

DEPARTMENT OF LABOUR


NO. R. 592

18 APRIL 2019

LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY OF
SOUTH AFRICA: EXTENSION OF NATIONAL PENSION AND PROVIDENT
FUNDS COLLECTIVE AGREEMENT TO NON-PARTIES**

I, **MILDRED NELISIWE OLIPHANT**, Minister of Labour, hereby in terms of section 32(2) read with section 32(8) of the Labour Relations Act, 1995, declare that the provisions of the collective agreement which appears in the Schedule hereto, with the exclusion of clauses 1(1)(a) and 2 thereof, which was concluded in the **National Bargaining Council for the Electrical Industry of South Africa** 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 date of publication of this agreement and for the period ending 31 May 2023.

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M N OLIPHANT
MINISTER OF LABOUR
DATE: 20/03/2019.....

UMNYANGO WEZABASEBENZI**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA - 1995**

**UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI
KWABAQASHI NABASEBENZI EMBONINI KAGESI ENINGIZIMU
AFRIKA: UKWELULWA KWESIVUMELWANO SEZIKHWAMA
ZOMHLALAPHANSI EZINGUZWELONKE SELULELWA KULABO
ABANGEYONA INGXEENYE YESIVUMELWANO**

Mina, **MILDRED NELISIWE OLIPHANT**, uNgqongqoshe Wezabasebenzi lapha ngokwesigaba 32(2) sifundwa kanye nesigaba 32(8) soMthetho Wobudlelwano Kwezabasebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, kukhishwa imishwana 1(1)(a) kanye no nombolo 2 esenziwa, kuMkhandlu Kazwelonke Wokuxoxisana phakathi kwabaQashi Nabasebenzi Embonini kaGesi eNingizimu Afrika futhi ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi ka 1995, esibopha labo abasenzayo sizobopha abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngosuku lokushicilelwa kwalesisaziso kuze kube isikhathi esiphela mhlaka 31 kuNhlabathi 2023.


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UNGQONGQOSHE WEZABASEBENZI
MN OLIPHANT, MP
USUKU: 20/03/2019.....

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SCHEDULE**NATIONAL BARGAINING COUNCIL FOR THE ELECTRICAL INDUSTRY
OF SOUTH AFRICA****NATIONAL PENSION AND PROVIDENT FUNDS COLLECTIVE
AGREEMENT**

in accordance with the provisions of the Labour Relations Act, 66 of 1995 made
and entered into by and between the

Electrical Contractors' Association (South Africa)

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

and the

South African Equity Workers' Association (SAEWA),

(hereinafter referred to as the "employees" or the "trade union"), of the other
part, being the parties to the National Bargaining Council for the Electrical
Industry of South Africa.

1. SCOPE OF APPLICATION

- (1) The terms of this Agreement shall be observed –
 - (a) by all employers and employees in the Electrical Industry who are members of the employers' organisation and the trade union, respectively,
 - (b) and who are engaged or employed in the Industry.
 - (c) throughout the whole of the Republic of South Africa, excluding the Magisterial District of Kimberley, within a radius of 20 kilometers from the General Post Office, Kimberley.
- (2) Notwithstanding the provisions of sub-clause 1(1), the terms of this Agreement shall apply to apprentices only in so far as they are not inconsistent with the provisions of the Skills Development Act, 1998, or any conditions prescribed or any notices served in terms thereof.
- (3) For the purposes of this Agreement, the "rate of remuneration" of learners prescribed under the Skills Development Act, 1998, shall be taken to be the weekly wage of such employees, and the "hourly rate" shall be the weekly wage calculated as above, divided by the number of ordinary hours worked in the establishment concerned.
- (4) Notwithstanding the provisions of sub-clause (1), the terms of this Agreement shall-
 - (a) apply to employees engaged by employers in the categories specified in clause 8(4), 9(3)(a) and 10(3)(a), of this Agreement as may be amended from time to time; and
 - (b) not apply to any employee who at the date of coming into operation of this Agreement is, or thereafter becomes, a participant in or a member of any other electrical contracting industry fund providing benefits, which fund was in existence on the said date and in which the employer of that employee was on the said date a participant, or to the employer of that employee during such period only as such other fund continues to operate and both employer and employee participate therein, and upon application for exemption, if in the opinion of the Council the benefits of such other fund are, on the whole, not less favorable than the benefits provided by this Fund: and which in respect of the pension/provident funds, provides solely for payment of benefits on death in which case such fund shall not be deemed to be a pension or provident fund for purposes of this agreement.

- (5) In the event of the expiry of the Main Agreement by the effluxion of time or cessation for any other cause during the currency of this agreement the classes of work and minimum rates of pay prescribed in the said main agreement shall be deemed to be the classes of work and minimum rates of pay for purposes of this Agreement.
- (6) The following categories are also excluded:
- (i) Working employers
 - (ii) Administrative staff – Non Electrical Workers
 - (iii) Managerial Employees

2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on a date to be fixed by the Minister of Labour to be the effective date from which the agreement shall be extended to become binding on non - parties, or the date on which the Minister declines to extend the Agreement to non-parties, and the Agreement shall remain in force until such time as it is amended, amplified or replaced by a new Collective Agreement.

3. INDUSTRIAL ACTION

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

4. DEFINITIONS

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in the Act, and any reference to an Act shall include any amendment of such Act ; further, unless inconsistent with the context -

“Act” means the Labour Relations Act, 1995 (Act No. 66 of 1995) as amended;

“apprentice” means an employee serving under a written contract of apprenticeship registered with **the relevant SETA**;

The definitions of the different stages of apprenticeship, as originally published under the Conditions of Apprenticeship under the repealed Manpower Training Act 1981 are the following:

“Stage 1” – Wage equals 38% of wage of electrician

This stage shall not exceed 4 months and the apprentice shall attend M0 – M3 and pass the test based on these modules.

“Stage 2” – Wage equals 45% of wage of electrician

This stage shall not exceed 58 weeks. It commences on the day following successful completion of modular test based on M0 – M3, as referred to above, and ends on successful completion of Trade Test “A”.

“Stage 3” – Wage equals 50% of wage of electrician

This stage shall not exceed 65 weeks and commences on the day following successful completion of Trade Test “A”, as referred to above, and ends on successful completion of modular test based on M4 – M6 as well as Phase Test “B”.

“Stage 4” – Wage equals 70% of wage of electrician

This stage shall include a minimum of 17 weeks’ practical on the job experience in M4 – M6, demonstrating practical competence in each module, successful completion of the NTC Part II (N2) and commences on the day following successful completion of Phase Test “B” and ends within 14 days of successful completion of Trade Test “B”.

“Area A” means the Magisterial Districts of Alberton, Benoni, Boksburg, Brakpan, Bronkhorstspuit, Carletonville, Cullinan, Delmas, Germiston, Heidelberg, Johannesburg, Kempton Park, Krugersdorp, Kwamhlanga, Mkobola Nigel, Oberholzer, Pretoria, Randburg, Randfontein, Roodepoort, Sasolburg, Soshanguve, Soweto, Springs, Vanderbijlpark, Vereeniging, Westonaria, Witbank and Wonderboom;

“Area B” means the Magisterial Districts of Amersfoort, Balfour, Bethal, Bochum, Brits, Ermelo, Garankuwa, Highveld Ridge, Klerksdorp, Kriel, Malamulela, Mankwe, Mhala, Middelburg (Mpumalanga), Mmabatho, Mokerong, Moretele, Nelspruit, Nsikazi, Phokwani, Pietersburg, Piet Retief, Pongola, Potchefstroom, Rustenburg, Seshego, Standerton, Thabamopo, Themba, Thohoyandou, Volksrust, Wakkerstroom, and White River;

“Area C” means the Magisterial Districts of Barberton, Bela-Bela (Warmbaths) Belfast, Bloemfontein, Bloemhof, Bolobedu, Botshabelo, Carolina, Christiana, Coligny, Delareyville, Dzanani, Eerstehoek, Elias Motsoaledi (Groblersdal) Giyani, Koster, Lephalale (Ellisras) Letaba, Lichtenburg, Lulekani, Lydenburg, Madikwe, Mapulaneng, Marico, Mbibana, Mdutjana, Moutse, Musina(Messina), Namakgale, Naphuno, Nebo, Nkomazi, Pilgrim's Rest, Phalaborwa, Potgietersrus (only the district north of the Melk River), Schweizer-Reneke, Ritavi, Sekgosese, Sekhukhuneland, Soutpansberg, Swartruggens, Thabazimbi, Ventersdorp, Vuwani, Waterberg, Waterval Boven and Wolmaransstad;

“Area D” means the Magisterial Districts of Bethlehem, Harrismith, Hennenman, Kroonstad, Odendaalsrus, Parys, Ventersburg, Virginia, Welkom and Witsieshoek;

“Area E” means the Magisterial Districts of Barkly West, Bethulie, Boshof, Bothaville, Brandfort, Britstown, Bultfontein, Carnarvon, Clocolan, Colesberg, De Aar, Dewetsdorp, Edenburg, Excelsior, Fauresmith, Ficksburg, Fouriesburg, Frankfort, Fraserburg, Gordonia, Hanover, Hartswater, Heilbron, Herbert, Hoopstad, Jacobsdal, Jagersfontein, Kenhardt, Kimberley (outside a 20 km radius from the General Post Office), Koffiefontein, Koppies, Kudumane, Kuruman, Ladybrand, Lindley, Marquard, Noupoot, Petrusburg, Philippolis, Philipstown, Prieska, Postmasburg, Reddersburg, Reitz, Richmond (Northern Cape), Rouxville, Senekal, Smithfield, Theunissen, Trompsburg, Victoria West, Viljoenskroon, Vrede, Vredefort, Vryburg, Warrenton, Wepener, Wesselsbron, Williston, Winburg and Zastron;

“Area F” means the Magisterial Districts of Port Elizabeth and Uitenhage;

“Area G” means the Magisterial Districts of Albany, Alexandria, Bathurst, Beaufort West, Calitzdorp, George, Humansdorp, Joubertina, Knysna, Ladismith, Mossel Bay, Oudtshoorn, Riversdale and Uniondale;

“Area H” means the Magisterial Districts of Aberdeen, Adelaide, Albert, Aliwal North, Barkley East, Bedford, Bizana, Butterworth, Cala, Cathcart, Centani, Cofimvaba St Marks, Cradock, Elliot, Elliotdale, Engcobo, Flagstaff, Fort Beaufort, Glen Grey, Graaff-Reinet, Hankey, Herschel, Hewu, Hofmeyer, Idutywa, Indwe, Jansenville, Keiskammahoek, King Williams Town, Kirkwood, Komga, Kwabhaca, Lady Grey, Libode, Lusikisiki, Maclear, Mdantsane, Middelburg (Eastern Cape), Middelburg, Molteno, Mount Ayliff, Mount Fletcher, Mount Frere, Mqanduli, Murraysburg, Ngqeleni, Nqamakwe, Ntabethemba, Pearston, Peddie, Prince Albert, Qumbu, Queenstown, Seymour (Mpofu), Somerset East, Sterkstroom, Steynsburg, Steytlerville, Stutterheim, Tabankulu, Tarka, Tsolo, Tsomo, Umtata, Umzimvubu (Port St Johns), Venterstad, Victoria East, Willowmore, Willowvale, Wodehouse; and Zwelitsha.

“Area I” means the Magisterial Districts of Bellville, Cape, Goodwood, Kuils River Mitchell's Plain, Simonstown, and Wynberg

“Area J” means the Magisterial Districts of Camperdown, Chatsworth, Durban, Inanda, Kranskop, Kwa Mapumulu, Lions River, Lower Tugela, Ndwedwe, New Hanover, Pietermaritzburg, Pinetown, Richmond, Umbumbulu, Umlazi, Umvoti, and Vulindlela, inclusive of any former self-governing territories located therein.

“Area K” means the Magisterial Districts of Alfred, Babanango, Bergville, Dannhauser, Dundee, Emnambithi, Emzumbe, Enseleni, Eshowe, Estcourt, Ezingolweni, Glencoe, Hlabisa, Hlanganani, Impendle, Ingwavuma, Inkanyezi, Ixopo, Kliprivier, Lower Umfolozi, Mahlabatini, Mooirivier, Mount Currie, Msinga, Mtonjaneni, Newcastle, Ngotshe, Nkandla, Nongoma, Nqutu, Okhahlamba, Ongoye, Paulpietersburg, Polela, Port Shepstone, Simdlangentsha, Ubombo, Umzinto, Underberg, Utrecht, Vryheid, Vulamehlo

and Weenen, inclusive of any former self-governing territories located therein; and Umzimkulu in the Eastern Cape.

“Area L” means the Magisterial District of East London;

“Area M” means the Magisterial Districts of Gordon's Bay, Malmesbury, Paarl, Somerset West, Stellenbosch, Strand and Wellington;

“Area N” means the Magisterial Districts of Calvinia, Clanwilliam, Hopefield, Morreesburg, Namaqualand, Piketberg, Sutherland, Vanrhynsdorp, Vredenburg and Vredendal,

“Area O” means the Magisterial Districts of Bredasdorp, Caledon, Ceres, Heidelberg, Hermanus, Laingsburg, Montague, Robertson, Swellendam, Tulbagh and Worcester.

Note: The above Magisterial Districts are defined in terms of the 2001 demarcations.

In the event of any Magisterial District being omitted from the above, the Council shall determine under which Area such district should be placed.

“artisan” means an employee who has completed his training in terms of the Manpower Training Act, 1981, or is in possession of a certificate issued by a relevant SETA or by the former Electrical Contracting Industries Training Board recognising that he has received training sufficient to entitle such an employee to work as an artisan in the Industry;

“Building Industry” without in any way limiting the ordinary meaning of the expression, means 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 erecting, completing or altering buildings and structures, whether the work is performed, the material is prepared, or the necessary articles are made on the sites of the buildings or structures or elsewhere, and includes all work executed or carried out by persons who are engaged in the trades, activities or subdivisions in the Building Industry excluding the Electrical Industry.

“Collective Agreement” means any collective agreement concluded by the parties to the Council and published by the Minister of Labour.

“Council” means the National Bargaining Council for the Electrical Industry of South Africa;

“domestic appliance mechanic (DAM)” or **“refrigeration mechanic”** means an employee engaged in one or more of the following classes of work:

diagnosing faults in, or directing or executing repairs or adjustments to, or servicing, assembling, erecting and/or installing ranges, refrigerators, washing machines, ironers, air-conditioning units and all other major electrical

appliances, carrying out final tests or supervising of such operations, but does not include an employee engaged in connecting to existing outlets, refrigerators, ranges, or other domestic electrical appliances;

“domestic appliance repairer (DAR)” (Areas J and K only) means an employee engaged in -

- (a) the following operations when performed in the workshops of an establishment in connection with the repair of heating and/or drying and/or personal care appliances of a load not exceeding five amperes, except in the case of domestic heating appliances where the load does not exceed 15 amperes -
 - (i) repairing and/or replacing heating elements on appliances,
 - (ii) repairing and/or replacing ceramic or other insulating spacers, including fixing,
 - (iii) repairing and/or re-assembling heating element containers,
 - (iv) removing and/or replacing motors not exceeding 750 watts at the direction of an artisan, excluding final testing,
- (b) any or all of the operations carried out in connection with the installation of burglar or other similar alarm systems –
 - (i) connecting cables of electromechanical devices;
 - (ii) adjusting vibration contracts to pre-set limits;
 - (iii) soft soldering by hand;
 - (iv) foiling windows.

“driver” means an employee engaged in driving a mechanical vehicle on a public road who is in possession of a valid driver's licence issued under any Road Traffic Ordinance;

“electrical assistant” means an employee who is engaged in any or all of the following tasks:

- (a) Digging holes and trenches, planting poles and laying cables in trenches,
- (b) chasing and cutting walls and concrete floors for conduit,
- (c) loading or unloading materials,
- (d) stripping redundant installations and equipment incidental thereto from which the supply cables have been removed,
- (e) cleaning office and workshop areas,

- (f) preparing refreshments,
- (g) installing and fixing of flush and surface mounted wireways and ancillary equipment thereto,
- (h) installing cables including the fitting of glands, making off and securing such cables, but excluding the connection thereof,
- (i) assisting with erecting and connecting luminaires;
- (j) assisting with operating a trenching machine once trained,
- (k) assisting a master installation electrician, an installation electrician, an electrical tester for single-phase, an electrician, an artisan, a domestic appliance mechanic, a domestic appliance repairer and an Elconop 1, Elconop 2 or Elconop 3, but not performing any work individually except as set out in (a) to (j) above:

“electrical construction operator level 1” (hereinafter referred to as ‘Elconop 1’) means an employee who has received on-the-job training by the employer and who undertakes any of the following tasks and who may use the tools necessary to perform such tasks:

- (a) installing and fixing of flush and surface mounted wire ways and ancillary equipment incidental thereto
- (b) installing of cables including the fitting of glands, making off and securing of such cables but excluding the connection thereof
- (c) installing and connecting of socket outlets
- (d) erecting and connecting of luminaries
- (e) operating a trenching machine
- (f) performing the work of an electrical assistant and general assistant
- (g) assisting a master installation electrician, an installation electrician, an electrical tester for single-phase, an electrician or artisan and an Elconop 2 or Elconop 3, but not performing any work individually, except as set out in (a) to (f) above;

“electrical construction operator, level 2” (hereinafter referred to as ‘Elconop 2’) means an employee, who has attended the prescribed formal training course at an institutionalised training centre accredited by a relevant Sector Education Training Authority (SETA), has undergone on-the-job training and has successfully passed the examination for Elconop 2 at an institutionalised training centre recognised by the Council and accredited by a

relevant SETA, and who may be engaged in any or all of the following tasks, and may use the tools necessary to perform such tasks: Provided such tasks are carried out only on new installations or on major renovations to structures or buildings from which the power has been disconnected from the main supply, and are carried out under the supervision of a master installation electrician, an installation electrician, an electrical tester for single-phase, an electrician/artisan or an Elconop 3 –

- (a) placing and drawing in of conductors into wireways
- (b) installing and connecting of lighting, cooker, water heater and low voltage systems including systemised and/or innovative wiring systems, the connection of distribution boards
- (c) installing of under floor heating systems
- (d) jointing of cables using epoxy or other approved means, as well as the connection of such cables on installations where the supply has been switched off
- (e) simple arc gas welding
- (f) performing the work of an electrical assistant, general assistant or Elconop 1
- (g) assisting a master installation electrician, installation electrician, electrical tester for single phase, an electrician/artisan and an Elconop 3."

"electrical construction operator level 3" "electrical construction operator level 3" (hereinafter referred to as 'Elconop 3') means an employee who has been employed in the Industry as an Elconop 2 for a continuous period of at least 12 months and has attended the prescribed formal training course at an institutionalised training centre accredited by a relevant Sector Education

Training Authority (SETA), has undergone on-the-job training and has successfully passed the examination for Elconop 3 at an institutionalised training centre recognised by the Council and accredited by a relevant SETA; or who is in possession of a registration card issued by the Council recognising him as an Elconop 3 and who may be engaged in any or all of the following tasks, and may use the tools necessary to perform such tasks:"

- (a) Installing, wiring and assembling main and sub-main distribution boards
- (b) Installation and maintenance of domestic, commercial and industrial installations (tubing, wiring and cables) from incoming mains to completed final circuits

- (c) Wiring and connection of all circuits in domestic, commercial and industrial installations (wiring and connection of all types of lights, socket outlet circuits, stoves, hot water cylinders, pumps, air conditioning circuits, industrial machines etc)
- (d) Installation, maintenance and repairs of single and three phase motor and starter circuits
- (e) Testing of installations under the direct supervision of a registered person
- (f) Connection of transformers and ancillary circuits (such as CT's PT's low voltage lighting etc)
- (g) Where necessary performing the work of an Elconop 1 or Elconop 2

“electrical contractor” means a person who undertakes to perform electrical installation work on behalf of any other person, but excludes an employee of such first mentioned person;

“Electrical Engineering Industry” means the industry concerned with -

- (a) the manufacture and/or assembly from component parts of electrical equipment, namely generators, motors, converters, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, transformers, furnace equipment, signalling equipment, radio or electronic equipment, including monitors and other equipment utilising the principles used in the operation of radio and electronic equipment, the latter equipment includes, but is not limited to, television and incandescent lamps, and electric cables and domestic electrical appliances, and further includes the manufacture of component parts of the aforementioned equipment,
- (b) the installation, maintenance, repair and servicing of the equipment referred to in paragraph (a) above, but does not include the activities of the Electrical Industry,

“Electrical Industry” or “Industry” means the industry in which employers and their employees are associated for any or all of the following –

- (a) the design, preparation, erection, installation, repair and maintenance of all electrical equipment forming an integral and permanent part of buildings and/or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material is prepared on the site of the buildings or structures or elsewhere,

- (b) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the purpose for which a building and/or structure is used, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere,
- (c) the design, preparation, erection, installation, repair and maintenance of all electrical equipment incidental to the construction, alteration, repair and maintenance of buildings and/or structures, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere,
- (d) the design, preparation, erection, installation, repair and maintenance of all electrical equipment not covered by (a), (b) or (c) above, including any wiring, cable jointing and laying and electrical overhead line construction, and all other operations incidental thereto, whether the work is performed or the material prepared on the site of the buildings or structures or elsewhere,
- (e) the installation and/or maintenance and/or repair and/or servicing of overhead lines and underground cables associated with domestic and/or industrial and/or commercial installations and/or street lighting, and for the purposes of this definition-
 - (i) **electrical equipment** includes:
 - (aa) electrical cables and overhead lines, and
 - (ab) generators, motors, converters, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, primary and secondary cells and batteries, transformers, furnace equipment, radio sets and allied electrical apparatus, signalling equipment and other equipment utilising the principles used in the operation of radio or electronic equipment,
 - (ii) design, preparation, erection, installation, repair and maintenance does not include -
 - (aa) the manufacture, installation, repair and/or maintenance of lifts and escalators,

- (ab) the manufacture and/or assembly by the manufacturer of the aforementioned electrical equipment and/or components thereof,
- (ac) the wiring of or installation in motor vehicles of lighting, heating or other equipment or fixtures, whether permanent or otherwise,
- (ad) the manufacture, repair and servicing of motor vehicle batteries, the manufacture of lead-acid batteries and the repair, maintenance and installation of such batteries when performed by the manufacturers thereof, and
- (ae) the sale, and/or repair and/or servicing of manual and/or electrical typewriters and/or electro-mechanical office machines and equipment:

Provided that - the Electrical Industry, as defined above, shall not include the Iron, Steel, Engineering and Metallurgical Industry, the Local Authority Undertaking and the Building Industry as defined in the Council's certificate of registration. ;

“electrical installation” means any machinery, in or on any premises, used for the transmission of electricity from a point of control to a point of consumption anywhere on the premises, including any article forming part of such an installation irrespective of whether or not it is part of the electrical circuit, but excluding -

- (a) any machinery of the supplier related to the supply of electricity on the premises,
- (b) any machinery which transmits electrical energy in communication, control circuits, television or radio circuits,
- (c) an electrical installation on a vehicle, vessel, train or aircraft; and
- (d) control circuits of 50 V or less between different parts of machinery or system components, forming a unit, that are separately installed and derived from an independent source or an isolating transformer.

“electrical tester for single-phase” means a person who has been registered as an electrical tester for single-phase in terms of either the Electrical Installation Regulations 1992 or 2009 made under the Occupational Health and Safety Act, 1993, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of electrical installations supplied by a single-phase electricity supply at the point of control; excluding specialised electrical installations,

“electrical wiring” means the design, installation, alteration, repair or testing of any cable, conductor, fitting, apparatus or conduit used or intended to be

used for purposes integral or incidental to the supply and/or consumption of electricity;

“electrician” means an employee who has completed an apprenticeship in terms of either the former Manpower Training Act, 1981 in a trade relevant to the Industry, or who has received training recognised by a relevant SETA as being sufficient to entitle him to work as an electrician in the Industry;

“employee” means any person employed on any of the classes of work defined in this Agreement and includes a person employed under a contract of apprenticeship recognised by the Council;

“employer” means any person who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him or who permits any person in any manner to assist him in the carrying on or conducting of his business, and includes temporary employment services as defined in the Act;

“establishment” means any place where the Industry or any part thereof, as herein defined, is carried on, including the place where the employer normally carries on his business and where his wage records are kept.

“fixed term contract” means a contract of employment which terminates on the occurrence of a specified event, the completion of a specified task or project, or on a fixed date other than an employee's normal or agreed-upon retirement age.”

“foreman” means an electrician or artisan who has been appointed by his employer to supervise work defined in this Agreement: Provided that such employee may also be required to undertake electrical installation work himself if so required by his employer;

“general assistant” means an employee who

- (a) is engaged in any or all of the following tasks;
 - (i) Digging holes and trenches, planting poles and laying and pulling cables in trenches,
 - (ii) chasing and cutting walls and concrete floors for conduit, providing no power tools are used
 - (iii) loading or unloading materials,
 - (iv) stripping redundant installations and equipment incidental thereto from which the supply cables have been removed,

(b) is employed on the following terms and conditions –

- (i) no such employee shall be employed for a total period exceeding 4 months in any calendar year, with the same employer.
- (ii) the prescribed minimum wage rate of an employee shall not be less than 75% of the prescribed minimum wage rate of an Electrical Assistant,
- (iii) all general assistants shall be included in the Council's monthly return forms and an employer shall be required to pay all applicable contributions and subscriptions in terms of the Council's collective agreements excluding pension/provident fund, sick pay fund and risk benefits.

"independent appeals body" means any person or persons appointed by the Council in terms of Section 32 of the Labour Relations Act 66 of 1995, as amended, from an accredited institution, to hear and decide any appeal brought against the Council's refusal of a non-party's or a party's application for exemption from the provisions of the collective agreement and the withdrawal of such an exemption by the Council.

"installation electrician" means a person who has been registered as an installation electrician in terms of the Electrical Installation Regulations, 1992 or 2009, made under the Occupational Health and Safety Act, 1993, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation, excluding specialised electrical installations;

"installation work" means –

- (a) the installation, extension, modification or repair of an electrical installation;
- (b) the connection of machinery at the supply terminals of such machinery; or
- (c) the inspection, testing and verification of electrical installations for the purpose of issuing a certificate of compliance

"Iron, Steel, Engineering and Metallurgical Industry" means (subject to the provisions of any Demarcation Determinations made in terms of section 76 of the Labour Relations Act, 1956, and section 62 of the Labour Relations Act, 1995), the industry concerned with the production of iron and/or steel and/or the processing and/or recovery and/or refining of metals (other than precious metals) and/or alloys from dross and/or scrap and/or residues; the maintenance, fabrication, erection or assembly, construction, alteration, replacement or repair of any machine, vehicle (other than a motor vehicle) or article consisting mainly of metal (other than precious metals) or parts or components thereof and structural metal work, including steel reinforcement

work; the manufacture of metal goods principally from such iron and/or steel and/or other metals (other than precious metals) and/or alloys and/or the finishing of metal goods; the building and/or alteration and/or repair of boats and/or ships, including the scraping, chipping and/or scaling and/or painting of the hulls of boats and/or ships; and general woodwork undertaken in connection with ship repairs, and includes the Electrical Engineering Industry;

“Local Authority Undertaking” means the undertaking in which employers and their employees are associated for the introduction, continuation, or completion of any action, scheme or activity undertaken by a local authority: Provided that for the purposes hereof the Electrical Industry as defined above shall not include work performed by a local authority exclusively for local authority purposes, but shall include all work performed on the property of a local authority by a registered electrical contractor or his employees or any other person who is not an employee of a local authority: Provided further that the Local Authority Undertaking shall not include the activities of the Electrical Industry;

“Main Agreement” means the Main Collective Agreement of the National Bargaining Council for the Electrical Industry of South Africa as amended and extended from time to time in which wages and other conditions of service are specified;

“master installation electrician” means a person who has been registered as a master installation electrician in terms of the Electrical Installation Regulations, 1992 or 2009, made under the Occupational Health and Safety Act, 1993, and who has been approved by the chief inspector for the verification and certification of the construction, testing and inspection of any electrical installation;

“member” means an employee for whom membership of the Funds is provided in terms of clauses 7(4), 8(3) and 9(3);

“PFA” means the Pension Funds Act 24 of 1956, as amended from time to time.

“Region A” means the Provinces of Gauteng, Limpopo, Mpumalanga, and North West Province,

“Region A1” means the Free State/Northern Cape Region incorporating the Provinces of the Free State and the Northern Cape but excludes the Magisterial Districts of Calvinia, Namaqualand and Sutherland in the Northern Cape.

“Region B” means the Eastern / Southern Cape Region incorporating the Province of the Eastern Cape and the Magisterial Districts of Beaufort West, Calitzdorp, George, Knysna, Ladismith, Mossel Bay, Murraysburg, Oudshoorn, Prince Albert, and Uniondale in the Western Cape Province but excludes the Magisterial District of Umzimkulu in the Eastern Cape.

“Region C” means the Province of Kwazulu Natal and the Magisterial District of Umzimkulu in the Eastern Cape.

“Region D” means the Province of the Western Cape and the Magisterial Districts of Calvinia, Namaqualand and Sutherland in the Northern Cape but excludes the Magisterial Districts of Beaufort West, Calitzdorp, George, Knysna, Ladismith, Mossel Bay, Murraysburg, Oudshoorn, Prince Albert, Riversdale and Uniondale in the Western Cape.

“the Regional Exemption Committee” means the exemption Committee appointed by the Regional Committee of the Council.

“the Registrar” means the Registrar of Pension Funds.

“Rules” means the rules referred to in clauses 8(7)(a), 9(6) and 10(6)(a) of this Agreement.

“Storeman” means an employee who is engaged in any or all of the following tasks;

- i) Stacking and storage of materials, tools and equipment;
- ii) Issuing and recording of materials;
- iii) Receiving and recording regular stock counts;
- iv) Recording of materials on site;
- v) Control of materials in the store;
- vii) Checking and ascertaining the correctness of materials received; and,
- viii) Issuing of such materials”

“Trustee Board” means the trustee board established in terms of the rules of the respective Pension and Provident Funds.

5 REGISTRATION OF EMPLOYERS

The provisions of the Main Agreement dealing with the registration of employers in the Industry shall be applicable to this Agreement.

6. DESIGNATED AGENTS]

The Council shall request the Minister, in terms of section 33 of the Act, to appoint persons to be designated agents to assist in giving effect to this Agreement. A designated agent shall have the powers conferred upon him in terms of section 33A read with Schedule 10 of the Act.

7. EXHIBITION OF AGREEMENT

Every employer shall keep in his establishment, in a place readily available a legible copy of this Agreement.

8. PENSION AND PROVIDENT FUNDS (Regions A, A1, and B only)

- (1) The Fund established under Government Notice 266 of 15 February 1963, and known as the "Electrical Contracting Industry Pension Fund"

is hereby continued, and the Fund known as the Electrical Contracting Industry Provident Fund (both hereinafter referred to as the "Fund") is hereby continued by the Council.

- (2)(a) The Fund shall, subject to the provisions of sub-clause (7), consist of moneys accruing from contributions prescribed in sub-clause (5) of this Clause.

- (b) The Fund shall also consist of moneys standing to the credit of the members of the Fund at the date of this Agreement.

- (3) The objects of the Fund shall be to provide members with benefits upon withdrawal, disability and retirement from the Industry. The Council will ensure that the Fund provides members with these benefits. In the event that any benefit is not provided for by the Fund the Council will secure these benefits.

The Council will ensure that members are insured for death and funeral benefits.

The death benefits will be distributed in terms of Section 37C of the PFA.

- (4) Membership of the Fund shall be compulsory for all master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, domestic appliance mechanics, Elconops 3, Elconops 2, Elconops 1, storeman, drivers, electrical assistants, and apprentices.

- (5) (a) Every employer shall pay 15% of the prescribed weekly wage in respect of each category of employee in terms of sub-clause ((4) above to the Regional Manager of the Council, not later than the 15th day of each month for the preceding month, in respect of such employees together with such form as specified by the Council.

- (b) Every employer shall be entitled to deduct 50% of the contribution referred to in sub-clause (5) (a) above, from the weekly wages, excluding overtime, of the employee in respect of whom the contribution is made.

- (c) For the purposes of this clause a week shall constitute not less than three shifts actually worked for one employer in the Industry during any one week from Monday to Friday, (inclusive).
Pension and Provident Fund benefits will be paid for by the Council in terms of its Sick Benefit Fund Rules.

- (d) Contributions to the Pension and/or Provident Funds for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in the Main Agreement. Provided that if the member has been in service for at least five years with the same employer, contributions shall be for a maximum period of four weeks.
- (e) All contributions received by the Council in terms of this clause shall be paid to the Funds administrator.
- (f) Notwithstanding the provisions of any other clause in this Agreement or the Main Agreement the contributions referred to in sub-clause (5)(a) shall be based on a working week of 42½ (forty two and one half) hours.
- (g) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid calculated by the funds administrator as prescribed by the Registrar of Pension Funds in terms of Section 13A (7) of the Pension Funds Act, 1956, as amended, until the day upon which payment in cash is actually received by the Council:
- (6)(a) Benefits payable to a member of the Fund shall be as prescribed in the rules of the fund(s).
- (b) Benefits accruing under the Fund shall not be transferable and may not be ceded or pledged unless the PFA provides for otherwise: Provided that any member may nevertheless nominate a beneficiary to receive the proceeds of his policy in the event of his death prior to retirement.
- 7(a) The Fund shall be administered in accordance with Fund Rules approved by the Trustee Board. This Agreement shall not be inconsistent with the rules or the provisions of the PFA nor shall the Fund rules be inconsistent with the Council's collective agreements in so far as members' terms and conditions of employment are concerned. A copy of the rules and any amendments thereto shall be lodged with the Registrar of Pensions and the Registrar of Labour.
- (b) In the event of the dissolution of the Council or in the event of it being unable to perform its duties, the Registrar may appoint trustees to ensure continuity of the funds. The trustees so appointed shall have no powers to change members' terms and conditions of employment that existed immediately prior to dissolution of the Council or as a result of it being unable to perform its duties. Payment (if any) for the services rendered by the trustees shall form a charge against the Funds.

- (c) In the event of the expiration of Council's Main Collective Agreement and this agreement, the funds shall continue to operate in terms of their rules.

9. PENSION FUND (Region C only)

- (1) (a) The Electrical Industry KwaZulu Natal Pension Fund and the Supplementary Scheme (hereinafter referred to as the "Pension Fund" or the "Fund"), originally established in terms of Government Notice No. R.2043 of 13 October 1978, are hereby continued. The Pension Fund has been constituted from the amalgamation of the former Electrical Industry (KwaZulu Natal) Pension Fund and the Supplementary Scheme and further established under Government Notice R.1407 of 6 November 1998, and known as the Electrical Industry KwaZulu-Natal Pension Fund (hereinafter referred to as the "Fund") is hereby continued and shall consist of;
- (b) moneys accruing from contributions prescribed in sub-clause (4) of this Part; and
- (c) any other sum to which the Pension Fund may be or may become entitled.
- (2) The objects of the Fund shall be to provide members with benefits upon withdrawal, death, funeral, disability and retirement from the Industry. The Council will ensure that the Fund provides members with these benefits. In the event that any benefit is not provided for by the Fund the Council will secure these benefits. The death benefits will be distributed in terms of Section 37C of the PFA.
- (3) Membership of the Fund shall be compulsory for all master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, domestic appliance mechanics, Elconops 3, Elconops 2, Elconops 1, storeman, drivers, electrical assistants, and apprentices.
- (b)(i) Membership of the Fund shall be compulsory for all electrical assistants, and Elconops 1 after 13 weeks service in the Industry: Provided that if an employee can supply proof of previous employment in this Industry, contributions to the Fund shall commence from the date of engagement.
- (ii) However, during the first 13 weeks service, the employees in terms of sub-clause 3(b) (i) above shall be covered for death benefits, the cost of which shall be borne by the employer.

- (c) Any employer may, in respect of his employees employed in the Industry whose wages are not specified in the Main Agreement but who otherwise comply with the provisions of the Agreement, by mutual agreement, apply to the Fund to accept contributions from himself and such employees (or any of them) in accordance with the provisions of sub-clause 4 of this Part. Upon receipt of such application, the Council may agree to receive contributions from that employer and the provisions of

the Agreement shall thereupon *mutatis mutandis* apply to the employer and the employees concerned and be observed by them as though clause 1 of Part 1 applied.

- (4)(a) The Council shall determine and advise every employer of the weekly amount payable to the Pension Fund in respect of each category of employee, which amount shall be calculated at the undermentioned percentage of the prescribed wage payable in terms of the Main Agreement, taken to the next higher 10 cents:

Contribution at percentage of prescribed weekly wage: 15%.

Such contributions shall be calculated based on a 42.5 (forty-two and one half) hour working week.

For the purposes of the clause, a week shall constitute not less than three shifts worked for one employer in the Industry during any one week from Monday to Friday inclusive.

Pension and Provident Fund benefits will be paid for by the Council in terms of its Sick Benefit Fund Rules.

In respect of electrical assistants, and Elconops 1 in the first 13 weeks of service in the Industry, the Council shall determine and advise every employer of the weekly amount payable in respect of the death benefit cover.

- (b) Every employer shall pay the amount determined in terms of sub-clause (a) to the Council in respect of such employees: Provided that the employer may deduct 40 percent of the amount payable from the remuneration of such employees.
- (c) The amount payable each month in terms of this clause shall be forwarded to the Regional Manager of the Council, by not later than the 15th day of the month immediately following, together with a statement in such form as may from time to time be specified by the Council.
- (d) Contributions to the Pension Fund for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in clause 16(1) of the Main

Agreement. Provided that if the member has been in service for at least five years with same employer, contributions shall be for a maximum period of four weeks.

- (e) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid

calculated by the funds administrator as prescribed by the Registrar of Pension Funds in terms of Section 13A (7) of the Pension Funds Act, 1956, as amended, until the day upon which payment is actually received by the Council:

- (5)(a) Benefits payable to a member of the Pension Fund shall be as specified in the rules of the Fund.
- (b) Benefits accruing under the Pension Fund shall not be transferable and may not be ceded or pledged unless the PFA provides for otherwise: Provided that any member may nevertheless nominate a beneficiary to receive the proceeds of his policy in the event of his death prior to retirement.
- (6) The Pension Fund shall be administered in accordance with the rules of the fund approved by the Trustee Board. This Agreement shall not be inconsistent with the rules or the provisions of the PFA nor shall the Fund rules be inconsistent with the Council's collective agreements in so far as members' terms and conditions of employment are concerned. A copy of the rules and any amendments thereto shall be lodged with the Registrar of Pensions and the Registrar of Labour.
- (7) In the event of the dissolution of the Council or in the event of it being unable to perform its duties, the Registrar may appoint trustees to ensure continuity of the fund.
The trustees so appointed shall have no powers to change members' terms and conditions of employment that existed immediately prior to dissolution of the Council or as a result of it being unable to perform its duties. Payment (if any) for the services rendered by the trustees shall form a charge upon the Fund.
- (8) In the event of the expiration of Council's Main Collective Agreement and this agreement, the fund shall continue to operate in terms of its rules.

10. PENSION AND PROVIDENT FUNDS (Region D only)

- (1) (a) The Electrical Contracting Industry Provident Fund (Cape) and the Electrical Contracting Industry Pension Fund (Cape) (hereinafter referred to as the "Pension and Provident Funds: or the "Fund") originally established on 20 March 1997 in terms of Government Notice No. R431 and 3 December 1971 in terms of Government Notice No. R2169 respectively, is hereby continued and shall consist of -
- (b) moneys accruing from contributions as prescribed in this Agreement and in terms of the rules of the funds; and
- (c) any other sum to which the Fund may be or may become entitled.
- (2) The objects of the Fund shall be to provide members with benefits upon withdrawal, death, funeral, disability and retirement from the Industry. The Council will ensure that the Fund provides members with these benefits. In the event that any benefit is not provided for by the Fund the Council will secure these benefits.
The death benefits will be distributed in terms of Section 37C of the PFA.
- (3) Membership of the Fund shall be compulsory for all master installation electricians, installation electricians, electrical testers for single phase, electricians, artisans, domestic appliance mechanics, Elconops 3, Elconops 2, Elconops 1, storeman, drivers, electrical assistants, and apprentices.
- (4)(a) Each employer shall each week deduct from the wages of his employees who are members of the Pension and the Provident Funds an amount equivalent to 7,5% of the actual wages earned, excluding overtime. To the amount thus deducted the employer shall add an equal amount and forward it to the Regional Manager of the Council, not later than the 15th day of each month for the month preceding, the total sum together with such form as may be specified by the Council from time to time. Such contributions shall be calculated based on a 40 (forty) hour working week.
Pension and Provident Fund benefits will be paid for by the Council in terms of its Sick Benefit Fund Rules.
- (b) Contributions to the Pension and/or Provident Funds for any member shall be remitted for a maximum of three weeks during the member's annual leave period as provided for in clause 16(1) of the Main Agreement. Provided that if the member has been in service for at least five years with same employer, contributions shall be for a maximum period of four weeks.

- (c) All contributions received by the Council in terms of this sub-clause shall be paid to the funds administrator.
 - (d) Should any amount due in terms of this clause not be received by the Council by the 15th day of the month following the month in respect of which it is payable, the employer shall pay interest on such amount or on such lesser amount as remains unpaid calculated by the funds administrator as prescribed by the Registrar in terms of Section 13A (7) of the Pension Funds Act, 1956, as amended, until the day upon which payment in cash is actually received by the Council:
- (5) Benefits payable to a member of the Pension and the Provident Funds shall be as specified in the rules.
- (6)(a) The Funds shall be administered in accordance with Fund Rules approved by the Trustee Board. This agreement shall not be inconsistent with the rules or the provisions of the PFA nor shall the Funds rules be inconsistent with the Council's collective agreements in so far as members' terms and conditions of employment are concerned. A copy of the rules and any amendments thereto shall be lodged with the Registrar of Pensions and the Registrar of Labour.
- (b) In the event of the dissolution of the Council or in the event of it being unable to perform its duties, the Registrar may appoint trustees to ensure continuity of the funds.
The trustees so appointed shall have no powers to change members' terms and conditions of employment that existed immediately prior to dissolution of the Council or as a result of it being unable to perform its duties. Payment (if any) for the services rendered by the trustees shall form a charge upon the Funds.
- (c) The Trustee Boards shall be appointed in terms of the Rules of the Funds.
- (d) In the event of the expiration of the Council's Main Collective Agreement and this agreement, the funds shall continue to operate in terms of their rules.

11. EXEMPTIONS FOR ALL REGIONS.

- (1) In terms of section 32 of the Act the Council shall consider all applications for exemption from any of the provisions of this Agreement for any good and sufficient reason within 30 days from the date of receipt of such application.
- (2) The Regional Exemption Committees of Council shall consider all applications for exemption from any of the provisions of this Agreement for any good and sufficient reason.
- (3) All applications for exemption shall be in writing (on an application form as provided by the Council) and shall be addressed to the respective Regional Manager of the Council for consideration.
- (4) All applications for exemption shall be substantiated, and such substantiation shall include the following details;
 - a) the period for which the exemption is required
 - b) the Agreement and clauses or sub-clauses of the Agreement from which the exemption is required ;
 - c) proof that the exemption applied for has been discussed by the employer, his employees and their respective representatives. The responses resulting from such consultation, either in support of or against the application, shall be included with the application.
- (5) The Regional Manager of the Council shall place the applications for exemption on the agenda of the next Regional Committee meeting of Council, or the Regional Exemptions Committee for consideration, within 30 days of receipt of the completed exemption application.
- (6) The Regional Managers of the Council shall provide the Committee with details of the applications for exemption.
- (7) The Regional Exemption Committees shall consider and decide on all written applications and, when requested by the applicants or objectors to do so, may interview applicants or objectors at its following meeting: Provided that the Regional Exemption Committee of Council may defer a decision to a following meeting if additional substantiation, information or verbal representations are considered necessary to decide on the application for exemption.
- (8) Once the Regional Exemption Committee has decided to grant an exemption, it shall issue a certificate and advise the applicant(s) within 14 days of the date of its decision.

- (9) When the Regional Exemption Committee decides against granting an exemption or part of an exemption requested, it shall advise the applicant(s) within 14 days of the date of such decision and shall provide the reason or reasons for not granting an exemption.

- (10) Exemption criteria -

The Regional Exemption Committee of the Council, shall consider all applications for exemption with reference to the following criteria:

- a) The written and verbal substantiation provided by the applicant;
- b) the extent of consultation with and the petition for or against granting the exemption as provided by employers or employees who are to be affected by the exemption if granted;
- c) the terms of the exemption;
- d) the infringement of basic conditions of employment rights;
- e) the fact that a competitive advantage may not be created by the exemption;
- f) the effect of the exemption on any employee benefit fund or training provision in relation to the alternative comparative bona fide benefit or provision, including the cost to the employee, transferability, administration management and cost, growth and stability;
- g) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Electrical Industry;
- h) any existing special economic or other circumstances which warrant the granting of the exemption;
- i) reporting requirements by the applicant and monitoring and re-evaluation processes; and
- j) cognisance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy.
- k) Once a notice to attend arbitration proceedings has been issued, no employer or employee may make application for exemption from any provision of the collective agreement to which the arbitration notice relates.
- l) Any exemption applied for after the notice to attend arbitration has been issued shall not stay the arbitration proceedings. The

arbitrator shall be requested to make an appropriate arbitration award.

- (11) In terms of section 32 of the Act, the Council hereby establishes an Independent Appeals body to hear and decide as soon as possible, any appeal brought against-
- (a) the Council's refusal of an application for exemption from the provisions contained in this Agreement;
 - (b) the withdrawal of such exemption by the Council.
- (12) The Regional Manager shall, upon receipt of a written application for an appeal, forward the application together with the original application for exemption and all supporting documents to the Independent Appeal body for a decision.
- (13) The Independent Appeals body shall consider all applications within 14 days of receipt with reference to the criteria set out in sub-clause (10)
- above and shall ensure that the applications are not in conflict with the primary objects of the Act.
- (14) The Independent Appeals Body may defer a decision to a subsequent meeting if additional motivation, information or verbal representations are considered necessary to decide the application for exemption.
- (15) The Independent Appeals Body shall issue a certificate within 14 days of the date of its decision to uphold the appeal and grant exemption. The certificate should specify the terms of the exemption and the reporting requirements by the applicant and the monitoring and re-valuation processes.
- (16) The Independent Appeals Body shall advise the applicant(s) within 10 working days of the date of its decision not to grant exemption or part of an exemption requested and shall provide a written reason or reasons for the decision not to grant exemption.

12. RESOLUTION OF DISPUTES.

(1) Procedure to enforce compliance with this agreement:

The Council shall take all reasonable steps necessary to ensure compliance with this agreement. If whether through its own investigations or through any other source, it appears as if the provisions of this agreement have been breached then the following procedure shall apply to enforce compliance:

- (a) The appointed official of Council shall investigate the alleged breach.
- (b) If, upon completion of the investigation, the appointed official of Council has reason to believe that this agreement has been breached, the appointed person may endeavor to secure compliance with the agreement by any or all of the following means:
 - (i) Issue a compliance order requiring any person bound by the collective agreement to comply with the collective agreement within a specified period.
 - (ii) refer the matter to arbitration in terms of this agreement
 - (iii) a designated agent of Council shall have all the powers conferred to him in terms of section 33 read with section 33A and Schedule 10 of the Act.
- (c) Arbitration
 - (i) Upon referral of the unresolved dispute to arbitration, Council shall appoint an arbitrator from its panel to hear and determine the alleged breach of this agreement. The arbitrator shall be independent of the Council.
 - (ii) The Council shall decide the date, time, and venue of the arbitration hearing, but shall give the parties at least 21 days written notice of an arbitration hearing, unless the parties agree to a shorter period.
 - (iii) The Council shall serve notice of the date, time and venue of the arbitration on all parties who may have a legal interest in the outcome of arbitration.
 - (iv) Any party who has a legal interest in the outcome of the arbitration shall have the right to –
 - give evidence
 - call witnesses
 - question the witnesses of the other party

- address the concluding arguments with the arbitrator
 - be represented by a legal practitioner or co-employee or any office-bearer or official of his trade union or employers' organisation and, if the party is a juristic person, by a director or employee thereof.
- (d) The arbitrator shall have the following powers:
- (i) To determine whether there has been a breach of this agreement.
 - (ii) To make any appropriate award that gives effect to the collective agreement and to ensure compliance therewith.
 - (iii) To conduct the arbitration in a manner and form that he considers appropriate in order to determine the dispute fairly and quickly but shall deal with the substantial merits of the dispute with the minimum of legal formalities. Subject to the discretion of the arbitrator as to the appropriate form of the proceedings, a party to the dispute may give evidence, call witnesses, question the witnesses of any other party, and address concluding arguments to the arbitrator.
 - (iv) The appointed arbitrator may at any stage prior to or during the arbitration proceedings, suspend the arbitration proceedings and attempt to resolve the dispute through conciliation with the consent of all the parties to the dispute. If appropriate, the arbitrator may refer the dispute to another conciliator to be conciliated.
 - (v) To adjourn the arbitration proceedings to a later date or to make an award in the absence of a party who is alleged to have breached the agreement, if -
 - such party fails to appear in person or to be represented at the arbitration proceedings, and *prima facie* evidence has been presented to the arbitrator that the party in question has failed to comply with this agreement. Provided that proof is presented that written notification has been forwarded to such party –
 - (a) by registered mail or telegram to such party's last known address or an address chosen by that person to receive service and 21 days have lapsed since such notification has been mailed; or
 - (b) by fax transmission or telexing to such party's last known fax number or telex number; or a fax or telefax number chosen by that person to receive service and 21 days have lapsed since such notification has been faxed; or

- (c) by hand delivery to such party's last known business or residential address; or an address chosen by that person to receive service and 21 days have lapsed since such notification has been hand delivered.
- (d) by emailing a copy of the document to the person's email or an email address chosen by that person to receive service.
- (e) a document may also be served -
 - (i) on a company or other body corporate by handing a copy to a responsible employee of the company or body at its registered office, its principal place of business within the Republic or its main place of business within the magisterial district in which the dispute first arose;
 - (ii) on an employer by handing a copy of that document to a responsible employee of the employer at the workplace where the employees involved in the dispute ordinarily work or worked;
 - (iii) on a trade union or employers' organisation by handing a copy of that document to a responsible employee or official at the main office of the union or employers' organization or its office in the magisterial district in which the dispute arose;
 - (iv) on a partnership, firm or association by handing a copy of that document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or chairman or secretary of the managing or other controlling body of the association, as the case may be;
 - (v) on a municipality, by serving a copy of the document on the municipal manager or any person acting on behalf of that person;
 - (vi) on a statutory body by handing a copy to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body or
 - (vii) on the state or a province, a state department or a provincial department, a minister, premier or a member of the executive committee of a province by handing a copy to a responsible employee at the head office of the party or to a responsible employee at any office of the State Attorney.
- (f) if no person identified in (e)(i) to e(vii) above is willing to accept service may be effected by affixing a copy of the document to -

- (i) the main door of the premises concerned; or
 - (ii) if this is not accessible, a post box or other place to which the public has access.
- (g) The arbitrator conducting arbitration in terms of this sub-clause has the powers of a Commissioner in terms of section 33A, section 142 and section 138 of the Act, read with the changes required by the context.
- (h) The appointed arbitrator shall have the power to vary, rescind or amend any arbitration award issued by him or by any arbitrator on application by any affected party or on his own accord within 14 days of the date on which the applicant became aware of the arbitration award or ruling or a mistake common to the parties to the proceedings and without limiting the generality hereof shall have this power if -
 - the award was erroneously sought or erroneously made in the absence of any party affected by the award.
 - the award is ambiguous or contains an obvious error or omission, but only to the extent of that ambiguity, error or omission.
 - the award was granted as a result of a mistake common to the parties to the proceedings.
- (i) Any award made by the arbitrator, shall be served on all interested parties by the Council and must be made within 14 days after the expiry of the arbitration proceedings.
- (j) The Council may apply to make the arbitration award an order of court in terms of section 143 or section 158(1) of the Act.
- (k) The Council may apply for a writ of execution to enforce the order of court made in terms of section 143(1) of the Act.
- (l) The provisions of this procedure shall apply in addition to any other legal remedy which the Council may apply to enforce a collective agreement. In the event that the Council has to instruct a debt collecting agency or a legal practitioner to collect and or to litigate in respect of any amount due to it by the defaulter in terms of any arbitration award, the defaulter shall also be liable in terms of this clause for payment of any commission and any other litigation costs incurred in the enforcement and collection thereof."
- (m) If the arbitrator finds that any party to the dispute has failed to comply with a provision of Council's collective agreements which are binding on that party, then the arbitrator shall, in addition to

any other appropriate order, impose a fine on the non-compliant party in accordance with Section 29 (2) of Schedule 7 of the Act, read with Section 33A of the Act. An arbitrator shall also include in an order, any interest that is due in terms of clause 27 of the Council's Main Collective Agreement and an arbitration fee of R500, 00.

- (n) Notwithstanding the provisions of this clause, the Council may utilise section 33A, section 142 and Schedule 10 of the Act to monitor and enforce compliance with its collective agreements.
- (o) Despite the provisions of this clause, a Council agent may not issue a compliance order in respect of any amount payable to an employee as a result of a failure to comply with any provision of this agreement if -

That amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to the Council by or on behalf of that employee or, if no complaint was made, the date on which a Council agent first endeavored to secure compliance.
- (p) Despite the aforesaid, if the non-compliance relates to unpaid Pension and or Provident Fund contributions, the Council must issue a compliance order to secure compliance.

(2) Procedure for Disputes about the Interpretation and/or Application of this Agreement

- (a) If a dispute is referred to the Council by any party to Council, or any legal entity or person who falls within the registered scope of Council, it shall attempt to resolve the dispute through conciliation and if the dispute remains unresolved after conciliation, the Council shall appoint an arbitrator from its panel to arbitrate the dispute unless otherwise agreed to between all parties to the dispute. The arbitrator shall be independent of the Council.
- (b) Any party or legal entity or person wishing to lodge such a dispute shall notify the Council in writing setting out all the details of the dispute. A copy of such notification shall be served on all parties to the dispute in accordance with Rule 5 of the Rules for the Conduct of Proceedings before the CCMA.
- (c) The Council shall arrange a conciliation meeting of the parties to the dispute within 14 days of the date it received the completed referral. However, the parties to the dispute may agree to extend the 14-day period.

- (d) In conciliation proceedings a party to the dispute may appear in person or be represented only by a director or employee of that party and if a close corporation also a member thereof, or any member, office bearer or official of that party's registered trade union or registered employers' organisation.
- (e) (i) The Council may appoint a conciliator from its panel to attempt to resolve the dispute.
- (ii) Any conciliator appointed in terms of this sub-clause shall have all of the powers conferred to him in terms of section 33A, section 142, section 138 and section 142A of the Act.
- (iii) Any conciliator appointed in terms of this clause shall determine a process to attempt to resolve the dispute which may include –
- mediating the dispute, or
 - conducting a fact finding exercise, or
 - making a recommendation to the parties, which may be an
 - advisory award.
- (f) (i) When conciliation has failed, or at the end of the 30 day period or any further period agreed to between the parties, the conciliator must:
- issue a certificate stating whether or not the dispute has been resolved and -
- (ii) serve a copy of that certificate on each party to the dispute or the person who represented a party in the conciliation proceedings; and
- (iii) the original certificate must be filed with the Council
- (g) If the dispute is not resolved at the conciliation meeting referred to in sub-clause (2) (c) above, it shall be referred to arbitration, unless otherwise agreed to between the parties to the dispute.
- The Council shall appoint an arbitrator who is available to commence the arbitration within 21 days from the date the dispute was not resolved at conciliation, unless otherwise agreed to between the parties to the dispute. The powers of the arbitrator shall be the same as in clause 12(1) (d) above read with the changes required by the context
- (h) In arbitration proceedings, a party to the dispute may appear in person or be represented only by a legal practitioner, a director or employee of that party and if a close corporation also a member thereof or any member, office bearer or

official of that party's registered trade union, or registered employers' organisation,

- (i) The arbitrator shall make a determination within 14 days of the completion of the hearing unless otherwise agreed to between the parties to the dispute.
Any party to the dispute who alleges a defect in the arbitration proceedings may apply to the Labour Court for an order setting aside the arbitration award in terms of section 145 of the LRA.
- (j) Any party to the dispute may apply to make the arbitration award an order of court in terms of section 143 or section 158(1) of the Act.
- (k) The arbitrator may on his/her own accord or on the application of any affected party, vary or rescind an arbitration award or ruling in terms of Section 144 of the LRA read with Rule 31 and Rule 32 of the CCMA Rules.

**SIGNED AT JOHANNESBURG, AS AUTHORISED FOR AND ON BEHALF
OF THE PARTIES TO THE COUNCIL, THIS 27.... DAY OF November.....
2018.**


D. VAN DEVENTER – NATIONAL CHAIRMAN
M MPHAKOE – NATIONAL VICE-CHAIRMAN