labourers and Labourers which are registered in the industry for the first time. Fees contributed by the employers to the fund must be invested as determined under section 53 (5) of the Act. After a membership of 1 year they will automatically qualify for the full retirement benefit.

(2) **Contributions by the employer:**

- (a) An employer shall contribute an amount on behalf of an eligible employee to the Funeral Benefit for each day that the employee is employed (a contribution week), which amount shall be calculated as follows:

From the date of commencement of this Agreement to 31 October 2019

Category of employee	From the date of commencement of this Agreement.			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per day	per day	per day	per day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	1,00	1,00	1,00	1,00
(ii) clause 10 (1) (a) (2)				
(iii) clause 10 (1) (b) (1)	1,00	1,00	1,00	1,00
(iv) clause 10 (1) (b) (2)				
(v) clause 10 (1) (c) (1)	1,00	1,00	1,00	1,00
(vi) clause 10 (1) (c) (2)				
(vii) clause 10 (1) (d)				
(viii) clause 10 (1) (e)				
(ix) clause 10 (1) (f)				
(x) clause 10 (1) (g)				
(xi) clause 10 (1) (h)				
(xii) clause 10 (1) (i)				

(xiii) clause 10 (1) (j) (1)				
(xiv) clause 10 (1) (j) (2)				
(xv) clause 10 (1) (j) (3)				
(xvi) clause 10 (1) (j) (4)				
(xvii) clause 10 (1) (j) (5)				
(xviii) clause 10 (1) (j) (6)				
(xix) clause 10 (1) (j) (7)				
(xx) clause 10 (1) (j) (8)				
(xxi) clause 10 (1) (k)				
(xxii) clause 10 (1) (l) (1)				
(xxiii) clause 10 (1) (l) (2)				
(xxiv) clause 10 (1) (l) (3)				
(xxv) clause 10 (1) (l) (4)				

For the period 1 November 2019 to 31 October 2020

Category of employee	1 November 2019 to 31 October 2020			
	Area 'A'	Area 'B'	Area 'C'	Area 'D'
	R	R	R	R
	per	per	per	per
	day	day	day	day
Employees for whom wages are prescribed in-				
(i) clause 10 (1) (a) (1)	1,00	1,00	1,00	1,00

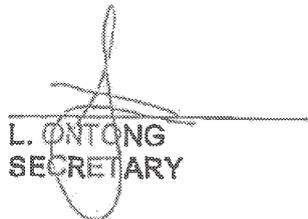
(ii) clause 10 (1) (a) (2)				
(iii) clause 10 (1) (b) (1)	1,00	1,00	1,00	1,00
(iv) clause 10 (1) (b) (2)				
(v) clause 10 (1) (c) (1)	1,00	1,00	1,00	1,00
(vi) clause 10 (1) (c) (2)				
(vii) clause 10 (1) (d)				
(viii) clause 10 (1) (e)				
(ix) clause 10 (1) (f)				
(x) clause 10 (1) (g)				
(xi) clause 10 (1) (h)				
(xii) clause 10 (1) (i)				
(xiii) clause 10 (1) (j) (1)				
(xiv) clause 10 (1) (j) (2)				
(xv) clause 10 (1) (j) (3)				
(xvi) clause 10 (1) (j) (4)				
(xvii) clause 10 (1) (j) (5)				
(xviii) clause 10 (1) (j) (6)				
(xix) clause 10 (1) (j) (7)				
(xx) clause 10 (1) (j) (8)				
(xxi) clause 10 (1) (k)				
(xxii) clause 10 (1) (l) (1)				
(xxiii) clause 10 (1) (l) (2)				
(xxiv) clause 10 (1) (l) (3)				
(xxv) clause 10 (1) (l) (4)				


R.C. DAMON
CHAIRMAN


DJ PHILLIPS
VICE-CHAIRMAN


Diane J. PHILLIPS
MBA GROTER BOLAND
Meesterbouers Assosiasie Groter Boland (MBA Groter Boland)


G. RICHARDS
BUILDING WORKERS UNION


L. ONTONG
SECRETARY

42218

**ANNEXURE A: RULES FOR CONCILIATING AND ARBITRATING DISPUTES IN THE BUILDING
INDUSTRY BARGAINING COUNCIL (RULES)**

ARRANGEMENT OF RULES

PART A: SERVING AND FILING DOCUMENTS

1. Council addresses at which documents must be filed
2. How to calculate time periods
3. Who must sign documents
4. How to serve documents on other parties
5. How to prove that a document was served in terms of the Rules
6. How to file documents with the Council
7. Documents and notices sent by registered post
8. How to seek condonation for documents delivered

PART B: CONCILIATION OF DISPUTES

9. How to refer a dispute to the Council for conciliation
10. What notice the Council is to give of a conciliation hearing
11. Council may seek to resolve a dispute before a conciliation hearing
12. What happens if a party fails to attend or is not represented at a conciliation hearing
13. How to determine whether or not a Council commissioner may conciliate a dispute
14. Issuing of a certificate in terms of section 135(5) of the Act
15. Conciliation proceedings may not be disclosed

PART C: CON-ARB

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

PART D: ARBITRATIONS

17. How to request arbitration

18. When parties may be directed to file statements
19. When parties may be directed to hold a pre-arbitration conference
20. What notice the Council is to give of an arbitration hearing
21. How to determine whether or not a commissioner may arbitrate a dispute
22. How to postpone an arbitration

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

23. Who may represent a party at the Council
24. How to join or substitute parties to proceedings
25. How to correct the citation of a party
26. When the Council may consolidate disputes
27. Disclosure of documents
28. What happens if a party fails to attend proceedings in rights disputes
29. What happens if a party fails to attend proceedings interest disputes

PART F: APPLICATIONS

30. How to bring an application
31. How to apply to vary or rescind arbitration awards or rulings
32. How to refer a dismissal dispute to the Labour Court

PART G: PRE-DISMISSAL ARBITRATIONS

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

PART H: GENERAL

34. Unrepresented applicants without postal addresses and fax numbers
35. Condonation for failure to comply with the Rules
36. Recordings of Council proceedings
37. How to have a subpoena issued
38. Payment of witness fees
39. Taxation of bills of cost
40. What words mean in these Rules

**PART A
SERVING AND FILING DOCUMENTS**

1. Council addresses at which documents must be filed

- (1) The addresses, telephone numbers and telefax numbers of the offices of the Council are listed in

Schedule 1.

- (2) Documents may be filed with the Council only at those addresses or telefax numbers listed in

Schedule 1.

2. How to calculate time periods

- (1) For the purpose of calculating any period of time in terms of these Rules-

- (a) a day means any day of the week including Saturdays, Sundays and public holidays, but excludes

the days from the 16th of December to the 7th of January, both days inclusive.

Example 1

Rule 7 refers to seven days of the date the document was posted. If the document was posted on a Friday then the seven days would include the next Saturday and Sunday.

Example 2

Rule 7 refers to seven days of the date the document was posted. If the date of postage was on a Friday, the 12th of December, the first four days would be counted (the days before the 16th) and final three days

would be counted from 7th of January, in other words the period would run from the 12th of December to the 10th of January.

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

Example 3

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

(2) The last day of any period must be excluded if it falls on a Saturday, Sunday, public holiday or any day between 16 December and 7 January.

3. Who must sign documents

- (1) A document that a party must sign in terms of the Act or these Rules may be signed by the party or by a person entitled in terms of the Act or these Rules to represent that party in the proceedings.
- (2) If proceedings are jointly instituted or opposed by more than one employee, documents may be signed by an employee who is mandated by the other employees to sign documents. A written list of the names of the employees who have mandated the employer to sign on their behalf must be attached to the referral document.

4. How to serve documents to other parties

- (1) A party must serve a document on the other parties to a dispute-
 - (a) by handing a copy of the document to-
 - (i) the person if that person is a party to the dispute;
 - (ii) a person authorized in writing to accept service on behalf of the party to the dispute;
 - (iii) a person who appears to be at least 16 years old and in charge of the party's place of residence, business or employment;
 - (b) by faxing or telexing a copy of the document to that party;
 - (c) by sending a copy of the document by registered post or telegram to the last-known address of the party or to an address chosen by the party to receive service.
 - (d) Via electronic mail.

5. How to prove that a document was served in terms of the Rules

- (1) A party must prove to the Council that a document was served in terms of these Rules, by providing the Council or a council commissioner with the following:
 - (a) A copy of proof of mailing the document by registered post to the other party;
 - (b) a copy of the telegram or telex communicating the document to the other party;
 - (c) a copy of the telefax transmission report indicating the successful transmission of the whole document to the other party;
 - (d) an electronic mail tracking report ; or
 - (e) If a document was served by hand-

- (i) a copy of a receipt by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
 - (ii) a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises.
- (2) If proof of service in accordance with sub rule (1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document.
- (3) The Council may accept proof of service in a manner other than prescribed in this rule, as sufficient.

6. How to file documents with the Council

- (1) A party must file documents with the Council-
- (a) by handing the document in at an office of the Council;
 - (b) by sending a copy of the document by registered post to the Council;
 - (c) by sending an electronic mail; or
 - (d) by faxing the document to the Council.
- (2) A document is filed with the Council when-
- (a) the document is handed to the office of the Council;
 - (b) a document sent by registered post is received by the Council;
 - (c) the electronic mail has been delivered; or
 - (d) the transmission of a fax is completed.

7. Documents and notices sent by registered post

Any document sent by registered post is presumed, until the contrary is proved, to have been received by the person to whom it was sent seven days after it was posted.

8. How to seek condonation for documents delivered late

- (1) This rule applies to any document, including a referral or an application, delivered outside of a time period prescribed in the Act or these Rules.
- (2) A Party must apply for condonation must set out the grounds for seeking condonation and must include details of the following:
- (3) An application for condonation must set out the grounds for seeking condonation and must include details of the following:
- (a) The degree of lateness;
 - (b) the reasons for the lateness and degree of fault;
 - (c) the referring party's prospects and succeeding with the referral and obtaining the relief sought against the other party;
 - (d) any prejudice to the other parties; and
 - (e) any other relevant factors.

PART B

CONCILIATION OF DISPUTES**9. *How to refer a dispute to the Council for conciliation***

- (1) A party must refer a dispute to the Council for conciliation by completing the Council's referral form and serving it on the Council.
- (2) The referring party must-
 - (a) sign the referral form;
 - (b) attach written proof that the referral form was served on the other parties to the dispute;
 - (c) if the referral form is filed late, attach an application for condonation in accordance with rule 8
- (3) The Council must refuse to accept a referral document until sub rule (2) hereof has been complied with.

10. *The notice the Council is to give of a conciliation hearing*

The Council must give the parties at least 14 days' written notice of a conciliation hearing, unless the parties agree to a shorter period of notice.

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

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

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

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

13. *How to determine whether or not Council commissioner may conciliate a dispute*

If it appears during conciliation proceedings that a jurisdictional issue has not been determined, the Council must require the referring party to prove that the Council has the jurisdiction to conciliate the dispute.

14. *Issuing a certificate in terms of section 135 (5) of the Act*

A certificate issued in terms of section 125 (5) of the Act stating that the dispute has or has not been resolved, must identify the nature of the dispute as described in the referral document or as identified by the commissioner during the conciliation process.

15. *Conciliation proceedings may not be disclosed*

- (1) Conciliation proceedings must be treated as private and confidential and conducted without prejudice. No person may refer to anything said at conciliation proceedings during any subsequent proceedings, unless the parties agree to this in writing.
- (2) No person, including a commissioner, may be called as a witness during any subsequent proceedings in the Council or in any court to give evidence about what transpired during conciliation.

**PART C
CON-ARB**

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

- (1) The Council must give the parties at least 14 days' written notice that a matter has been scheduled for con-arb in terms of section 191 (5A) of the Act.
- (2) A party that intends to object to a dispute being dealt with in terms of section 191 (5A) must serve a written notice on the Council and the other party, at least seven days prior to the scheduled date in terms of sub rule (1).
- (3) Sub rule (2) does not apply to a dispute concerning-
 - (a) the dismissal of an employee for any reason related to probation; or
 - (b) an unfair labour practice relating to probation.
- (4) If the respondent party fails to appear or to be represented at a hearing schedule in terms of sub rule (1), the Council commissioner must conduct the con-arb on the date specified in the notice issued in terms of sub rule (1) or adjourn the proceeding until a later date.
- (5) Sub rule (4) applies irrespective of whether or not a party has lodged a notice of objection in terms of sub rule (2).
- (6) The provisions of the Act and these Rules that are applicable to conciliation and arbitration, respectively apply, with the changes required by the context, to con-arb proceedings.
- (7) If the arbitration does not commence on the dates specified in terms of the notice referred to in sub rule (1), the Council must schedule the matter for arbitration either in the presence of the parties or by issuing a notice in terms of rule 20.

**PART D
ARBITRATIONS**

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

17. How to request arbitration.

- (1) A party may request the Council to arbitrate a dispute by delivering a document in the form of Annexure LRA7.13 ("the referring document").
- (2) The referring party must-
 - (a) sign the referral document in accordance with rule 3;
 - (b) attach to the referral document written proof that the referral document was served on the other parties to the dispute in accordance with rule 5; and
 - (c) if the referral document is served out of time, attach an application for condonation in accordance with rule 8.
- (3) The Council must refuse to accept a referral document until sub rule (2) has been complied with.
- (4) This rule does not apply to con-arb proceedings held in terms of section 191 (5A).

18. When parties may be directed to file statements

- (1) The Council or a Council commissioner may direct-

- (a) the referring party in an arbitration to file a statement of case within a specified time period; and
- (b) the other parties to file an answering statement within a specified time period.

(2) A statement in terms of sub rule (1) must-

- (a) set out the material facts upon which the party relies and the legal issues that arise from the material facts;
- (b) be filed within the time period specified by the Council or the Council commissioner.

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

The parties to an arbitration must hold a pre-arbitration conference dealing with the matters referred to in sub rule 18 (2) above if directed to do so by the Secretary of the Council.

20. *What notice the Council is to give of an arbitration hearing*

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

21. *How to determine whether a Council commissioner may arbitrate a dispute*

If during the arbitration proceedings, it appears that a jurisdictional issue has not been determined, the Council commissioner must require the referring party to prove that the Council has jurisdiction to arbitrate the dispute.

22. *How to postpone an arbitration*

(1) The Council must postpone an arbitration without the parties appearing if-

- (a) all the parties to the dispute agree in writing to the postponement; and
- (b) the written agreement for the postponement is received by the Council more than seven days prior to the scheduled date of the arbitration; and
- (c) there are compelling reasons to postpone.

(2) Any party may apply in terms of rule 30 to postpone an arbitration by serving an application on the other parties to the dispute and filing a copy with the Council before the scheduled date of the arbitration

PART E

RULES THAT APPLY TO CONCILIATIONS, ARBITRATIONS AND CON-ARBS

(23) *Who may represent a party at the Council*

(1) A party to the dispute may appear in person at any proceedings before the Council or be represented by-

- (a) a legal practitioner;
- (b) a member, official or office bearer of a registered trade union of which the party was a member at the time the dispute arose;
- (c) an official or office bearer of a registered employers' organization, or registered employer federation of which the party was a member at the time the dispute arose;
- (d) a director, employee, trustee or partner in a partnership of that party;
- (e) another party to the dispute if proceedings are brought or opposed by more than one party.

- (2) Notwithstanding sub rule (1)(a), if the dispute is about the fairness of a dismissal and a party has alleged that the reason for the dismissal relates to the employee's conduct or incapacity, the parties are not entitled to be represented by practicing lawyers in the proceedings unless-
- (a) the Council commissioner and the other parties consent;
 - (b) the Council commissioner concludes that it is unreasonable to expect the party to deal with the dispute without legal representation, after considering-
 - (c) the nature of the questions of law raised by the dispute;
 - (d) the complexity of the dispute
 - (e) the public interest; and
 - (f) the comparative ability of the opposing parties or their representatives to deal with the dispute.

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

- (1) The Council or a Council commissioner may join any number of persons as parties in proceedings if their right to relief depends on substantially the same questions of law or fact.
- (2) A Council commissioner may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.
- (3) A Council commissioner may make an order in terms of sub rule (2)-
- (a) of the Council commissioner's own accord;
 - (b) on application by a party; or
 - (c) if a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.
- (4) An application in terms of this rule must be made in terms of rule 30.
- (5) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Council for an order substituting that person for an existing party, and a Council commissioner may make such order or give appropriate directions as to the further procedure of the proceedings
- (6) An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents.
- (7) Subject to any order made in terms of sub rules (2) and (5), a joinder or substitution in terms of this rule does not affect any steps already taken in the proceedings.

25. *How to correct the citation of a party*

If a party to any proceedings has been incorrectly or defectively cited, the Council may, on application and on notice to the parties concerned, correct the error or defect.

26 *When the Council may consolidate disputes*

The Council or a Council commissioner, of its own accord or on application, may consolidate more than

one dispute so that the disputes may be dealt with in the same proceedings.

27. *Disclosure of documents*

Any party may request a Council commissioner to make an order requiring any other party to the dispute to disclose
all relevant documents.

28. *What happens if a party fails to attend proceedings in rights disputes*

- (1) In a rights dispute, if a party to the dispute fails to attend or be represented at any proceedings before the Council, and that party-
 - (a) had not referred the matter to the Council, a Council commissioner may dismiss the matter by making an order; or
 - (b) had not referred the matter to the Council, the Council commissioner may-
 - (i) continue with the proceedings in the absence of that party; or
 - (ii) adjourn the proceedings to a later date.
- (2) A Council commissioner must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of sub rule (1).
- (3) If a matter is dismissed, the Council must send a copy of the ruling to the parties.

29. *What happens if a party fails to attend proceedings in interest disputes*

- (1) In an interest dispute, if a party to the dispute fails to attend the conciliation hearing or be represented at the hearing, and that party-
 - (a) had referred the dispute to the Council a Council commissioner may extend the conciliation period for another thirty days and notify the parties of the extension in writing; or
 - (b) had not referred the dispute to the Council, the Council commissioner may immediately issue a certificate stating that the dispute remains unresolved.
- (2) A Council commissioner must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decisions in terms of sub rule (1).

**PART F
APPLICATIONS**

30. *How to bring an application*

- (1) An application must be brought on notice to all persons who have an interest in such application.
- (2) The party bringing the application must sign the notice of application and must state-
 - (a) the title of the matter;
 - (b) the case number assigned to the matter by the Council;
 - (c) the relief sought;
 - (d) the address at which the party delivering the document will accept delivery of all documents and proceedings;

- (e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within 14 days after the application has been delivered to it;
 - (f) that the application may be heard in the absence of a party that does not comply with subparagraph (e);
 - (g) a schedule is included listing the documents that are material and relevant to the application.
3. The application must be supported by an affidavit that must clearly and concisely set out-
- (a) the names, description and addresses of the parties;
 - (b) a statement of the material facts, in chronological order, on which the application is based, in sufficient detail enable any person opposing the application to reply to the facts;
 - (c) a statement of legal issues that arise from the material facts, in sufficient detail to enable any party to reply to the document;
 - (d) if the application is filed outside the relevant time period, grounds for condonation in accordance with rule 8; and
 - (e) if the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these Rules.
- (4) Any party opposing the application may deliver a notice of opposition and an answering affidavit within 14 days from the day on which the application was served on that party.
- (5) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by sub rules (2) and (3), respectively.
- (6) The party initiating the proceedings may deliver a replying affidavit within seven days from the day on which any notice of opposition and answering affidavit are served on it.
- (7) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.
- (8) The Council commissioner may permit the affidavits referred to in this rule to be replaced by a written statement.
- (9) In an urgent application, the Council or a Council commissioner may-
- (a) dispense with the requirements of this rule; and
 - (b) grant an order only against a party that has had reasonable notice of the application.
- (10) The Council must allocate a date for a hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.
- (11) The Council must notify the parties of the date, time and place of the hearing of the application.
- (12) Applications may be heard on a motion roll on a day determined by the Council.
- (13) Notwithstanding this rule, the Council or a Council commissioner may determine an application in any manner it deems fit.

31. *How to apply to vary or rescind arbitration awards or rulings*

- (1) An application for the variation or rescission of an arbitration award or ruling must be made within 14 days of the date on which the application became aware of-
- (a) the arbitration award or ruling; or
 - (b) a mistake common to the parties to the proceedings.

- (2) A ruling made by a Council commissioner which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.

32. How to refer a dismissal dispute to the Labour Court

- (1) An application in terms of section 191 (6) of the Act to refer a matter to the Labour Court, must be made within 14 days of the dispute being certified unresolved in conciliation.
- (2) Notwithstanding sub rule (1), a party that requests arbitration may not thereafter make an application in terms of section 191 (6).
- (3) The application must state the grounds on which a party relies in requesting that the dispute be referred to the Labour Court.
- (4) If any party to the dispute objects to the matter being referred to the Labour Court, that party must state the grounds for the objection within seven days of receipt of the application.
- (5) The Council must notify the parties of its decision in terms of section 191 (8) within 14 days of receiving the objection.

PART G

PREDISMISSAL ARBITRATIONS

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

- (1) An employer requesting the Council to conduct a pre-dismissal arbitration must do so by delivering a completed referral form to the Council.
- (2) The employees must sign the referral form consenting to pre-dismissal arbitration. If an employee has consented in terms of section 188A(4)(b)1, the referral form does not have to be signed by the employee, but a copy of the contract containing the consent must be attached to the form.
- (3) When filing the referral form, the employer must pay the prescribed fee to the Council, Payment of the fee may only be made by-
 - (a) bank guaranteed cheque; or
 - (b) electronic transfer into the bank account of the Council.
- (4) Within 14 days of receiving a request in terms of sub rule (1) and payment of the prescribed fee, the Council must notify the parties to the pre-dismissal arbitration when and where the pre-dismissal arbitration will be
- (5) Unless the parties agree otherwise, the Council must give the parties at least 14 days' notice of the held commencement of the pre-dismissal arbitration.
- (6) The Council will be required to refund a fee paid in terms of sub rule (3), only if the Council is notified of the resolution of the matter prior to issuing a notice in terms of sub rule (4).

PART H

GENERAL

34. Unrepresented applicants without postal addresses and fax numbers

- (1) An unrepresented applicant who intends to refer a dispute to the Council and who does not have a postal address or fax number must hand-deliver the referral form to the Council.

- (2) If a referral form is received by hand delivery by an unrepresented applicant, the Council must provide the applicant with a case number and written instructions to contact the Council by telephone or in person, within seven days of the date of referral, in order for the Council to notify the applicant of the details of the hearing.
- (3) The administrator who notifies the applicant of the hearing in terms of sub rule (2) must record on the case file and on the case management system that the applicant has been notified of the details of the hearing.
- (4) The record made in terms of sub rule (3) will constitute proof that the applicant was notified of the hearing.

35. *Condonation for failure to comply with the Rules*

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

36. *Recordings of Council proceedings*

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

37. *How to have a subpoena issued*

- (1) Any party who requires the Council or a Council commissioner to subpoena a person in terms of section 142 (1) of the Act, must file a completed subpoena form, requesting a subpoena together with a written substantiation setting out why the evidence of the person to be subpoenaed is necessary.
- (2) A party requesting the Council to waive the requirements for the party to pay witness fees in terms of section 142(7)(c) must set out the reasons for the request in writing at the time of requesting the Council to issue a subpoena in respect of that witness.
- (3) An application in terms of sub rule (1) must be filed with the Council at least 10 days before the arbitration hearing, or as directed by the Council commissioner hearing the arbitration.
- (4) The Council or a Council commissioner may refuse to issue a subpoena if-
 - (a) the party does not establish why the evidence of the person is necessary;
 - (b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
 - (c) the Council or a Council commissioner is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.
- (5) A subpoena must-

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

38. Payment of witness fees

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

39. Taxation of bills of cost

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

40. What words mean in these Rules

Any expression in these Rules that is defined in the Labour Relations Act 2, 1995 (Act No. 66 of 1995), has the same meaning as in that Act and-

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

“Con-arb” means proceedings held in terms of section 191(5A) of the Act, where an arbitration commences immediately after certifying that the dispute remains unresolved in conciliation;

“Council” means the Building Industry Bargaining Council registered in terms of section 29 of the Act;

“Council commissioner” means an individual appointed by the Council to resolve disputes;

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

“dispute of interest” means any dispute concerning a matter of mutual interest; excluding any dispute that the party has the right to refer to arbitration or to the Labour Court under the Act, a collective agreement or an arbitration agreement.

“dispute of right” means a legal claim of which a party in the employment relationship is entitled by virtue of the employment contract, a collective agreement, a statute or the common law;

“Director” means the Director of the Commission appointed in terms of section 118 of the Act, and includes any person delegated by the Director to perform any of the functions of the Director;

“file” means to lodge with the Council in terms of rule 6;

“Labour Court” means the Labour Court established by section 151 of the Act and includes any judge of the Labour Court;

“party” means any party to proceedings before the Council;

“legal practitioner” means a practicing advocate, a practicing attorney and a candidate attorney;

“public holiday” means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act No. 36 of 1994). These currently include-

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

and any public holiday declared as such in terms of section 2A of the Public Holidays Act, 1994.

“Rules” means these rules;

“Secretary” means the secretary of the Council;

“serve” means to serve in accordance with rule 4 and “service” has a corresponding meaning; and

“taxing officer” means any competent person appointed by the Secretary in terms of rule 32.