

Rules

of the

Furniture Bargaining Council
Provident Fund

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A Resolution of the TRUSTEES of the Furniture Bargaining Council Provident Fund, passed on 06 November 2014 certified that

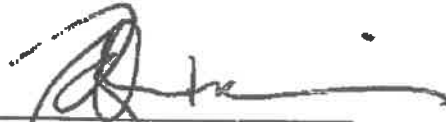
1. these are the revised RULES of the Furniture Bargaining Council Provident Fund which became effective on the EFFECTIVE DATE;
2. the reasons for the revision are:
 - (i) in anticipation of new regulations regarding the drafting of RULES, to include headings in each section so that the table of contents can be more comprehensive;
 - (ii) to include the relevant provisions that were registered by the REGISTRAR and approved by SARS in Amendment 1, Amendment 2 and Amendment 3 in order to consolidate the RULES and allow for ease of reference;
 - (iii) to comply with legislation that states the provisions of the RULES may not be implemented until they have been registered and approved by the REGISTRAR, RULE 1.5 was removed and the definition "EFFECTIVE DATE" changed to allow the RULES to only be implemented after they have been registered by the REGISTRAR;
 - (iv) to update the RULES with any legislation that has been implemented from the effective date of the RULES as they applied immediately prior to the EFFECTIVE DATE; and
 - (v) to make the changes required by the REGISTRAR following a compliance visit to the FUND by
 - (a) amending the provisions surrounding the number of TRUSTEES in RULES 13.1.b.1 and 13.1.b.2 to provide the exact number of TRUSTEES on the board of the FUND;
 - (b) stating the manner in which TRUSTEES are elected in RULE 13.1.b.2;
 - (c) giving the term of office of a TRUSTEE in RULE 13.1.b.4;
 - (d) amending RULE 4.3 in order to reflect that contributions to the FUND will be paid within the time period stipulated by the REGISTRAR;

- (e) updating the manner in which the FUND deals with unpaid and unclaimed benefits in RULE 9; and
- (f) inserting a data contingency reserve account in the FUND.

3. the Resolution in terms of which these RULES have been accepted has been adopted in accordance with the provisions of the RULES of the FUND.


Chairman of the Trustees Board


Member Trustee


Employer Trustee

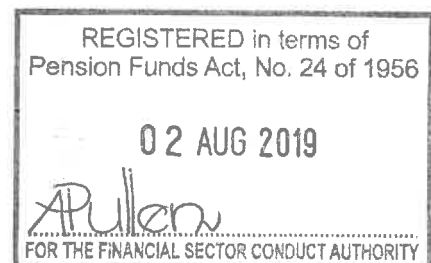

Principal Officer

Signed at Milpark on 06 November 2014

It is hereby certified that the terms of the RULES of the Furniture Bargaining Council Provident Fund are financially sound.


Actuary to the Fund

Signed at Hyde Park on 4 November 2014



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Rules of the Furniture Bargaining Council Provident Fund

1. PREAMBLE

1.1. Name

The Furniture Bargaining Council Provident Fund (hereinafter referred to as the FUND) commenced on 13 January 1961 in terms of the collective agreements published under Government Notices Nos. R. 44 of 13 January 1961 and R. 495 of 24 March 1961. The RULES of the FUND were revised with effect from 1 May 2008. The RULES have been revised thereafter with effect from 1 October 2014. These are the revised RULES which are effective 1 October 2014. The FUND shall be governed by these RULES.

1.2. Registered Office

The registered office of the FUND is situated at North Block, 39 Empire Road, Parktown Extension.

1.3. Object

The object of the FUND is to provide benefits for employees or former employees of the EMPLOYER upon their retirement, or for BENEFICIARIES of employees or former employees of the EMPLOYER upon the death of such persons.

1.4. Status of the FUND and Registration

The FUND is an independent body and legal entity separate from its MEMBERS and the EMPLOYER and is the lawful owner of its property, competent to sue and to be sued in law and to acquire rights and assume obligations in its own name.

2. DEFINITIONS

In these RULES, where appropriate, the masculine context shall include the feminine, all words and expressions indicating the singular shall include the plural and vice versa and the following expressions shall have the following meanings:

ACT shall mean the Pension Funds Act No. 24 of 1956, as amended.

ACTUARY shall mean a person or group of persons recognised in terms of the ACT as an actuary.

ADMINISTRATOR shall mean the person, persons or corporation appointed by the TRUSTEES to maintain the records and carry out the administrative functions of the FUND; provided that the ADMINISTRATOR shall be approved by the REGISTRAR as an "administrator" in terms of the conditions drawn up in association with Section 13B of the ACT.

AGREEMENT shall mean the Furniture Bargaining Council Collective Agreement as extended or amended from time to time.

APPROVED FUND shall mean a fund providing benefits on retirement which the RECEIVER has approved as a pension fund, provident fund, pension preservation fund, provident preservation fund or retirement annuity fund in terms of the Income Tax Act No. 58 of 1962, as amended, and in terms of which the MEMBER meets the eligibility requirements for admission to membership thereof.

AUDITOR shall mean an auditor appointed by the TRUSTEES and registered under the Auditing Profession Act, No. 26 of 2005, as amended.

BENEFICIARY shall mean a person, other than a MEMBER, who is or may become entitled to a benefit from the FUND and includes a person nominated in writing by the MEMBER and a DEPENDANT of the MEMBER.

COUNCIL shall mean the Furniture Bargaining Council registered in terms of the Labour Relations Act, No. 66 of 1995.

DATE OF DISINVESTMENT shall mean the date, 30 days after the receipt of all the relevant claim forms required to make a payment to the MEMBER or BENEFICIARY, as applicable, on which the MEMBER'S FUND CREDIT is dis-invested from the selected investment channel, or channels, in respect of such MEMBER as a result of his retirement, death or leaving the employment of the EMPLOYER in terms of the RULES; such date being determined in terms of the administration agreement between the FUND and the ADMINISTRATOR.

DEPENDANT shall mean for each 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
 1. was, in the opinion of the TRUSTEES, upon the death of the MEMBER in fact dependent on the MEMBER for maintenance;
 2. is a permanent life partner or spouse or civil union partner of a MEMBER in accordance with the Marriage Act No. 68 of 1961, the Recognition of Customary Marriages Act No. 68 of 1997, the Civil Union Act No. 17 of 2006 or the tenets of a religion;
 3. is a child of the MEMBER, including a posthumous child, an adopted child and a child born out of wedlock;
 4. is a person in respect of whom the MEMBER would have become legally liable for maintenance, had the MEMBER not died;

provided that the terms of this definition shall be subject to the provisions of the ACT.

DEATH AND DISABILITY SCHEME shall mean the separate scheme operated by the COUNCIL to provide death and disability benefits to the MEMBERS.

EFFECTIVE DATE shall mean the latter of 01 October 2014 and the first day of the month on which these revised RULES are registered by the REGISTRAR.

ELIGIBLE EMPLOYEE shall mean any employee, other than a casual employee, in the INDUSTRY for whom wages are prescribed in the AGREEMENT and, subject to the approval of the COUNCIL, such other person as is employed in the INDUSTRY who elects to become a MEMBER and in respect of whom his EMPLOYER has consented to make contributions prescribed in the AGREEMENT.

EMPLOYER shall mean an EMPLOYER who is subject to the terms and conditions of the AGREEMENT and who falls under the scope of the Furniture Bargaining Council.

EMPLOYER ASSOCIATIONS shall mean the associations of EMPLOYERS that are parties to the AGREEMENT.

FINANCIAL YEAR END shall mean the twelve-month period ending on 30 September each year.

FUND shall mean the Furniture Bargaining Council Provident Fund

FUND CREDIT shall mean for each MEMBER at any given date the unit value of:

- a. his "fund credit" calculated immediately prior to the EFFECTIVE DATE in terms of the RULES of the FUND in force on that date;
- b. any amount transferred to the FUND on or after the EFFECTIVE DATE in respect of him in terms of RULE 11.1;
- c. any contributions paid by and/or in respect of him to the FUND on or after the EFFECTIVE DATE in terms of RULE 4.1 and RULE 4.2, as applicable;
- d. where applicable, any additional compulsory contributions made by or on behalf of the MEMBER in terms of RULE 4.7.

The MEMBER'S FUND CREDIT, at any time, shall be equal to the number of accumulated units purchased or realised by the amounts determined in terms of the above values, multiplied by the ruling monthly unit price at that time.

FUND REMUNERATION shall mean for each MEMBER his normal weekly rate of pay, or the weekly equivalent of the MEMBER'S monthly rate of pay, based on the numbers of hours worked, adjusted on a basis agreed from time to time between the EMPLOYER and the MEMBER, having regard to the provisions of the AGREEMENT; provided that, for the purpose of the FUND, FUND REMUNERATION shall be determined on the first day of each pay week of MEMBERSHIP of the FUND.

INDUSTRY shall mean the industries which fall within the scope of the Furniture Bargaining Council.

LIQUIDATOR shall mean any person appointed by the TRUSTEES to liquidate the FUND and whose appointment is subject to the approval of the REGISTRAR.

MEMBER shall mean an ELIGIBLE EMPLOYEE who has been admitted to the FUND in terms of these RULES and shall include any person who is prospectively entitled to any benefit from the FUND. MEMBERSHIP shall have a corresponding meaning.

NORMAL RETIREMENT DATE shall mean for each MEMBER the last day of the month in which the MEMBER attains RETIREMENT AGE.

PRESERVATION FUND shall mean a fund providing benefits on retirement which is registered by the REGISTRAR and is approved by the RECEIVER in terms of the Income Tax Act No. 58 of 1962, as amended, as a provident fund and which is specifically constituted to make provision for preserved benefits for its members in terms of the regulations promulgated by the RECEIVER.

PRINCIPAL OFFICER shall mean the independent principal officer of the FUND who is not affiliated to any EMPLOYER, EMPLOYER ASSOCIATION or UNION, appointed by the TRUSTEES from time to time in terms of the ACT.

PROVIDENT MEMBER shall mean a MEMBER who is only a MEMBER of the FUND and not a MEMBER of both the FUND and the Furniture Bargaining Council Pension Fund.

RECEIVER shall mean the South African Revenue Service.

REGISTERED INSURER means an insurer registered under the Long-Term Insurance Act No. 52 of 1998, as amended.

REGISTRAR shall mean the Registrar or Deputy Registrar of Pension Funds appointed in terms of the ACT.

RETIREMENT AGE means age 65.

RETIREMENT ANNUITY FUND shall mean a fund providing benefits on retirement which is approved by the RECEIVER as a retirement annuity fund in terms of the Income Tax Act No. 58 of 1962, as amended, and is registered with the REGISTRAR.

RULES shall mean the rules of the Furniture Bargaining Council Provident Fund.

TRUSTEES shall mean the trustees referred to in RULE 13..

UNIONS shall mean the unions that are parties to the AGREEMENT.

3. MEMBERSHIP

- 3.1 A MEMBER who was a MEMBER of the FUND immediately prior to the EFFECTIVE DATE shall remain a MEMBER of the FUND.
- 3.2. An ELIGIBLE EMPLOYEE who enters EMPLOYMENT on or after the EFFECTIVE DATE must become a MEMBER of the FUND. Such person's MEMBERSHIP will commence on the date on which he becomes an ELIGIBLE EMPLOYEE.
- 3.3. Every ELIGIBLE EMPLOYEE applying for MEMBERSHIP and each MEMBER shall submit personal information required from time to time by the EMPLOYER, the TRUSTEES or the ADMINISTRATOR. Any misrepresentation of age or falsification or late submission of information may lead to modification of benefits payable to him in terms of these RULES.
- 3.5. A MEMBER may not withdraw from MEMBERSHIP of the FUND whilst in the employment of the EMPLOYER.
- 3.6. A MEMBER shall cease to be eligible for active MEMBERSHIP of the FUND on the date on which he is no longer in the EMPLOYMENT of the EMPLOYER due to retirement, death or withdrawal and shall be considered an unpaid MEMBER until the date on which the FUND has no further liability to pay a benefit to him in terms RULE 6, RULE 7 or RULE 8, as applicable.

4. CONTRIBUTIONS

4.1 Contributions by the MEMBER

A MEMBER who has not retired in terms of the RULES, or otherwise left the employment of the EMPLOYER, shall contribute to the FUND each month at a rate equal to the amount of his FUND REMUNERATION specified in the AGREEMENT, less the amounts that are required to meet the costs of the DEATH AND DISABILITY SCHEME, any separate funeral scheme and the cost of administering these schemes and the amounts required to meet the costs of the FUND's regular expenses and any such incidental expenses as may be determined by the TRUSTEES from time to time.

4.2 Contributions by the EMPLOYER

Subject to regulations laid down in the ACT and by the REGISTRAR and the RECEIVER, the EMPLOYER shall contribute to the FUND each month in respect of each MEMBER who has not retired in terms of the RULES, or otherwise left the employment of the EMPLOYER, an amount equal to the rate of his FUND REMUNERATION specified in the AGREEMENT, less, if applicable, such amounts as are required to meet the same portion of the costs of the DEATH AND DISABILITY SCHEME, any separate funeral scheme and the cost of administering these schemes as is paid by the MEMBER and the amounts required to meet the costs of the FUND's regular expenses and any such incidental expenses as may be determined by the TRUSTEES from time to time.

4.3 Contributions Paid to the FUND

Contributions referred to in RULE 4.1. and RULE 4.2, if any, shall be paid by the EMPLOYER for and on behalf of the MEMBER into the FUND'S bank account within 30 days of the end of the period to which they relate following which the contributions that are received by the FUND and that are required to be applied towards the MEMBER'S retirement benefit shall be paid into and form part of the FUND CREDIT in respect of the MEMBER; provided that, in the case of a MEMBER who is in receipt of a DISABILITY INCOME BENEFIT, any contributions referred to in RULE 4.1 shall be paid by the REGISTERED INSURER into the FUND'S bank account by debiting the MEMBER'S DISABILITY INCOME BENEFIT. Interest on late payment will be charged to the EMPLOYER or, in the case of a MEMBER in receipt of a DISABILITY INCOME BENEFIT, to the REGISTERED INSURER, at the rate determined in the ACT.

The COUNCIL follows the process outlined below in cases where contributions have not been received by the 10th of the month following the month in respect of which they are due:

Defaulting Employers are contacted

A designated agent visits employer site to investigate and resolve

Notice issued to Employers/ Members informing them of non-payment of contributions

Notice of intended arbitration to employer

Matter goes to Arbitration, with an independent Arbitrator presiding over the proceedings. Arbitration award is issued against the defaulting Employer. Employer has a period of 14 days within which to comply with Arbitration award.

4.4. Absence on Full or Partial Pay

During any period of absence from work where the MEMBER is absent on full or partial pay, contributions in terms of RULE 4.1 and RULE 4.2 shall continue to be paid to the FUND and all benefits under the FUND shall remain in force, but based on the MEMBER'S FUND REMUNERATION immediately before his absence from work.

4.5. Absence Without Pay

During any period of absence from work where contributions are not paid to the FUND

- a. the FUND CREDIT in respect of a MEMBER shall remain subject to the provisions of the RULES, with the necessary changes in detail, and
- b. the MEMBER shall not be entitled to any insured risk benefit referred to in RULE 7.

4.6. Period of Absence

The maximum period of absence in terms of RULE 4.4 and RULE 4.5 shall be six months, after which termination of employment shall be assumed; provided that this period may be extended with the agreement of the TRUSTEES and the REGISTERED INSURER.

4.7 Additional Compulsory Contributions

In addition to the contributions referred to in RULE 4.1 and RULE 4.2, in accordance with the AGREEMENT, each employee in the INDUSTRY who is a MEMBER and each EMPLOYER in the INDUSTRY who is a participating EMPLOYER in the FUND who does not contribute to either the Furnmed Sick Benefit Society or the NUFAWSA Sick Benefit Society shall be required to pay additional contributions to the FUND at a rate specific from time to time in the AGREEMENT.

5. RESERVE ACCOUNTS

5.1. Data Contingency Reserve Account

A Data Contingency Reserve Account exists to provide for liabilities arising due to inaccurate or incomplete data. The following transactions shall be recorded in this account:

a. Credits:

1. an amount derived prior to the EFFECTIVE DATE from any excess bank interest in the bank account after a claim and any late payment interest was paid to a MEMBER;

b. Debits:

1. any liability to the FUND in respect of inaccurate or incomplete data.

5.2. Once the balance in the Data Contingency Reserve Account has been exhausted, such reserve account shall cease to apply.

5.3. The Data Contingency Reserve Account shall be subject to the provisions of the ACT and the requirements of the RECEIVER.

6. RETIREMENT BENEFITS

6.1. Normal Retirement

A MEMBER may retire from the EMPLOYMENT of the EMPLOYER on his NORMAL RETIREMENT DATE. Once the MEMBER retires from the EMPLOYMENT of the EMPLOYER, he shall cease to be eligible for MEMBERSHIP of the FUND and a lump sum retirement benefit will accrue to him equal to his FUND CREDIT, calculated as at the date on which he retires; provided that such MEMBER may choose to purchase an annuity equal to a part or the whole of his FUND CREDIT from a REGISTERED INSURER in terms of RULE 6.6.

6.2. Late Retirement

A MEMBER, with the agreement of the EMPLOYER, may elect to continue his employment after his NORMAL RETIREMENT DATE, and may retire on the last day of any month occurring on or before the last day of the month in which he attains the age of seventy years; provided that the EMPLOYER may, at the EMPLOYER'S discretion and with the consent of the TRUSTEES, waive or revise the maximum age for late retirement for any MEMBER. Once the MEMBER retires from the EMPLOYMENT of the EMPLOYER, he shall cease to be eligible for MEMBERSHIP of the FUND and the benefit that will accrue to the MEMBER on his retirement shall be the benefit as described in RULE 6.1.

6.3. Early Retirement

A MEMBER in consultation with the EMPLOYER, may elect to retire at any time following attainment of age 55. Once the MEMBER retires from the EMPLOYMENT of the EMPLOYER, he shall cease to be eligible for MEMBERSHIP of the FUND and the benefit that will accrue to the MEMBER on his retirement shall be the benefit as described in RULE 6.1.

6.4. Compulsory Early Retirement

At the request of the EMPLOYER, and in consultation with the MEMBER, a MEMBER may be retired at any time before NORMAL RETIREMENT DATE. Once the MEMBER retires from the EMPLOYMENT of the EMPLOYER, he shall cease to be eligible for MEMBERSHIP of the FUND and the benefit that will accrue to the MEMBER shall be the benefit as described in RULE 6.1; provided that in the case of

- a. retrenchment or a general scheme for the reduction or reorganization of staff, retirement can only take place following the MEMBERS attainment of age 55 years; and

- b. injury, illness or other infirmity which, in the opinion of a medical adviser selected by the EMPLOYER, renders the MEMBER incapable of efficiently discharging his duties, retirement can take place at any time before the MEMBER'S NORMAL RETIREMENT DATE;

6.5. Payment of Annuities

- a. When a MEMBER retires under the RULES and chooses to receive an annuity, he shall decide on the type and nature of the annuity best suited to his needs and the FUND shall purchase such annuity in the name of the MEMBER from a REGISTERED INSURER.
 - b. As from the date the REGISTERED INSURER receives the cash consideration for the purchase of an annuity referred to above and has received the relevant information enabling payment to be made, the REGISTERED INSURER shall be solely liable and responsible for payment and the FUND shall cease from that date to have any liability whatsoever towards payment of benefits in respect of the MEMBER and, as a result, the MEMBER and his BENEFICIARIES shall not be entitled to make any further claim against the FUND.
- 6.6. On notification of a MEMBER'S retirement and on the receipt of all required claim documentation, the MEMBER'S benefit referred to in RULE 6.1 above will be disinvested at the DATE OF DISINVESTMENT and transferred into the FUND'S bank account until the date it is paid to a REGISTERED INSURER or to the MEMBER, as the case may be.
- 6.7. If a MEMBER, who has retired from the FUND in terms of this RULE, dies before his benefit can be paid to him, his benefit will be calculated in terms of RULE 6.1 and shall be paid to his estate.
- 6.8. All benefits will be paid after the deduction of any tax payable on such benefits.

7. DEATH BENEFITS

7.1. Death Benefit

In the case of a MEMBER who dies in the employment of his EMPLOYER there shall be payable to his BENEFICIARIES his FUND CREDIT, calculated at the date of his death, less any tax payable thereon and tracing costs.

7.2. Payment of Death Benefits

Any benefit required to be paid in terms of RULE 7.1. above, shall be

- a. paid in accordance with the provisions of Section 37C of the ACT and will be used to secure a life pension for BENEFICIARIES from a REGISTERED INSURER, provided the BENEFICIARIES have the option to commute, at their sole discretion, all or a portion of the benefit for a lump sum, subject to the terms and conditions set out by the REGISTRAR; and
- b. subject to the provisions of Section 37A(3) and Section 37D of the ACT and will not form part of the assets in the estate of such MEMBER.

7.3. On notification of a MEMBER'S death and on the receipt of all required claim documentation the MEMBER'S benefit referred to in RULE 7.1 above will be disinvested at the DATE OF DISINVESTMENT and transferred into the FUND'S bank account until the date it is paid to a REGISTERED INSURER or to the MEMBER'S BENEFICIARY, as the case may be.

7.4. All benefits will be paid after the deduction of any tax payable on such benefits.

8. WITHDRAWAL BENEFITS

- 8.1. If a MEMBER leaves the EMPLOYMENT of the EMPLOYER other than on death or retirement under the RULES, and such leaving is a result of resignation, retrenchment, redundancy or dismissal for any reason whatsoever, the MEMBER shall cease to be eligible for MEMBERSHIP of the FUND and the lump sum benefit that will accrue to the MEMBER shall be equal to his FUND CREDIT, calculated as at the date of withdrawal, less any tax payable thereon; provided that he may transfer all or part of such benefit, subject to the conditions set out by the RECEIVER and the REGISTRAR, to an APPROVED FUND or a RETIREMENT ANNUITY FUND.
- 8.2. On notification of a MEMBER'S withdrawal and on the receipt of all required claim documentation, the MEMBER'S benefit referred to in RULE 8.1 above will be disinvested at the DATE OF DISINVESTMENT and transferred into the FUND'S bank account until the date it is paid to the MEMBER or to an APPROVED FUND or to a RETIREMENT ANNUITY FUND, as the case may be.
- 8.3. If a MEMBER leaves the EMPLOYMENT of an EMPLOYER in order do enter into the EMPLOYMENT of another EMPLOYER, such MEMBER shall not be entitled to the payment of a benefit in terms of this RULE. In such case, the MEMBER'S FUND CREDIT shall be transferred to the records of the new EMPLOYER.
- 8.4. If a MEMBER, who has withdrawn from the FUND in terms of this RULE, dies before his benefit can be paid to him, his benefit will be calculated in terms of RULE 8.1 and shall be paid to his estate.
- 8.5. All benefits will be paid after the deduction of any tax payable on such benefits.

9. UNPAID AND UNCLAIMED BENEFITS

- 9.1. A MEMBER is entitled to claim his benefit on withdrawing or retiring from the FUND. A BENEFICIARY is entitled to the benefit allocated to him in terms of Section 37C of the ACT. If the MEMBER or BENEFICIARY does not claim the benefit to which he is entitled, the MEMBER or BENEFICIARY shall be deemed an unpaid MEMBER or BENEFICIARY.
- 9.2. Until the benefit referred to above is paid, the benefit will remain in the investment portfolio in which the MEMBER'S benefit was invested immediately prior to the date of his exit from the FUND.
- 9.3. If an unpaid MEMBER or BENEFICIARY does not claim a benefit in terms of the RULES within a period of twenty-four months following the date on which it becomes due in terms of the RULES, such MEMBER or BENEFICIARY may be considered to have an unclaimed benefit which may, if the TRUSTEES so decide, be transferred to an unclaimed benefit preservation fund registered in terms of the ACT and approved by the RECEIVER for the purpose of housing unclaimed benefits.
- 9.4. During the time that the benefit remains in the FUND, the TRUSTEES shall take all reasonable steps to find the unpaid MEMBER or BENEFICIARY. The benefit shall be reduced by the costs incurred
1. in tracing the unpaid MEMBER or BENEFICIARY; and
 2. in the administration of the benefit;
- while the benefit is held in the FUND during the period prior to payment or transfer to an unclaimed benefit preservation fund.
- 9.5. Any unpaid MEMBER or BENEFICIARY remaining in the FUND at the date on which the FUND terminates will be deemed to have an unclaimed benefit which will be transferred to an unclaimed benefit fund registered in terms of the ACT.
- 9.6. If the FUND is notified that an unpaid MEMBER is in the EMPLOYMENT of an EMPLOYER participating in the FUND and such unpaid MEMBER resumes making contributions to the FUND, the MEMBER will remain a MEMBER of the FUND and will not be entitled to a benefit. The contributions to the FUND will be added to the FUND CREDIT of the unpaid MEMBER and the member will no longer be deemed to be unpaid.

10. DEDUCTIONS FROM BENEFITS

- 10.1. Except to the extent permitted in RULE 10.2., a MEMBER or BENEFICIARY shall not in any way alienate his benefits or his right to benefits under the FUND, nor shall such benefits be liable to be attached or to be subjected to any form of execution under a judgement or Order of Court, nor shall any such benefits or right to benefits form part of the assets of the MEMBER'S insolvent or assigned or deceased estate.
- 10.2. The ADMINISTRATOR shall deduct from a benefit payable under the RULES to a MEMBER, or in respect of a MEMBER, any amount owed by such MEMBER to the FUND, EMPLOYER, person or other undertaking; provided the amount to be deducted is allowed in terms of Section 37D of the ACT, the Divorce Amendment Act, No 7 of 1989 or the Maintenance Act, No 99 of 1998, as amended.

In the case of a pending divorce order, pending maintenance order or where the EMPLOYER has instituted legal proceedings in a court of law and/or laid a criminal charge against the MEMBER concerned for compensation caused to the EMPLOYER as outlined in Section 37D of the ACT, the TRUSTEES may withhold payment of the benefit until such time as the matter has been fully determined by a competent court of law or has been settled or formally withdrawn; provided that

- a. the amount withheld shall not exceed the sum of the amount owed and any legal costs which may be recoverable from the MEMBER;
- b. the TRUSTEES are satisfied that the non-MEMBER spouse or EMPLOYER, as the case may be, has made a prima facie case against the MEMBER and believe the non-MEMBER spouse or EMPLOYER, as the case may be, has a reasonable chance of success in the court proceedings instituted;
- c. the TRUSTEES are satisfied that the non-MEMBER spouse or EMPLOYER, as the case may be, is not, at any stage, intentionally responsible for delaying the proceedings ;
- d. once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled is paid expediently;
- e. that part of the MEMBER'S benefit that is withheld is disinvested and placed in a bank account to preserve the capital value of the benefit and protect it against poor market performance.

- 10.3. Where the benefit payable to the MEMBER is an annuity the TRUSTEES shall be entitled to require that the annuity be commuted for a cash sum to the extent required to meet the amount necessary to be deducted in terms of RULE 10.2, subject to any limitations imposed by the Income Tax Act No. 58 of 1962, as amended, on the extent to which an annuity may be commuted.
- 10.4. The ADMINISTRATOR shall deduct from any benefit which becomes payable in accordance with the RULES
- a. the tax which becomes due in consequence of such payment, and/or
 - b. any other amount notified by the RECEIVER to the FUND in respect of a MEMBER representing a sum owing by such MEMBER as a result of unpaid tax.
- 10.5 The FUND may furnish a guarantee for such amount, as agreed by the TRUSTEES on the advice of the ACTUARY, as is required to cover the value of a loan granted to a MEMBER by a person other than the FUND in terms of Section 19(5) of the ACT; provided that such amount complies with the provisions of the ACT, the terms and conditions set out by the REGISTRAR and the requirements of the RECEIVER.

The FUND shall deduct from a benefit payable under the RULES to a MEMBER, or in respect of a MEMBER, any amount required to settle any outstanding guarantee furnished in favour of a MEMBER in respect of loan made to such MEMBER by a person other than the FUND in terms of Section 19(5) of the ACT and pay that amount on the MEMBER'S behalf to the person who granted the initial loan to such MEMBER.

11. TRANSFERS

11.1 Transfers into the FUND

The TRUSTEES may

- a. accept into the FUND any cash sum arising from a transfer in terms of Section 14 of the ACT from an APPROVED FUND in which a MEMBER or group of MEMBERS had participated immediately prior to the date of joining the FUND; and
- b. on receipt of a written request from an individual MEMBER, accept into the FUND any cash sum arising from an APPROVED FUND of which he had been a member at any time prior to joining the FUND.

The cash sums referred to above, less any deduction of administration expenses as agreed between the MEMBER and the TRUSTEES, shall be transferred to the FUND in accordance with the provisions of the rules of the APPROVED FUND or PRESERVATION FUND from which the cash sum is being transferred and shall be subject to the RULES and the requirements laid down by the REGISTRAR and the RECEIVER. Any transfers in respect of a. and b. above shall be applied to the MEMBER'S FUND CREDIT.

11.2 Transfers out of the FUND

11.2.1 If an EMPLOYER terminates its participation in the FUND, or its participation in the FUND in respect of a specific group of MEMBERS, other than for reasons mentioned in RULE 11.2.2 below, the FUND CREDIT of such MEMBERS, shall, subject to the requirements of the ACT, the REGISTRAR and the RECEIVER, and net of any liability for tax which may arise, be transferred in terms of Section 14 of the ACT to

- a. in the case of an EMPLOYER who ceases to participate in the FUND in respect of all or some of its MEMBERS, but does not do so in order to establish a new fund or scheme or to participate in another existing fund or scheme, any other APPROVED FUND, or RETIREMENT ANNUITY FUND approved by the TRUSTEES, in consultation with the EMPLOYER, for the exclusive benefit of the MEMBERS concerned, or

- b. in the case of an EMPLOYER who ceases to participate in the FUND in respect of some or all of its MEMBERS in order to establish a new fund or scheme or to participate in another existing fund or scheme, such fund or scheme, subject to such fund or scheme being registered by the REGISTRAR and approved by the RECEIVER as a suitable retirement funding vehicle;

11.2.2 Notwithstanding any other provisions of these RULES, if an EMPLOYER'S business or part of its business is transferred in terms of Section 197 of the Labour Relations Act to another employer, no MEMBER affected by such transfer shall become entitled to any benefit in terms of RULE 8.1. The TRUSTEES, in consultation with the EMPLOYER and the new employer and having regard to the transfer agreement governing the transfer of the EMPLOYER'S business and the MEMBERS' contracts of employment, shall arrange for the MEMBER'S FUND CREDITS to be dealt with as follows:

- a. where the MEMBERS are being transferred to the service of an employer who is eligible to become a participatory EMPLOYER on the FUND, the employer shall become an EMPLOYER in the FUND and the MEMBERS shall remain MEMBERS of the FUND under the new EMPLOYER;
- b. where the employer participates in an existing APPROVED FUND, the MEMBERS shall transfer to such fund via a Section 14 transfer;
- c. where the employer does not participate in an existing APPROVED FUND, the MEMBERS shall be transferred to a PRESERVATION FUND or a RETIREMENT ANNUITY FUND agreed to by the TRUSTEES and the EMPLOYER and new employer and subject to any requirement of the RECEIVER.

On finalization of the transfer of his benefit in terms of b. and c. above, the MEMBER shall cease to be a MEMBER of the FUND.

12. DISSOLUTION

12.1. Voluntary Dissolution

The COUNCIL may at any time give three months' written notice of termination of the FUND to the TRUSTEES. Once notice of termination has been served, the TRUSTEES must appoint a LIQUIDATOR. The LIQUIDATOR must liquidate the FUND with effect from the date of the REGISTRAR'S approval of his appointment in a way which is equitable and which conforms with the provisions of the ACT.

12.2. Liquidation by Court

Any liquidation of the FUND by a Court of Law will take place according to Section 29 of the ACT.

12.3. Amalgamation

If the FUND is to be amalgamated with the business of any other APPROVED FUND then, subject to the requirements of Section 14 of the ACT being complied with and the necessary approval granted for the transaction, the TRUSTEES must request the REGISTRAR to cancel the registration of the FUND in terms of Section 27(1)(a) of the ACT.

12.4. Partial Dissolution

An EMPLOYER may terminate its total participation in the FUND, or its participation in the FUND in respect of a specific group of MEMBERS, at any time by giving three months written notice to the TRUSTEES. The TRUSTEES may fully terminate an EMPLOYER'S, other than the COUNCIL'S, participation in the FUND or such EMPLOYER'S participation in the FUND in respect of a specific group of MEMBERS by giving that EMPLOYER three months' written notice. On notice of termination of an EMPLOYER'S participation in the FUND, the EMPLOYER shall notify the MEMBERS in its employ accordingly.

Upon an EMPLOYER ceasing to participate in the FUND in respect of all MEMBERS, or a group of MEMBERS, in its employ, the FUND CREDIT of such MEMBERS, shall be dealt with in terms of RULE 11.2; provided that, if the EMPLOYER terminates full participation in the FUND under such circumstances as to necessitate the appointment of a LIQUIDATOR to dissolve such EMPLOYER'S participation in the FUND, then, with the agreement of the TRUSTEES and the LIQUIDATOR, the FUND CREDIT of such MEMBERS may be paid to the MEMBERS in cash, net of any liability for tax which may arise.

On notice of termination of an EMPLOYER'S participation in the FUND, the EMPLOYER shall notify the MEMBERS in its employ accordingly.

The TRUSTEES may, at their sole discretion, decide to waive the notice period specified in the RULE and accept any lesser period of notice they may regard as reasonable.

12.5. Overriding Dissolution Condition

Notwithstanding anything to the contrary contained in this RULE, the dissolution of the FUND or any partial dissolution of the FUND shall be subject to the relevant provisions of the Income Tax Act No. 58 of 1962, as amended and those of the ACT.

13. MANAGEMENT OF THE FUND

13.1. TRUSTEES

- a. The FUND shall be managed by TRUSTEES in accordance with the RULES.
- b. The TRUSTEES shall consist of eighteen persons
 1. nine of whom are appointed by the EMPLOYER ASSOCIATIONS (hereinafter referred to as EMPLOYER ASSOCIATION TRUSTEES); provided that the EMPLOYER ASSOCIATIONS may appoint alternates to act in the absence of EMPLOYER TRUSTEES; and
 2. nine of whom shall be MEMBERS of the FUND and shall be nominated and elected by ballot by the MEMBERS of the FUND in the same election in which union representatives are elected (hereinafter referred to as TRADE UNION TRUSTEES); provided that MEMBERS may elect alternates to act in the absence of MEMBER TRUSTEES;

provided that

 3. TRUSTEES shall hold office for a period of three years but shall be eligible for re-election thereafter; and
 4. if there is a material change in the number of MEMBERS or EMPLOYERS participating in the FUND, the TRUSTEES shall have the right, subject to the provisions of the ACT, to review the number of TRUSTEES and agree on any changes.
- c. An EMPLOYER ASSOCIATION TRUSTEE may, at any time, be removed from office by the EMPLOYER ASSOCIATIONS or resign by giving notice in writing to the other TRUSTEES, the EMPLOYER ASSOCIATION and the COUNCIL of his intention to do so. He will relinquish his office as TRUSTEE if he fails to attend three consecutive meetings of the TRUSTEES, unless the other TRUSTEES have given their agreement to such non-attendance. Any vacancy among EMPLOYER ASSOCIATION TRUSTEES shall be filled by a substitute to be appointed by the EMPLOYER ASSOCIATION.
- d. A TRADE UNION TRUSTEE will relinquish his office as TRUSTEE if he fails to attend three consecutive meetings of the TRUSTEES, unless the other TRUSTEES have given their consent to such non-attendance. Any vacancy among TRADE UNION TRUSTEES shall be filled by a substitute elected by the MEMBERS from among the MEMBERS of the FUND.
- e. Any TRUSTEE shall cease to hold office if:
 1. he has been removed in accordance with Clause c or Clause d above; or

2. he resigns or, in the case of a MEMBER TRUSTEE, leaves the employment of the EMPLOYER; or
 3. he becomes insane or is incapable of acting; or
 4. his estate is sequestrated or surrendered or assigned for the benefit of his creditors; or
 5. he is convicted, whether in the Republic of South Africa or elsewhere, for theft, fraud, forgery or uttering of a forged document or perjury; or
 6. he is removed by a competent court from any office of trust on account of mis-conduct.
- f. The TRUSTEES shall appoint an independent CHAIRMAN to preside at meetings of the TRUSTEES who is not affiliated to any EMPLOYER, EMPLOYER ASSOCIATION OR UNION. The independent CHAIRMAN shall be paid an annual amount for services rendered to the FUND and, with the agreement of the majority of the TRUSTEES, can be reimbursed for expenses incurred in carrying out his duties as an independent CHAIRMAN of the FUND; provided that such agreed expenses are recorded in writing and form part of the minutes of the TRUSTEE meeting at which the agreement is reached.

The independent CHAIRMAN shall have no voting rights on the FUND. The TRUSTEES may appoint a new independent CHAIRMAN at any time on the request of a majority of the TRUSTEES. The independent CHAIRMAN shall hold office for a maximum period of four years; provided that the independent CHAIRMAN may be re-appointed thereafter. In the absence of the independent CHAIRMAN from any meeting, the meeting shall be postponed for not more than 15 days until the independent CHAIRMAN is available to attend the meeting.

- g. The TRUSTEES shall meet at least once in any calendar year to conduct the business of the FUND. Ten TRUSTEES shall be required to be present to form a quorum subject to a minimum of five EMPLOYER ASSOCIATION TRUSTEES and five TRADE UNION TRUSTEES being present. Minutes of all meetings shall be kept.
- h. The TRUSTEES shall appoint an independent PRINCIPAL OFFICER to the FUND, which shall be notified to the REGISTRAR within 30 days of such appointment. The PRINCIPAL OFFICER shall be remunerated for his services as per a service level agreement signed between the FUND and the PRINCIPAL OFFICER, such agreement being reviewed from time to time.

- i. The PRINCIPAL OFFICER shall give at least twenty one days written notice to the TRUSTEES of a meeting of the TRUSTEES; provided that with the agreement of all the TRUSTEES such period may be partially or totally waived.
- j. With the agreement of the majority of the TRUSTEES, a TRUSTEE can be
 - 1. reimbursed for expenses incurred in carrying out his duties as a TRUSTEE of the FUND; provided that such agreed expenses are recorded in writing and form part of the minutes of the TRUSTEE meeting at which the agreement is reached; and
 - 2. paid an annual amount for services rendered to the FUND as a TRUSTEE.
- k. At all meetings the decision of the majority shall be binding; provided that if at any meeting of the TRUSTEES, there is an equality of votes on a particular motion or proposal, the chairman presiding at the meeting of the TRUSTEES shall direct that a further TRUSTEE meeting shall be convened, which shall not be later than ninety days following the present meeting, at which the motion or proposal in question will be further considered and a vote taken thereon.

If, at that meeting an equality of votes still exists on the relevant motion or proposal, the chairman presiding at the meeting of the TRUSTEES shall arrange for the matter to be placed before an arbitrator who is acceptable to the majority of TRUSTEES. The arbitrator's decision shall be final and binding on all TRUSTEES.
- l. At any meeting of the TRUSTEES where a proposal is made which materially or financially affects the EMPLOYER, a proper decision can only be made regarding such proposal if the TRUSTEES present at that meeting include an equal number of EMPLOYER TRUSTEES and MEMBER TRUSTEES and any decision is ratified by the COUNCIL.
- m. A resolution in writing signed by all the TRUSTEES shall be of the same force and effect as a resolution passed at a meeting of the TRUSTEES.

13.2. Powers and Duties of the TRUSTEES

Subject to the provisions of the ACT the powers and duties of the TRUSTEES shall include the following:

- a. to open a bank account in the name of the FUND in order to receive, administer and apply the moneys of the FUND;

- b. to effect policies of insurance issued to the FUND by long and short-term insurers registered in terms of the Long-Term Insurance Act No. 52 of 1998 or the Short-Term Insurance Act No.53 of 1998,as amended;
- c. subject to the requirements of the REGISTRAR, to raise or borrow money, with interest or otherwise, for the purpose of bridging a temporary cash shortage or to complete an investment on behalf of the FUND;
- d. the power to furnish a guarantee in respect of a housing loan by some person, other than the FUND, to a MEMBER for the purposes referred to in Section 19(5)(a) of the ACT, such guarantee being subject to the requirements of the REGISTRAR;
- e. to purchase, sell, lease, let, lend, borrow or otherwise acquire, deal with or dispose of any movable or, with the approval of the REGISTRAR, immovable property for the use of the FUND;
- f. to invest moneys in whatever manner the TRUSTEES may, in their discretion think fit, and to realise, vary, reinvest or otherwise deal with all such investments as they may determine;
- g. in the name of the FUND to enter into and sign any contracts or documents and to institute, conduct, defend, compound or abandon any legal proceedings by or against the FUND;
- h. to make regulations concerning the form and the manner in which claims shall be lodged and dealt with by the FUND; and
- i. generally undertake any other act which, in the opinion of the TRUSTEES, is conducive to the attainment of the objectives of the FUND.

13.3. Appointments

- a. The TRUSTEES shall appoint an ACTUARY, ADMINISTRATOR, AUDITOR, PRINCIPAL OFFICER and, if necessary, any other person, persons or corporation to assist with the running of the affairs of the FUND on terms and conditions as they may determine.
- b. If the PRINCIPAL OFFICER is absent from the Republic of South Africa for more than thirty days or is otherwise unable to perform his duties, the TRUSTEES shall appoint another person to act as PRINCIPAL OFFICER for the period of his absence or disability and shall advise the REGISTRAR of such person's name.

13.4 Financial Statements and Audit

The TRUSTEES shall arrange for the necessary financial records as are essential for the proper working of the FUND to be kept. Financial statements shall be prepared for the FUND as at the FINANCIAL YEAR END each year, which financial statements shall be audited by the AUDITOR in terms of the ACT.

13.5 Safe Custody of Securities

Any mortgage bond, title deed or other security belonging to or held by the FUND shall, except when in the safekeeping of others for the purposes of the FUND, as agreed by the TRUSTEES, be kept in the strongrooms of the registered office of the FUND.

13.6 Signing of Documents

The TRUSTEES shall have the right to authorise various members or any other person, persons or corporation they may approve, to sign any contract or other document binding the FUND or any document authorising the undertaking of any act on behalf of the FUND.

13.7 Indemnification

The TRUSTEES and any other person, persons or corporation authorised by the TRUSTEES to act on behalf of the FUND shall be indemnified by the FUND against all proceedings, costs and expenses incurred by reason of any claim in connection with the FUND, not arising from their dishonesty, fraud or negligence.

13.8 Protection of Assets

- a. Subject to the requirements of the REGISTRAR, the TRUSTEES shall insure the FUND against any loss which may result from the dishonesty, fraud or negligence of any of its officers (including the TRUSTEES).
- b. The TRUSTEES may require a suitable guarantee from any person, persons or corporation acting on behalf of the FUND that handles money or other assets on behalf of the FUND and/or is responsible for the rendering of true accounts on behalf of the FUND.

13.9 Actuarial Services

The ACTUARY shall provide the FUND with the actuarial services that are required in terms of the RULES, the ACT and the regulations of the Registrar of Pension Funds.

14. OTHER MATTERS

14.1. Supplementary Benefits

Subject to the provisions of the ACT, the EMPLOYER, in consultation with the TRUSTEES, shall have the right to allow a MEMBER or his BENEFICIARIES a greater benefit than that provided under the RULES; (subject, where appropriate' to the consent of the RECEIVER and the REGISTRAR); provided that the cost of such benefit is paid by the EMPLOYER into the FUND.

14.2. Binding Force of RULES

These RULES are binding on the FUND, ADMINISTRATOR, MEMBERS, TRUSTEES and on any person who claims under these RULES or whose claim is derived from a person so claiming.

14.3. Amendments to the RULES

- a. Subject to Clause b below, the TRUSTEES may make new RULES or alter any existing RULE they consider desirable; provided that, where an alteration to the RULES has a financial impact on MEMBERS and the EMPLOYER, the TRUSTEES shall notify such MEMBERS and EMPLOYER to that effect.
- b. Any addition or alteration to these RULES shall be submitted to the REGISTRAR and the RECEIVER for registration and approval respectively.

14.4. Disputes

- a. Any dispute which a MEMBER may have with regard to the operation or provisions of the FUND shall be submitted in writing to his EMPLOYER or to the TRUSTEES.
- b. The EMPLOYER or the TRUSTEES, as the case may be, shall consider the nature and extent of the dispute and shall give a written reply to the MEMBER within a period of thirty days following receipt of such dispute.
- c. If, following the period of thirty days referred to in RULE 14.4.b. the MEMBER has not received a reply or if the MEMBER, having received a reply, is not satisfied with such reply, the MEMBER may,
 1. re-submit the dispute in writing to the EMPLOYER or the TRUSTEES, or
 2. lodge the dispute with the "Adjudicator" as defined in the ACT to be dealt with in terms of Section 30C thereunder, subject to the procedures and conditions set out under Section 30A of the ACT.
- d. The provisions of this RULE shall also apply to the BENEFICIARIES of a MEMBER or any other person or persons entitled to a benefit arising on the death or retirement of a MEMBER.

14.5. Copies of Documents

The TRUSTEES shall on request from a MEMBER, provide the MEMBER with a copy of the RULES. Every MEMBER is entitled on application to the TRUSTEES, to a copy of the FUND'S latest audited financial statements.

14.6. Conditions of Employment

Nothing contained in these RULES is to be considered as altering in any way the EMPLOYER'S right to terminate the employment of an employee who is a MEMBER of the FUND or any agreement between the EMPLOYER and the employee in regard to conditions of employment.

14.7. Unforeseen Circumstances

On the occurrence of an event which has not been provided for in these RULES then, subject to the provisions of RULE 14.4., the decision of the TRUSTEES in consultation with MEMBERS of the FUND and the EMPLOYER, if not inconsistent with the provisions of these RULES, shall be final and conclusive.

14.8. General Authority

Subject to the provisions of the ACT, the TRUSTEES shall be entitled in their absolute discretion to make arrangements and to do anything which is consistent with the provisions of these RULES or make any amendment which, in their opinion, is for the benefit and protection of MEMBERS or other persons in receipt of or prospectively entitled to benefits under the FUND.

14.9. Currency of Payments

Payments due to or by the FUND shall be made in the currency of the Republic of South Africa.

14.10. Place of Payment

The FUND will pay benefits to the MEMBER or BENEFICIARY entitled to them at the registered office of the FUND and in the currency of the Republic of South Africa unless otherwise agreed by the TRUSTEES. Once such payment has been made, the FUND will have no further liability in respect of a MEMBER, his DEPENDANTS or BENEFICIARIES.

14.11. Proof of Age

Each MEMBER must produce a birth certificate or other evidence of age acceptable to the TRUSTEES and must also provide such other information as the TRUSTEES may reasonably require for the purposes of the FUND.

14.12. Claimant's Duty

Any person entitled to a benefit from the FUND must provide:

- a if required by the FUND, evidence of his age satisfactory to the FUND; and
 - b such other information as the FUND may reasonably require
- before such benefit will be paid.

14.13. No Claim

No person will have any claim concerning the FUND either upon the FUND or against any EMPLOYER, except in accordance with these RULES.

14.14. Communications

All communications in connection with these RULES must be in writing and subject to such terms and conditions determined by the TRUSTEES.