

INDEX.

Clause No.	Page	
1.	2	Scope Of Collective Agreement
2.	3	Period Of Operation Of Agreement
3.	3	Definitions
4.	5	Remuneration
5.	6	Payment Of Remuneration
6.	8	Prohibition Of Further Negotiations
7.	8	Regulation Of Working Time
8.	11	Annual Leave
9.	13	Sick Leave
10.	15	Public Holidays And Sundays
11.	16	Study Leave
12.	17	Maternity Leave
13.	18	Prohibition Of Piece Work
14.	18	Uniforms, Overalls, Protective Clothing And Safety Equipment
15.	18	Night Work
16.	19	Prohibition Of Employment
17.	19	Trade Union Subscriptions
18.	19	Council Funding
19.	20	Shop Steward Rights
20.	22	Termination Of Employment
21.	24	Certificate Of Service
22.	24	Staff Records
23.	25	Council Registration Of Employers
24.	27	Administration Of Agreement
25.	27	Agents
26.	28	Exemptions
27.	30	Staff Transfers Due To Transport Difficulties
28.	30	Desertion And Absconding
29.	30	Retirement
30.	31	Provident Fund
31.	38	Dispute About Interpretation, Application Or Enforcement Of The Agreement
32.	40	Certificate Of Compliance
33.	40	Company Priority List

THE BARGAINING COUNCIL FOR THE CONTRACT CLEANING INDUSTRY (NATAL)

THE MAIN AGREEMENT INCORPORATING THE PROVIDENT FUND.

**AS SIGNED BY THE PARTIES ON 23RD APRIL 1998 AND
PROMULGATED IN GAZETTE 19791, NOTICE NO. R251, 26TH
FEBRUARY 1999**

REVISED BY:

**GAZETTE NO. 20900, NOTICE NO. R. 180, 25TH FEBRUARY 2000
GAZETTE NO. 22284, NOTICE NO. R. 392, 18TH MAY 2001
GAZETTE NO. 23179, NOTICE NO. R. 241, 1ST MARCH 2002
GAZETTE NO. 25245, NOTICE NO. R. 1094, 1ST AUGUST 2003
GAZETTE NO. 26779, NOTICE NO. R. 1083, 17TH SEPTEMBER 2004
GAZETTE NO. 27788, NOTICE NO. R. 718, 22ND JULY 2005**

120 No. 27788
No. R. 718

GOVERNMENT GAZETTE, 22 JULY 2005
22 JULY 2005

LABOUR RELATIONS ACT, 1995

**BARGAINING COUNCIL FOR THE CONTRACT CLEANING INDUSTRY (NATAL):
EXTENSION OF RE-ENACTMENT AND AMENDMENT OF MAIN AND
PROVIDENT FUND COLLECTIVE AGREEMENT TO NON-PARTIES**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister at Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Contract Cleaning Industry (Natal), and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry with effect from 1 August 2005, and for the period ending 28 February 2006.

M.M.S. MDLADLANA

Minister of Labour

SCHEDULE

BARGAINING COUNCIL FOR THE CONTRACT CLEANING INDUSTRY (NATAL)

MAIN AND PROVIDENT FUND COLLECTIVE AGREEMENT

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

The National Contract Cleaners Association (Kwa-Zulu Natal Branch)

(hereinafter referred to as “the Employers” or “the Employers Organisation”) of the one part, and the

Black Allied Workers Union (South Africa) (BAWU)
National General Workers Union (NAGEWU)
South African Transport and Allied Workers Union (SATAWU)
Health & Other Service Personnel Trade Union of SA (HOSPERSA)
and
Steel, Mining & Commercial Workers Union (STEMCWU)

(hereinafter referred to as the “Employees” or the “Trade Unions”, of the other part, being parties to The Bargaining Council for The Contract Cleaning Industry (Natal).

1. SCOPE OF APPLICATION OF THE AGREEMENT

1.1 The terms of this Collective Agreement shall be observed throughout the Contract Cleaning Industry in the Province of Natal as it existed immediately prior to the date of commencement of the Constitution of the Republic of South Africa, 1993 (Act no. 200 of 1993). -

- a) by all employers who are members of the employer’s organisation and by all employees who are members of the trade unions; and
- b) by all employers and employees, other than those referred to in paragraph a), who are engaged in the Contract Cleaning Industry in the area specified.

1.2 The provisions of this Agreement do not apply to non parties in respect of clauses 1 (1) (a) 2, 3 and 7.

1.3 Special Provisions.

The provisions of clauses 6, 11.3, 17.2, and 19 of the Agreement published under Government Notice No. R 251 of 26 February 1999 as amended and extended by Government Notice No. R 48 of 28 January 2000 and R 180 of 25 February 2000 and R 392 of 18 May 2001 and R 241 of the 1st March 2002, R. 1053 of 1st August 2003,

R.250 of 27 February 2004 and R.1083 of 17 September 2004 (hereinafter referred to as the “former Agreement”) as further enacted, extended and amended from time to time, shall apply to employers and employees.

1.4 **General Provisions.**

The provisions of clauses 3 to 5, 7 to 11.2, 11.4 to 16, 17.1, 18 and 20 to 32 of the former Agreement (as further extended, renewed, amended and re-enacted from time to time), shall apply to employers and employees.

2. **PERIOD OF OPERATION OF AGREEMENT**

- (1) This Agreement shall come into operation from date of promulgation and shall remain in force until 28th February 2006.
- (2) The parties agree to abide by clause 10.4 of the Council Constitution which reads as follows:

“the parties agree that any agreement reached between them shall not be legally binding on any parties concerned unless such agreement has been reduced to writing, has been signed by all the parties, promulgated and extended to non parties by way of the Government Gazette.”

3. **DEFINITIONS**

Any expressions used in this Agreement which are defined in the Labour Relations Act, 1995, shall have the same meaning as in that Act, and unless the contrary intention appears, words importing the masculine gender shall also include females; further, unless inconsistent with the context -

“**Casual Employee**” means a person employed by the same employer on not more than three days in any week.

“**cleaner**” means a person employed to clean office, school, business, factory, residential or any other premises, or any planes, trucks, cars, buses, trains or any other vehicle requiring to be so cleaned on a contractual basis, and/or to clean the furniture and any other object(s) in such premises and vehicles and/or to perform any work incidental thereto;

“**Contract Cleaning Industry**” means the Industry in which the employers and their Employees are associated on fixed term or fixed project contracts, for the purpose of cleaning industrial and commercial premises and buildings (including flats), but shall exclude those employers and employees engaged solely in the Building Industry.

“**Council**” means the Bargaining Council for the Contract Cleaning Industry (Natal), as registered in terms of Section 27 of the Act.

“**day**” means any period of 24 hours, calculated from the time an employee commences work.

“emergency work” means any work which is required to be done without delay, due to unforeseen circumstances such as fires, storms, accidents, acts of violence, epidemic, sabotage, industrial unrest, theft and/or breakdown or threatened break-down of buildings.

“establishment” means any premises or section of premises in which are employed one or more employees of the class defined in Clause 1 hereof.

“law” includes the Common Law.

“military service” means any period of military service or training required in terms of the Defence Act, 1957.

“monthly wage” shall mean the hours normally worked in a week multiplied by the rate applicable as stipulated in clause 4 and multiplied by 4.33.

“night work” means any period of work (other than overtime work) which falls between the hours of 18:00 and 06:00.

“overtime” means a period worked by an employee, on any day of any week, which is in excess of the maximum normal working hours per week laid down in Clause 7 hereof.

“piece-work” means any system under which an employee’s remuneration is based on the quantity of work done by him.

“probationary period” means a maximum period of 4 (four) months in which time an employee will be considered a temporary employee.

“public holiday” means any day laid down as such in the Public Holidays Act, 1994.

“shift worker” means an employee engaged in performing an activity in shifts, at an establishment where two or three consecutive shifts are worked per day on not more than six days in any week.

“Temporary Employee for the purpose of the provident Fund” shall mean:

- a) an employee who has been contracted to fill the position of an employee on sick, maternity, general absenteeism or annual leave; or
- b) an employee who has been contracted to work on a specific site where the contract with the employer’s client is for a period of no more than 6 (six) months.

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

“wage” means the amount of money payable by an employer to his employee, in terms of any agreement in the Council in respect of ordinary hours worked by him, as laid down in Clause 4 hereof; provided that **“ordinary wage”** and **“weekly wage”** shall have equal meaning if an employer regularly pays an Employee for ordinary hours worked, at a rate higher than that laid down in any Agreement for such type of work; and

“week” means the seven-day period usually considered to be the working week of the Employee concerned.

CLAUSE 4: REMUNERATION

- 4.1 An employer shall pay his employees for ordinary hours worked in the regions concerned, at the following rates:
- a) Magisterial Districts of Durban, Pinetown, Inanda, and Chatsworth R7,71 per hour (or part thereof), calculated on a *pro rata* basis for all employees.
 - b) The rest of Natal: R6,61 per hour (or part thereof), calculated on a *pro-rata* basis for all employees.
- 4.2 A casual employee who is required to perform the same class of work as that performed by an employee, shall be paid by the employer at the rate applicable to ordinary hours worked by employees, as laid down for the particular area concerned in paragraphs a) or b) above.
- 4.3 In addition to the ordinary wage, an employer shall pay a night work allowance to any employee required or permitted to do night work, and such allowance shall be calculated in respect of each night hour (or part thereof) so worked, at a rate of 10% of said employee’s hourly wage.
- 4.4 An employer shall give the first option of work on any contract to any employees in his/her employ in order to enable such employees to increase their hours of work up to the maximum prescribed. Provided the application of this clause will under no circumstances create an expectation of continued employment.
- Any dispute relating to this sub-clause shall be referred to conciliation and if unresolved to arbitration in accordance with the Council Constitution, or if applicable, the Labour Relations Act, 1995.
- 4.5 “An annual incentive bonus” will be paid, to all cleaners in employment on the 1st December, in the month of December each year. The bonus will be as follows:
- a) An amount equivalent to four times the employee’s weekly wage as at the 30th November;
 - b) The annual incentive bonus will be pro rata calculated on the number of full calendar months service divided by 12 and multiplied by four times his weekly wage as at 30th November.
- 4.6 An employer shall not employ any cleaner to work for less than 4 (four) hours per day, if an employee works for less than 4 (four) hours then that employee shall be paid for 4 (four) hours. The employer will assist the employees to work not less than 20 hours whenever that is possible, provided the employee is suitable for the position.

- a) clause 4.6 above will only become effective 3 (three) calendar months after promulgation.

5. PAYMENT OF REMUNERATION

5.1 Except as may be provided for in any Act (or any other Agreement of the Council which is binding in terms of Section 32 of the Act) any remuneration due by employers to employees in terms of this Agreement, shall be paid as follows in accordance with the rates laid down for the area of work and class of employee concerned:

- a) Employees; on shift, night and/or continuous activity work:
 - i) Either by cheque or by transfer into a Building Society or Bank account;
 - ii) At a time agreed upon between the employer and the employee so employed, but which shall be during the usual office hours of the establishment concerned, but not later than 24 hours after the usual pay day; or within one week of termination of such employment, if this takes place before the usual pay day.
- b) Casual employees:
 - i) In cash, or by cheque or transfer into a Building Society or Bank account.
 - ii) At least once per week until termination of such employment.

5.2 Presentation of Remuneration

- a) Any remuneration paid to an employee shall be placed by the employer in a sealed envelope or container.
- b) The details listed hereafter shall either be recorded on such envelope or container or shall be contained in a statement accompanying same:
 - i) Employer's name;
 - ii) Employee's name and/or payroll number;
 - iii) period in respect of which payment is made;
 - iv) number of ordinary hours worked;
 - v) number of overtime hours worked in the payment period;
 - vi) number of hours worked in the payment period on a Sunday and/or a declared Public Holiday;
 - vii) employee's hourly wage;
 - viii) details of any other payment due arising from employment during the payment period;
 - ix) details of any deductions made in compliance with clause 5.3 hereafter;

- x) net amount paid to employee;
 - xi) night shift allowance.
- c) The envelope, container, or statement on which the particulars listed in b) above are recorded, shall become the property of the employee.

5.3 Deductions

Deductions as set out in paragraphs a) to e) below may be made with the written consent of such employee, or as otherwise required or permitted under the provisions of this Agreement or any other Agreement of the Council, or in any terms of the Act or any other law:

- a) Deductions for Holiday, Sick, Medical, Insurance or Savings schemes, Provident or Pension Fund contributions, Loans, Accommodation and/or Trade Union subscriptions;
- b) Deductions for unauthorised absence from work by employees (other than Casual Employees), proportionate to the period of absence, and calculated on the basis of the rate ruling at that point in time;
- c) Deductions which the employer is required or permitted to make by law or order of any competent court;
- d) Deductions for legitimate reduction in the specified ordinary hours of work performed by employees (other than casual employees) owing to short time, which shall be calculated for each reduced hour of work at a rate not exceeding the employee's set wage (at such time) for ordinary hours worked: Provided that -
 - i) such short time deduction shall not exceed one third of the employee's monthly wage, irrespective of the number of hours by which the ordinary hours of work are reduced;
 - ii) that no deductions shall be made in the case of short time arising out of slackness of work, unless the employer has given his employees notice on the previous day, of his intention to so reduce the ordinary hours of work;
 - iii) that no deductions shall be made in respect to the first hour of short time (when of such work stoppage is caused either by bad weather or owing to the place of work being unfit for use or is in danger of becoming so) unless the employer has given his employees notice on the previous day that no work will be available;
- e) Deductions by the employer (with written consent from the employee concerned) for any installment which the employer has paid or has undertaken to pay on a loan granted to such employees for the purpose of acquiring a dwelling by any banking institution, building society, insurance business,

registered financial institution, local authority or by the State.

6. PROHIBITION ON FURTHER NEGOTIATION

The contents of this main agreement are actual and not minimum standards for the Industry. No employer or employee(s)/trade union(s) may engage in a strike/work stoppage or lockout in pursuance of an improvement or improvements to any of the terms and conditions of this Agreement during the currency of this agreement.

7. REGULATION OF WORKING TIME

7.1 Every employer must regulate the working time of each employee:

- a) in accordance with the provisions of any Act governing occupational health and safety;
- b) with due regard to the health and safety of employees;
- c) with due regard to the Code of Good Practice on the Regulation of Working Time issued under section 87(1)(a) of the Basic Conditions of Employment Act;
- d) with due regard to the family responsibilities of employees.

7.2 Interpretation of day:

For the purpose of this clause “day” means a period of 24 hours measured from the time when the employee normally commences work.

7.3 Ordinary hours of work:

- a) subject to this clause an employer may not require or permit an employee to work more than:
 - i) 45 hours in any week; and
 - ii) nine hours in any day if the employee works for five days or fewer in a week; or
 - iii) eight hours in any day if the employee works on more than five days in a week;
- b) an employee’s ordinary hours of work in terms of paragraph (a) (i) may by agreement be extended up to 15 minutes in a day but not more than 60 minutes in a week to enable an employee whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work.

7.4 Meal Intervals

An employer shall not require or permit an employee to work continuously for more than five hours without a meal interval, during which meal interval the employee shall not be required or permitted to perform any work, and which shall not form part of the ordinary or overtime hours worked: Provided that:

- a) The period of the meal interval may be reduced to not less than half an hour, subject to agreement between the employer and the employee;
- b) If a meal interval is longer than one hour, any period in excess of three hours shall be deemed to be time worked, except when the proviso set out in e) hereafter, applies;
- c) Only two meal intervals (taken during the ordinary hours of work of any Employee on any day) shall not form part of the ordinary hours of work;
- d) When an employer is required to give an employee a further meal interval on any day, by reason of overtime worked on that day, such meal interval may be reduced to not less than fifteen minutes;
- e) If the meal interval is longer than three hours in the case of an employee wholly or mainly engaged in cleaning, any period of such meal interval which is in excess of three hours, shall be deemed to form part of the ordinary hours of work.

7.5 Overtime:

- a) subject to this clause an employer may not require or permit an employee:
 - i) to work overtime except in accordance with an agreement;
 - ii) to work more than three hours overtime a day; or
 - iii) ten hours overtime a week.
- b) an employer must pay an employee at least one and a half times the employee's wage for overtime worked in accordance with the provisions of the Basic Conditions of Employment Act as amended from time to time.

7.6 Compressed working week:

- a) an agreement in writing may require or permit an employee to work up to twelve hours in a day, inclusive of the meal intervals required in terms of clause 7.2 without receiving overtime pay.
- b) an agreement in terms of paragraph a) may not require or permit an employee to work:

- i) more than 45 hours in any week;
- ii) more than ten hours overtime in any week ; or
- iii) on more than five days in any week.

7.7 Averaging of hours of work:

- a) despite clauses 7.3 and 7.5, the ordinary hours of work and overtime of an employee may be averaged over a period of up to four months.
- b) an employer may not require or permit an employee who is bound by a collective agreement in terms of paragraph a) to work more than:
 - i) an average of 45 ordinary hours of work in a week over the agreed period;
 - ii) an average of five hours overtime in the agreed period.

7.8 Daily or weekly rest period:

- a) an employer must allow an employee:
 - i) a daily rest period of at least twelve consecutive hours between ending and recommencing work; and
 - ii) a weekly rest period of at least 36 consecutive hours which need not necessarily include Sunday.
- b) a daily rest period in terms of paragraph a) i) may be reduced to ten hours for an employee:
 - i) who lives on the premises at which the workplace/contract is situated; and
 - ii) whose meal interval lasts for at least three hours.
- c) despite paragraph a) ii):
 - i) a rest period of at least 60 consecutive hours every two weeks; or
 - ii) an employee's weekly rest period may be reduced by up to eight hours in any week if the rest period in the following week is extended equivalently.

8. ANNUAL LEAVE

8.1 Leave Entitlement

Subject to the provisions of clause 8.3, an employer shall grant leave to employees (other than casual employees) in respect of each period of 12 months employment completed by them with such employer and according to their class of employment, as follows:

- a) 21 consecutive days leave in the case of an employee who normally works not more than 6 days in any week;
- b) 28 consecutive days leave in the case of an employee with more than ten years service with the same employer.

8.2 Timing of Leave

- a) The leave specified in clause 8.1 above shall be granted to the Employee, and shall be taken by him, at a time to be fixed by the Employer; provided that:
 - i) if such leave has not been granted earlier, it shall be granted and taken so as to commence within three months after completion of the 12 month employment period for which it is due; or
 - ii) if agreed in writing between the employer and employee before such three month period has expired, the said leave may be granted by the employer and be taken by the employee, to commence within a further three month period, dating from the first such period ended.
- b) The period of leave shall not run concurrently with any period during which an employee is absent due to any of the following circumstances:
 - i) sick leave in terms of Clause 9;
 - ii) incapacity in the circumstances as set out in clause 9.4 a) or b) thereafter, for any period amounting in total to not more than ten weeks in any 12 month period of employment;
 - iii) being under notice of termination of employment, in terms of Clause 20;
 - iv) undergoing military service.
- c) At the written request of the employee, the employer may offset against the annual leave period, any days of occasional leave which have been granted to such employee on full pay during the 12 month period of employment for which such annual leave is due.

8.3 Payment of Part Leave on termination of service

If the services of an employee terminate before such employee has completed any 12 month

period of employment or become entitled to annual leave in terms of sub-clause 8.1 above, the employer shall pay such employee in respect of leave entitlement (in addition to any other remuneration which may be due) on the following basis:

- a) An amount of not less than one fourth or one third (as the case may be) of the weekly wage being received by the employee immediately before the date of such termination, for each completed month of such employee's period of employment; provided that:
 - i) an employer may make, at the employee's written request, a proportionate deduction from the remuneration set out in a) above, in settlement of any debts of such employee; and
 - ii) An employee (subject to the provisions of clause 20.4 hereafter) shall not be entitled to any payment in terms of this clause if said employee leaves such employment:
 - aa) without having given and served the period of notice laid down in Clause 20 hereafter; unless the employer has waived such notice; or the employee has paid the employer in lieu of such notice; or
 - ab) when there is cause recognised by law as being sufficient reason for such termination of services.

8.4 Closure of Establishment

- a) Notwithstanding anything to the contrary contained in this Clause, for the purpose of annual leave at any time, but not more than twice in any period of 12 months, an employer may close the establishment/contract for 21 consecutive days and, in that case, shall remunerate his employees, as the case may be, in terms of clause 8.1 above or paragraph c) below.
- b) Notwithstanding anything to the contrary contained in this Clause, an employer may place an employee on split leave, but not on more than two occasions during a year and, in such case, the two periods of such leave shall not total more than the full leave entitlement of such employee, in terms of clause 8.1 above.
- c) In the event of the closure of an establishment in which an employee is employed, or the suspension of an activity on which an employee is engaged, taking place when such employee is not yet entitled to the full period of annual leave as prescribed in clause 8.1 above, the following rulings shall apply:
 - i) The employer shall pay said employee in respect of any leave due at the time of such closure or suspension, on the basis as set out in clause 8.3; and

- ii) For the purposes of annual leave thereafter, the employment of such employee shall be deemed to have commenced on the date of closing of the establishment or suspension of the activity.

9. SICK LEAVE

9.1 Sick leave cycle:

- a) In this clause “sick leave cycle” means the period of 36 months employment with the same employer immediately following:
 - i) an employee’s commencement of employment; or
 - ii) the completion of that employee’s prior sick leave cycle.
- b) During every sick leave cycle, an employee is entitled to an amount of paid sick leave equal to the number of days the employee would normally work during a period of six weeks.
- c) Despite paragraph b), during the first six months of employment, an employee is entitled to one days sick leave for every 26 days worked.
- d) During an employee’s first sick leave cycle, an employer may reduce the employee’s entitlement to sick leave in terms of paragraph b) by the number of days sick leave taken in terms of paragraph c).
- e) An employer must pay an employee for sick leave:
 - i) in accordance with the wage the employee would ordinarily have received for work on that day; and
 - ii) on the employee’s usual pay day.
- f) An agreement may reduce the pay to which an employee is entitled in respect of any days absence in terms of this clause if:
 - i) the number of days paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay; and
 - ii) the employee’s entitlement to pay:
 - aa) for any days sick leave is at least 75 per cent of the wage payable to the employee for the ordinary hours the employee would have worked on that day; or
 - ab) for sick leave over the sick leave cycle is at least equivalent to the employee’s entitlement in terms of paragraph b).

9.2 Proof of incapacity.

- a) An employer is required to pay an employee in terms of paragraph a) if the employee has been absent from work for one day or on more than two occasions during an eight week period and, on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.
- b) The medical certificate must be issued and signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of Parliament.
- c) If it is not reasonably practicable for an employee who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of paragraph a) unless the employer provides reasonable assistance to the employee to obtain the certificate.

9.3 Conditions governing payment of sick leave

- a) Before making payment of any amount claimed in terms of this Clause by an employee in respect of any absence from work owing to incapacity, the employer may require a Certificate (signed by a registered medical practitioner and stating the nature and duration of the incapacity) to be produced by the employee under the following circumstances:
 - i) if the employee is absent from work for more than one consecutive day;
 - ii) if the employee is absent from work on the working day immediately before and/or after a Sunday or defined Public Holiday on which such employee would normally work; provided that:
 - aa) said employee has received payment (in terms of this Clause) for such absence from work on two or more occasions during any period of up to eight weeks, without producing a medical certificate; and provided further that:
 - ab) such certificate shall be produced by said employee within the 8 week period immediately after the last occasion of such absence by the employee.
- b) Should an employee fail to produce the Medical Certificate required by the employer in terms of paragraph a) above, and provided said employee does not normally work on the Sunday or defined Public Holiday in question, such employee shall not be entitled to receive payment in terms of Clause 10 hereafter.

10. PUBLIC HOLIDAYS AND SUNDAYS

10.1 Compensation for public holiday work in the case of Employees other than Casual Employees

- a) An employer may not require an employee to work on a public holiday except in accordance with an agreement.
- b) If a public holiday falls on a day on which an employee would ordinarily work, an employer must pay:
 - i) an employee who does not work on the public holiday, at least the wage the employee would ordinarily have received for that day;
 - ii) an employee who does work on a public holiday:
 - aa) at least double the amount referred to in subparagraph i); or
 - ab) the amount referred to in subparagraph i) plus the amount earned by the employee for the time worked on that day, whichever is the greater.
- c) If an employee works on a public holiday on which the employee would not ordinarily work, the employer must pay that employee an amount equal to:
 - i) the employee's ordinary daily wage; plus
 - ii) the amount earned by the employee for the hours of work performed on that day at the rate specified in clause 4).
- d) An employer must pay an employee for a public holiday on the employee's usual pay day.
- e) If a shift worked by an employee falls on a public holiday and another day, the whole shift is deemed to have been worked on the public holiday if the greater portion of the shift was worked on the public holiday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day.

10.2 Compensation for work on Sundays

- a) An employer must pay an employee who works on a Sunday at double the employee's wage for each hour worked, unless the employee ordinarily works on a Sunday, in which case the employer must pay the employee at one and half times the employee's wage for each hour worked;
- b) If an employee works less than the ordinary shift on a Sunday and the payment that the employee is entitled to in terms of paragraph a) is less than the

employee's daily wage, the employer must pay the employee the employee's ordinary daily wage;

- c) Despite paragraphs a) and b) above, an agreement may permit an employer to grant an employee who works on a Sunday paid time off equivalent to the difference in value between the pay received by the employee for working on a Sunday and the pay that the employee is entitled to in terms of paragraphs a) and b) above;
- d) Any time worked on a Sunday by an employee who does not ordinarily work on a Sunday is not taken into account in calculating an employee's ordinary hours of work;
- e) If a shift worked by an employee falls on a Sunday and another day, the whole shift is deemed to have been worked on the Sunday, but if the greater portion of the shift was worked on the other day, the whole shift is deemed to have been worked on the other day;
- f) An employer must grant an employee paid time off in terms of paragraph c) above within one month of the employee becoming entitled to it. However, an agreement in writing may increase the period to 12 months.

11. STUDY LEAVE AND QUALIFICATIONS

- 11.1 Provided satisfactory proof is produced by an employee (other than a casual employee) the said employee is allowed to write, and has duly written, any examination conducted by a registered educational body, the employer shall grant study leave to that employee, on full pay, as follows:
 - a) one day's leave to prepare for each such examination;
 - b) one day's leave to write each such examination.
- 11.2 An employer shall keep all educational qualifications of his employees on file, provided that it shall be the responsibility of each employee to provide said employer with copies of the documentation concerned.
- 11.3 An employee may apply for a study loan, but this shall be dealt with on an in-house basis between the employer and employee concerned.
- 11.4 An employer shall not be required, at some later date, to provide any of the leave benefits laid down in this Clause to any employee, who has already taken such leave on a previous occasion but who failed to pass the examination/s in respect of which such leave was granted.

12. MATERNITY LEAVE

- 12.1 Application for maternity leave

When applying for maternity leave, a female employee shall:

- a) complete the maternity leave form of the employer concerned three months prior to the expected date of confinement; and
- b) hand the duly completed maternity leave form to the employer, together with a medical certificate from a registered medical practitioner certifying:
 - i) the expected date of said employee's confinement;
 - ii) that said employee is fit to work until four weeks prior to the expected date of confinement.

12.2 Pre-Natal Care

A pregnant female employee shall be entitled to one day's fully paid leave in each of the 3 months prior to the expected date of confinement, for the purpose of attending a prenatal clinic: provided that satisfactory proof of attendance by such employee at a pre-natal clinic shall be provided to the employer.

12.3 Maternity Leave Entitlement:

A pregnant female employee shall cease working at least 8 weeks prior to the date of confinement, and shall return to work not later than 12 weeks after the date of the child's birth.

12.4 Rights on return from maternity leave:

When a female employee returns to work from maternity leave, such employee shall be entitled to the following:

- a) Payment of one third of one month's wage, calculated at such female employee's rate of pay at time of going on said maternity leave;
- b) Placement in the same job as was occupied at the commencement of said maternity leave, or a job similar thereto.

12.5 Still Birth and/or Legal Adoption

The provision of this clause shall also apply to:

- a) Still births;
- b) Legal adoptions provided the adopted child is less than one year old.

13. PROHIBITION ON PIECE-WORK

No Employer shall employ any Employee on piece-work.

14. UNIFORMS, OVERALLS, PROTECTIVE CLOTHING AND SAFETY EQUIPMENT

When an employer requires an employee to wear, or is required by law to provide to such employee, any uniform, overalls, gumboots or other protective clothing, the employer shall issue such clothing to the employee concerned, on the following basis:

- a) Any employee shall have two serviceable uniforms for use, at any time;
- b) Uniforms shall be issued to any employee, free of any charge;
- c) Any item of clothing or safety equipment provided for in this clause shall be issued without any employee being required to make a deposit therefore, either to the employer or any other person.
- d) should uniforms or safety equipment not be returned on termination of service the replacement cost thereof shall be deducted by the employer from any money that is due to the employee

15. NIGHT WORK

- 15.1 Whenever an employee finishes work between the hours of 21:00 and 04:00, the employer concerned shall provide such employee with transport to the nearest public transport pick-up point;
- 15.2 A female employee who is more than six month's pregnant shall not be required to commence work before 05:00, nor to work after 21:00;

16. PROHIBITION OF EMPLOYMENT

In terms of this Clause, an employer:

- a) shall not employ any person under the age of 15 years;
- b) require or permit any pregnant female employee to work during the 8 week period prior to the expected date of her confinement and/or during the 8 week period after the date of said female Employee's confinement.

17. TRADE UNION SUBSCRIPTIONS

17.1 Deduction of Trade Union Subscriptions

Upon being requested in writing by an employee so to do, the employer shall:

- a) deduct from monthly wage of the employee concerned, the subscription payable by such employee to any trade union for as long as the trade union is allocated a representative on the Council in terms of clause 6.1.1 of the constitution;
- b) hand the amount so deducted, less an administration fee, over to the official appointed to receive it by the trade union concerned or, alternatively, shall send such amount by post to the registered office of that trade union;
- c) hand over or alternatively post such amount by the 20th day of the month following that on which such deduction was made.

17.2 Deduction of Congress Levies

During one month of each year, an employer shall deduct a double membership fee for payment of a congress levy, from the wages of those of his employees as are trade union members, provided such employer:

- a) has received written notification from the trade union concerned, confirming that payment of the double membership fee was determined in terms of its Constitution; and
- b) such employer has been given written permission to do so by the employees concerned, by means of stop order forms.

18. COUNCIL FUNDING

18.1 For purposes of meeting the expenses of the Council, every employer:

- a) shall deduct an amount of R 4.75 from the monthly wage of each of his employees (other than casual employees);
- b) shall add to such employee deductions an amount equal to the total sum thereof;
- c) shall forward such combined employer/employee sum, in total, to the Secretary of the Council, by not later than the 7th day of the month following that on which the transactions referred to in paragraphs a) and b) above were performed.
- d) when forwarding the combined levies referred to paragraph (c) above, will send the monies together with the remittance advice as prescribed by Council, with all sections of such remittance advice fully completed.

18.2 Should a company not pay the prescribed levies by the date stipulated in paragraph c) above, then interest may be charged by the Council at a rate of ten per cent per month on any outstanding amount. The finance committee will determine whether the charge should be made.

19. SHOP STEWARD RIGHTS

19.1 Definitions/Provisions

For the purposes of this Clause:

- a) “**Shop Steward**” means a shop steward elected in terms of a Union Constitution;
- b) “**Union membership**” shall be solely determined by the provisions of valid stop order forms, as provided for in terms of Clause 17 of this Agreement.

19.2 In any workplace in which at least 10 members of a representative trade union are employed, those members are entitled to elect from among themselves -

- a) if there are 10 members of a trade union in a workplace, one trade union representative;
- b) if there are more than 10 members of the trade union employed in the workplace, two trade union representatives;
- c) if there are more than 50 members of the trade union employed in the workplace, two trade union representatives for the first 50 members, plus a further one trade union representatives for every additional 50 members up to a maximum of seven trade union representatives;
- d) if there are more than 300 members of the trade union employed in the workplace, seven trade union representatives for the first 300 members, plus one additional trade union representatives for every 100 additional members up to a maximum of ten trade union representatives;
- e) if there are more than 600 members of the trade union employed in the workplace, seven trade union representatives for the first 600 members, plus one additional trade union representatives for every 200 additional members up to a maximum of twelve trade union representatives; and
- f) if there are more than 1000 members of the trade union employed in the workplace, twelve trade union representatives for the first 1000 members, plus one additional trade union representatives for every 500 additional members up to a maximum of twenty trade union representatives.

19.3 Provision of Shop Steward facilities

- a) For purposes of contacting the union concerned, a shop steward shall have reasonable access to a telephone on the employer’s premises, and/or to a telephone of such employer located on a contract site;

- b) An employer shall attempt to facilitate reasonable access to his clients' premises for company shop stewards and elected safety representatives; provided that:
 - i) that the said shop steward or safety representative requests a senior representative of the employer concerned, in advance, to arrange a suitable date and time for such access; and
 - ii) that the granting of such access rights does not infringe upon the operations or requirements of the client and non-members of the trade union.

19.4 Shop Steward Leave

- a) To allow shop stewards to attend to union affairs, the employer shall grant paid leave for such purpose to those concerned, on the following basis:
 - i) six days paid leave per year in the case of an office bearer of a representative trade union;
 - ii) 4 days paid leave per year in the case of any other shop steward.
- b) If requested to do so, the employer shall enter into negotiations with the in-house shop stewards regarding the granting of additional unpaid leave to allow for attending to union affairs;
- c) Whenever a shop steward requires paid leave to attend to union affairs as provided for in sub-clause 19.4 a) above, the union shall give the employer not less than 14 days written notice to that effect; provided that notification of less than 14 days shall be accepted by the employer in the case of emergencies.

20. TERMINATION OF EMPLOYMENT

20.1 Notice of contract termination

when either an employer or an employee (other than a casual employee) desires to terminate the contract of employment existing between them, such termination may be effected in the following manner:

- a) Notice by either the employer or the employee of intention to terminate such contract shall be given in writing (except when such notice is given by an Employee who is unable to write);
- b) The length of such notice shall be based on the duration of the employee's employment with the employer concerned, as follows:
 - i) Not less than one working day's notice shall be given during the first four weeks of such employment;

- ii) Not less than two weeks notice shall be given after the first four weeks of such employment.
- iii) Not less than one weeks notice shall be given to an employee whilst on probation, as defined, for the period of employment between 4 weeks as in (i) above and six months.

20.2 Payment in lieu of Notice

- a) Either an employer or employee may terminate the contract without giving notice by paying the employer or the employee concerned As the case may be, an amount of not less than:
 - i) the daily wage being received by the Employee at the time of such termination in lieu of the one working days notice called for in the circumstances laid down in sub-clause 20.1 b) i) above;
 - ii) an amount equal to double the weekly wage being received by the employee at the time of such termination in lieu of the two weeks notice called for in the circumstances laid down in sub-clause 20.1 b) ii) above.
- b) The terms of paragraph a) above shall not affect the following:
 - i) the right of an employer or his employee to terminate the contract without notice, for any cause recognised by law as being sufficient;
 - ii) any written agreement between an employer and his employee which provides for a period of notice of equal duration on both sides and for longer than that prescribed in this clause;
 - iii) the operation of any forfeitures or penalties which may be applicable by law in respect of an employee who deserts;
- c) If an employer pays an employee in lieu of notice at a time when, as at the date of termination, the wage of such employee has been reduced by short-time deductions, the expression “is receiving at the time of such termination” shall be deemed to mean “would have received at the time of such termination had no deduction been made in respect of short-time”.
- d) Where there is an agreement in terms of paragraph b)(ii) above, the payment in lieu of notice shall be in line with the period of notice agreed upon.

20.3 Timing of Notice

The Notice specified in clause 20.1 above, shall not run concurrently with, nor be given during, the absence of any employee for any of the following reasons:

- a) Leave granted in terms of clause 8 hereof;
- b) Sick leave granted in terms of clause 9, or incapacity in the circumstances set out in clauses 9.5 a) or 9.5 b) where such absences amount in total to not more than ten weeks in any 12 month period of employment with the same employer;
- c) Military service, except if the employee so requests in writing and the employer so agrees, also in writing;

20.4 Appropriation of employee dues in lieu of Notice

- a) Notwithstanding anything to the contrary in this Agreement, where an employee terminates his contract of employment by leaving his employment without having given and served the required notice period; or without having paid the employer in lieu of such notice, the employer may appropriate to himself an amount of not more than that which the employee would have had to pay in lieu of notice;
- b) Such appropriation by the employer shall be made from any monies owed by him to the employee concerned, in terms of any of the provisions of this Agreement, and shall not exceed more than the amount the employee would have paid him in lieu of notice;
- c) If such appropriation is made, the employee shall be deemed, for the purposes of clause 8.6 hereof, to have paid the employer in lieu of notice.

21. CERTIFICATE OF SERVICE

- a) Upon termination of any contract of employment, the employer shall furnish the employee concerned with a Certificate of Service showing:
 - i) the full names of both employer and employee;
 - ii) the class of employment in which the employee was wholly or mainly engaged;
 - iii) the dates of commencement and termination of the contract;
 - iv) the employee's monthly wage as at the date of termination.
- b) Certificates of Service shall not be issued by the employer in the case of casual employees or of any employee whose contract of employment has been terminated on the grounds of desertion.

22. STAFF RECORDS

22.1 Maintenance of Staff Records

- a) Every employer shall maintain attendance and wage records in respect of each

of his employees;

- b) Staff timekeeping may be maintained by the employer either by means of attendance registers or time cards as laid down in clauses 23.2 and 23.3, respectively, hereafter.

22.2 Attendance registers

If the employer chooses to use the attendance register method of staff timekeeping, this shall be implemented as follows:

- a) Attendance Registers shall be substantially in the form as prescribed by the Council;
- b) The employer shall maintain an individual Attendance Register in respect of all the employees in his employ;
- c) The particulars called for in such Attendance Registers shall be written up in ink or indelible pencil.

22.3 Time Cards

If the employer chooses to use the time card method of staff timekeeping, this shall be implemented as follows:

- a) The employer shall provide a semi-automatic time recorder, together with the necessary cards which shall be as prescribed by the Council;
- b) A time card shall be supplied by such employer to each of his employees, and such cards shall detail:
 - i) the name and staff number of the employee concerned;
 - ii) the date of the last day of the working week for which such card is to be used by such Employee.
- c) Unless prevented from so doing by unavoidable cause, an entry shall be made by each employee on the time card provided in terms of paragraph b) above by means of the semi-automatic time recorder provided in the establishment for such purpose and such entry shall be made on, and in respect of, each day worked by such employee;
- d) Each entry made by an employee for each working day concerned, on the time card referred to in paragraph c) above, shall show the following:
 - i) time of commencing work;
 - ii) time of commencing and terminating all meal and other intervals that

are not accountable as ordinary hours of work;

iii) time of finishing work.

22.4 Retention of Records

All records in terms of this Clause:

- a) shall remain the property of the employer; and
- b) shall be retained by said employer for a period of three clear years after the date of the last entry made therein.

23. COUNCIL REGISTRATION BY EMPLOYERS

23.1 Registration procedures

- a) All existing employers (and every employer entering the Industry in the future) shall register with the Council.
- b) Applications for such registration shall indicate the particulars covered in paragraph c) hereafter, and shall be effected in writing, signed by the employer concerned and forwarded by such employer to:

THE SECRETARY OF THE COUNCIL
P. O. BOX 47435
GREYVILLE
4023

- c) The said registration particulars shall include:
 - i) the name of the business concerned, in full;
 - ii) the street and postal address of said business; and as the case may be:
 - iii) in a sole proprietorship: the identity number and name of the proprietor;
 - iv) in a partnership: the identity numbers and names of the partners and a certified copy of the Partnership Agreement;
 - v) in the case of a company: the identity numbers and names of the Directors, and a copy of the Certificate of Incorporation;
 - vi) in the case of a closed corporation: the identity numbers and names of the members, and a copy of the Certificate of Incorporation;
 - vii) in the case of any other body corporate or juristic person: the names and identity numbers of the persons responsible for the administration of

such body corporate or juristic person;

- viii) copies of registration certificates and certificates of good standing for the following: UIF, WCA, JSB, Training Board, PAYE, and VAT and the company shall produce a current certificate of compliance for each of the above annually in the month of January.

23.2 Certificate of Registration

A Certificate of Registration, signed by either the Chairperson or the Secretary of the Council, shall be issued to every Employer registered.

23.3 Register of Employers

The Secretary of the Council shall maintain a register of all employers registered in terms of clause 24.1 above.

23.4 Advice of Change in Particulars

- a) Every registered employer shall notify the Council of any change in the particulars furnished by him on registration;
- b) Such changes shall be advised within 14 days of occurrence and shall include:
 - i) Any change in a partnership or partnership agreement;
 - ii) Any change in the Directors of the Company;
 - iii) Any change in the members of a close corporation;
 - iv) Any change in the persons responsible for the administration of any other body corporate or juristic person.

24. ADMINISTRATION OF THE AGREEMENT

The Council shall be the body responsible for administering this Agreement and may issue rulings and/or express opinions for the guidance of employers and employees, provided such rulings and opinions are not inconsistent with any provisions therefore, as laid down in the Agreement.

25. AGENTS

25.1 Appointment of Agents

To assist in giving effect to the terms of this Agreement (and any other Agreement administered by the Council) the Council:

- a) shall appoint one (or more) specified person/s as Council Agent/s;

- b) may request the Minister of Labour to appoint a designated agent in terms of the provisions of Section 33 of the Act.

25.2 Agents' Terms of Authority

For the purpose of ensuring adherence to the terms of this Agreement (and/or any other Agreement of the Council) a duly appointed Council Agent shall have the right to:

- a) To enter any establishment for the purpose of carrying out an inspection on behalf of the Council;
- b) To question any employer or employee during such inspection;
- c) To inspect the records prescribed in clause 23 hereof.

25.3 Employer/Employee obligations

The employer and employees of an establishment undergoing a Council inspection as prescribed in clause 26.2 above, shall permit the Agent/s concerned to exercise, as necessary, the rights prescribed in paragraphs a), b) and c) of said clause.

26. EXEMPTIONS

26.1 Granting of Exemptions

In terms of section 32 of the Labour Relations Act, No. 66 of 1995, as amended, the Council hereby establishes an independent body called an "Exemptions Board" to hear and decide any appeal brought against—

- (a) the Council's refusal of any party's application for exemption from the provisions of this Agreement;
- (b) the withdrawal of such an exemption by the Council.

26.2 Any party to this Agreement or any member of a party to this Agreement may apply to the Council for exemption from any of the terms of the Agreement.

26.3 The Council shall consider an application for exemption received from a party or a member of a Party to the Agreement, at the first Executive Committee meeting of the Council following the receipt of the application, with the proviso that applications received within less than five (5) normal working days prior to a Council meeting shall only be tabled at the next Executive Committee meeting of the Council.

26.4 Applications for exemption referred to the Council in terms of subclause 26.2 or 26.3 shall be considered by the Council in accordance with the exemption criteria set out in subclause 21.13 hereof, and the applicant/s shall be advised, in writing, of the Council's decision within five (5) normal working days following the meeting at which the applications were considered.

- 26.5 The Council shall, subject to the exemption criteria, only grant exemption on good cause and may determine such period and conditions of exemption as it deems fit, with the proviso that all exemptions shall lapse on 28 February of every year and may only be extended for a further period by the Council on the application for such extension by the applicant.
- 26.6 Any non-party to which this Agreement has been extended to in terms of section 32 of the Act, may apply to the Council for exemption from any of the terms of this Agreement.
- 26.7 Subclause 26.3 to and including 26.5 shall *mutatis mutandis* apply to any application for exemption received from a non-party.
- 26.8 Within 14 consecutive days after having been advised of the Council's decision regarding an application for exemption, the party who feels aggrieved by the Council's decision, may submit a written appeal against the Council's decision to the Secretary of the Council. Such an appeal must be fully reasoned.
- 26.9 The Secretary of the Council shall submit the appeal, together with the Council's decision regarding the application for exemption, to the Exemptions Board who shall as soon as possible, hear and decide the matter with reference to the exemption criteria set out in subclause 26.13 hereof and when requested by the applicants or objectors to do so, may interview applicants or any objectors at its following meeting; provided that the Exemptions Board may defer a decision to a following meeting if additional motivation, information or verbal representations are considered necessary to decide on the application for exemption.
- 26.10 Once the Exemptions Board has decided to uphold the appeal and grant an exemption it shall issue a certificate and advise the applicant/s within ten (10) normal working days of the date of the decision, clearly specifying—
- (a) the terms of the exemption; and
 - (b) the reporting requirements by the applicant and considering re-evaluation processes.
- 26.11 When the Exemptions Board decides against granting an exemption it shall issue a certificate and advise the applicant/s within ten (10) normal working days of the date of such decision and shall provide the reason or reasons for the decision not to grant an exemption.
- 26.12 All applications for exemptions referred to in this clause 26 shall be addressed to the Secretary of the Council and shall be—
- (a) in writing on an application form provided by the Council;
 - (b) indicate the period of time for which the exemption is required;

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

26.13 **Exemption criteria:** The Exemptions Board and the Council shall consider all applications of exemptions referred to in terms of this clause 26 with reference to the following criteria:

- (a) The extent of consultation with and the petition for or against granting the exemptions as provided by employers or employees who are to be affected by the exemption if granted;
- (b) infringement of basic conditions of employment rights;
- (c) that a competitive advantage is not created by the exemption;
- (d) that exemption from any employee benefit fund or training provision be viewed in relation to the alternative comparable bone fide or provision including the cost to the employee, transferability, administration management and cost, growth and stability;
- (e) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Contract Cleaning Services Industry;
- (f) the reality that the majority of employers at any time engaged in the Contract Cleaning Services Industry within the Council's area of jurisdiction as well as the majority of members of the employer parties to the Council, represent the category micro to medium enterprises and employ between one and one hundred employees;
- (g) any special economic or other circumstances that exist warrant the granting of the exemption;
- (h) take cognizance of the recommendations contained in the Report of the Presidential Commission to Investigate Labour Market Policy.

27. STAFF TRANSFERS DUE TO TRANSPORT DIFFICULTIES

27.1 Employers shall give due consideration to employee requests for transfer from any contract to another in order to reduce traveling time and costs.

27.2 Employees shall sign new Contracts of Employment whenever any transfer takes place at their own request or at the request of the employer.

28. DESERTION AND ABSCONDING

If an employer has not been contacted and given a satisfactory explanation by an employee who has been absent from work for more than three days, such employee shall be regarded as having absconded from the place of work.

29. RETIREMENT

An employee shall retire from employment as soon as said employee reaches the age of qualification for a State Retirement Pension in terms of the relevant legislation.

30. PROVIDENT FUND

30.1 Definitions

“accumulated credit” means the total contributions made by a member (or in respect of such member) in terms of the rules, together with a proportionate share of bonus additions (as determined by the underwriter) at the rate of bonus declared on the periodic balances in the allocation account, less the administration charge, the investment service charge and the Personal Risk Benefit premiums;

“allocation account” means the account maintained by the underwriter in respect of member contributions, together with that portion of the Employer contributions made in terms of the rules applying to retirement benefits.

“annual salary” shall mean the basic salary or wage per annum of a member including other such amounts as the employer may determine in agreement with the underwriter; and changes in a member’s salary, and the corresponding changes in contributions and benefits, will become effective from the actual date of change in annual salary;

“annual taxable earnings” means for the purposes of the rules, the gross annual earnings applying on the day immediately before the commencement of disability, less every allowable tax deductible expense (other than contributions to approved funds and existing investment income and profit from business) and for the purposes of this definition “the commencement of disability” means either the date on which the waiting period commenced, or the date the member became disabled in terms of the rules;

“approved pension fund” shall mean a fund approved as such by the Commissioner of the South African Revenue Services

“approved provident fund” shall mean a fund approved as such by the Commissioner of the South African Revenue Services;;

“approved retirement annuity fund” shall mean a fund approved as such by the Commissioner of the South African Revenue Services;

“dependant” (in relation to a member) means:

- a) a person in respect of whom the member is legally liable for maintenance; or
- b) a person for whom the member is not legally liable for maintenance:
 - i) if such person was dependant on the member for maintenance, in the Trustees= opinion, at the time of such member’s death; or
 - ii) if such person is the member’s spouse, being party either to a customary union according to Black law and custom, or to a union recognised as a marriage by any Asiatic religion.
 - iii) if such person is one for whom the member would have become legally liable for maintenance had said member not died;

“eligible employee” shall mean any person (other than one employed on a temporary or casual basis) whose wages are determined by the Main Agreement of the Bargaining Council for the Contract Cleaning Industry (Natal) and who devotes all of his time to the services of the employer;

“employer” means the employer in whose service the eligible employee or member is employed at the time;

“the Fund” means the Bargaining Council for the Contract Cleaning Services Industry (Natal) Provident Fund;

“member” means an eligible employee who participates in the Fund;

“Trustees” means the Trustees of the Fund, as appointed in accordance with the rules;

“underwriter” means the South African Mutual Life Assurance Society (Old Mutual), or any other underwriter as determined by the Trustees from time to time.

30.2 Establishment and object of the Fund

- a) The Fund known as the Bargaining Council for the Contract Cleaning Industry (Natal) Provident Fund and originally established on 7 April 1995 in terms of Government Notice R511 is hereby continued.
- b)

- c) The Fund shall be governed by its rules and regulations, as in force from time to time, and the benefits provided under the Fund shall be assured under policies issued by the assurance company appointed to administer the Fund.
- d) The objects of the Fund shall be to provide for:
 - i) payment of cash benefits or annuities to members on retirement, on or after the normal retirement date;
 - ii) payment of death benefits to members' beneficiaries in the event of the death of such members prior to retirement;
 - iii) payment of certain benefits in terms of the rules, to members retiring before the normal retirement date.

30.3 Membership

- a) Eligibility:
 - i) All eligible employees shall be able to join the Fund from the date specified in the rules, provided they are under the normal retirement age as at such date;
 - ii) The underwriter may waive this requirement, subject to the approval of the Commissioner of the South African Revenue Services;
- b) Participation:
 - i) Participation shall be compulsory for all persons who became eligible employees on or after the date of commencement of the Fund.
 - ii) Participation in the Fund in respect of all illegible employees shall commence on whichever is the later date of the following:
 - aa) the date of commencement of the fund; or
 - ab) the date of becoming an eligible employer.
- c) Continuation of participation
 - i) If a member ceases to be an eligible employee (for reasons other than retirement, withdrawal from service or death) his participation in the Fund shall cease on the first day of the month following or coinciding with the date on which he ceases to be an eligible employee.
 - ii) The underwriter shall calculate the member's accumulated credit as at the date the member ceases to be an eligible employee.
 - iii) Such amount shall be retained in the Fund until it becomes payable in

terms of the rules or shall be transferred for the benefit of the member to an approved pension, provident or retirement annuity fund.

- iv) except for the provisions of the Fund, all members shall be obliged to remain members thereof until their retirement, withdrawal from service or death, as the case may be.

d) Insurability

An eligible employee's participation in any personal risk benefit being provided from time to time in terms of the Fund shall be conditional upon compliance by such employee with the requirements laid down by the underwriter in terms of the rules.

30.4 Beneficiaries

- a) Every member shall inform the Council of the particulars of his nominated beneficiary.
- b) For the purpose of paragraph a) above, the following persons shall be considered as beneficiaries:
 - i) a member's wife or husband, as the case may be;
 - ii) a member's children under the age of 21 years, including adopted children who are wholly or partly dependent on the member and who reside with such member;
 - iii) any other person dependent on the member (in full or in part) for maintenance and support.
- c) Should a member have no dependant to nominate as a beneficiary in terms of paragraph b) above any other person may be so nominated: provided such member has signed and submitted to the Council a declaration to the effect that he has no dependants.
- d) In the event of a deceased member having failed to make a nomination in terms of paragraph b) above, the Council shall pay the due benefits into the deceased's estate.
- e) If no claim is made by a beneficiary within one year of the death of a member (or within such longer period as the Council may allow in terms of the rules of the Fund) the Council shall pay the benefit into the deceased's estate and, thereafter, there shall be no further claim against the Fund.
- f) Should the beneficiary or the nominated guardian thereof be under the age of 21 years or, in the opinion of the Council, be a person who would not be capable of handling money judiciously, the Council shall have the right to

retain the benefits due in trust, and to pay them to the beneficiary or such guardian, in a manner as decided upon by the Council.

30.5 Contributions

- a) Every member shall contribute 7% of his weekly wage to the Fund.
- b) The contribution referred to in para a) above, shall be deducted from the member's salary and shall be reflected through the wage records each and every month.
- c) In respect of each member in his employ every employer shall contribute, on a monthly basis, an amount equal to the member's contribution each month, as made in terms of para a) above.
- d) Every employer shall forward a printed return with the name of each member, their Fund reference number and their basic wage to the underwriter, month by month, together with payment of the total member and employer contributions for the relevant month, so as to reach the office of such underwriter not later than the 7th day of the month following that for which the contributions were so made.

30.6 Arrears Contributions

- a) When an Employer is in arrears with payment of the combined Employer/Employee Fund contributions (in terms of sub-clause 33.5 d) above) and when he has failed to forward the outstanding amount within seven days after having received a written warning from the Council calling for such payment of arrears contributions, the employer concerned shall:
 - i) submit to the Council, week by week, the contributions referred to in sub-clause 30.5 d) above; and
 - ii) do so in a manner such that the said weekly contributions shall reach the Secretary of the Council not later than the Friday following the pay-day for each of the weeks concerned;
 - iii) Submit the return referred to in subclause 30.5 d) at the end of each calendar month concerned, together with the payment for the last weekly pay day of the relevant month.
- b) An employer to whom the provisions of this clause have been applied may change back to payment of the Provident Fund contributions on a monthly basis only after written permission to do so has been received from the Council.

30.7 Administration of the Fund

- a) The administration, management and control of the Fund and the payment of

the benefits from the Fund shall be vested in the Underwriter, in consultation with the Council;

- b) The Chairperson and Vice-Chairperson of the Council shall also be Chairperson and Vice-Chairperson of the Fund.
- c) Three Employee and three Employer Trustee representatives shall constitute a quorum at any Council meeting held to discuss Fund matters, and all decisions taken at such meetings shall be by a majority of votes.
- d) The Council shall have the power to determine, amend and alter rules governing the administration of the Fund, provided that such rules (or any amendment thereof) shall be consistent with the provisions of this Agreement or with the provisions of any other law.
- e) A copy of the Fund rules (and any amendments thereto) shall be:
 - i) furnished to the Director-General of Labour;
 - ii) available at the office of the Secretary of the Council during office hours for inspection by any Employer or contributor.

30.8 Indemnity

The members and Secretary of the Council:

- a) shall not be held responsible for any act which may result in loss to the Fund, where such act was carried out in good faith;
- b) shall not be liable for the debts and liabilities of the Fund against all losses and expenses suffered by them in the legitimate discharge of their duties;
- c) shall not be held responsible upon the sequestration or liquidation of an employer's Estate for any contributions due and payable in terms of clause 33.5 above, but which have not been paid into the Fund by such employer.

30.9 Liquidation of the Fund

- a) The Fund shall be liquidated in the event of the expiry or cessation of this Agreement by the progress of time or any other cause, and if no subsequent Agreement is negotiated for continued operation of the Fund, or if said Fund is not transferred by the Council, within 12 months from the date of expiry of the Agreement, to any other Fund formed for the same purpose.
- b) Upon liquidation of the Fund in terms of paragraph a) above, the monies remaining to the credit of the Fund after payment of claims, including administration expenses, shall be paid into the general funds of the Council.

30.10 Administration of the Fund on dissolution of the Council

- a) In the event of the dissolution of the Council, or in the event of its ceasing to function in terms of the Act during any period in which this Agreement is binding the members and alternates of the Council, as at the date on which the Council is dissolved or ceases to function, shall continue to assist in administering the Fund: provided that any vacancies occurring on such Council shall be filled by the Registrar from employers and/or employees in the Contract Cleaning Services Industry (Natal), in order to ensure equal representation of employer and employee members and alternates on such Council.
- b) In the event of the Council being unable or unwilling to discharge its duties or of a deadlock arising there from which renders the administration of the Fund impracticable or undesirable in the opinion of the Registrar of labour Relations, the latter may appoint a Trustee or Trustees to discharge such duties.
- c) If there is no Council in existence upon the expiry of this Agreement, the Fund shall be liquidated in the manner set out in clause 33.9 hereof and if upon such expiry the affairs of the Council have already been wound up and its assets distributed, the balance of the Fund shall be distributed as provided for in the Act, in that such balance formed part of the general funds of the Council.

30.11 Exhibition of Agreement

A copy of this Agreement shall be kept by every employer within the area of jurisdiction of the Council, in his work place at all times.

30.12 Should a company not comply with the provisions of the provident fund by not registering all the eligible employees that were employed on or after the 17th April 1995, the company shall be liable as follows:

- a) Back pay both the employer and employee contributions of the eligible employees from the date they became eligible as per clause 30.2;
- b) the employer may deduct the employee's portion of the contribution from the eligible employee's wages but this must not exceed 10% of the employee's monthly wage and the employer may not add interest to the contributions owed. Should the employee, on ceasing to work for that employer, not have reimbursed the employer for the full back payment of the employee portion, the employer will have recourse against the employee's savings being paid to him or her from the provident fund;
- c) should a valid claim in terms of the rules for death, disability and/or funeral benefits have arisen during the period the eligible employee was not registered then the employer must pay out the claim to the employee or employee's family;

- d) should a company not pay across the contributions to the administrators in terms of clause 30.5 (d):
 - i) the company will be liable for a penalty of 10% per month of the contributions, which penalty will be paid to the Bargaining Council for the Contract Cleaning Industry (Natal);
 - ii) and the matter shall be reported to the Financial Services Board;
 - iii) where applicable clause 31.11 will apply in addition to this clause.

31. DISPUTES ABOUT INTERPRETATION, APPLICATION OR ENFORCEMENT OF AGREEMENT.

- 31.1 The Secretary of the Council may at any time require a designated agent to monitor compliance with the provisions of the Agreement.
- 31.2 A dispute about interpretation, application or enforcement of this Agreement may be lodged with or referred to the Secretary of the Council by any person, for resolution in terms of this Agreement.
- 31.3 The Secretary of the Council may require a designated agent to investigate the dispute.
- 31.4 the designated agent must investigate the facts surrounding the dispute and if the agent has reason to believe that a collective agreement has been breached, the agent may endeavor to secure compliance with the Agreement through conciliation.
- 31.5 the designated agent must submit, within seven days, a written report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- 31.6 if in the course of performing a designated agent's duties an agent discovers what appears to be a breach of the Agreement, the agent -
 - a) must investigate the alleged breach;
 - b) may endeavor to secure compliance with the Agreement; and
 - c) must submit a report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- 31.7 on receipt of the report, the Secretary may -
 - a) require the designated agent to make further investigation;
 - b) if further conciliation is indicated, appoint a conciliator from the Council's panel of conciliators;

- c) refer the dispute for conciliation to the disputes committee of the Council;
- d) issue a compliance order; or
- e) refer the dispute for arbitration in terms of this Agreement.

31.8 If a conciliator is appointed or the dispute is referred to the disputes committee, the Secretary must decide the date, time and venue of the conciliation meeting and must serve notices of these particulars on the parties to the dispute.

31.9 If a compliance order is issued, that order must be served on the party allegedly in breach of the Agreement.

31.10 The Secretary of the Council may apply to make the arbitration award an order of the Labour Court under section 158 (1) of the Act.

31.11 Should a company be found to be not complying with the provisions of this agreement, the arbitrator may impose fines as per the following tables:

TABLE ONE: MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT

No previous failure to comply	R100 per employee in respect of whom the failure to comply occurs
A previous failure to comply in respect of the same provision	R 200 per employee in respect of whom the failure to comply occurs
A previous failure to comply with the previous 12 months or two previous failures to comply in respect of the same provision within three years	R 300 per employee in respect of whom the failure to comply occurs
Three previous failures to comply in respect of the same provision within three years	R 400 per employee in respect of whom the failure to comply occurs
Four or more previous failures to comply in respect of the same provision within three years	R 500 per employee in respect of whom the failure to comply occurs

TABLE TWO: MAXIMUM PERMISSIBLE FINES INVOLVING AN UNDERPAYMENT.

No previous failure to comply	25% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of	50% of the amount due, including any interest owing on the amount at the date of

the same provision within three years	the order
A previous failure to comply in respect of the same provision within a year, or two previous failures to comply in respect of the same provision within three years	75% of the amount due, including any interest owing on the amount at the date of the order
Three previous failures to comply in respect of the same provision within three years	100% of the amount due, including any interest owing on the amount at the date of the order
Four or more previous failures to comply in respect of the same provision within three years	200% of the amount due, including any interest owing on the amount at the date of the order

32. CERTIFICATE OF COMPLIANCE.

32.1 Should a company require a “Certificate of Compliance” the following procedures will take place before such certificate may be issued:

- a) A designated agent of the Council will carry out an inspection of the company’s records for a period of the 3 months prior to such request. Due cooperation must be given to such agent in his inspection by the company representatives. The agent will use a checklist designed by Council and printed in triplicate, a copy of which will be given to the company detailing the contraventions or compliance;
- b) The company must also be registered and paying their dues timeously to the various statutory bodies that affect the cleaner. These must include the following:
 - i) Unemployment Insurance Fund;
 - ii) Workman’s Compensation Act;
 - iii) Cleaning Industry Training Board;
 - iv) South African Revenue Services;
 - v) Durban Corporation Business Levies.
- c) The company must have been complying with all the provisions laid down for a period of not less than 6 calendar months to ensure such company is complying on a regular basis.

32.2 Should it be found that the company is not complying a dispute detailing the non compliance will be referred for arbitration by the Council within 5 working days.

32.3 The certificate of compliance will only be valid for a period of six months from date of its issue to ensure the company’s continued compliance. The certificate will be issued without alteration on the printed format of the Council. The certificate will only be issued after due investigation by, and must be signed by, two of the following officials: Secretary, Chairman or Vice Chairman.

34. COMPANY PRIORITY LIST.

- 33.1 A company will set up a priority list to assist cleaners whose fixed term contracts have come to an end due to the termination of the company's contract with the client.
- 33.2 The company will not employ any new staff until such time as all the ex-employees as mentioned above have been assigned a new fixed term contract unless:
- 33.2.1 should all ex-employees on the priority list not have suitable skills to carry out the tasks required by the client, the company may then employ someone new with the necessary skills;
- 33.2.2 when the company is granted a new contract and the client wishes for their existing staff to be employed, these staff will take preference over ex-employees on the priority list and may be employed.
- 33.3 Should there still be ex-employees on the priority list and the company loses another contract, then the ex-employees whose contract came to an end later will be placed at the bottom of the list. ex-employees names will remain on the priority list for a maximum period of twelve (12) months.
- 33.4 The fixed term contracts offered may be more or less working hours per week than what they had been previously contracted for.
- 33.5 When the cleaner, whose fixed term contract has come to an end due to the contract with the client being terminated, is being paid their final remuneration they shall leave a telephone number in order for them to be contacted in regard a new fixed term contract.

The ex-employees name will be taken off the priority list if:

- 33.5.1 he fails to report as instructed after the third phone call at the number given. When the ex-employee fails to report to the office as instructed on the first and second occasions the ex-employee's name will be placed at the bottom of the priority list;
- 33.5.2 an ex-employee has refused an offer of a new contract in the same municipal area for any reason, that person will be removed from the priority list.
- 33.6 Once another contract has been identified the ex-employee will sign a new fixed term contract and:
- 33.6.1 as new employees they will be eligible to join the provident fund as from the date of commencing the new fixed term contract;
- 33.6.2 as new employees the incentive bonus will be pro-rata from the date of commencing the new fixed term contract;

33.6.3 as new employees the sick and annual leave cycle will be calculated from the date of commencing the new fixed term contract;

33.7 This clause shall not apply to contracts lost due to poor performance in terms of the Labour Relations Act. However, the company must disclose the employee's file to show that the ex-employee was disciplined in the past six (6) months for poor performance.

33.8 This clause shall not in any way give employees expectation of continued employment over and above their fixed term contract of employment.

Signed at Durban this 2nd Day of June 2004

P JUDKINS
for the National Contract Cleaners Association (Kwa-Zulu Natal Branch).

D. E. SITHOLE
FOR BAWU

V. MHLONGO
FOR NAGEWU

S NTSHAKALA
For SATAWU

E WILLIAMS
As witness: Secretary of the Bargaining Council.