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Registered, Not  
Tax-Approved.

**PRASA**  
**PROVIDENT FUND**

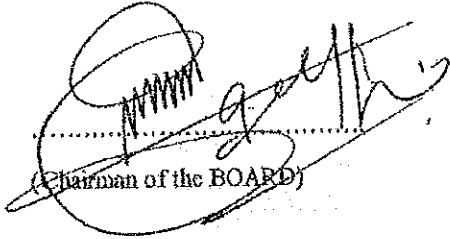
**RULES**  
  
**OF THE**  
  
**PRASA**  
  
**PROVIDENT FUND**

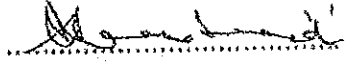
The BOARD of PRASA Provident Fund (the FUND) resolved at BRAAMFONTEIN on 7 April 2014..... that the existing RULES of the FUND, as amended, be replaced by these RULES which are effective from the first day of the month immediately following on the date that the ADMINISTRATOR receives official notice of the registration of these RULES by the REGISTRAR.

The reasons for replacing the RULES are as follows:

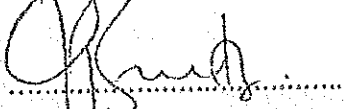
- To incorporate all the amendments up to and including amendment no. 10 in these RULES.
- To incorporate the latest provisions of the ACT, the regulations to the ACT, and the Income Tax Act and to comply with all other applicable laws and any other requirements of the REGISTRAR of Pension Funds and the Revenue Authorities.
- To update the RULES in accordance with the latest practices of the FUND.
- To remove redundant provisions and generally make the RULES more easily understandable.

Certified that the above resolution was adopted in accordance with the existing RULES of the FUND.

  
(Chairman of the BOARD)

  
(BOARD MEMBER)

(BOARD MEMBER)

  
(Principal Officer)

DEUR MY GEREKISTEER OF HEDIE DIE REGISTERED BY ME ON THIS THE
23rd
DAG VAN October 2014
DAY OF
Atullen
Registeraar van Pensioenfondse Registrar of Pension Funds

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# **RULES**

## **OF**

### **PRASA PROVIDENT FUND**

#### **PART 1. INTRODUCTION**

##### **1.1 Establishment and object of the FUND**

- 1.1(1) A retirement fund known as S A Spoorpendelkorporasie Beperk Voorsorgonds (the FUND) was established with effect from 1 April 1990.
- 1.1(2) With effect from 1 July 1996 the name of the FUND changed to S A Rail Commuter Corporation Limited Provident Fund.
- 1.1(3) With effect from 1 June 2009 the name of the FUND changed to PRASA Provident Fund.
- 1.1(4) With effect from 1 June 2009 the FUND was operated as privately administered.
- 1.1(5) The object of the FUND is to provide, in terms of the provisions of these RULES, as amended from time to time, benefits at retirement or other life contingencies on behalf of persons who qualify for participation in the FUND.
- 1.1(6) Upon registration the FUND becomes a body corporate separate from its MEMBERS, capable of suing and being sued in its own name and of doing all things necessary for or incidental to the exercise of its powers or the performance of its functions in terms of the RULES.

##### **1.2 Registered office**

The registered office of the FUND is situated at PRASA House, 1040 Burnett Street, HATFIELD, 0083.

## PART 2. DEFINITIONS

In these RULES, unless the context indicates otherwise,

- words defined in the ACT have the meanings assigned to them in the ACT;
- the singular also denotes the plural and vice versa; and
- the expressions below have the meanings indicated opposite them

**ACT** means the Pension Funds Act (Act no 24 of 1956), as amended and the regulations promulgated in terms of it

**ACTUARY** means the actuary appointed by the FUND

**ADMINISTRATOR** means the administrator appointed by the FUND

**AUDITOR** means the auditor appointed by the FUND

**BENEFICIARY** means a MEMBER, DEPENDANT, NOMINEE or other person to whom a benefit is payable in terms of the RULES

**BOARD** means the BOARD which controls and manages the FUND in terms of the RULES

**BOARD MEMBER** means a member of the FUND who is a member of the BOARD

**CATEGORY A MEMBER** means-

- (a) a person who was a MEMBER of the OLD FUND immediately before his/her MEMBERSHIP of the FUND commenced; or
- (b) a person who is in the service of the EMPLOYER, except a person who was already in service before 1 May 2006

**CATEGORY B MEMBER** means MEMBERS who are ex-SARCC and ex-Intersite MEMBERS

**COMMENCEMENT DATE** means 1 April 1990

**CONSUMER PRICE INDEX** means the "headline consumer inflation – suburban areas" supplied by Statistics South Africa from time to time

**CONTRIBUTIONS FOR RETIREMENT BENEFITS** in regard to a MEMBER means the contributions made to the FUND by and in respect of the MEMBER, including transfers from other funds made specifically in respect of the MEMBER, less the portion thereof earmarked by the FUND for the following, namely -



- the cost of the administration of the FUND (excluding the investment administration);
- the current cost of RISK BENEFITS;
- the fees payable to consultants and other professional advisers;
- extraordinary costs not paid from the RISK AND EXPENSE RESERVE ACCOUNT;
- strengthening of the RISK AND EXPENSE RESERVE ACCOUNT

**DATA AND PROCESSING ERROR RESERVE ACCOUNT** means the DATA AND PROCESSING ERROR RESERVE ACCOUNT described in RULE 10.5

**DEPENDANT** in regard to a MEMBER means -

- (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, upon the death of the MEMBER in fact dependent on the MEMBER for maintenance;
  - (ii) is the spouse of the MEMBER, where 'spouse' means the permanent life partner or spouse or civil union partner of a MEMBER in accordance with the Marriage Act 25 of 1961, the Recognition of Customary Marriages Act 120 of 1998, or the Civil Union Act, No. 17 of 2006, or the tenets of a religion;
  - (iii) is a child of the MEMBER, including a posthumous child, an adopted child and a child born out of wedlock; or
- (c) a person in respect of whom the MEMBER would have become legally liable for maintenance, had the MEMBER not died

**EMPLOYEE** means a person who-

- (a) is in the service of the EMPLOYER;
- (b) is not in terms of an industrial or wage determination agreement compelled to be a member of another pension fund,

except a person who already receives or has received retirement benefits in terms of the RULES

**EMPLOYER** means the **PRINCIPAL EMPLOYER** and any subsidiary of the **PRINCIPAL EMPLOYER** that participates in the **FUND**

With regard to a **MEMBER**, **EMPLOYER** means that **EMPLOYER** by whom the **MEMBER** is or was last employed

**EMPLOYER SURPLUS ACCOUNT** means the **EMPLOYER SURPLUS ACCOUNT** described in **RULE 10.3**

**ENTRY DATE** means the date on which the particular **MEMBER** starts participating in the **FUND**

**FINANCIAL YEAR** means the 12 months ending on the last day of March each year

**FUND** means PRASA Provident Fund. Where applicable a reference to the **FUND** must be construed as a reference to the **BOARD**

**FUND INTEREST** in regard to a **MEMBER** means any income (received or accrued) and capital gains and losses (realized and unrealized) of the **FUND**, less an allowance for any tax (where applicable) and such investment related expenses (paid or incurred) as may be determined by the **BOARD**, provided that:

- (a) such **FUND INTEREST** may be positive or negative;
- (b) such **FUND INTEREST** shall be allocated on such equitable basis as the **BOARD** in consultation with the **ADMINISTRATOR** and in accordance with the agreed practice of the **FUND** may determine from time to time; provided that in determining the **FUND INTEREST** the **BOARD** shall take into consideration the impact of any miscellaneous mismatches which arise in the administration of the **FUND**

**INDIVIDUAL MEMBER ACCOUNT** means the individual account kept for each **MEMBER** in terms of **RULE 10.1**

**INSURER** means an institution registered in terms of the Long-term Insurance Act (Act No. 52 of 1998), as amended

**LABOUR RELATIONS ACT** means the Labour Relations Act (Act No. 66 of 1995), as amended, and the regulations made in terms of it, or any substituting statutory measures

**MEMBER** means any person who is a **MEMBER** of the **FUND** in terms of the **RULES** and **MEMBERSHIP** has a corresponding meaning

**MEMBER SHARE** in regard to any MEMBER means the balance of his/her  
INDIVIDUAL MEMBER ACCOUNT

**MEMBER SURPLUS ACCOUNT** means the MEMBER SURPLUS ACCOUNT  
described in RULE 10.2

**MEMBER TRANSFER CREDIT** means the full amount which is available at the  
entry of the MEMBER to the FUND from any other approved and registered FUND to  
be applied specifically in respect of the MEMBER (if applicable), less any portion  
thereof which is not transferred to the FUND. (The latter portion includes any tax which  
has been paid on the transfer)

**NOMINEE** means a person who is nominated by the MEMBER in terms of the  
RULES in terms of section 37C of the ACT

**NORMAL RETIREMENT AGE** means the age of 63 in the case of all MEMBERS

**NORMAL RETIREMENT DATE** in regard to any MEMBER means the last day of  
the month in which he/she reaches the NORMAL RETIREMENT AGE

**OLD FUND** means Transnet Retirement Fund or The Transnet Pension Fund

**PRINCIPAL EMPLOYER** means Passenger Rail Agency of South Africa (PRASA)

**PROVIDENT PRESERVATION FUND** means a provident preservation fund as  
defined in the Income Tax Act (Act No. 58 of 1962), as amended

**REGISTRAR** means the Registrar of Pension Funds in terms of the ACT

**REMUNERATION** in regard to any MEMBER means the total of-

- any amount determined by the EMPLOYER and communicated to the FUND,  
provided that this total does not exceed the total cost incurred (either conditionally or  
not) by the EMPLOYER in respect of the MEMBER's service with the EMPLOYER.

The REMUNERATION is determined when an EMPLOYEE becomes a MEMBER and  
thereafter

If the MEMBER's salary or wage is decreased, the REMUNERATION which applied  
immediately before such decrease remains unchanged

**RISK AND EXPENSE RESERVE ACCOUNT** means the RISK AND EXPENSE  
RESERVE ACCOUNT described in RULE 10.4

**RULES** means the rules of the FUND contained herein, as amended from time to time

### PART 3. MEMBERSHIP

#### 3.1 MEMBERSHIP

- 3.1(1) Every EMPLOYEE qualifies for MEMBERSHIP of the FUND provided that he/she is on the permanent staff of the EMPLOYER.
- 3.1(2) An EMPLOYEE who entered the service of the EMPLOYER before the COMMENCEMENT DATE and has since then remained in the EMPLOYER's service without interruption and did not become a MEMBER within twelve months of the date on which he/she qualified for MEMBERSHIP, may not become a MEMBER of the FUND.
- 3.1(3) Every EMPLOYEE who enters the service of the EMPLOYER on or after the COMMENCEMENT DATE, becomes a MEMBER of the FUND with effect from the date on which he/she qualifies for MEMBERSHIP provided that the EMPLOYER has registered the EMPLOYEE with the ADMINISTRATOR. In the event of the EMPLOYER not registering the EMPLOYEE, MEMBERSHIP will not commence until the first day of the month following eventual registration unless otherwise agreed by the FUND in consultation with the ADMINISTRATOR.

The receipt of a contribution by the FUND in respect of an EMPLOYEE does not automatically qualify the EMPLOYEE for any benefit under the FUND. If the FUND receives a contribution in respect of an EMPLOYEE and, for whatever reason, the EMPLOYEE does not qualify for MEMBERSHIP, the contribution received will be refunded to the EMPLOYEE or the EMPLOYER as the case may be.

The requirement in this sub-RULE must be laid down by the EMPLOYER as a condition of employment of its EMPLOYEES.

#### 3.2 New participating EMPLOYERS

- 3.2(1) Any subsidiary of the PRINCIPAL EMPLOYER shall contribute subject to the conditions laid down by the PRINCIPAL EMPLOYER and the BOARD.
- 3.2(2) An EMPLOYEE who, immediately prior to the new participating EMPLOYER's participation in the FUND, was in the service of that EMPLOYER and was not a member of an existing fund in which that EMPLOYER participated, may become a MEMBER of the FUND by applying to the FUND. But the date on which he/she becomes a MEMBER of the FUND must be within a period of time determined by the

FUND and that EMPLOYER, which may not be longer than twelve months after the date on which he/she qualifies for MEMBERSHIP. Such an EMPLOYEE who does not become a MEMBER within the determined period of time may not become a MEMBER of the FUND.

- 3.2(3) The MEMBERSHIP of an EMPLOYEE who, immediately prior to the new participating EMPLOYER's participation in the FUND, was in the service of that EMPLOYER and was a member of an existing fund in which that EMPLOYER participated, will be subject to the conditions agreed upon by the PRINCIPAL EMPLOYER, the new participating EMPLOYER and the BOARD.
- 3.2(4) An EMPLOYEE who enters the service of the new participating EMPLOYER on or after the date of its participation in the FUND must become a MEMBER of the FUND in accordance with the applicable provisions of this Part.

### 3.3 Termination

- 3.3(1) A MEMBER's MEMBERSHIP may not be terminated as long as he/she remains an EMPLOYEE, unless the category to which he/she belongs is transferred to another fund in which the EMPLOYER participates.
- 3.3(2) A MEMBER's MEMBERSHIP terminates -
- (a) at the MEMBER's death; or
  - (b) as soon as the MEMBER, after he/she has ceased to be an EMPLOYEE, ceases to be entitled to a benefit in terms of the RULES; or
  - (c) at the termination of the FUND,
- whichever event occurs first.

#### **PART 4. CONTRIBUTIONS**

##### **4.1 Current contributions by MEMBERS**

###### **4.1(1) CATEGORY A MEMBERS**

(a) As long as a MEMBER is an EMPLOYEE, he/she must make a monthly contribution to the FUND equal to 0% or 7.5% of his/her REMUNERATION according to the choice exercised by the MEMBER when he/she becomes a MEMBER of the FUND and thereafter annually at the end of the FINANCIAL YEAR of the FUND.

(b) The EMPLOYER must deduct a MEMBER's contribution for a particular month from the MEMBER's REMUNERATION before or on the last day of the month.

###### **4.1(2) CATEGORY B MEMBERS**

(a) CATEGORY B MEMBERS are not required to contribute to the FUND.

##### **4.2 Current contributions by the EMPLOYER**

###### **4.2(1) CATEGORY A MEMBERS**

(a) The EMPLOYER must contribute monthly to the FUND in respect of each MEMBER an amount of 12% or 19.5% of his/her REMUNERATION according to the choice exercised by the MEMBER when he/she becomes a MEMBER of the FUND and thereafter annually at the end of the FINANCIAL YEAR of the FUND.

(b) The ACTUARY will calculate the expenses of the FUND on an annual basis and the balance of the 19.5% or 12% contribution rate will be allocated to the MEMBER's INDIVIDUAL MEMBER ACCOUNT.

###### **4.2(2) CATEGORY B MEMBERS**

(a) The EMPLOYER must contribute monthly to the FUND in respect of each MEMBER who is an EMPLOYEE, an amount equal to 11% of his/her REMUNERATION.

4.2(3) If a MEMBER's MEMBERSHIP does not commence on the first day of a month, no contribution is payable in respect of that MEMBER for the month in which he/she becomes a MEMBER.

**4.3 Additional voluntary contributions**

A MEMBER and the EMPLOYER may make additional voluntary contributions to the FUND for the benefit of the MEMBER. The payment of additional contributions to the FUND shall be subject to the limitations and requirements of the Income Tax Act, 1962. Such additional contributions shall be allocated to the MEMBER's FUND CREDIT.

**4.4 Payment of contributions to FUND**

The EMPLOYER must pay the contributions which are payable to the FUND in respect of the MEMBERS directly to the FUND within seven days of the end of the month in respect of which the contributions are payable.

If contributions are not paid timeously, interest will be payable by the EMPLOYER to the FUND at the rate prescribed for application to late payments of contributions in terms of the ACT.



**PART 5. RETIREMENT BENEFITS****5.1 When payable**

- 5.1(1) A retirement benefit becomes payable when a MEMBER retires from the service of the EMPLOYER on or after his/her NORMAL RETIREMENT DATE.
- 5.1(2) A retirement benefit also becomes payable when a MEMBER's service with the EMPLOYER is terminated before his/her NORMAL RETIREMENT DATE, provided that -
- (a) the termination amounts to retirement, and it occurs on or after the MEMBER reached the age of 55 years; or
  - (b) the termination amounts to retirement owing to ill-health.

**5.2 Benefit at retirement**

A MEMBER's retirement benefit consists of an annuity policy purchased with the MEMBER SHARE. By applying to the FUND prior to his/her retirement, the MEMBER may convert the benefit, or a part of it, into a lump sum payment.

**5.3 Purchase of annuity policy**

- 5.3(1) The annuity policy referred to in the preceding RULE must be purchased from an INSURER selected by the MEMBER with the MEMBER as owner of the policy.
- 5.3(2) The FUND's liability in respect of a retiring MEMBER is limited to the conclusion of the annuity policy with the INSURER for the payment of the annuity direct to the MEMBER. Immediately after the FUND has paid the premium on the annuity policy and, where applicable, made payment of any lump sum, the MEMBER's MEMBERSHIP of the FUND ceases.
- 5.3(3) More than one annuity policy may be purchased in respect of a MEMBER subject to the terms and conditions prescribed by the REVENUE AUTHORITIES in this regard.
- 5.3(4) Subject to the right of conversion into a lump sum payment provided in the preceding RULE, the annuity policy must, unless otherwise allowed by the REVENUE AUTHORITIES, be non-commutable and non-surrenderable during the life of the retired MEMBER. It may not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the ACT.

- 5.3(5) The annuity must be payable at least until the death of the MEMBER. It may be a single-life annuity, a joint and survivorship annuity or a flexible annuity.

**5.4 Existing pensions in the name of the FUND**

If the FUND is liable to pay a pension purchased in the name of the FUND to a pensioner, the FUND may, after notifying the pensioner, transfer its liability to an INSURER on the conditions laid down by the FUND. The pensioner will become the owner of the annuity policy and the FUND will have no further liability towards the pensioner.

**PART 6. DEATH BENEFITS****6.1 Death while an EMPLOYEE**

- 6.1(1) If a MEMBER dies before or on the NORMAL RETIREMENT DATE while he/she is an EMPLOYEE, the cash benefit to which the MEMBER would have been entitled in terms of Part on voluntary termination of service immediately prior to his/her death, less the amount of any reasonable costs undertaken by the FUND in identifying and tracing DEPENDANTS and/or NOMINEES of the MEMBER, is paid to his/her DEPENDANTS and NOMINEES.

**6.2 Conversion of a lump sum payment into an annuity policy**

At the discretion of the BOARD or in the event of a request from a DEPENDANT or NOMINEE, or his/her guardian or trustee in the case of a minor, for whom a lump sum payment must be paid in terms of this Part, a part or the whole of the lump sum payment may be used to purchase an annuity policy in terms of this Part.

**6.3 Purchase of annuity policy at death**

- 6.3(1) The annuity policies referred to in this Part must be purchased from an INSURER selected by the DEPENDANT or NOMINEE, or by the guardian or trustee in the case of a minor.
- 6.3(2) Each annuity policy may be purchased with the DEPENDANT or NOMINEE as owner of the policy. A policy may be purchased with the joint owners being more than one DEPENDANT or NOMINEE.
- 6.3(3) The FUND's liability in respect of an annuity policy and the payment of the annuity payable in terms of it is limited to
- the conclusion of the annuity policy with an INSURER in favour of the DEPENDANT or NOMINEE; and
  - payment of the premium on the annuity policy.
- 6.3(4) More than one annuity policy may be purchased in respect of a deceased MEMBER, subject to the terms and conditions prescribed by the REVENUE AUTHORITIES in this regard.
- 6.3(5) The annuity policies must be non-commutable and non-surrenderable. And they may not be transferred, assigned, reduced, hypothecated or attached by creditors as contemplated by the provisions of sections 37A and 37B of the ACT.

**PART 7. WITHDRAWAL BENEFITS****7.1 Termination of service**

If a MEMBER's service with the EMPLOYER is terminated before the NORMAL RETIREMENT DATE (whether voluntarily by the MEMBER or as a result of retrenchment, redundancy, dismissal or any other reason), and he/she is then not entitled to retirement benefits from the FUND, he/she may choose in writing in the prescribed format that the whole or a portion of the MEMBER SHARE be paid to him/her as a lump sum cash benefit.

The portion not so paid will be transferred for his/her benefit to another retirement fund selected by him/her and approved by the FUND for this purpose.

**7.2 Interest on late transfers**

If the benefit to be transferred in terms of this Part is not transferred by the FUND within the period determined in terms of section 13A of the ACT, interest will be added to the value of that benefit as at the date of termination of service at a rate equal to the greater of the rate prescribed in terms of that section and FUND INTEREST.

**PART 8. TRANSFERS****8.1 Transfers to the FUND**

- 8.1(1) The FUND, in consultation with the EMPLOYER and other funds, may receive benefits from those other funds on the conditions laid down by the FUND.
- 8.1(2) For the purposes of the RULES and determining benefits of a MEMBER, transfers from other funds and are credited to the MEMBER'S INDIVIDUAL MEMBER ACCOUNT.

**8.2 Transfers from the FUND**

- 8.2(1) The FUND, in consultation with the EMPLOYER and other funds, may transfer benefits to those other funds on the conditions laid down by the FUND.
- 8.2(2) Where business of the FUND in respect of a MEMBER, or group of MEMBERS, is transferred to another fund, as contemplated in section 14 of the ACT, as from the effective date of the transfer contributions to the FUND by or in respect of the MEMBER(S) must cease.
- 8.2(3) If an EMPLOYER transfers all the MEMBERS in its service as a group to one or other approved retirement fund, or if the entire business of the FUND is to be transferred to one or other approved retirement fund, the provisions of RULE 14.3 are applicable.

**8.3 Transfers to and from a PROVIDENT PRESERVATION FUND**

Any transfer to or from a PROVIDENT PRESERVATION FUND must comply with the statutory requirements of the REVENUE AUTHORITIES.

**8.4 Transfers in terms of section 197 of the LABOUR RELATIONS ACT**

If business of the EMPLOYER is transferred in terms of section 197 of the LABOUR RELATIONS ACT, the following applies:

- (a) If the MEMBERS affected by the transfer of business become members of an approved pension or provident fund established for the employees of the organisation to which business of the EMPLOYER is transferred, the MEMBERS' MEMBER SHARES will be transferred to such approved pension or provident fund in terms of section 14 of the ACT, and they will not be entitled to their MEMBER SHARES or a portion thereof in cash.

- (b) If there is no approved pension or provident fund deemed suitable by the BOARD for the employees of the organisation to which the business of the EMPLOYER is transferred, -
- (i) the BOARD may determine that the MEMBER SHARES of the MEMBERS affected by the transfer be transferred to an approved retirement annuity fund in terms of section 14 of the ACT; or
  - (ii) the BOARD may determine that the MEMBERS affected by the transfer remain MEMBERS of the FUND for a certain period and on certain conditions, provided that, for that period, the organisation to which the business of the EMPLOYER is transferred, becomes an EMPLOYER for purposes of the RULES; and
  - (iii) the BOARD may, at the request of the organisation to which the business of the EMPLOYER is transferred, determine that all new employees of such organisation become MEMBERS of the FUND also for a certain period and on certain conditions.
- (c) If paragraph (b) is applicable but the BOARD do not elect to make the determinations referred to in sub-paragraphs (i) or (ii), then the MEMBERS affected by the transfer will be entitled to their withdrawal benefits under the FUND.

## **PART 9. ABSENCE FROM SERVICE**

### **9.1 Absence with the EMPLOYER's consent**

If a MEMBER is absent from the service of the EMPLOYER with the EMPLOYER's consent the MEMBER's MEMBERSHIP continues subject to the following:

- (a) The MEMBER may, with the consent of the EMPLOYER, suspend his/her contributions to the FUND, in which case the EMPLOYER's contributions to the FUND in respect of the MEMBER, except the portion that must be applied towards the expenses of the FUND, are also suspended.
- (b) During the period of absence the MEMBER's REMUNERATION is deemed to be equal to the REMUNERATION he/she received immediately before the commencement of absence, subject to other agreements between the FUND and the EMPLOYER in this regard.

A MEMBER is deemed to be absent with the EMPLOYER's consent while he/she is engaged in a strike that is protected in terms of the LABOUR RELATIONS ACT.

### **9.2 Absence without the EMPLOYER's consent**

A MEMBER's MEMBERSHIP lapses and his/her service is regarded as terminated if and as soon as he/she is absent from the EMPLOYER's service without the EMPLOYER's consent. The EMPLOYER must immediately inform the FUND of the MEMBER's absence and of the date when it commenced.

### **9.3 MEMBER in receipt of income continuation benefit**

9.3(1) A MEMBER in receipt of income in accordance with disability income insurance effected by the EMPLOYER for the benefit of the MEMBERS, is deemed to be an EMPLOYEE who is not absent from service.

9.3(2) For purposes of determining his/her contributions (if any) and the EMPLOYER's contributions to the FUND, his/her REMUNERATION is deemed to be equal to the REMUNERATION he/she received immediately before becoming disabled to the extent required for the disability income benefit to become payable, and his/her REMUNERATION will be deemed to increase in proportion to any increases in his/her disability income benefit in accordance with the disability income insurance effected by the EMPLOYER for the benefit of the MEMBERS.

- 9.3(3) In the preceding sub-RULES the commencement of a MEMBER's disability is taken to be the start of any waiting period that is to elapse before the income continuation benefit becomes payable.



**PART 10. ACCOUNTS AND RESERVES****10.1 INDIVIDUAL MEMBER ACCOUNT**

10.1(1) The FUND keeps an INDIVIDUAL MEMBER ACCOUNT for each MEMBER which is credited with -

- (a) the MEMBER TRANSFER CREDIT
- (b) the CONTRIBUTIONS FOR RETIREMENT BENEFITS in respect of the MEMBER;
- (c) at the discretion of the BOARD, unallocated amounts that arise from the administrative process including, but not limited to, processing mismatches;
- (d) interest charged on the late payment of contributions in terms of the ACT.

10.1(2) The INDIVIDUAL MEMBER ACCOUNT is debited with -

- (a) the portion of the MEMBER SHARE which is payable to BENEFICIARIES in terms of the RULES;
- (b) transfers to the RISK AND EXPENSE RESERVE ACCOUNT to fund the expenses payable from that account;
- (c) any amounts deducted in terms of section 37D of the ACT;
- (d) at the discretion of the BOARD, the FUND's administration costs in respect of the MEMBER where these costs are not paid from other assets of the FUND.

**10.2 MEMBER SURPLUS ACCOUNT**

10.2(1) The FUND keeps a MEMBER SURPLUS ACCOUNT to which the following may be credited -

- (a) amounts allocated to the account in terms of sections 15B, 15C and 15E of the ACT;
- (b) the net investment earnings on the amount in the account.

10.2(2) The MEMBER SURPLUS ACCOUNT is debited, only by request of the BOARD, with the following -

- (a) amounts to improve the benefits of existing MEMBERS;
- (b) amounts to improve the benefits previously paid to former members or to improve the amounts previously transferred in respect of former members;

- (c) the net investment return on the amount in the MEMBER SURPLUS ACCOUNT if negative,
  - (d) amounts to reduce the current contributions payable by MEMBERS; and
  - (e) amounts to meet, in full or in part, expenses which would otherwise reduce the proportion of the MEMBER's contributions that are used for retirement benefits,
- provided that, when the MEMBER ceases MEMBERSHIP of the FUND in terms of the RULES for any reason he/she is, in terms of the provisions of Section 15G of the ACT, entitled to receive his/her share of the credit balance in the MEMBER SURPLUS ACCOUNT on the date on which his/her MEMBERSHIP terminates; and the BOARD MEMBERS appointed by the EMPLOYER do not have a vote regarding the use of any credit balance in the account unless such use will increase the rate of the contributions payable to the FUND by the EMPLOYER.

10.2(3) On liquidation of the FUND, any balance in the account must be applied in accordance with section 15I of the ACT.

### 10.3 EMPLOYER SURPLUS ACCOUNT

10.3(1) The FUND may keep an EMPLOYER SURPLUS ACCOUNT to which is credited -

- (a) amounts allocated to the EMPLOYER SURPLUS ACCOUNT in terms of sections 15B, 15C, 15E or 15F of the ACT;
- (b) additional contributions by the EMPLOYER specifically for the purposes of the EMPLOYER SURPLUS ACCOUNT;
- (c) the net investment return on the amount in the EMPLOYER SURPLUS ACCOUNT if positive.

10.3(2) The EMPLOYER SURPLUS ACCOUNT, at the request of the PRINCIPAL EMPLOYER, is debited with --

- (a) amounts applied as contributions made by the EMPLOYER to the FUND;
- (b) amounts to supplement pensions so as to compensate pensioners for the loss of any subsidy from the EMPLOYER of their medical costs after retirement;
- (c) expenses which the EMPLOYER is obliged to pay in terms of the RULES of the FUND;

- (d) amounts used to improve the benefits payable to all MEMBERS or a category of MEMBERS, as determined by the EMPLOYER;
- (e) transfers to the MEMBER SURPLUS ACCOUNT;
- (f) transfers to the employer surplus account of another retirement fund in which the EMPLOYER participates, subject to the approval of the REGISTRAR;
- (g) amounts used by the EMPLOYER to avoid retrenchment of a significant proportion of its workforce in terms of section 15J of the ACT;
- (h) amounts applied to repay surplus utilised improperly by the EMPLOYER in terms of Section 15B of the ACT;
- (i) the net investment return on the amount in the EMPLOYER SURPLUS ACCOUNT if negative,

provided that, the BOARD MEMBERS elected by the MEMBERS do not have a vote regarding the use of any credit balance in the account.

- 10.3(3) On liquidation of the FUND, any balance in the account must be distributed in accordance with section 15I of the ACT.

#### 10.4 RISK AND EXPENSE RESERVE ACCOUNT

- 10.4(1) The FUND keeps a RISK AND EXPENSE RESERVE ACCOUNT to which may be credited -
- (a) transfers from the INDIVIDUAL MEMBER ACCOUNTS to strengthen this account;
  - (b) EMPLOYER contributions earmarked by the FUND to strengthen this account;
  - (c) at the discretion of the BOARD, small unallocated amounts that arise from the administrative process including, but not limited to, processing mismatches which if allocated to INDIVIDUAL MEMBER ACCOUNTS would have a detrimental cost effect on the FUND and the MEMBERS;
  - (d) interest earned in the bank account of the FUND;
  - (e) the net investment return on the amount in the RISK AND EXPENSE RESERVE ACCOUNT.
- 10.4(2) The RISK AND EXPENSE RESERVE ACCOUNT may be debited amongst others with the following -

- (a) fees payable to the ADMINISTRATOR for services rendered to the FUND;
- (b) any taxes and levies not taken into account 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) fees and reimbursements payable to consultants, advisers and other service providers appointed by the FUND;
- (e) the costs of any audits of the FUND;
- (f) fees and reimbursements for secretarial services provided to the FUND;
- (g) fees and reimbursements payable to the principal officer of the FUND;
- (h) reasonable expenses incurred by a BOARD MEMBER while rendering services to the FUND;
- (i) any expenses incurred by the BOARD MEMBERS in directing, controlling, and overseeing the operations of the FUND that have been approved by the BOARD;
- (j) the costs of training BOARD MEMBERS;
- (k) at the discretion of the BOARD, any other expenses of the FUND not provided for above;
- (l) at the discretion of the BOARD, transfers to INDIVIDUAL MEMBER ACCOUNTS.

10.4(3) Transfers to INDIVIDUAL MEMBER ACCOUNTS in terms of the preceding sub-RULE must be done on an equitable basis and in respect of all the MEMBERS who are EMPLOYEES on a set date as determined by the BOARD.

10.4(4) On liquidation of the FUND, any balance in the account must be applied in accordance with section 151 of the ACT.

#### **10.5 DATA AND PROCESSING ERROR RESERVE ACCOUNT**

10.5(1) The FUND keeps a DATA AND PROCESSING ERROR RESERVE ACCOUNT to which is credited:

- (a) the amount that the BOARD, on the advice of the ACTUARY, regards as reasonable to make provision for data and processing errors;

- (b) profits earned by the FUND as a result of mismatching of assets and liabilities caused by processing errors or timing differences in the actual investment or disinvestment of the FUND's money from the time it was deemed to happen at the calculation of benefits or the accrual of investment earnings;
- (c) the net investment return on the amount in the account.
- (d) interest earned in the bank account of the FUND;
- (e) FUND INTEREST if the rate of FUND INTEREST is negative or positive.

10.5(2) The DATA AND PROCESSING ERROR RESERVE ACCOUNT is debited with --

- (a) amounts transferred to the INDIVIDUAL MEMBER ACCOUNT by the BOARD on the advice of the ACTUARY as a result of data errors;
- (b) any amounts that the BOARD, on the advice of the ACTUARY, transfers from this account to the INDIVIDUAL MEMBER ACCOUNT and other reserve accounts of the FUND in order to maintain the balance in this account at an appropriate level;
- (c) losses suffered by the FUND as a result of mismatching of assets and liabilities caused by processing errors or timing differences in the actual investment or disinvestment of the FUND's money from the time it was deemed to happen at the calculation of benefits or the accrual or investment earnings.

10.5(3) On liquidation of the FUND, any balance in the account must be applied in accordance with section 15I of the ACT.

## PART 11. INVESTMENT OF ASSETS AND MONEYS

### 11.1 Choice of investment

11.1(1) The FUND determines which investment portfolios/plans must be made available for the investment of assets and moneys of the FUND.

11.1(2) Every MEMBER may choose from time to time into where the amount standing to his/her credit (or any part of it) is to be invested in the investment portfolios/plans referred to. This choice and any change to it are subject to the conditions that the FUND, its investment managers, and administrators may lay down.

The cost of switching a MEMBER's choice of investment is recouped from the MEMBER SHARE.

11.1(3) The FUND must choose one or more investment portfolios/plans for that part of the amount standing to a MEMBER's credit in respect of which the MEMBER has not properly conveyed his/her choice of investment portfolios/plans or has chosen that the FUND make the election.

### 11.2 Investment of assets and moneys while claim pending

11.2(1) Subject to sub-RULE 11.2(3), the benefit arising from a MEMBER's retirement, death or termination of service is invested in a money market portfolio kept by the FUND from not later than the seventh day (excluding Saturdays, Sundays and public holidays) following the later of –

- the date of retirement, death or termination of service, as the case may be;
- the date that the ADMINISTRATOR receives the notification of the retirement, death or termination of service in the form prescribed by the ADMINISTRATOR; and
- the date on which the last contribution that is due to the FUND in respect of the MEMBER is paid in full plus the time reasonably required by the ADMINISTRATOR to verify the correctness of the contribution.

11.2(2) In terms of the FUND's Investment policy, the rate of net income earned on the investment referred to in the preceding sub-RULE constitutes the FUND INTEREST in regard to the MEMBER from the commencement of that investment until the date the ADMINISTRATOR requests the tax directive from the REVENUE AUTHORITIES.

- 11.2(3) If a MEMBER, on retirement or termination of service, requests that a transfer is made to a fund or a purchase is made from an INSURER in the same investment portfolio in which the MEMBER's benefit was before retirement or termination of service, the benefit is not invested in the money market portfolio.

**PART 12. MANAGEMENT****12.1 The BOARD**

- 12.1(1) The FUND is controlled and managed by a BOARD which itself or through its duly authorised assignees performs all acts for and on behalf of the FUND.
- 12.1(2) The BOARD consists of 14 persons called BOARD MEMBERS. The PRINCIPAL EMPLOYER must appoint 7 BOARD MEMBERS. The MEMBERS must elect 7 BOARD MEMBERS of which some may be union representatives.

**12.2 Term of office**

- 12.2(1) A general appointment and election of BOARD MEMBERS must be held every five years.
- 12.2(2) A BOARD MEMBER, other than one who fills a casual vacancy, holds office for a five year term until the next general appointment and election of BOARD MEMBERS.
- Any BOARD MEMBER's term of office also ceases if he/she -
- (a) dies or resigns by giving written notice to the other BOARD MEMBERS; or
  - (b) is disqualified from being a BOARD MEMBER in terms of the following RULE; or
  - (c) is a BOARD MEMBER appointed by the PRINCIPAL EMPLOYER, and the PRINCIPAL EMPLOYER terminates his/her appointment;
  - (d) is disqualified from being a BOARD MEMBER for failing to attend three (3) consecutive BOARD meetings; or
  - (e) is removed from office in terms of the following sub-RULE.
- 12.2(3) Any BOARD MEMBER who, in the opinion of the BOARD, is guilty of misconduct or neglecting his/her duties can by a resolution of the BOARD, taken with a two-thirds majority of votes, be removed from his/her office as BOARD MEMBER after he/she has had a chance to state his/her case.
- 12.2(4) If the term of office of a BOARD MEMBER is terminated before the expiry of the five years, another BOARD MEMBER must be appointed or elected, as the case may be, to fill the casual vacancy until the next general appointment and election of BOARD MEMBERS, provided that, in the case of a BOARD MEMBER elected by the MEMBERS, the BOARD may fill the casual vacancy.



- 12.2(5) On expiry of a BOARD MEMBER's term of office he/she may be re-appointed or re-elected, as the case may be, if he/she is willing and otherwise competent to hold office on the understanding that re-appointed or re-election of a BOARD MEMBER may result in two or more consecutive terms of office for that specific BOARD MEMBER.

### 12.3 Disqualification from holding office as a BOARD MEMBER

Any person who is ineligible to be or disqualified from being a director of a company in terms of the Companies Act, 2008, may not be appointed, be elected or act as a BOARD MEMBER. This includes, amongst others, the following persons:

- (a) a juristic person;
- (b) a minor or a person under legal disability;
- (c) an unrehabilitated insolvent;
- (d) any person who has been removed from an office of trust on account of misconduct;
- (e) any person who has been convicted, in South Africa or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or an offence involving fraud, misrepresentation or dishonesty, or an offence in connection with the promotion, formation or management of a company.

### 12.4 Election of BOARD MEMBERS by MEMBERS

The BOARD MEMBERS to be elected by the MEMBERS are elected in accordance with the following provisions:

- (a) The BOARD regulates the elections.
- (b) The BOARD must arrange the elections whenever required in terms of the RULES.
- (c) Only persons who beforehand have been nominated by MEMBERS and in writing have declared themselves willing to serve, may be elected.
- (d) Each MEMBER may nominate as many persons for election as BOARD MEMBERS as may be elected at the time.
- (e) Each nomination must be in writing and seconded by another MEMBER.
- (f) The BOARD MEMBERS must be elected by the MEMBERS by ballot.
- (g) The persons elected are decided by majority vote.

- (h) At each election by ballot for the filling of more than one position, only one ballot will be held, unless more ballots are required owing to a tie of votes.
- (i) The BOARD members elected by the MEMBERS may include union representatives.

#### **12.5 Object and duties of the BOARD**

The object of the BOARD is to direct, control and oversee the operations of the FUND in accordance with the RULES, the ACT and other applicable laws. In so doing the BOARD must –

- (a) take all reasonable steps to ensure that the interests of MEMBERS in terms of the RULES and the provisions of the ACT are protected at all times;
- (b) act with due care, diligence and good faith;
- (c) avoid conflicts of interest;
- (d) act with impartiality in respect of all MEMBERS and other BENEFICIARIES;
- (e) ensure that proper accounts, entries, registers and records of the operations of the FUND are kept;
- (f) ensure that proper control systems are employed by or on behalf of the BOARD to protect the assets of the FUND;
- (g) ensure that adequate and appropriate information is communicated to the MEMBERS informing them of their rights, benefits and duties in terms of the RULES;
- (h) ensure that contributions are paid timeously to the FUND in accordance with the RULES and the ACT;
- (i) obtain expert advice on matters where the BOARD lacks sufficient expertise;
- (j) ensure that the RULES and the operation and administration of the FUND comply with all applicable legislation and any legally binding ruling laid down by the REGISTRAR or the REVENUE AUTHORITIES;
- (k) keep registers containing the information prescribed by the regulations to the ACT at the FUND's registered office;
- (l) determine the manner of dealing with expenses of the FUND not provided for in the RULES;

- (m) ensure that the assets of the FUND are kept in the name of the FUND or in the name of a nominee company approved by the REGISTRAR;
- (n) arrange for the safekeeping of all title deeds and other securities belonging to or held by the FUND and for the marking of those documents so as to easily establish at any time that the documents belong to or are held by the FUND.

#### **12.6 Powers of the BOARD**

The BOARD must carry out the objects of the FUND and fulfill their duties in terms of the RULES and the ACT. In achieving this end, the BOARD has the following powers:

- (a) to open and operate a banking account in the name of the FUND;
- (b) to receive, administer and apply the moneys of the FUND;
- (c) to acquire or hold movable and immovable property and to sell, rent, hire, borrow or lend such property or to obtain it otherwise and to transfer or dispose of it;
- (d) to lend, invest, let out at interest, place on deposit, invest in policies, advance or otherwise deal with all moneys of the FUND against such security and in the manner as the BOARD may determine from time to time, and to realise, vary, reinvest or otherwise deal with such securities and other investments in the manner it may determine;
- (e) to borrow money at interest or otherwise, for the purposes of the FUND, in order to meet any temporary cash shortage, or complete any investment;
- (f) in the name of the FUND to institute, conduct, defend, compound, settle or abandon any legal proceedings by or against the FUND;
- (g) to effect policies with one or more INSURERS for the purpose of insuring in whole or in part, the benefits payable in terms of these RULES if it should so determine and to maintain existing policies (if any) for as long as it may deem fit;
- (h) to delegate any of its powers and duties to any institution, organisation or person, including a sub-committee, which may consist of one or more BOARD MEMBERS, on terms and conditions agreed to by the BOARD, provided that, any decisions taken by such institution, organisation, person or sub-committee regarding a matter that requires the BOARD's discretion to be used in terms of section 37C of the ACT must be ratified by the BOARD; and

- (i) generally to do whatever, in its opinion, is conducive to attaining the objects of the FUND.

#### **12.7 Procedures of the BOARD**

- 12.7(1) Every 5 years the MEMBERS must elect by majority vote one of the BOARD MEMBERS to act as chairman of the BOARD. The term of office of the chairman is 5 years. If the chairman of the BOARD is absent from any meeting of the BOARD, the BOARD MEMBERS present must elect a chairman for that meeting from their number.
- 12.7(2) The BOARD may appoint a person to act as a monitoring person. Such person must monitor the contribution payments.
- 12.7(3) The BOARD may lay down regulations with regard to the procedures of the BOARD which may not be inconsistent with the RULES.
- 12.7(4) The BOARD must hold a meeting of the BOARD at least once a year.
- 12.7(5) Proper notice of at least 15 days of a meeting of the BOARD must be given to each BOARD MEMBER. The notice period may be waived if all the BOARD MEMBERS agree.
- 12.7(6) A meeting of the BOARD may be conducted by meeting in person or by video or telephone conference or such other means of communication approved by the BOARD.
- 12.7(7) A quorum consisting of 7 BOARD MEMBERS is required for concluding business. The BOARD MEMBERS making up the quorum must consist of 3 BOARD MEMBERS appointed by the PRINCIPAL EMPLOYER and 4 elected by the MEMBERS.
- 12.7(8) At a meeting of the BOARD all resolutions, excepting a resolution to remove a BOARD MEMBER from office, must be decided by majority vote. If a majority vote in respect of a specific matter cannot be obtained, the matter shall be referred to the ACTUARY or other expert on the matter. The matter shall then be referred to the next meeting of TRUSTEES.

If a majority decision cannot be reached regarding the appointment of such an ACTUARY or expert, the matter shall be referred to an arbitrator agreed upon by the TRUSTEES, whose decision shall be final and binding on the parties. A resolution in writing signed by all the BOARD MEMBERS is of the same force and effect as a resolution passed at a meeting of the BOARD.

- 12.7(9) All resolutions by the BOARD passed at a meeting or otherwise must be recorded in the form of written minutes.

#### **12.8 Principal officer and secretary**

- 12.8(1) The BOARD must appoint a principal officer in terms of the ACT. The BOARD must notify the REGISTRAR in the prescribed format of each appointment.

- 12.8(2) If the principal officer is absent from the Republic of South Africa for a period of more than thirty days or is unable to perform the duties imposed on him/her by the ACT, the BOARD must appoint another person as principal officer during his/her absence or disability and must notify the REGISTRAR in the prescribed format of the appointment.

- 12.8(3) The BOARD may, by means of a resolution, determine that the principal officer is entitled to a fee and reimbursements that are reasonable and relate to the services that the principal officer renders to the FUND.

- 12.8(4) If the BOARD deems it necessary it may appoint a secretary and other personnel on such conditions as it may determine and it may cancel such appointments and may make new ones.

#### **12.9 ADMINISTRATOR**

The BOARD must appoint an ADMINISTRATOR to perform administrative functions for the FUND for such period as it may decide. The BOARD may dismiss the ADMINISTRATOR at any time. In terms of section 13B of the ACT the ADMINISTRATOR must be approved as such by the REGISTRAR.

#### **12.10 ACTUARY**

The BOARD must appoint an ACTUARY for the FUND for such period as it may decide and has the right to dismiss him/her at any time. The appointment of the ACTUARY must be approved by the REGISTRAR.

#### **12.11 AUDITOR**

- 12.11(1) The BOARD must appoint an AUDITOR for the FUND for such period as it may decide and has the right to dismiss him/her at any time. The AUDITOR must be registered under the Auditing Profession Act, No. 26 of 2005, and may not be an officer of the FUND.

- 12.11(2) The AUDITOR must have unrestricted access to all books, papers, vouchers, accounts, and other relevant documents connected with the FUND.

- 12.11(3) The books of account must be made up at the end of each FINANCIAL YEAR and audited by the AUDITOR.

**12.12 Financial statements**

The BOARD must, not later than six months after the end of each FINANCIAL YEAR, submit a copy of its financial statements to the REGISTRAR in the prescribed format.

**12.13 Personal liability**

The BOARD MEMBERS and assignees of the BOARD are not personally liable for any loss which the EMPLOYER, MEMBERS or DEPENDANTS may suffer as a result of their actions, provided the actions are in accordance with the RULES and the loss does not arise from their negligence, dishonesty or fraud.

**12.14 Indemnity against loss**

- 12.14(1) The BOARD must, in the manner allowed by the REGISTRAR, devise means of safeguarding the FUND against losses owing to fraud or dishonesty.
- 12.14(2) The BOARD must arrange professional indemnity insurance for the FUND against any loss resulting from the negligence of the BOARD.
- 12.14(3) The costs of indemnifying the FUND in terms of this RULE may be borne by the FUND.

**12.15 Expenditure in respect of BOARD MEMBERS**

- 12.15(1) Reasonable expenses incurred by a BOARD MEMBER in the execution of his/her duties will be borne by the FUND provided that such expenses are approved by the BOARD in advance.
- 12.15(2) The costs of training BOARD MEMBERS are borne by the FUND.
- 12.15(3) The BOARD MEMBERS are not entitled to any form of remuneration or fees for their duties as BOARD MEMBERS.

**12.16 Provision of data**

The EMPLOYER must, in the manner and within the time determined by the FUND, furnish to the BOARD those particulars about MEMBERS that determine their benefits from the FUND or their entitlement to benefits. The BOARD may act upon those particulars without further enquiry and is not responsible to anybody for any mis-statements, errors or omissions that may be contained in those particulars.

**12.17 Execution of contracts and other documents binding on the FUND**

The BOARD is competent to enter into and amend contracts on behalf of the FUND in accordance with the RULES and to sign such contracts and other documents on behalf of the FUND. Any contract or document that binds or affects the FUND must be signed on behalf of the FUND by the person(s) authorized by means of a proper resolution of the BOARD to sign them. Documents to be submitted to the REGISTRAR must be signed in accordance with the regulations to the ACT.

**PART 13. MISCELLANEOUS PROVISIONS****13.1 Manner of payment of benefits**

Benefits payable to a BENEFICIARY, are paid by way of an electronic transfer into the BENEFICIARY's account at a deposit taking institution, the details of which have been furnished by the EMPLOYER or the BENEFICIARY to the FUND.

**13.2 Disposition of death benefits**

- 13.2(1) Subject to the prescriptions laid down by the FUND, a MEMBER may, in writing, designate a person (and revoke such a designation in writing) to receive the benefits at his/her death.
- 13.2(2) The benefits payable to the DEPENDANTS and NOMINEES of a deceased MEMBER, other than those payable to a particular DEPENDANT in terms of the RULES, are paid by the FUND to the DEPENDANTS and NOMINEES in accordance with section 37C of the ACT.
- 13.2(3) Any benefit payable by the FUND in respect of a deceased MEMBER does not form part of the assets in the estate of such a MEMBER.

**13.3 Benefits inalienable**

All benefits and rights to benefits in terms of these RULES are subject to the prohibitions as to reduction, cession, attachment, etc. contained in sections 37A and 37B of the ACT.

**13.4 Guarantees by the FUND for housing loans**

The BOARD may bind the FUND as guarantor for the due repayment by a MEMBER of his/her indebtedness in terms of a loan granted by some other person to him/her for a residence. The amount of the guarantee may not exceed the cash benefit that the MEMBER would receive if he/she were to terminate his/her MEMBERSHIP of the FUND voluntarily, less any tax payable thereon, and the amount of any pension interest, as defined in the Divorce Act, 1979, allocated to an ex spouse in terms of a court order.

The furnishing of the guarantee is further subject to section 19(5) of the ACT.

The cost for the FUND relating to the administration of the guarantee granted in respect of the MEMBER is recouped from the MEMBER SHARE.



### 13.5 Deductions from benefits

13.5(1) The BOARD may, subject to section 37D of the ACT, deduct certain amounts from the benefit to which a BENEFICIARY is entitled in terms of the RULES or deemed to be entitled as contemplated in the ACT. These amounts are -

- (a) the amount of any income tax payable on the benefit;
- (b) any amount due to the FUND or the EMPLOYER by the MEMBER regarding a loan granted to the MEMBER for a residence, including a guarantee furnished by the FUND regarding such a loan;
- (c) compensation for any damage caused to the EMPLOYER by reason of any theft, dishonesty, fraud or misconduct by the MEMBER and regarding which the MEMBER has, in writing, admitted liability to the EMPLOYER or judgement has been obtained against the MEMBER in any court;
- (d) any amount which the FUND must pay by arrangement with, and on behalf of, a BENEFICIARY in respect of -
  - (i) the BENEFICIARY's subscription to a registered medical scheme; or
  - (ii) any insurance premium payable by the BENEFICIARY to an INSURER; or
  - (iii) an amount for any purpose approved by the REGISTRAR, on the conditions laid down by him/her;
- (e) any amount which the FUND must pay in terms of a maintenance or divorce order made by a competent court.

The cost for the FUND relating to the payment of any amount in accordance with paragraphs (c), (d) and (e) may be recouped from the MEMBER SHARE or, in the case of paragraph (e), from the amount to be paid.

13.5(2) A claim for the amount due in terms of paragraphs (b) and (c) of sub-RULE (1) must be lodged in writing with the BOARD within such reasonable time of the event giving rise to the payment of the benefit as the BOARD may from time to time determine for lodging such claims.

13.5(3) In order to allow the EMPLOYER the opportunity to obtain a judgement for compensation as envisaged in paragraph (c) of sub-RULE (1), the FUND may withhold an amount from the benefit payable, provided that -

- (a) the amount withheld does not exceed the value of the claim;

- (b) any balance of the benefit is paid in accordance with the RULES applicable to that benefit;
- (c) the FUND is satisfied that the EMPLOYER has instituted proceedings against the MEMBER concerned or is in the process of instituting appropriate action;
- (d) the FUND is satisfied that the EMPLOYER is not at any stage responsible for any undue delay in the prosecution of the proceedings;
- (e) once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled is paid immediately.

13.5(4) The FUND's right to recover or withhold amounts from benefits in terms of paragraphs (b) and (c) of sub-RULE (1), is limited to the amount that, in terms of the RULES, may be taken by the BENEFICIARY as a lump sum benefit. In order to make deductions from benefits payable regarding a MEMBER the BOARD may commute for a lump sum an amount of any benefit becoming payable regarding the MEMBER up to the maximum amount which may be commuted in terms of the RULES.

#### 13.6 Currency

All amounts payable to or by the FUND in terms of the RULES are payable in the Republic of South Africa in the currency of the Republic of South Africa.

#### 13.7 Proof of claims

The FUND is not obliged to grant any benefit unless it has been satisfied with regard to the MEMBER's age and with regard to any other circumstance which it considers relevant to the benefit and for which it requested proof or information.

#### 13.8 Benefits not claimed

13.8(1) If a benefit, other than a death benefit payable to a BENEFICIARY in terms of section 37C of the ACT, becomes legally due and payable under the FUND and is not claimed within two years after the date on which it becomes legally due and payable, or the FUND is terminated or partially terminated in terms of sections 27 or 28 of the ACT, the benefit will become an unclaimed benefit, after which it may be transferred to a PROVIDENT PRESERVATION FUND for unclaimed benefits. If at any stage after the benefit becomes legally due and payable and before it is transferred to a PROVIDENT PRESERVATION FUND for unclaimed benefits, the benefit is claimed by a legitimate BENEFICIARY, the BOARD must pay the benefit to the BENEFICIARY. The benefit may be reduced by the monthly recurring costs of the

administration of the benefit and by any reasonable costs incurred by the FUND in identifying and tracing a legitimate BENEFICIARY, on the understanding that, in the event where no monthly recurring administration costs have been deducted in respect of the MEMBER, a cost may be charged by the ADMINISTRATOR for payment of the benefit to such a legitimate BENEFICIARY.

- 13.8(2) In the event of the benefit reducing to nil before it is claimed by a legitimate BENEFICIARY or transferred to a PROVIDENT PRESERVATION FUND for unclaimed benefits, the FUND's liability regarding the payment of the benefit automatically terminates and no BENEFICIARY will have any further claim against the FUND in respect of the benefit.

### 13.9 Investigation by ACTUARY

- 13.9(1) The BOARD must cause the financial position of the FUND to be investigated and reported on by the ACTUARY at least once every three years at the end of a FINANCIAL YEAR.
- 13.9(2) In the report the ACTUARY must indicate, inter alia, what increases or reductions in the contributions and the benefits of the FUND are envisaged by the financial condition of the FUND.
- 13.9(3) Within twelve months of the expiry of the period to which the investigation refers, the FUND must -
- (a) submit a copy of the report to the REGISTRAR.

### 13.10 Binding force of the RULES

The RULES bind the EMPLOYER, the MEMBERS, the FUND and its officials and anyone who lays a claim in terms of the RULES or whose claim is derived from someone so claiming.

### 13.11 Disputes

In a dispute regarding the interpretation of the RULES or the administration of the FUND, the complainant must submit his/her complaint to the FUND in writing. Within thirty days of receipt of the complaint the FUND must answer in writing. If the complainant is not satisfied with the FUND's answer and the complaint is a complaint as described in the ACT, the complainant may lodge the complaint with the Pension Funds Adjudicator.

**13.12 Inspection of and copies of documents of the FUND**

The RULES and the latest financial statements will be open for inspection by MEMBERS at the registered office of the FUND at reasonable times. MEMBERS may, at a reasonable fee determined by the FUND, obtain copies of the RULES and the latest financial statements.

**13.13 Conditions of service**

Nothing in these RULES curtails the EMPLOYER's right to dismiss an EMPLOYEE from its service.

**13.14 Amendments to the RULES**

13.14(1) The FUND may amend the RULES at any time, provided that -

- (a) if an amendment affects the EMPLOYER's financial obligations under the FUND, the PRINCIPAL EMPLOYER agrees to it; and
- (b) the REGISTRAR registers the amendment; and
- (c) approval of the amendment in terms of the Income Tax Act 1962 (Act 58 of 1962) is obtained.

13.14(2) If the RULES are amended with regard to the benefits that are provided by the FUND, the amendment will, unless specifically stated otherwise, not apply to -

- (a) the benefits in respect of MEMBERS who are no longer EMPLOYEES on the amendment date; and
- (b) benefits regarding claims which arise before the amendment date.

13.14(3) Within six months after the end of a FINANCIAL YEAR, the BOARD must notify the MEMBERS in a summarised form of every amendment to the RULES that is registered by the REGISTRAR during the course of that FINANCIAL YEAR.

**PART 14. TERMINATION AND PARTIAL TERMINATION OF THE  
FUND**

**14.1 Liquidation of the FUND**

- 14.1(1) The PRINCIPAL EMPLOYER may, subject to prior notice to the other EMPLOYERS and the MEMBERS, instruct the BOARD to have the FUND liquidated. The FUND must also be liquidated if the PRINCIPAL EMPLOYER ceases to carry on business.
- 14.1(2) No contributions are payable to the FUND for the period following the month in which the instruction to have the FUND liquidated or the cessation of business occurs.
- 14.1(3) If the FUND is to be liquidated the BOARD must, subject to the approval of the REGISTRAR, appoint a liquidator and the period of liquidation is deemed to commence as from the date of such approval.
- 14.1(4) The liquidator must, after taking into account the costs of the liquidation, firstly apply the assets of the FUND by purchasing, from an INSURER, regular income benefits for the MEMBERS who, on the date of liquidation, have already reached the NORMAL RETIREMENT DATE and other BENEFICIARIES to whom payments are already being made in terms of the RULES. The benefits purchased for them in terms of this sub-RULE must, in so far as the assets are sufficient, be equal in value to the benefits to which they are entitled in terms of the RULES. But the liquidator may, at the request of a MEMBER, convert a part or the whole of the MEMBER's benefit entitlement in terms of this sub-RULE into a lump sum payment.
- 14.1(5) After provision has been made for payments in accordance with the preceding sub-RULE, the liquidator must divide any balance of the assets amongst the MEMBERS and the BENEFICIARIES referred to in the preceding sub-RULE and all the other MEMBERS. This division must be done in a manner recommended by the ACTUARY and approved by the liquidator.
- 14.1(6) The amount allocated in terms of the preceding sub-RULE to a MEMBER or BENEFICIARY referred to in sub-RULE 14.1(4) may be applied to enhance any benefits to be purchased for him/her in terms of that sub-RULE, or be paid in a lump sum. The amount allocated to one of the other MEMBERS (i.e. those prospectively entitled to benefits) must be paid in a lump sum, or, at the request of the MEMBER, be transferred to and applied under another fund providing retirement benefits or be applied to purchase a retirement benefit for him/her from an INSURER.

- 14.1(7) For the purposes of this RULE, any MEMBER or former MEMBER whose service with the EMPLOYER is terminated, voluntarily or otherwise, prior to the NORMAL RETIREMENT DATE and during a period immediately preceding the liquidation may, if considered appropriate by the liquidator, be deemed to have been a MEMBER and EMPLOYEE on the date of liquidation. But the benefits already paid to him/her must be taken into account. The liquidator must invoke this provision at least in respect of those whose service was terminated during the twelve months immediately preceding the liquidation.

#### 14.2 Partial liquidation of the FUND

If an EMPLOYER, other than the PRINCIPAL EMPLOYER, ceases to carry on business, the business of the FUND in respect of the MEMBERS who were or are in the service of that EMPLOYER must be liquidated, mutatis mutandis, in accordance with the preceding RULE.

#### 14.3 Transfers of the business of the FUND

- 14.3(1) If an EMPLOYER is to transfer all the MEMBERS in its service as a group to one or other approved retirement fund in the manner contemplated in section 14 of the ACT, the EMPLOYER must give prior notice to the BOARD and the MEMBERS in its service.
- 14.3(2) As from the effective date of the transfer contributions to the FUND by or in respect of the relevant MEMBERS must cease.
- 14.3(3) The interests in the FUND of -
- (a) the relevant MEMBERS; and
  - (b) those BENEFICIARIES to whom payments are then being made in terms of the RULES on account of their or someone else's retirement or death while they were in the service of the EMPLOYER,
- must, in a manner agreed to by the BOARD, after consulting the EMPLOYER, be transferred to and applied under the relevant approved retirement fund.
- Alternatively, the interests in the FUND of the BENEFICIARIES referred to in paragraph (b) may be used to purchase retirement benefits or regular income benefits for them from an INSURER in the form of annuity policies in their own name.



