

RULES

OF THE

ELECTRICAL INDUSTRY KWA-ZULU NATAL PENSION FUND

PF 12/8/14479

CONSOLIDATED RULES
EFFECTIVE 29 SEPTEMBER 2021

(The Consolidated Rules includes all registered Rule Amendments 1 to 8)

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE ELECTRICAL INDUSTRY
KWA-ZULU NATAL PENSION FUND (“the FUND”)**

At a properly constituted Board of Trustees meeting held on 29 September 2021 via online conferencing the Trustees resolved that the Rules of the Fund approved on 16 July 2013 be consolidated and substituted by this set of Rules attached hereto and to be effective from 29 September 2021 for the following reasons:

- To incorporate the provisions of the registered Rule Amendments 1 to 8;
- To replace the reference to the REGISTRAR with AUTHORITY and to include a definition under SECTION 1;
- To correct the numbering of SECTION 3.1 in the 2013 Revised RULES due to a duplication of SECTION 3.1.4;
- To correct the numbering reference in SECTION 3.1.6 to 3.1.8;
- To correct the numbering reference in SECTION 3.1.8 to 3.1.6;
- To correct the numbering reference in SECTION 3.1.9 to 3.1.2
- To correct the numbering reference for the addition of SECTION 9.5.1, 9.5.2, 9.5.3, 9.5.4 and 9.5.5 as approved in terms of Rule Amendment 7 to SECTION 9.4.1, 9.4.2, 9.4.3, 9.4.4 and 9.4.5 and
- To correct the numbering reference in SECTION 11.14.2(e) to (d).

Certified that the above resolution has been adopted in accordance with the provisions of the RULES of the FUND.

D.W. Alcock

**Chairperson:
(Mr. Dave Alcock)**

29 October 2021

Date

[Signature]

**Deputy Chairperson:
(Mr. Deon van Deventer)**

24/11/2021

Date

[Signature]

**Principal Officer
(Ms. Lizané van der Merwe)**

29-Oct-2021

Date

Bernard Carr

**Trustee
(Full Name)**

Bernard Carr

**Trustee
(Signature)**

23 November 2021

Date

Certified that these Consolidated RULES will not adversely affect the financial soundness of the FUND.

Asim Gani

**Valuator
(Mr. Asim Gani)**

04-Nov-2021

Date

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SECTION 1

1 INTRODUCTION

1.1 PREAMBLE

The Electrical Industry Kwa-Zulu Natal Pension Fund is a defined contribution pension fund established by the National Bargaining Council for the Electrical Industry of South Africa, originally established in terms of the Labour Relations Act 1956 (Act 28 of 1956), as amended, and continued in terms of the Labour Relations Act 1995 (Act 66 of 1995), as amended. The FUND is an umbrella fund which has been extended to all EMPLOYEES within the jurisdiction of the COUNCIL.

In these RULES, unless inconsistent with the context, words and expressions denoting the singular shall include the plural and vice versa. Headings and sub-headings are solely for ease of reference and are not to be taken into account in the interpretation of the RULES.

1.2 NAME AND INCEPTION DATE

The Electrical Industry Kwa-Zulu Natal Pension Fund previously registered as the Electrical Industry Natal Pension Fund was established on 4 April 1977 in terms of Government Notice No. 2043 of 13 October 1978, as continued from time to time. With effect from 1 January 1996 the name of the FUND changed to the Electrical Industry Kwa-Zulu Natal Pension Fund and the RULES of the FUND were revised. With effect from 1 January 2003, the FUND changed from an underwritten fund to a privately administered fund. With effect from January 2008 the FUND was required to be registered under

the ACT. If registration of these RULES takes place after 1 January 2008, the RULES will be deemed to have taken effect from 1 January 2008.

1.3 OBJECT

The FUND was established with the object of providing its MEMBERS and BENEFICIARIES with the benefits described in these RULES.

1.4 STATUS

The FUND is an independent legal person, existing separately from COUNCIL, MEMBERS and BENEFICIARIES and is, in its own name, capable in law of suing and of being sued, of acquiring, holding, and alienating movable and immovable property, and of acquiring rights and obligations.

1.5 REGISTERED OFFICE

The registered office of the FUND is 23 Lennox Road, Greyville, Durban, 4001.

SECTION 2

2 DEFINITIONS

Unless inconsistent with the context, the following words and expressions shall bear the meaning assigned to them.

ACT

The Pension Funds Act 1956 (Act 24 of 1956) as amended, and the regulations framed thereunder.

ACTUARY

A natural person admitted as a fellow member of the Actuarial Society of South Africa or any other institution approved by the AUTHORITY by notice in the Government Gazette and appointed as valuator in terms of SECTION 3.13.

ADDITIONAL CONTRIBUTIONS

A MEMBER'S CONTRIBUTIONS to the FUND in terms of SECTION 5.1.2.

ADJUDICATOR

The Pension Funds Adjudicator or Deputy Pension Funds Adjudicator and any acting Pension Funds Adjudicator appointed in terms of Section 30C(1) of the ACT.

ADMINISTRATOR

The person, including a legal person, approved as a retirement fund administrator by the AUTHORITY in terms of the provisions of Section 13(B) of the ACT and authorised in terms of such approval to administer the disposition of the benefits payable by the FUND and who is appointed in terms of SECTION 3.7.

APPROVED FUND

A fund that is recognised or has been approved by the COMMISSIONER in terms of the INCOME TAX ACT as a pension fund, a provident fund, a pension preservation fund, or a retirement annuity fund and in respect of which a MEMBER meets the eligibility requirements for admission to membership thereof.

AUDITOR

An auditor registered under the Auditing Profession Act 2005 (Act 26 of 2005) as amended, from time to time and appointed in terms of SECTION 3.8.

AUTHORITY

The Financial Sector Conduct Authority established in terms of the Financial Sector Regulation Act 2017 (Act 9 of 2017).

BENEFICIARY

A NOMINEE or a DEPENDANT who is entitled to a benefit in terms of the RULES of the FUND.

BOARD OF TRUSTEES

The managing body of the FUND appointed in terms of SECTION 3.1.2. The term "BOARD" shall have a corresponding meaning.

COMMISSIONER

The Commissioner for the South African Revenue Services.

COMPLAINANT

Any person or group of persons who is or who claims to be:

- A MEMBER or former MEMBER
- A BENEFICIARY or former BENEFICIARY,
- The EMPLOYER
- The COUNCIL
- The BOARD OF TRUSTEES or a member thereof,
- A person who has an interest in a COMPLAINT;
- A SPOUSE or a former SPOUSE of a MEMBER or former MEMBER of the FUND.

COMPLAINT

An allegation made by and in respect of a COMPLAINANT relating to the administration of the FUND, the investments of its assets or the interpretation and/or application of its RULES and alleging;

- That a decision of the FUND or any person purportedly taken in terms of the RULES of the FUND was in excess of the powers of the FUND or such person or constituted an improper exercise of the powers of the FUND by the FUND or such person,
- That the COMPLAINANT has sustained or may sustain prejudice in consequence of the maladministration of the FUND by the FUND or any person, whether by act or omission.
- That a dispute of fact or law has arisen in relation to the FUND between the FUND or any person and the COMPLAINANT, or
- That the EMPLOYER has not fulfilled its duties in terms of the RULES of the FUND; provided that an allegation that does not relate to a specific COMPLAINANT shall not constitute a COMPLAINT.

CONTINGENCY RESERVE ACCOUNT

A CONTINGENCY RESERVE ACCOUNT established in the books of the FUND. The amounts credited to the CONTINGENCY RESERVE ACCOUNT shall be such amounts as determined by the BOARD OF TRUSTEES in consultation with the ACTUARY.

The CONTINGENCY RESERVE ACCOUNT may be credited with the following: -

- (a) EMPLOYER contributions earmarked by the FUND to strengthen this account as advised by the ACTUARY

- (b) Small unallocated amounts that arise from processing mismatches which if allocated to the MEMBER'S EQUITABLE SHARE would have a detrimental cost effect on the FUND and the MEMBERS;
- (c) Interest earned in the bank account of the FUND;
- (d) Subject to the maximum amount determined by the TRUSTEES from time to time, small amounts of interest charged on the late payment of contributions in terms of the ACT, which if allocated to the MEMBER'S EQUITABLE SHARE would have a detrimental cost effect on the FUND and the MEMBERS;
- (e) The INVESTMENT RETURN on the amount in the CONTINGENCY RESERVE ACCOUNT as determined by the ACTUARY;
- (f) Amounts earmarked to pay management costs of the FUND;
- (g) Funds allocated to fund the cost of greater benefits in terms of SECTION 6.9 as determined by the BOARD OF TRUSTEES from time to time.

The CONTINGENCY RESERVE ACCOUNT may be debited with the following: -

- (a) Amounts payable as management costs for services rendered to the FUND;
- (b) Any taxes and levies not considered in the costs of the administration of the FUND or the investment of its assets;
- (c) Premiums for fidelity and professional indemnity insurance taken out by the FUND;
- (d) At the discretion of the TRUSTEES, any other expenses of the FUND not provided for above; and
- (e) At the discretion of the BOARD OF TRUSTEES amounts to fund, the cost of greater benefits in terms of SECTION 6.9.

On liquidation of the FUND, any balance in the account must be applied in accordance with Section 15(l) of the ACT.

COUNCIL

The National Bargaining Council for the Electrical Industry of South Africa originally established in terms of the Labour Relations Act 1956 (Act 28 of 1956) as amended and continued in terms of the Labour Relations Act 1995 (Act 66 of 1995) as amended, or its Committee for the Kwa-Zulu Natal Region (as applicable in terms of its constitution and the relevant COUNCIL AGREEMENTS).

COUNCIL AGREEMENT

The agreement in terms of which the COUNCIL was established and published under the Government Notice No. R612 dated 9 April 1976 and any subsequent amending or replacing agreements, including a collective agreement between the parties to the COUNCIL in terms of the Labour Relations Act 1995 (Act 66 of 1995) as amended.

CURRENT CONTRIBUTIONS

A MEMBER'S CONTRIBUTIONS to the FUND in terms of SECTION 5.1.1.

DEFERRED RETIREE

A MEMBER who is eligible to retire in terms of SECTION 6.1, 6.2 and 6.3 and has elected that his/her retirement benefit be retained in the FUND, without any further CONTRIBUTIONS, until the ELECTION DATE.

DEPENDANT

In relation to a MEMBER:

- (a) A person in respect of whom the MEMBER is legally liable for maintenance;
- (b) A person in respect of whom the MEMBER is not legally liable for maintenance if such person;
 - (i) was, in the opinion of the BOARD OF TRUSTEES, upon the death of the MEMBER in fact dependant on the MEMBER for maintenance;
 - (ii) is the SPOUSE of the MEMBER;

- (iii) is the child of the MEMBER, including a posthumous child, an adopted child and a child born out of wedlock;
- (c) A person in respect of whom the MEMBER would have become legally liable for maintenance, had the MEMBER not died.

DISABILITY INCOME SCHEME

A separate disability income insurance policy for the benefit of the MEMBERS.

DISCLOSURE

DISCLOSURE by any interested party of information to the AUTHORITY:

- (a) Regarding any conduct of this FUND, its ADMINISTRATOR, a TRUSTEE, PRINCIPAL OFFICER, DEPUTY PRINCIPAL OFFICER, VALUATOR, or any other officer of this FUND, as the case may be;
- (b) Relating to the affairs of this FUND which may prejudice the FUND or its MEMBERS.

The term "Disclose" shall have a corresponding meaning.

ELECTION DATE

The later of:

- a) The date on which the MEMBER retires in terms of SECTION 6.1 or 6.2; and
- b) The date on which the FUND receives notification from the MEMBER that he/she elects to retire in terms of SECTION 6.3.

EMPLOYEE

Any person in the INDUSTRY in respect of whom the COUNCIL AGREEMENT is applicable including any party to whom the COUNCIL AGREEMENT has been

extended and for whom a CONTRIBUTION to the FUND is prescribed in terms of the COUNCIL AGREEMENT, as well as any person in the INDUSTRY who voluntarily participates in the FUND, and includes any other category or persons designated as such by the COUNCIL and notified as such in writing to the BOARD OF TRUSTEES and who is not in receipt of benefits that are payable in accordance with the provisions of the RULES of the FUND or the rules of the DISABILITY INCOME SCHEME.

EMPLOYER

Any employer which falls within the COUNCIL AGREEMENT, including an EMPLOYER to whom the COUNCIL AGREEMENT has been extended and the EMPLOYER of a person in the INDUSTRY who voluntarily decides to participate in the FUND, that on such terms and conditions as determined by the BOARD OF TRUSTEES, has been admitted to the FUND as an EMPLOYER and in respect of which the COUNCIL has notified the BOARD OF TRUSTEES in writing. In respect of any MEMBER, EMPLOYER means the EMPLOYER in whose services the MEMBER is at that point in time or by whom the MEMBER was last employed, as the case may be.

EQUITABLE SHARE

An amount equal to the total of the CONTRIBUTIONS received by the FUND by on behalf of the MEMBER, adjusted on a basis deemed equitable by the ACTUARY, considering:

- (a) INVESTMENT RETURN;
- (b) The MEMBER'S INVESTMENT PORTFOLIO related expenses;
- (c) Amounts released from or allocated to the FUND'S reserve accounts and the MEMBER SURPLUS ACCOUNT, as calculated by the ACTUARY, on a basis deemed equitable and as approved by the BOARD OF TRUSTEES;
- (d) The cost of management of the FUND;
- (e) The cost of death benefits in terms of SECTION 8; and
- (f) Interest on late or underpaid CONTRIBUTIONS in terms of SECTION 5.5;

- (g) If applicable, the reasonable and proportionate cost of management of the FUND attributable to the evaluation and processing of the MEMBER'S divorce order in terms of SECTION 11.12.4 and deduction in terms of SECTION 11.12.5;
- (h) If applicable, the deduction and payment of a debt owed to the FUND or the EMPLOYER in terms of SECTION 11.12.1, the deduction and payment of the NON-MEMBER SPOUSE'S portion of the pension interest in terms of SECTION 11.12.4, and the deduction and payment of the allocated amount to a person in terms of SECTION 11.12.5;
- (i) If applicable, the cost of obtainment of tax directives in respect of the lump sum benefits payable in terms of SECTION 6, 7, 8 and 9.

FUND

The Electrical Industry Kwa-Zulu Natal Pension Fund.

FUND ANNIVERSARY

The first day of January in each year;

FUND RETURN RESERVE ACCOUNT

A separate account established in the books of the FUND, which shall be debited or credited with the following amounts, in consultation with the ACTUARY, as the case may be:

Credits:

- An amount transferred to this account relating to allocations made to former MEMBERS and outsourced PENSIONERS of the FUND as a result of litigation proceeds paid by Investec to the FUND and who have not been paid such allocation on 1 November 2011; and
- INVESTMENT RETURN on the credit balance in this account;

Debits:

- Amounts paid to former MEMBERS and outsourced PENSIONERS of the FUND as a result of the allocation of litigation proceeds paid by Investec to the FUND; and
- The cost of tracing former MEMBERS and outsourced PENSIONERS of the FUND who has been allocated amounts as a result of litigation proceeds paid by Investec to the FUND.

FUND YEAR

A period of 12 (twelve) calendar months or such other period as may be determined by the BOARD OF TRUSTEES, commencing on the FUND ANNIVERSARY, and terminating on the day before the subsequent FUND ANNIVERSARY.

INCEPTION DATE

4 April 1977

INCOME TAX ACT

The Income Tax Act 1962 (Act 58 of 1962) as amended.

INDUSTRY

The Electrical Industry, as defined in the COUNCIL AGREEMENT, which falls within the jurisdiction of the COUNCIL.

INSURER

An insurer registered under the Long-Term Insurance Act 1998 (Act 52 of 1998), as amended, to transact long-term insurance business.

INVESTMENT MANAGER

An institution approved as a retirement fund ADMINISTRATOR by the AUTHORITY in terms of the provisions of Section 13(B) of the ACT and authorised in terms of such approval to administer the investment of retirement fund assets and which is appointed in terms of SECTION 3.14.

INVESTMENT PORTFOLIO

An investment account which is operated by an INVESTMENT MANAGER, including any deposit account in the name of the FUND and which is approved by the BOARD OF TRUSTEES for the purposes of the Investment of the assets of the FUND.

INVESTMENT RETURN

The value of the units in a MEMBER'S relevant INVESTMENT PORTFOLIO. Such value shall be determined by using the last known unit price as at the date of the determination. Should the sum of all the values in the MEMBERS' EQUITABLE SHARE account exceed the assets of the FUND, each individual MEMBER'S EQUITABLE SHARE will be limited to his/her proportionate share of such assets.

MEMBER

A person who is a MEMBER of the FUND in terms of these RULES and who has not ceased to be a MEMBER in terms of the RULES, including an EMPLOYEE temporarily absent from service in terms of SECTION 10.

MEMBER SURPLUS ACCOUNT

A separate account established in the books of the FUND to provide for the allocation of future surplus under the FUND which will be credited and debited with the following amounts in consultation with the ACTUARY, as the case may be:

Credits:

- Surplus that arises in the FUND and is allocated to this account, as determined by the BOARD OF TRUSTEES from time to time.

Debits:

- Amounts allocated to the MEMBER'S EQUITABLE SHARE as decided from time to time by the BOARD OF TRUSTEES.

NOMINEE

In respect of any MEMBER, a person, other than a DEPENDANT, designated in writing by the MEMBER to receive benefits in accordance with SECTION 11.4 upon the MEMBER'S death.

NON-MEMBER SPOUSE

A person who is no longer the SPOUSE of a MEMBER due to the dissolution or confirmation of the dissolution of the relationship by a court order and to whom the court ordering or confirming the dissolution of the relationship has granted a share of the MEMBER'S pension interest in the FUND.

NORMAL RETIREMENT AGE

Age 65 (sixty-five)

NORMAL RETIREMENT DATE

The last day of the month in which the MEMBER attains the NORMAL RETIREMENT AGE.

PAID-UP MEMBER

A MEMBER who has left the service of the EMPLOYER before retirement but who has not elected to receive or transfer his/her withdrawal benefit in terms of SECTION 9 and has become a PAID-UP MEMBER in terms of SECTION 9.

PARTICIPATION DATE

The INCEPTION DATE; provided that in relation to the EMPLOYER who is admitted to the FUND subsequent to such date, PARTICIPATION DATE shall mean the date as from which such EMPLOYER is admitted to the FUND as a participating EMPLOYER.

PENSION FUND AGREEMENT

Agreement as published under Government Notice No. R2043 of 13 October 1978 and further published under Government Notice No. R1407 of 6 November 1998. The agreement is between the parties to COUNCIL governing CONTRIBUTIONS and participation in the FUND or, in the event that no such agreement is operative, a collective agreement between the parties represented on the BOARD OF TRUSTEES in terms of the Labour Relations Act 1995 (Act 66 of 1995) as amended (thus being a collective PENSION FUND AGREEMENT).

PENSIONABLE SALARY

In respect of any MEMBER, 52 (fifty-two) times the weekly wage on which the MEMBER'S last contribution was based in terms of the COUNCIL AGREEMENT. If a MEMBER was credited with CONTRIBUTIONS in more than one wage category during the MEMBER'S last and/or second last CONTRIBUTIONS year, an average of the MEMBER'S weekly wages in those categories shall be used.

In respect of a disabled MEMBER who is receiving a disability income benefit from the DISABILITY INCOME SCHEME, the MEMBER'S PENSIONABLE SALARY at the commencement of disablement, increased by the same percentage as that by which the disability income benefit is increased from time to time.

PENSIONER

A MEMBER who has retired and is entitled to receive a pension payable by the FUND in accordance with the RULES of the FUND. A MEMBER who decides to purchase their pension from an INSURER is not termed a PENSIONER in these RULES.

PENSIONER RESERVE ACCOUNT

A separate account shall be established in the books of the FUND, which shall be debited or credited with the following amounts, as the case may be, subject to the approval of the BOARD OF TRUSTEES and in consultation with the ACTUARY:

Credits:

- a) An initial balance in accordance with the FUND'S policy on the payment of pensions, as calculated by the ACTUARY;
- b) The capital value of the pensions payable to PENSIONERS after commutation of the pensions, as calculated by the ACTUARY and approved by the BOARD OF TRUSTEES, as well as an amount in order to provide for the estimated future costs in respect of the administration of such pensions;
- c) Amounts, if any, transferred to this account from the CONTINGENCY RESERVE ACCOUNT on recommendation of the ACTUARY and with the approval of the BOARD OF TRUSTEES;
- d) Amounts, if any, transferred to this account from another APPROVED FUND on recommendation of the ACTUARY and with the approval of the BOARD OF TRUSTEES, and

e) INVESTMENT RETURN earned on the credit balance in this account.

Debits:

- a) The payment of the monthly pension payments by the FUND to PENSIONERS in terms of the RULES, as calculated by the ACTUARY; and
- b) The administration and management costs associated with the payments of pensions to PENSIONERS;
- c) Negative INVESTMENT RETURN earned on the credit balance in this account.

PRINCIPAL OFFICER

The person appointed in terms of SECTION 3.3.

RETIREMENT DATE

In respect of a MEMBER who retires prior to or on the NORMAL RETIREMENT DATE, the last day of the month in which the MEMBER ceases to be an EMPLOYEE. In respect of a MEMBER who retires after the NORMAL RETIREMENT DATE, the ELECTION DATE.

RULES

These RULES of the FUND and such alterations as may, from time to time be applicable, which are registered by the AUTHORITY in terms of the ACT and are approved by the South African Revenue Services.

SPOUSE

A person who is the permanent life partner or SPOUSE or civil union partner of a MEMBER in accordance with the Marriages Act 1998 (Act 120 of 1998), or the Civil Union Act, 2006 (Act 17 of 2006), or the tenets of a religion; a person who is the permanent life partner or SPOUSE or civil union partner of a MEMBER in accordance with the Marriages Act 1961 (Act 25 of 1961), the Recognition of Customary Marriages Act 1998 (Act 120 of 1998), or the Civil Union Act 2006 (Act 17 of 2006) as amended, or the tenets of a religion.

TRUSTEES

The persons appointed as such in terms of SECTION 3.1.2.

UNCLAIMED BENEFIT

Shall mean;

- a) Any benefit, other than a benefit referred to in paragraph (b), (c),(d),(e) and (f) below, not paid by the FUND to a MEMBER, former MEMBER or BENEFICIARY within 24 (twenty-four) months of the date on which it in terms of the RULES of the FUND, became legally due and payable;
- b) A death benefit payable to a BENEFICIARY under Section 37C of the ACT, not paid within 24 (twenty-four) months from the date on which the FUND became aware of the death of the MEMBER, or such longer period as may be reasonably justified by the BOARD of the FUND in writing;
- c) In relation to a benefit payable as a pension or annuity, any benefit which has not been paid by the FUND to a MEMBER, former MEMBER or BENEFICIARY within 24 (twenty-four) months of;
 - i) the expiry date of any guarantee period for pension payments provided for in the RULES of the FUND; or

- ii) the date on which any pension payment or annuity legally due and payable in terms of the RULES of the FUND became unpaid.

- d) In relation to a benefit payable to a former MEMBER who cannot be traced in accordance with Section 15B(5)(e) of the ACT, any benefit that has become legally due and payable to a former MEMBER in terms of a surplus apportionment scheme approved in terms of the ACT not paid to that former MEMBER within 24 (twenty-four) months of the date on which it became legally due and payable;

- e) Any benefit that remained unclaimed or unpaid to a MEMBER, former MEMBER or BENEFICIARY when the FUND applies for cancellation of registration in terms of Section 27 of the ACT or where the Liquidator is satisfied that benefits remained unclaimed or unpaid; or

- f) Any amount that remained unclaimed or unpaid to a NON-MEMBER SPOUSE within 24 (twenty-four) months from the date of the deduction contemplated in Section 37D(4)(a)(ii) of the ACT but does not include a benefit due to be transferred as part of a transfer of business in terms of Section 14, where any annuity is purchased in respect of a pensioner or otherwise in terms of the ACT.

This definition shall be read in conjunction with the provisions of SECTION 11.15 and/or as may be defined in terms of the ACT.

UNCLAIMED BENEFIT FUND

A fund that is established for the receipt of unclaimed benefits contemplated in the definitions of a pension preservation fund and a provident preservation fund in Section 1 of the INCOME TAX ACT 1962 (Act 58 of 1962), as amended.

SECTION 3

3 MANAGEMENT OF THE FUND

3.1 BOARD OF TRUSTEES

3.1.1 The BOARD OF TRUSTEES shall be responsible for the Management of the FUND and shall perform all necessary actions on behalf of the FUND. Each TRUSTEE on the BOARD must meet any eligibility requirements determined by the BOARD in terms of these RULES. The AUTHORITY shall have the right and power to dismiss any TRUSTEE that ceases to be 'fit and proper' to hold office, as envisaged by the provisions of the ACT.

3.1.2 The Parties to COUNCIL shall appoint the BOARD OF TRUSTEES. The BOARD of TRUSTEES shall comprise 9 (nine) persons, of whom 4 (four) shall be from among the representatives of the EMPLOYERS' parties to the COUNCIL, 4 (four) shall be from among the representatives of the EMPLOYEES' parties to the COUNCIL. Party nominated TRUSTEES shall appoint the Independent TRUSTEE by mutual agreement. There shall be no alternates appointed in respect of the BOARD OF TRUSTEES.

3.1.3 The Independent TRUSTEE shall:

- (a) Not be an EMPLOYER representative nor a MEMBER representative;
- (b) Have voting rights and shall have the same powers and obligations as any other TRUSTEE;
- (c) Be entitled to such remuneration as the BOARD may decide from time to time and which has been agreed to by the Independent TRUSTEE;
- (d) The term office for the Independent TRUSTEE shall be the same as the term of office for other TRUSTEES but such appointments can be terminated by the other TRUSTEES if the said TRUSTEE is unable to discharge their responsibilities.

3.1.4 The BOARD OF TRUSTEES shall elect the chairperson and the Deputy chairperson for the BOARD OF TRUSTEES from their own ranks. The chairperson and the deputy chairperson for the BOARD OF TRUSTEES shall hold office for a period of 24 (twenty-four) months. In the absence of the chairperson of the BOARD OF TRUSTEES at any meeting, the deputy chairperson of the BOARD OF TRUSTEES shall act as chairperson for the meeting.

3.1.5 A quorum of the BOARD OF TRUSTEES; shall consist of 5 (five) TRUSTEES; provided that at least 2 (two) TRUSTEES appointed by the representatives of the EMPLOYERS' parties to the COUNCIL, 2 (two) TRUSTEES appointed by the representatives of the EMPLOYEES' parties to the COUNCIL and the Independent

TRUSTEE are present at such meeting. If the TRUSTEES in respect of the EMPLOYERS and the MEMBERS are not equal in number at a meeting, the party in the majority shall withdraw so many of its TRUSTEES from voting at that meeting as is necessary to render the parties numerically equal at the time of voting provided a quorum is still present. The quorum shall be authorised to perform all necessary actions on behalf of the FUND.

Any decision or resolution of the BOARD OF TRUSTEES shall be determined by the majority vote in such form as the chairperson shall determine.

3.1.6 Subject to SECTION 3.1.2 and 3.1.8, the TRUSTEES hold office for a term of 3 (three) years. A TRUSTEE who ceases to hold office because of the expiry of such TRUSTEE'S term of office shall be eligible for re-appointment. The provisions of SECTION 3.1.2 shall then apply to the appointment of the new TRUSTEE.

3.1.7 The BOARD OF TRUSTEE shall appoint a secretary who need not be a TRUSTEE.

3.1.8 Any TRUSTEE must be a major and shall cease to be a TRUSTEE upon:

- Ceasing to be a TRUSTEE in terms of SECTION 3.1.6; or
- Resigning by written notice to the chairperson; or
- Being absent from 3 (three) consecutive meetings without having obtained leave to be absent from the BOARD OF TRUSTEES, unless an explanation that is satisfactory to the BOARD OF TRUSTEES is given; or

- Becoming contractually incapacitated; or
- Such TRUSTEE'S estate being sequestrated or given over to the TRUSTEE'S creditors; or
- Being found guilty by a competent court, in the Republic of South Africa or elsewhere, of theft, fraud, forgery, or any other similar offence; or
- Being dismissed from an office of trust on account of misconduct; or
- Being found guilty by a competent court on any charge and sentenced to imprisonment without the option of a fine; or
- Becoming unfit to be a director of a company in terms of the Companies Act 1973 (Act 61 of 1973) as amended; or
- A unanimous decision by all the unaffected TRUSTEES of the BOARD OF TRUSTEES at a duly constituted meeting; or
- The FUND is dissolved, subject however, to the provisions of SECTION 11.13.

3.1.9 A vacancy amongst the BOARD OF TRUSTEES, excluding the appointment of an Independent TRUSTEE, which is dealt with in terms of SECTION 3.1.2, shall be filled by a substitute appointed by COUNCIL, within the period prescribed by the AUTHORITY, from time to time, provided that such substitute shall cease to hold office as a TRUSTEE upon the expiry of the term of office of the person whose stead the substitute is appointed.

3.1.10 The BOARD OF TRUSTEES shall meet as often as is necessary to

conduct the business of the FUND, but at least twice in every FUND YEAR, provided that at least 14 (fourteen) days prior written notification of ordinary meetings of the BOARD OF TRUSTEES shall be given to each TRUSTEE.

The decision of the majority of the BOARD OF TRUSTEES present at a meeting of the TRUSTEES shall be binding. The BOARD OF TRUSTEES must make a reasonable effort to obtain a clear majority. Where no clear majority can be obtained on any matter, the BOARD OF TRUSTEES must defer the decision to the next meeting. If at that meeting the matter remains in dispute, the matter must be referred to an arbitrator who is a retirement funds specialist, within 14 (fourteen) days. The arbitrator will be required to investigate the matter as he/she deems fit and provide the BOARD OF TRUSTEES with a fully motivated reason for his/her recommendation of a solution within 30 (thirty) days. If the BOARD OF TRUSTEES cannot identify any error of fact in the arbitrator's reasoning or logic, the arbitrator's recommendation will be regarded as a decision made by the BOARD OF TRUSTEES and will be binding on all parties.

If an error of fact is identified, the BOARD OF TRUSTEES may refer the matter back to the appointed arbitrator for reconsideration, or appoint a different arbitrator, to repeat the above process until the matter is resolved.

If the BOARD OF TRUSTEES is unable to agree upon whom the third party should be, the Association under whose jurisdiction the

matter would be best suited, would be requested to assist with the appointment of such person.

3.1.11 Any TRUSTEE may request the chairperson in writing to arrange a meeting of the BOARD OF TRUSTEES to discuss such matters as are set out in the request. Should the chairperson regard the request as reasonable, the chairperson shall arrange a meeting as soon as possible; provided that, if the request is supported by the majority of TRUSTEES and the chairperson fails to arrange a meeting within 30 (thirty) days from the date on which the request was received, they may arrange the meeting themselves after notifying the chairperson of their decision. Should a quorum be present, the decision of the majority shall be binding.

3.1.12 Minutes shall be kept of the meetings of the BOARD OF TRUSTEES. At every meeting, the minutes of the previous meeting shall be signed by the chairperson and such other persons authorised by the BOARD OF TRUSTEES in terms of RULE 3.4, after being approved at the meeting.

3.1.13 The BOARD OF TRUSTEES may introduce further policies to govern their method of operation; provided that such policies are not inconsistent with the provisions of these RULES, the ACT, the COUNCIL AGREEMENT, the Labour Relations Act 1995 (Act 66 of 1995) as amended and the INCOME TAX ACT.

3.1.14 A TRUSTEE'S performance of his/her duties and responsibilities as a TRUSTEE, will be assessed on an ongoing basis according to processes and procedures determined by the BOARD.

3.2 POWERS OF THE TRUSTEES

The BOARD OF TRUSTEES shall give effect to the objectives of the FUND in terms of the RULES and shall have the following powers;

- To receive, administer and apply money of the FUND;
- Distribute death benefits in terms of SECTION 11.4;
- To transfer money to a beneficiary fund, registered as such in terms of the ACT, where appropriate in terms of SECTION 11.4;
- To raise or borrow money at interest or otherwise for purposes of the FUND; provided that borrowing shall be limited to temporary loans necessitated by short term cash shortages;
- To purchase, sell, let borrow, lend, or otherwise acquire or dispose of movable or immovable property for purpose of the FUND;
- To invest in an investment policy by an INSURER or to invest with or delegate their powers to make investments to a financial institution as defined in the Financial Institution (Protection of Funds) Act 2001 (Act 28 of 2001) or an INVESTMENT MANAGER, place on deposit, advance or otherwise deal with any money not immediately required for running expenses of the FUND, against such securities and in such manner as the BOARD OF TRUSTEES may determine, and to realise, change, reinvest or otherwise deal with such securities as the BOARD OF TRUSTEES may determine;
- To recover such amounts from a MEMBERS' benefits as are described in SECTION 11.12 in the circumstances provided for in terms of the RULES,
- To prescribe and rescind regulations as to how a claim should be submitted to and dealt with by the FUND;

- To institute legal action or processes for the FUND and to conduct, abandon or settle such action or processes and to defend or settle legal action or processes instituted against the FUND, and to use the FUND'S money to pay for any legal costs in doing so;
- To take such other steps as are necessary for achieving the FUND'S objectives.
- To make, amend and rescind policies and procedures in respect of a matter concerning the FUND, provided that these do not conflict with the RULES, the ACT and other legislation applicable; To amend these RULES in terms of SECTION 11.8
- To appoint, at its discretion, exercise its powers and delegate to one or more sub-committee(s) or any person(s). The composition of the sub-committee(s), their powers, constitution, quorum, and the election of the office bearers shall be determined by the BOARD OF TRUSTEES and stipulated in a respective written mandate, and subject to such conditions as the BOARD may determine from time to time. Provided that such delegation is lawful and consistent with the exercise of their fiduciary obligations, to perform its functions in taking decisions on specific issues on behalf of the BOARD OF TRUSTEES. The decision taken by the sub-committee(s) or persons(s), shall be referred to the BOARD, by way of being noted and appropriately tabled, for ratification at its next meeting. Once the decision is ratified, the BOARD OF TRUSTEES retains full responsibility for any decision made or taken by the sub-committee(s) or person(s), as if such decision were taken by the BOARD itself, from the onset. A sub-committee(s) shall consist of any number of TRUSTEES provided that the TRUSTEES nominated or appointed shall be authorised to exercise the powers delegated to it by the BOARD OF

TRUSTEES and shall, *mutatis mutandis*, be subject to the provisions of the RULES;

The duties of the BOARD OF TRUSTEES shall include, but not limited to:

- To ensure that proper registers, books, and records of the operations of the FUND are kept, inclusive of proper minutes of all resolutions passed by the BOARD OF TRUSTEES;
- To ensure that proper control systems are employed by or on behalf of the BOARD OF TRUSTEES;
- To take all reasonable steps to ensure that CONTRIBUTIONS received by and on behalf of MEMBERS are paid timeously to the FUND in accordance with the RULES of the FUND;
- To obtain expert advice on matters where the BOARD OF TRUSTEES may lack sufficient expertise;
- To ensure that the RULES of the FUND and the operation of the FUND comply with all applicable laws; and
- To ensure that the assets of the FUND are properly invested in terms of the RULES of the FUND;
- To act independently;
- Ensure that adequate and appropriate information is communicated to the MEMBERS of the FUND, informing them of their rights, benefits, and duties in terms of the RULES of the FUND;
- On becoming aware of any matter, conduct or misconduct, or omission to perform, as the case may be, by the BOARD, that may prejudice the FUND, its MEMBERS and/or BENEFICIARIES, it is incumbent on each TRUSTEE to exercise his/her fiduciary duty and responsibility, to inform the AUTHORITY

at the earliest possible convenience thereof, as envisaged by the provisions of DISCLOSURE in SECTION 2 and those of the ACT, as the case may be.

3.3 PRINCIPAL OFFICER

- a) Subject to the approval of the AUTHORITY, the BOARD OF TRUSTEES shall appoint a PRINCIPAL OFFICER for the FUND. The BOARD OF TRUSTEES shall inform the AUTHORITY of the name of the PRINCIPAL OFFICER. Should the AUTHORITY not approve the appointment of a PRINCIPAL OFFICER, the BOARD OF TRUSTEES may not confirm the appointment to the proposed person. Should the PRINCIPAL OFFICER be absent from the Republic of South Africa or unable for any reason to discharge any duty imposed upon him/her by any provision of the ACT, the FUND shall, appoint another person to be the PRINCIPAL OFFICER within such period as may be prescribed by the AUTHORITY, after the commencement of a continuing absence or inability to discharge any duty by the PRINCIPAL OFFICER, as the case may be.

- b) The BOARD may appoint the DEPUTY PRINCIPAL OFFICER to assume the duties, functions, and responsibilities of the PRINCIPAL OFFICER, in any circumstances that it deems necessary, but must notify the AUTHORITY of such appointment within a period prescribed by the AUTHORITY, from time to time.

- c) The PRINCIPAL OFFICER shall fulfill and perform all the duties and functions required of him/her in terms of the ACT, the RULES of the FUND and any directions of the BOARD of TRUSTEES.

- d) The duties, functions, and responsibilities of the PRINCIPAL OFFICER, in terms of the RULES and the ACT, shall include but not limited to:
- i) Countersign documents as required by the ACT and the RULES;
 - ii) Ensure that any rule amendment is timeously submitted to the AUTHORITY for registration and to the COMMISSIONER for approval, if required;
 - iii) Within 6 (six) months of each FINANCIAL YEAR, ensure that all members who has been traced are sent a written summary of all the rule amendments which were registered within that FINANCIAL YEAR, unless the FUND is exempted from this requirement;
 - iv) Ensure that the FUND'S annual financial statements and other documents referred to in the ACT, are submitted to the AUTHORITY, as required by the ACT;
 - v) Sign all FUND documents that must be submitted to the AUTHORITY; and
 - vi) Perform all other duties and functions which he/she is required by law, to perform. This shall include the duties envisaged in terms of the definition of DISCLOSURE in SECTION 2 and 3.2 of the RULES, respectively.
- e) The PRINCIPAL OFFICER shall be entitled to remuneration for his/her services performed in the execution of his/her duties, functions, and responsibilities as PRINCIPAL OFFICER at such a rate as shall be determined in the BOARD'S remuneration policy.
- f) All reasonable expenses incurred by the PRINCIPAL OFFICER, in

fulfillment of his/her duties, will be borne by the FUND, in accordance with the BOARD'S travel and expenses policy.

- g) The PRINCIPAL OFFICER'S remuneration and the reasonable expenses incurred in respect of him/her must be disclosed and recorded as an expense of the FUND in its financial statements.
- h) The duties, functions, and responsibilities of the PRINCIPAL OFFICER including his/her remuneration package as may be agreed with the BOARD of TRUSTEES, from time to time, shall form the basis of the terms and conditions of the appointment. Such terms and conditions shall be reduced to writing in a separate document.
- i) The performance of the PRINCIPAL OFFICER'S duties, functions, and responsibilities will be assessed on an annual basis in accordance with the processes and procedures determined by the BOARD, from time to time. If, on the basis of these assessments, the majority of the BOARD finds the performance of the PRINCIPAL OFFICER unsatisfactory, he/she may be removed as PRINCIPAL OFFICER, and a new appointment will be made, in terms of the RULES and the ACT, as the case may be.

3.4 SIGNING POWERS

The BOARD OF TRUSTEES must authorise a person(s), from time to time to sign such contract or other document that binds the FUND or any document that authorises any action on behalf of the FUND; provided that any document to be submitted to the AUTHORITY, shall be signed in such manner as prescribed by the ACT.

3.5 ACCOUNTS

The BOARD OF TRUSTEES shall cause such accounts, registers, and records to be kept as necessary for the proper management of the FUND.

The books of account shall be made up at the end of each FUND YEAR and to be audited by the AUDITOR of the FUND.

3.6 BANK ACCOUNT

The BOARD OF TRUSTEES shall arrange for an account to be opened in the name of the FUND at a registered banking institution approved by the AUTHORITY.

All money received by or on behalf of the FUND shall be deposited in such account.

3.7 ADMINISTRATOR

The BOARD OF TRUSTEES shall appoint an ADMINISTRATOR to administer the FUND. Such appointment shall remain in force for a period as agreed between the BOARD OF TRUSTEES and the ADMINISTRATOR, unless the ADMINISTRATOR is discharged by the BOARD OF TRUSTEES or the appointment is relinquished by the ADMINISTRATOR prior to the expiry of the said period, whichever event occurs first. The duties and responsibilities of the ADMINISTRATOR shall be determined by the BOARD OF TRUSTEES from time to time.

The duties envisaged in terms of the definition of DISCLOSURE, in SECTION 2 and 3.2, shall apply.

3.8 AUDITOR

Subject to the approval of the AUTHORITY, the BOARD OF TRUSTEES shall appoint an AUDITOR. Such appointment shall remain in force for a period as agreed between the BOARD OF TRUSTEES and the AUDITOR, unless the BOARD OF TRUSTEES rescinds the appointment or it is relinquished by the AUDITOR prior to the expiry of the said period, whichever event occurs first. The AUDITOR shall have access to all books, accounts, vouchers, and other documents pertaining to the FUND and shall certify the result of each audit in writing.

The duties envisaged in terms of the definition of DISCLOSURE, in SECTION 2 and 3.2, shall apply.

3.9 ADMINISTRATION COSTS

The FUND shall bear all expenses arising from all the management of the FUND, including audit, consulting, and actuarial fees.

3.10 PERSONAL LIABILITY

The PRINCIPAL OFFICER, the BOARD OF TRUSTEES and any other officer of the FUND shall not be personally liable for any loss suffered by the COUNCIL, EMPLOYER, the FUND, the MEMBERS, or the BENEFICIARIES, even where such loss is as the result of an action of such officer; provided that such loss does not result from such officer's negligence, dishonesty or fraud and such action is in accordance with the RULES of the FUND.

3.11 FIDELITY GUARANTEE

3.11.1 The BOARD OF TRUSTEES shall ensure that insurance is affected for such an amount as they regard as sufficient protection against losses which may arise as a result of such negligence, dishonesty, or fraud of any of the FUND'S officers (including the PRINCIPAL OFFICER and BOARD OF TRUSTEES) who receive and handle monies of the FUND.

3.11.2 The BOARD OF TRUSTEES shall ensure that the ADMINISTRATOR and INVESTMENT MANAGER effect and maintain insurance to adequately indemnify the FUND against losses which may arise as a result of the negligence, dishonesty or fraud of any persons employed by such ADMINISTRATOR or INVESTMENT MANAGER, as the case may be.

3.12 REGISTRATION AND SAFE CUSTODY OF DOCUMENTS

All title deeds and securities belonging to the FUND shall be registered in the name of the FUND or in the name of a nominee company approved by the AUTHORITY. No security shall be transferred, varied, disposed of, or otherwise alienated, except with the written approval of the BOARD OF TRUSTEES.

The documents of title in connection with any investments or asset of the FUND shall be kept in safe custody:

- At the registered office of the FUND, or

- At the registered office of the ADMINISTRATOR, if the ADMINISTRATOR is a legal person, or
- At the registered office of a nominee company which holds assets on behalf of the FUND, or
- At a registered financial institution approved by the AUTHORITY, or
- At a registered bank or deposit-taking institution.

3.13 ACTUARY

Subject to the approval of the AUTHORITY, the BOARD OF TRUSTEES shall appoint an ACTUARY as valuator of the FUND. Such appointment shall remain in force until rescinded by the BOARD OF TRUSTEES or relinquished by the ACTUARY, whichever event occurs first. The BOARD OF TRUSTEES shall cause such records to be maintained as are necessary to enable the ACTUARY to perform actuarial calculations for purposes of the FUND at any time.

The duties envisaged in terms of the definition of DISCLOSURE, in SECTION 2 and 3.2, shall apply.

3.14 INVESTMENT MANAGER

The BOARD OF TRUSTEES shall appoint an INVESTMENT MANAGER to perform whatever acts may be necessary with regards to investments on behalf of the FUND. Such appointment will remain in force until rescinded by the BOARD OF TRUSTEES or relinquished by the INVESTMENT MANAGER, whichever event occurs first; provided that an INVESTMENT MANAGER'S appointment will terminate immediately upon such

INVESTMENT MANAGER ceasing to be approved as such in terms of the Securities Services Act 2004 (Act 36 of 2004) and Section 13(B) of the ACT.

The duties envisaged in terms of the definition of DISCLOSURE, in SECTION 2 and 3.2, shall apply.

SECTION 4

4 MEMBERSHIP

4.1 QUALIFICATION

4.1.1 Any person qualifies for membership of the FUND on the date on which the MEMBER becomes an EMPLOYEE; provided that the MEMBER has not yet attained the NORMAL RETIREMENT AGE as at such date.

4.1.2 Any EMPLOYEE who is in service immediately prior to the PARTICIPATION DATE shall become a MEMBER of the FUND.

4.1.3 Any person who become an EMPLOYEE on or after the PARTICIPATION DATE and who is eligible for membership shall become a MEMBER of the FUND from the beginning of the first week during which the first CONTRIBUTIONS in respect of such MEMBER was paid to the FUND.

4.1.4 An EMPLOYER may, in respect of its EMPLOYEES who are employed in the INDUSTRY and whose wages are not specified in the COUNCIL AGREEMENT but who otherwise complies with the provision of the COUNCIL AGREEMENT, by mutual agreement,

between the EMPLOYER and the COUNCIL, apply to the FUND to accept CONTRIBUTIONS from itself and such EMPLOYEES. Upon receipt of such application, the FUND may agree to receive CONTRIBUTIONS from the EMPLOYER and provisions of these RULES shall thereupon, *mutatis mutandis*, apply to the EMPLOYER and EMPLOYEES concerned and shall be observed by them.

4.2 CESSATION OF MEMBERSHIP

A MEMBER'S membership shall cease only:

- Upon such MEMBER'S death; or
- Upon such MEMBER ceasing to be an EMPLOYEE, unless the MEMBER remains entitled to a benefit payable by the FUND in terms of the RULES of the FUND or the rules of the DISABILITY INCOME SCHEME; or
- Upon such MEMBER becoming entitled to a pension purchased for them from an INSURER;
- Upon such MEMBER commuting their full EQUITABLE SHARE in terms of SECTION 6.4;
- Upon the dissolution of the FUND;
- Upon such transferring of his/her UNCLAIMED BENEFIT in terms of SECTION 11.15; or
- Upon such MEMBER'S pension having been purchased from the INSURER; whichever event occurs first.

4.3 PROOF OF AGE

The BOARD OF TRUSTEES have the right to require satisfactory proof of age in respect of any BENEFICIARIES or deceased MEMBER, and the FUND shall

not be obliged to pay benefits to or in respect of such BENEFICIARIES or deceased MEMBER until such proof has been submitted.

SECTION 5

5 CONTRIBUTIONS

5.1 MEMBER'S CONTRIBUTIONS

5.1.1 CURRENT CONTRIBUTIONS

Every MEMBER, who is an EMPLOYEE, shall for each week in which such MEMBER worked in the INDUSTRY for a period of 3 (three) shifts or more, contribute 6% of MEMBER'S PENSIONABLY SALARY which is the current amount in accordance with the COUNCIL AGREEMENT to the FUND; on condition that a contribution which is made by the DISABILITY INCOME SCHEME in respect of a MEMBER who is receiving a Disability Income, shall be regarded as a contribution made by the MEMBER himself.

5.1.2 ADDITIONAL CONTRIBUTIONS

A MEMBER may transfer to the FUND any lump sum benefits arising from membership of another APPROVED FUND and may, with the consent of the BOARD OF TRUSTEES, make an ADDITIONAL CONTRIBUTIONS to the FUND on such basis as may mutually agree upon.

Such ADDITIONAL CONTRIBUTIONS shall be applied to increase the MEMBER'S EQUITABLE SHARE on a bases determined by the BOARD OF TRUSTEES in consultation with the ACTUARY.

5.2 EMPLOYER'S CONTRIBUTIONS

5.2.1 The EMPLOYER shall contribute to the FUND each month in respect of each MEMBER who is an EMPLOYEE for each week in which such MEMBER worked in the INDUSTRY for a period of 3 (three) shifts or more, 9% of MEMBER's PENSIONABLE SALARY which is the current amount in accordance with the COUNCIL AGREEMENT less the amount of contributions made for the cost of the DISABILITY INCOME SCHEME and an amount of the Contributions made by the EMPLOYER for the cost of the Funeral Scheme operated by the COUNCIL for the benefit of the EMPLOYEES. The EMPLOYER Contributions will include the amounts, as calculated by the ACTUARY, required to maintain the balance in the CONTINGENCY RESERVE ACCOUNT at an acceptable level as determined by the ACTUARY.

5.2.2 If an EMPLOYER'S participation in the FUND commences Subsequent to the INCEPTION DATE, or if members of another fund enter the FUND as a result of a merger or a take-over, the BOARD OF TRUSTEES, in consultation with the ACTUARY, may make such arrangements and impose such condition as they may deem fit, to ensure that the admission of the EMPLOYEES of such new EMPLOYER shall not be to the disadvantage of the existing MEMBERS; and in particular they may require such EMPLOYER to pay such additional CONTRIBUTIONS or initial CONTRIBUTION to the FUND as the ACTUARY certifies as necessary.

5.2.3 The EMPLOYER may make such additional CONTRIBUTIONS as the ACTUARY may recommend and as approved by the BOARD OF TRUSTEES.

Notwithstanding anything to the contrary in the RULES, payment of CONTRIBUTIONS by the EMPLOYER in terms of SECTION 5.2.3 shall be subject to prior approval by the COMMISSIONER.

5.3 PAYMENT OF CONTRIBUTIONS

CONTRIBUTIONS shall be rounded off to the higher of 10 (ten) cents and the total MEMBER and EMPLOYER CONTRIBUTIONS shall be paid to the COUNCIL monthly in arrears in lump sum by the EMPLOYER by no later than the 15th of the month. The COUNCIL shall pay CONTRIBUTIONS payable to the FUND by the 25th day of the following month in respect of which such CONTRIBUTIONS are being paid, or such other period as allowed by the AUTHORITY.

5.4 PAYMENTS TO INSURERS OR INVESTMENT MANAGERS

The ADMINISTRATOR shall pay assets of the FUND that are available for investments in terms of the RULES to the INVESTMENT MANAGER responsible for the investment of the FUND'S assets within a period as agreed between the ADMINISTRATOR and the FUND from time to time.

5.5 INTEREST ON LATE OR UNDERPAID CONTRIBUTIONS

The FUND shall recover from the COUNCIL or the EMPLOYER, as the case may be on CONTRIBUTIONS that are paid late at a rate determined by the ACT.

SECTION 6

6 RETIREMENT BENEFITS

6.1 NORMAL RETIREMENT

A MEMBER who retires on the NORMAL RETIREMENT DATE shall be entitled to a pension that can be secured by the MEMBER'S EQUITABLE SHARE at the date of such MEMBER'S retirement.

6.2 EARLY RETIREMENT

6.2.1 VOLUNTARY RETIREMENT

A MEMBER may retire at any time after attaining the age of 55 (fifty-five) years. In this event the MEMBER shall be entitled to a pension that can be secured by such MEMBER'S EQUITABLE SHARE at the date of retirement.

6.2.2 ILL HEALTH RETIREMENT

Notwithstanding the provisions of SECTION 6.2.1 if in the opinion of the EMPLOYER, subject to the agreement of the BOARD OF TRUSTEES and subject to the submission of satisfactory medical proof, a MEMBER, who is not in receipt of a disability income benefit from the DISABILITY INCOME SCHEME, is unable to perform their

duties in the INDUSTRY on account of ill health, such MEMBER may retire at any time prior to the NORMAL RETIREMENT DATE. In this event the MEMBER shall be entitled to a pension that can be secured by the MEMBER'S EQUITABLE SHARE at the date of retirement.

6.3 LATE RETIREMENT

6.3.1 Subject to agreement between the EMPLOYER and the MEMBER, a MEMBER may continue with membership after the NORMAL RETIREMENT DATE. In this event, membership shall continue, and CONTRIBUTIONS shall continue to be payable by and in respect of that MEMBER after the NORMAL RETIREMENT DATE until the age of 70 (seventy) years. After the age of 70 (seventy) years, the MEMBER may elect to be a DEFERRED RETIREE. Such DEFERRED RETIREE shall be entitled to a pension that can be secured by such DEFERRED RETIREE'S EQUITABLE SHARE as at the ELECTION DATE.

6.3.2 A MEMBER who has reached the NORMAL RETIREMENT DATE may elect to be a DEFERRED RETIREE. Such DEFERRED RETIREE shall be entitled to a pension that can be secured by such DEFERRED RETIREE'S EQUITABLE SHARE as at the ELECTION DATE.

6.4 COMMUTATION OF PENSION

A MEMBER shall be entitled to commute up to one third of such MEMBER'S EQUITABLE SHARE for a lump sum benefit; provided that if the total pension that can be purchased from an INSURER, before the commutation thereof, is less than the maximum pension that may be fully commuted in terms of statutory provisions, the whole of such pension shall be commuted.

If the whole of the MEMBER'S EQUITABLE SHARE is commuted for a lump sum benefit such benefit shall be paid to the MEMBER by the FUND whereafter the former MEMBER shall have no further claim against the FUND.

6.5 JOINT PENSION OPTION

In lieu of the pension to which a MEMBER is entitled in terms of SECTION 6.1, 6.2 or 6.3, such MEMBER may at any time before retirement other than as a result of ill health as contemplated in SECTION 6.2.2, elect to receive a pension that is payable for as long as such MEMBER and/or a designated BENEFICIARY is alive. In this event the pension on the MEMBER'S own life shall be reduced on a basis determined by the ACTUARY in accordance with the ages of the MEMBER and his/her designated BENEFICIARY and the amount of the pension to be continued after the MEMBER'S death.

6.6 PAYMENT OF PENSIONS BY THE FUND

Pensions that are payable by the FUND in accordance with the RULES shall be payable monthly in arrears. The first instalment shall be payable on the last day of the month in which the MEMBER attains the NORMAL RETIREMENT DATE or RETIREMENT DATE, as the case may be.

Each monthly pension instalment shall be equal to one-twelfth of the annual pension.

Subject to the provisions of SECTION 6.5 all pensions shall be payable for as long as the PENSIONER lives and the final instalment shall be payable in respect of the month in which the PENSIONER dies, subject to the provisions of SECTION 7.

Notwithstanding the provisions of Section 37A of the ACT, the benefit shall be payable to the MEMBER. On sufficient proof being provided to the satisfaction of the FUND and/or its ADMINISTRATOR, that such MEMBER is unable to open an account, the FUND through its ADMINISTRATOR, may effect payment of such benefit into the bank account of a third party. Such payment shall be deemed to have been made to the MEMBER concerned.

6.7 MEMBER'S CHOICE

6.7.1 When a MEMBER retires in terms of SECTION 6.1, 6.2 or 6.3 the MEMBER shall have the choice of receiving a pension that is payable by the FUND in accordance with the provisions of the RULES or to purchase a pension in terms of the MEMBER'S own name from an INSURER of his/her choice.

6.7.2 If a MEMBER exercises the choice in terms of SECTION 6.7.1 to purchase a pension from an INSURER, such choice must be exercised in writing to the FUND prior to the MEMBER'S retirement.

6.7.3 If the MEMBER'S written choice in terms of SECTION 6.7.1 to purchase a pension from an INSURER is not exercised to the FUND within the time limits specified in SECTION 6.7.2, it shall be deemed that the MEMBER exercised the choice to receive a pension that is payable by the FUND in accordance with the provisions of the RULES.

6.8 PURCHASE OF PENSION

- 6.8.1** If a MEMBER exercises the choice to purchase a pension from an INSURER as provided in SECTION 6.7, a pension equal in value to the pension to which a MEMBER is entitled in terms of the provisions of SECTION 6.1, 6.2, 6.3 and 6.9, which may not be less than the MEMBER'S EQUITABLE SHARE in value, shall be purchased from a domestic INSURER of the MEMBER'S choice and in the name of the MEMBER, on a basis that the MEMBER becomes owner of the pension.
- 6.8.2** Upon the retirement of a MEMBER referred to in SECTION 6.8.1, such MEMBER'S EQUITABLE SHARE as at the date of retirement, together with additions in terms of SECTION 6.9, if any, less any portion thereof that is commuted for a lump sum benefit in terms of SECTION 6.4, shall be used by the FUND to purchase a pension as provided in SECTION 6.8.1.
- 6.8.3** The annual amount of the MEMBER'S pension as well as the condition applicable to the payment thereof shall be mutually agreed between the MEMBER and the relevant INSURER at the time of purchase thereof.
- 6.8.4** The purchase of the MEMBER'S pension in terms of this RULE shall be subject to the express conditions that:
- Such pension must be a lifelong pension in the name of the MEMBER or the MEMBER and a BENEFICIARY,
 - Such pension or right to such pension may not be reduced, transferred, or otherwise ceded, or pledged or hypothecated, or be

liable to be attached or subject to any form of execution under judgement or order of a court of law.

- Such pension may not be commuted for a lump sum benefit during the lifetime of the MEMBER, and
- The MEMBER'S EQUITABLE SHARE, or the remainder thereof as contemplated in SECTION 6.8.2, that is applied to purchase the MEMBER'S pension as provided in SECTION 6.8.1, shall be transferred directly to the relevant INSURER on the MEMBER'S behalf, whereafter the former MEMBER shall have no further claim against the FUND.

6.9 AUGMENTATION OF PENSION

A MEMBER'S total pension in terms of SECTION 6 shall be augmented on the date of the MEMBER'S NORMAL RETIREMENT AGE to such amount and subject to such conditions as may be determined by the BOARD OF TRUSTEES from time to time, in consultation with the ACTUARY, and subject to the availability of funds allocated for this purpose to the CONTINGENCY RESERVE ACCOUNT.

Any amount of augmentation will be added to the value of the MEMBER'S EQUITABLE SHARE, as it was before augmentation, so that the combined value will be used for the purchase of any pension from an INSURER

SECTION 7

7 PAYMENT OF PENSION AFTER DEATH

On receipt of satisfactory proof of the death of a PENSIONER the following shall apply.

7.1 PENSION GUARANTEE

7.1.1 The pension payable to a PENSIONER by the FUND in terms of SECTION 6 shall cease on the death of the PENSIONER unless his/her death occurs within 5 (five) years of his/her retirement, in which event payment of the pension shall continue for the remainder of the 5 (five) years period.

7.1.2 If a PENSIONER elected to receive a joint life pension in terms of RULE 6.5, the pension payments for the remainder of the 5 (five) years period shall be paid to the PENSIONER'S designated BENEFICIARY, whereafter a reduced pension of two thirds of the PENSIONERS pension shall be paid to the designated BENEFICIARY until death.

7.1.3 If the PENSIONER did not elect to receive a joint life pension in terms of SECTION 6.5, the pension payments for the remainder of the 5 (five) years period shall be paid in accordance with the provision of SECTION 11.4.

7.2 PURCHASE PENSION

The conditions relating to the payment of benefits after the death of a person whose pension has been purchased from an INSURER as provided in SECTION

6.7 shall be as mutually agreed between such person and the INSURER at the time of purchase of such pension.

SECTION 8

8 DEATH BENEFITS

If a MEMBER who has not yet retired in terms of the RULES dies the following shall apply; provided that satisfactory proof of the death of the MEMBER is submitted to the FUND:

8.1 BENEFIT ON DEATH BEFORE THE NORMAL RETIREMENT DATE

A lump sum benefit equal to the total of:

8.1.1 2 (two) times the deceased MEMBER'S annual PENSIONABLE SALARY as at the date of death; and

8.1.2 The deceased MEMBER'S EQUITABLE SHARE as at the date of actual benefit payment,

8.2 BENEFIT ON DEATH ON OR AFTER THE NORMAL RETIREMENT DATE

If a MEMBER dies on or after attaining the NORMAL RETIREMENT DATE but before such MEMBER'S retirement in terms of the RULES, a lump sum benefit equal to the MEMBER'S EQUITABLE SHARE will become payable.

8.3 ASSURANCE

The FUND shall insure the benefits set out in SECTION 8.1.1 with an INSURER of its choice on the basis and to the extent recommended by the ACTUARY.

Should the INSURER for any reason, refuse to insure or pay the full benefit to which a MEMBER is entitled in terms of the RULES or refuse to insure or pay the benefit in respect of a MEMBER to the full extent to which such benefit has been insured, the FUND shall have the right to reduce the MEMBER'S benefits; provided that the reduced benefits shall be at least equal in value to the amount paid to the FUND in respect of the MEMBER by the INSURER and the MEMBER'S EQUITABLE SHARE.

The BOARD OF TRUSTEES shall notify the MEMBER in writing of any condition or limitation imposed in terms of this RULE.

8.4 CONDITIONS APPLICABLE TO THE PAYMENT OF DEATH BENEFITS BEFORE RETIREMENT

- 8.4.1** The lump sum benefit shall be paid in accordance with the provisions of SECTION 11.4.
- 8.4.2** In addition to the proof of age that must be submitted in terms of SECTION 4.3, every person who qualifies to receive a benefit in terms of this RULE shall submit proof that he/she complies with the requirements to qualify as a BENEFICIARY on the date of the MEMBER'S death. No benefit shall be paid in respect of a MEMBER until such proof has been submitted to the FUND.
- 8.4.3** The FUND will only incur a liability in terms of this RULE to pay a benefit if the benefit has been admitted by the INSURER. Any benefit payable in terms of this RULE shall be subject to the terms and conditions of the policy issued by the INSURER, which shall provide that the cover in respect of those MEMBERS for whom

CONTRIBUTIONS are due and payable, but not paid shall cease in the event of the FUND not receiving CONTRIBUTIONS from the EMPLOYER within the period specified.

SECTION 9

9 WITHDRAWAL BENEFITS

If a MEMBER leaves the services of the EMPLOYER for the duration of the waiting-period before reaching NORMAL RETIREMENT DATE and is not entitled to any other benefit in terms of the RULES of the FUND or the rules of the DISABILITY INCOME SCHEME, the MEMBER shall be entitled to either of the benefits available under SECTION 9.1 or 9.2, as elected by the MEMBER.

9.1 CASH BENEFIT

A lump sum benefit equal to the MEMBER'S EQUITABLE SHARE in the FUND as at the date of termination of service shall be paid by the FUND, whereafter the former MEMBER shall have no further claim against the FUND.

Notwithstanding the provisions of Section 37A of the ACT, the benefit shall be payable to the MEMBER. On sufficient proof being provided to the satisfaction of the FUND and/or its ADMINISTRATOR, that such MEMBER is unable to open an account, the FUND through its ADMINISTRATOR, may effect payment of such benefit into the bank account of a third party. Such payment shall be deemed to have been made to the MEMBER concerned.

9.2 PRESERVATION BENEFIT

A MEMBER shall have the right to request the BOARD OF TRUSTEES to transfer the whole or any portion of the benefit to which such MEMBER is entitled in terms of SECTION 9.1 to another APPROVED FUND chosen by the MEMBER. In this event the FUND shall transfer the MEMBER'S benefit, or such portion thereof as requested by the MEMBER'S directly to such other APPROVED FUND on the MEMBER'S behalf, whereafter the former MEMBER shall have no further claim against the FUND.

The exercising of this choice by the MEMBER is subject to the express condition that such choice, including full details of the APPROVED FUND to which the benefit is to be transferred, shall be submitted in writing to the ADMINISTRATOR within a period of 30 (thirty) days following the date of termination of the MEMBER'S service.

If such written instruction is not submitted within the specified period it shall be deemed that the MEMBER elected to receive the cash benefit in terms of SECTION 9.1.

If any such transfer is to an APPROVED FUND that has been approved by the COMMISSIONER as a pension preservation fund, such transfer will be conducted in compliance with the requirements of the INCOME TAX ACT.

9.3 DEFERRED BENEFIT

Instead of receiving the lump sum benefit specified in SECTION 9.1, or electing the preservation benefit in SECTION 9.2, a MEMBER shall have the right, , to request the BOARD OF TRUSTEES to defer the payment of the benefit to which he/she is entitled to until retirement. In this event the MEMBER'S benefit shall be retained in the FUND and payment of the MEMBER'S EQUITABLE SHARE

shall be deferred until NORMAL RETIREMENT DATE or the MEMBER'S earlier retirement or death, as the case may be. A MEMBER who elects to defer his/her benefit in terms of this SECTION 9.3, shall not be entitled to the payment of an insured death benefit in terms of SECTION 8.

9.4 PAID-UP MEMBER

- 9.4.1** A MEMBER who has left the service of the EMPLOYER before retirement and become entitled to a benefit in terms of SECTION 9, will become a PAID-UP MEMBER unless he/she elects in writing to the FUND to receive his/her withdrawal benefit or to transfer it to another APPROVED FUND.
- 9.4.2** No further CONTRIBUTIONS are payable after the date of termination of service of such PAID-UP MEMBER unless the PAID-UP MEMBER again becomes employed by the EMPLOYER before NORMAL RETIREMENT DATE and again becomes a MEMBER.
- 9.4.3** The PAID-UP MEMBER'S EQUITABLE SHARE will remain in the INVESTMENT PORTFOLIO(S) in which it was invested immediately prior to becoming a PAID-UP MEMBER until the next investment switching date.
- 9.4.4** The paid-up benefit payable in terms of this RULE will be payable on receipt of the MEMBER'S election to receive the benefit, after the terms and procedures of such payment or transfer was made available to such PAID-UP MEMBER. The PAID-UP MEMBER may therefore request payment of the paid-up benefit at any time.

- 9.4.5** If the PAID-UP MEMBER dies after termination of service but prior to the paid-up benefit becoming payable, a benefit equal to the value of the PAID-UP MEMBER'S EQUITABLE SHARE, as at the realisation date, will be paid into the deceased PAID-UP MEMBER'S estate.

SECTION 10

10 BENEFITS DURING TEMPORARY ABSENCE

- 10.1** If a MEMBER is temporarily absent from service with the consent of the EMPLOYER and the full CONTRIBUTIONS by and on behalf of the MEMBER are continued, the MEMBER'S membership of the FUND and the benefits in respect of such MEMBER shall not be affected; provided that any such benefits which are insured with an INSURER shall be subject to such limitations and conditions as the relevant INSURER may impose.
- 10.2** The EMPLOYER may revise a MEMBER'S PENSIONABLE SALARY during the period of approved absence; provided that the PENSIONABLE SALARY for the purposes of benefits insured with an INSURER shall be subject to such limitations and conditions as the relevant INSURER may impose.
- 10.3** Subject to the provisions of SECTION 10.4, if a MEMBER is temporarily absent from services, without the consent of the EMPLOYER, after the expiry of the EMPLOYER'S abscondment policy period, the MEMBER will become entitled to the benefit provided for in terms of SECTION 6 or 9, as the case may be, at the end of such period.

Notwithstanding the provisions of Section 37A of the ACT, the benefit shall be payable to the MEMBER. On sufficient proof being provided to the satisfaction of the FUND and/or its ADMINISTRATOR, that such MEMBER is unable to open an account, the FUND through its ADMINISTRATOR, may effect payment of such benefit into the bank account of a third party. Such payment shall be deemed to have been made to the MEMBER concerned.

10.4 If a MEMBER is temporarily absent from service due to the MEMBER'S participation in a strike or due to the EMPLOYER'S right to lock-out striking EMPLOYEES in terms of Section 64 of the Labour Relations Act 1995 (Act 66 of 1995), the EMPLOYER may exercise its right in terms of Section 67(3) of the Labour Relations Act 1995 (Act 66 of 1995) and suspend payment of contributions in respect of such MEMBERS for the duration of the strike or lock-out and no retirement benefits will accrue to the MEMBER in respect of such period of absence; provided that the CONTRIBUTIONS required in respect of the cost of death benefits in terms of SECTION 8.1.1 will continue to be payable by the EMPLOYER for the duration of the strike or lock-out.

10.5 Should the strike or lock-out continue for more than 30 (thirty) days, CONTRIBUTIONS required in respect of the cost of death benefits in terms of SECTION 8.1.1 will cease and the MEMBER will cease to be eligible for the benefits provided for in SECTION 8 after expiry of the 30 (thirty) days period and should such MEMBER die during the period of absence subsequent to the 30 (thirty) days period, the provisions of SECTION 6 or 8 will apply, as the case may be.

SECTION 11

11 GENERAL

11.1 NON-ASSIGNABILITY OF BENEFITS

11.1.1 Save to the extent permitted by the INCOME TAX ACT, the Maintenance Act 1998 (Act 99 of 1998) the Divorce Act 1979 (Act 70 of 1979) and SECTION 11.4 and 11.12 of the RULES, no benefit or right thereto provided for in the RULES (including an annuity purchased or to be purchased by the FUND from an INSURER for a BENEFICIARY) or right in respect of CONTRIBUTIONS made by or on behalf of a MEMBER, shall be capable of being reduced, transferred, ceded, pledged, hypothecated, attached or subjected to any form of execution under a judgement or order of a court of law.

11.1.2 If a BENEFICIARY attempts to transfer, cede, pledge, or hypothecate a benefit or right thereto, the BOARD OF TRUSTEES may direct that payment of such benefit will be held or suspended or that payment of such benefit be effected in accordance with SECTION 11.1.1 or 11.4.5, as the case may be.

11.1.3 A benefit payable in respect of a deceased MEMBER shall not be regarded as an asset in such MEMBER'S deceased estate.

11.2 GREATER BENEFITS

At the request of the EMPLOYER, the BOARD OF TRUSTEES may grant greater benefits to MEMBERS and BENEFICIARIES than those provided for in the RULES; provided that the cost of such greater benefits, as determined

by the ACTUARY, shall be paid by the EMLOYER to the FUND in such a manner as agreed upon by the BOARD OF TRUSTEES and the EMPLOYER.

11.3 TRANSFERS TO OR FROM OTHER FUNDS

11.3.1 The FUND is empowered to receive transfers of monies and business from other APPROVED FUNDS or to effect transfers of monies and business to other APPROVED FUNDS subject to the relevant provisions of the INCOME TAX ACT and Section 14 of the ACT and on such terms and conditions as the BOARD OF TRUSTEES in consultation with the ACTUARY may decide; provided that any such transfer to or from an APPROVED FUND that has been approved by the COMMISSIONER as a pension preservation fund will be conducted in compliance with the INCOME TAX ACT. The FUND is also empowered to receive transfers of monies and business from any other retirement funding arrangement being operated in a country other than the Republic of South Africa and approved as such by that country's relevant authorised regulators.

11.3.2 Notwithstanding any other contrary in the RULES of the FUND, the following provisions will be applicable to a MEMBER who is transferred to another APPROVED FUND, from the effective date

of the transfer until the actual date of payment of the MEMBER'S assets in the FUND to said APPROVED FUND:

11.3.2.1 No further CONTRIBUTIONS are payable to the FUND after the effective date of the transfer;

11.3.2.2 If such MEMBER retires prior to the completion of the transfer, the MEMBER will become entitled to a pension that can be secured by the MEMBER'S EQUITABLE SHARE as at the date of retirement and provisions of SECTION 6 will apply, *mutatis mutandis*.

11.3.2.3 If such MEMBER dies prior to the completion of the transfer, the MEMBER'S EQUITABLE SHARE as at the date of death, adjusted with the rate of interest as determined by the BOARD OF TRUSTEES from time to time, taking into account the investment vehicle in which and the period during which the assets representing the benefit are invested and all other relevant facts, until the actual date of payment of the benefit and the cost, as approved by the BOARD OF TRUSTEES, that was necessary to trace the BENEFICIARIES in terms of SECTION 11.4 will be paid in terms of the provisions of SECTION 11.4.

11.3.2.4 If such MEMBER'S services are terminated prior to the completion of the transfer, the MEMBER'S

EQUITABLE SHARE as at the date of leaving service will be paid to the MEMBER, and the provisions of SECTION 9 will apply, *mutatis mutandis*.

11.3.2.5 Any amount already paid to the MEMBER by the FUND prior to the completion of the transfer will be deducted from the amount allocated towards the MEMBER in the transfer.

11.3.2.6 A MEMBER'S benefit in terms of this RULE may be increased by such proportionate share of the CONTINGENCY RESERVE ACCOUNT and/or MEMBER SURPLUS ACCOUNT, as determined by the BOARD OF TRUSTEES, in consultation with the ACTUARY, from time to time.

11.4 PAYMENT OF BENEFITS

11.4.1 In the event that a benefit becomes payable, the BOARD OF TRUSTEES shall, within 30 (thirty) days from the date of the benefit accrual or the date of receipt of the notification of the benefit accrual, whichever is the later, cause that the amount representing the benefit be invested in a product or investment vehicle, as determined by the BOARD OF TRUSTEES from time to time, until the actual date of payment of the benefit.

11.4.2 Subject to SECTION 11.4.3, 11.4.4, 11.4.5 and 11.12, the FUND shall pay any benefits that are payable in terms of the RULES in respect of any person who is still living, to such person.

Notwithstanding the provisions of Section 37A of the ACT, the benefit shall be payable to the MEMBER. On sufficient proof being provided to the satisfaction of the FUND and/or its ADMINISTRATOR, that such MEMBER is unable to open an account, the FUND through its ADMINISTRATOR, may effect payment of such benefit into the bank account of a third party. Such payment shall be deemed to have been made to the MEMBER concerned.

11.4.3 Subject to the provisions of SECTION 11.4.4, 11.4.5 and 11.4.6, a benefit which becomes payable upon a MEMBER'S death, shall be dealt with by the BOARD OF TRUSTEES as follows:

- Should the existence of a DEPENDANT or DEPENDANTS of the MEMBER become known to the FUND and such DEPENDANT or DEPENDANTS whereabouts determined within 12 (twelve) months of the death of the MEMBER, the benefit shall be paid to such DEPENDANT or if there is more than 1 (one) DEPENDANT, to any one such DEPENDANT or in proportions to some or all of such DEPENDANTS, as may be deemed equitable by the BOARD OF TRUSTEES.
- Should the existence of the DEPENDANT of the MEMBER not become known to the FUND, or should the FUND be unable to trace any such DEPENDANT within 12 (twelve) months of the death of the MEMBER and the MEMBER has designated to the FUND a NOMINEE to receive the benefit, or such portion of the benefit as is specified by the MEMBER, the benefit or such portion of the benefit shall be paid to such NOMINEE;

provided that where the aggregate of the debts in the estate of the MEMBER exceeds the aggregate of the assets in the estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit or balance of such portion of the benefit as specified by the MEMBER shall be paid to the NOMINEE.

- If a MEMBER has a DEPENDANT and the MEMBER has also designated to the FUND a NOMINEE to receive the benefit or such portion of the benefit as is specified by the MEMBER, the FUND shall with 12 (twelve) months of the death of such MEMBER pay the benefit or such portion thereof to such DEPENDANT or NOMINEE in such portions as the BOARD OF TRUSTEES may deem equitable. It is a proviso that the BOARD OF TRUSTEES may pay the benefit to a DEPENDANT or NOMINEE contemplated in this paragraph or if there is more than 1 (one) such DEPENDANT or NOMINEE, in proportions to any or all of such DEPENDANTS and NOMINEES.

- Should the existence of a DEPENDANT of the MEMBER not become known to the FUND or should the FUND be unable to trace any such DEPENDANT within 12 (twelve) months of the death of the MEMBER, and if the MEMBER has not designated a NOMINEE, or if the MEMBER has designated to the FUND a NOMINEE to receive a portion of the benefit to the FUND, the benefit or the remaining portion of the benefit after

payment to the NOMINEE shall be paid into the estate of the MEMBER, or if no inventory in respect of the MEMBER has been received by the Master of the High Court in terms of the Estates Act 1965 (Act 66 of 1965) into the Guardian's Fund.

11.4.4 Notwithstanding the provisions of SECTION 11.4.2 and 11.4.3, the FUND shall pay a lump sum benefit payable to a DEPENDANT or NOMINEE who is a minor, to such minor's *de jure* guardian in a lump sum or to such minor's *de jure* guardian or caregiver as defined in the Children's Act 2005 (Act 38 of 2005) in such instalments as the BOARD OF TRUSTEES may from time to time consider appropriate and in the best interest of such BENEFCIARY. It is a proviso that where a benefit is paid in instalments, the following conditions shall apply:

- Interest at a rate determined by the BOARD OF TRUSTEES having regard to the INVESTMENT RETURN shall be added to the outstanding balance from time to time.
- Any balance owing to such BENEFCIARY as at the date on which the BENEFCIARY attains majority or dies, whichever occurs first, shall be paid in full to such BENEFCIARY or to such BENEFCIARY'S estate, as the case may be.

11.4.5 Should the BOARD OF TRUSTEES decide that there are sound and adequate reason why a benefit should not be paid to a MEMBER, they may notwithstanding the provision of SECTION 11.4.2, pay the benefit:

- Wholly or partially to the MEMBER'S DEPENDANT(S) or to a legal guardian or care-giver, as defined in the Children's Act 2005 (Act 38 of 2005); or
- To the MEMBER'S curator for the benefit of the MEMBER.

11.4.6 Should the BOARD OF TRUSTEES decide that there are sound and adequate reasons why a benefit which has arisen as a result of a MEMBER'S death should not be paid to a BENEFICIARY, they may, notwithstanding the provisions of SECTION 11.4.2, 11.4.3, 11.4.4 and 11.4.7 pay the benefit:

- Wholly or partially to the BENEFICIARY'S dependent(s) or to a trustee or a guardian for the benefit of such dependant(s), if the BENEFICIARY attempts to contravene the provisions of SECTION 11.1.1; or
- To the BENEFICIARY'S curator for the benefit of the BENEFICIARY OR
- To a BENEFICIARY FUND as defined in the ACT.

11.4.7 Notwithstanding any contrary provision contained in this SECTION 11.4, the BOARD OF TRUSTEES may pay a lump sum benefit payable to a DEPENDANT or NOMINEE who is not a minor in instalments if such BENEFICIARY has consented thereto in writing provided that:

- The amount and frequency of the instalments, the rate at which interest is to be added and any other terms and conditions

shall be disclosed in a written agreement between the FUND and the BENEFICIARY concerned;

- The agreement may be cancelled by the FUND or the BENEFICIARY on written notice not exceeding 90 (ninety) days;
- If the agreement is cancelled, the balance of the benefit shall be paid to the BENEFICIARY in full.

11.4.8 A decision of the BOARD OF TRUSTEES in accordance with SECTION 11.4.4 and 11.4.5 (other than a decision to make a payment to a BENEFICIARY FUND, trust, or a decision to pay a lump sum benefit in instalments) may be amended from time to time.

11.5 LATE PAYMENT OF BENEFITS

The BOARD OF TRUSTEE may, in consultation with the ACTUARY, determine from time to time the period in which the different benefits payable by the FUND must be paid as well as the interest to be added to the benefit if the benefit is paid after the expiry of the said period.

11.6 CURRENCY

CONTRIBUTIONS and benefits in terms of the RULES are payable in the legal currency of the Republic of South Africa. However, in special circumstances the BOARD OF TRUSTEES may authorise payments outside

the Republic of South Africa on such conditions as the BOARD OF TRUSTEES may determine.

11.7 DISPUTES AND COMPLAINTS

11.7.1 Any dispute arising which relates to the interpretation, application, or enforcement of the RULES of the FUND shall be processed in terms of this RULE, notwithstanding the provisions of the Labour Relations Act 1995 (Act 66 of 1995). Any dispute involving the employment relationship with the EMPLOYER, may still be dealt with in terms of the Labour Relations Act 1995 (Act 66 of 1995).

A decision of the BOARD OF TRUSTEES as to the meaning of or interpretation of the RULES or part of a RULE, will be final and binding on the EMPLOYERS and any MEMBER or BENEFICIARY, subject to the provision of Section 30A of the ACT.

11.7.2 In the event of a COMPLAINT arising, other than a COMPLAINT by the BOARD OF TRUSTEES against another person, the COMPLAINANT may lodge a written complaint with the BOARD OF TRUSTEES at the registered office of the FUND or such other address as designated by the BOARD OF TRUSTEES for this purpose.

11.7.3 The BOARD OF TRUSTEES will deal with all COMPLAINTS lodged with it. For this purpose, the BOARD OF TRUSTEES may request the COMPLAINANT or any other person for such

additional information relating to the COMPLAINT as it may deem necessary to enable it to properly deal therewith.

11.7.4 The BOARD OF TRUSTEES shall furnish the COMPLAINANT with its written decision regarding the COMPLAINT within 30 (thirty) days, or such other period as mutually agreed in writing with the COMPLAINANT, of receipt of the COMPLAINT.

11.7.5 If the COMPLAINANT is not satisfied with the decision of the BOARD OF TRUSTEES, the COMPLAINANT shall have the right to appeal against such decision within a period of 30 (thirty) days of receipt thereof. In this event, the BOARD OF TRUSTEES may revise or uphold its initial decision.

11.7.6 If the BOARD OF TRUSTEES fails to respond to the COMPLAINT within the period stipulated in SECTION 11.7.4 or if the COMPLAINANT is not satisfied with the outcome of the appeal in terms of SECTION 11.7.5, the COMPLAINANT will have the right to submit the COMPLAINT to the ADJUDICATOR.

11.7.7 Subject to the provision of SECTION 11.7.8 any determination of the ADJUDICATOR regarding a COMPLAINT will be deemed to be a civil judgement of any court of law had the COMPLAINT been heard by such court and will be legally binding on the parties thereto.

11.7.8 If either the BOARD OF TRUSTEES or the COMPLAINANT are

aggrieved by the determination of the ADJUDICATOR, the aggrieved party will have the right, within a period of 6 (six) weeks following the date of the ADJUDICATOR'S determination, to apply to a division of the High Court which has jurisdiction, for relief. The aggrieved party will give simultaneous written notice to the other party of its intention to lodge such application.

11.7.9 For purposes of the foregoing provisions, all written notifications as contemplated therein will be transmitted to the BOARD OF TRUSTEES or the COMPLAINANT, as the case may be, by pre-paid registered post, facsimile transmission, or physical delivery. Receipt thereof will be deemed to have taken place on the 10 (tenth) working day following the date of posting, if sent by post or the day following the date of physical delivery or facsimile transmission.

11.7.10 The foregoing provisions will *mutatis mutandis*, be applicable if the BOARD OF TRUSTEES lodge a COMPLAINT on behalf of the FUND; provided that nothing herein contained will limit the rights of the BOARD OF TRUSTEES to resort to such other remedies as it may deem appropriate in order to protect the interest of the FUND and its MEMBERS and BENEFICIARIES.

11.8 AMENDMENTS TO THE RULES

THE BOARD OF TRUSTEES will have the right to amend the RULES at any time; provided that such amendments are not inconsistent with the provisions of the INCOME TAX ACT, the ACT and all other applicable legislation, and

are registered by the AUTHORITY and approved by the COMMISSIONER; provided that any amendment to the RULES which, in the opinion of the ACTUARY, changes the parties financial obligation and liability in terms of the RULES, will be subject to the prior approval of the COUNCIL and/or parties to COUNCIL.

11.9 BENEFICIARIES' BENEFITS

The benefits in respect of the BENEFICIARIES of the FUND shall be regarded as liabilities to the FUND and shall be accounted for as such in the ACCOUNTS of the FUND.

11.10 INSPECTION OF DOCUMENTS OF THE FUND

A MEMBER has the right to inspect the financial statement and the RULES of the FUND at any reasonable time. Upon payment of a fee as determined by the BOARD OF TRUSTEES from time to time, a MEMBER may obtain a copy of the financial statements, the RULES of the FUND and the latest valuation report by the ACTUARY.

11.11 CONDITIONS OF SERVICE NOT OTHERWISE AFFECTED

Nothing contained in the RULES shall limit the right of the EMPLOYER to dismiss any EMPLOYEE from service, or the right of the EMPLOYEE to

terminate service with the EMPLOYER, subject to the EMPLOYEE'S conditions of service.

11.12 MONIES DUE TO THE EMPLOYER AND/OR THE FUND

The ADMINISTRATOR shall, at the request of the EMPLOYER, the FUND, or the BENEFICIARY, as the case may be, recover the following amounts from benefits payable in terms of the RULES and where necessary, pay such amount to the person or body to whom the amounts are due:

11.12.1 Debts owing to the FUND or the EMPLOYER as a result of

(a) A loan granted to the MEMBER by the FUND or the EMPLOYER to enable the MEMBER to:

- Redeem a loan which was granted to the MEMBER by the person other than the FUND or the EMPLOYER as security over immovable property that belongs to the MEMBER or the MEMBER'S SPOUSE upon which dwelling has been erected or is to be erected and is occupied as the case may be by the MEMBER or a DEPENDANT of the MEMBER; or
- Purchase a dwelling, or to purchase land and erect a dwelling on it, for occupation by the MEMBER or a DEPENDANT of a MEMBER; or
- Make additions or alterations to or maintain or repair a dwelling which belongs to the MEMBER or the MEMBER'S SPOUSE and that is occupied or will be

occupied by the MEMBER or a DEPENDANT of the MEMBER;

- (b) An amount for which the FUND or the EMPLOYER is liable under a guarantee furnished in respect of a loan granted by some other person to a MEMBER for a purpose as intended in paragraph (a) above;

11.12.2 Compensation for any loss suffered by the EMPLOYER as a result of theft, misconduct, fraud or dishonestly by the MEMBER and in respect of which the MEMBER has admitted liability in writing or in respect of which a court judgement against the MEMBER has been obtained;

11.12.3 Any amount that the FUND, by arrangement with and on behalf of a BENEFICIARY, has paid or shall pay in respect of:

- Such BENEFICIARY'S contributions to a medical scheme, registered otherwise than provisionally in terms of the Medical Schemes Act 1998 (Act 131 of 1998); or
- An insurance premium payable by the BENEFICIARY to an INSURER; or
- Any purpose approved by a AUTHORITY, on the terms and conditions determined by him/her, upon a written request from the FUND;

- 11.12.4** Any part of the MEMBER'S pension interest in the FUND as defined in Section 7(8) of the Divorce Act 1979 (Act 70 of 1979) as amended, allocated to a NON-MEMBER SPOUSE in terms of a valid court order issued by a competent court; provided that the MEMBER'S EQUITABLE SHARE will be reduced by such allocated portion and paid to such NON-MEMBER SPOUSE or transferred to another APPROVED FUND on behalf of the NON-MEMBER SPOUSE, as elected by the NON-MEMBER SPOUSE; or in terms of any order made by a court in respect of the division of assets of a marriage under Islamic law pursuant to its dissolution, from a MEMBER'S or deferred pensioner's benefit, MEMBER'S interest or minimum individual reserve or the capital value of a pensioner's pension after retirement as the case may be; and
- 11.12.5** Any amount, other than an amount in terms of SECTION 11.12.4, of the MEMBER'S EQUITABLE SHARE allocated to a person in terms of Section 37D (1)(d) of the ACT; provided that such allocated amount will be deemed to have accrued to the MEMBER and the MEMBER'S EQUITABLE SHARE will be reduced by such allocated amount and paid to such person.
- 11.12.6** It is a proviso that the amounts in terms of SECTION 11.12.1 and 11.12.2 shall be limited to a sum not exceeding that which may be taken by a BENEFICIARY as a lump sum benefit in terms of the INCOME TAX ACT.

11.13 EXPIRY OF THE PENSION FUND AGREEMENT

If the PENSION FUND AGREEMENT expires or become inoperative in respect of any EMPLOYER and /or any MEMBER in its employ, all the provisions of the PENSION FUND AGREEMENT will continue to apply in terms of the RULES and the applicable legislation as if agreed between such EMPLOYER and each of its EMPLOYEES individually until varied or terminated by express agreement between them and subject to any subsequent collective agreement between the parties to COUNCIL.

11.14 DISSOLUTION OF THE FUND

11.14.1 PARTIAL DISSOLUTION

- (a) An EMPLOYER may only discontinue participation in the FUND with the approval of the COUNCIL; provided that 2 (two) months written notice of such intention is given to the BOARD OF TRUSTEES. Benefits which are in the process of being paid in terms of the RULES at the time of such partial dissolution shall not be affected by such partial dissolution.

- (b) Should an EMPLOYER discontinue participation in the FUND with the approval of the COUNCIL and the MEMBERS employed by such EMPLOYER are admitted to another APPROVED FUND, the BOARD OF TRUSTEES shall make such arrangements and enter into such agreements as they may deem

necessary for the transfer to such APPROVED FUND of the EQUITABLE SHARES of such MEMBERS who acquire membership of such fund, in accordance with the recommendations of the ACTUARY. Such transaction is, however, subject to the prior obtainment of certificates issued by the AUTHORITY to the relevant funds to authorise the transaction.

Any such payments to another APPROVED FUND may be made in a lump sum or in equal instalments over such period as the BOARD TRUSTEES shall decide upon subject to the provisions of the relevant investment vehicle. Payment of the relevant instalments concerned shall commence on a date not later than 1 (one) year after the EMPLOYER'S participation has ceased. The balance owing at any time to the other fund shall earn interest in each FUND YEAR during which instalments are paid, at a rate that, according to the ACTUARY, is equal to the percentage INVESTMENT RETURN.

Notwithstanding anything to the contrary contained in this paragraph, the BOARD OF TRUSTEES reserve the right to pay the balance of any outstanding amount or part thereof in a lump sum at any time during the period in which instalments are payable to the other fund.

- (c) Should an EMPLOYER discontinue participation in the FUND and the MEMBERS concerned do not immediately qualify for membership of another APPROVED FUND, the liquidation provisions as set out in SECTION 11.14.2, shall apply *mutatis mutandis*, in respect of the assets and liabilities of the FUND attributable to such MEMBERS related to the withdrawing EMPLOYER as determined by the liquidator, in consultation with the ACTUARY.

11.14.2 TOTAL DISSOLUTION

- (a) The FUND may be dissolved in the event that the COUNCIL AGREEMENT expires and is not renewed by the parties to COUNCIL within 90 (ninety) days, irrespective of the date of publication of the agreement, or if all the EMPLOYERS jointly decided or the sole remaining EMPLOYERS decides to terminate the payment of CONTRIBUTIONS to the FUND or such EMPLOYERS discontinued business operations, provided that should such EMPLOYERS be liquidated and reconstituted in a similar or altered form, the FUND shall not be dissolved, unless the reconstituted EMPLOYERS decides not to become a participating EMPLOYER in the FUND.
- (b) Upon dissolution of the FUND, the TRUSTEE shall retain

their duties and powers for the purpose of attending to matters relating to the dissolution of the FUND. The BOARD OF TRUSTEES shall appoint a Liquidator whose appointment shall be subject to the approval of the AUTHORITY. After the appointment of the Liquidator, the BOARD OF TRUSTEES shall cease to hold office and the powers, duties and functions conferred upon them in terms of the RULES shall devolve upon the Liquidator.

- (c) The Liquidator shall consult the ACTUARY as to the value of each BENEFICIARY'S entitlement in the FUND and shall apply the assets of the FUND in an adequate manner to ensure that:
 - (i) Benefits are purchased from an INSURER or another APPROVED FUND in respect of BENEFICIARIES in respect of whom benefits became payable prior to the date of dissolution but who have not yet received payment thereof and MEMBERS who have already attained the NORMAL RETIREMENT AGE on the date of dissolution but have not yet retired. Such benefits are subject to a maximum amount equal to the value of the assets of the FUND immediately prior to the date of dissolution. The benefits provided in terms hereof and the provisions in accordance with which benefits shall be paid to BENEFICIARIES by

the INSURER or another APPROVED FUND shall correspond as closely as possible with those that would have applied had the FUND not been dissolved;

- (ii) The balance of the assets of the FUND after the payment of benefits envisaged in paragraph (c)(i), is utilised to purchase deferred retirement benefits for the remaining MEMBERS from an INSURER or another APPROVED FUND. Such deferred retirement benefit shall be purchased with the amount equal to each MEMBER'S EQUITABLE SHARE. At the request of any such MEMBER, the Liquidator may pay such MEMBER'S EQUITABLE SHARE to him/her in a lump sum. The liquidator may regard EMPLOYEES who left the EMPLOYER'S service during the immediately preceding 12 (twelve) months as MEMBERS of the FUND as at the date of dissolution; provided that any benefits already paid to them shall be taken into account in calculating the benefits to which they may become entitled.

- (d) If the FUND is terminated or dissolved under Section 28 of the ACT, monies remaining unclaimed for a reasonable period as determined by the Liquidator from the date on which payment of benefits by the Liquidator commenced after completion of all necessary formalities,

will be paid into an APPROVED FUND that has been approved by the COMMISSIONER to accept UNCLAIMED BENEFITS for the account of the MEMBER or BENEFICIARY concerned and thereafter there will be no claim against the FUND in respect of such monies. The Liquidator will indicate in the final liquidation and distribution account the amount thus paid and simultaneously furnish the AUTHORITY with a certificate to the effect that all reasonable steps were taken to trace the MEMBERS or BENEFICIARIES in question.

- (e) If the FUND is wound-up under Section 29 of the ACT and the winding-up order does not specifically make Section 410 of the Companies Act 1973 (Act 61 of 1973) applicable or direct otherwise regarding unclaimed monies, the provisions of this paragraph (d) will apply to unclaimed monies.

11.15 UNCLAIMED BENEFITS

- 11.15.1** If a MEMBER or BENEFICIARY does not claim monies payable to such MEMBER or BENEFICIARY in terms of the RULES, such monies will be taxed in accordance with the relevant provisions of the INCOME TAX ACT and retained in the FUND or be transferred after expiry of a period of 24 (twenty-four) months to an APPROVED FUND that has been approved by the COMMISSIONER to accept UNCLAIMED

BENEFITS, whereafter the former MEMBER will have no further claim against the FUND.

11.15.2 For the first 24 (twenty-four) months from the date that the benefit becomes payable in terms of SECTION 11.15.1, such benefit will remain in the INVESTMENT PORTFOLIO(S) it was invested in immediately prior to the benefit becoming unclaimed, and at the expiry of the said 24 (twenty-four) months period, an UNCLAIMED BENEFIT that is retained in the FUND will be disinvested and be invested in another product or investment vehicle, as determined by the BOARD OF TRUSTEES from time to time.

11.15.3 The benefit payable in terms of SECTION 6, 7, 8 or 9 as the case may be, that remains unclaimed in the FUND, will be adjusted with the following, as approved by the BOARD OF TRUSTEES:

The rate of interest as determined by the BOARD OF TRUSTEES from time to time, taking into account the investment vehicle in which and the period during which the assets representing the benefit are invested and all other relevant facts, until the date of payment of the benefit;

- The reasonable cost that was incurred to trace and endeavor to trace the MEMBER or BENEFICIARY; and
- The proportionate share of the cost of management of UNCLAIMED BENEFITS

- 11.15.4** Notwithstanding the provisions of SECTION 11.15.1, the BOARD OF TRUSTEES will make payment of monies referred to in SECTION 11.14.1, that have not yet been transferred to an APPROVED FUND or UNCLAIMED BENEFIT FUND, that has been approved by the COMMISSIONER to accept UNCLAIMED BENEFITS, to a MEMBER or BENEFICIARY if such person satisfies the BOARD OF TRUSTEES of his/her right to claim such monies.

SECTION 12

12 PENSION INCREASES

- 12.1** The BOARD OF TRUSTEES shall increase any pension payable from FUND in terms of the RULES from time to time in terms of FUND'S pension increase policy established in accordance with the provisions of Section 14B of the ACT.
- 12.2** The financial implication of any such increase in pension shall be determined by the ACTUARY and if necessary, the cost involved in such increase shall be paid by the EMPLOYER to the FUND in such manner as the BOARD OF TRUSTEES and the EMPLOYER may agree.
- 12.3** Pensions that have been purchased from an underwriter, whether in the name of the FUND or the MEMBER, are not subject to the FUND'S pensions increase policy as the capital value, as determined by the FUND'S

ACTUARY, transferred to the underwriter, takes into account future pension increases.