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## RULES

### RULE 1 - ESTABLISHMENT AND OBJECTS OF THE FUND.

- [1] There is hereby established as from 28 March 1958, the **Provident Fund for the Furniture Manufacturing Industry, KwaZulu-Natal**, hereinafter referred to as the "FUND".
- [2] The registered office of the FUND shall be situated at 36 DULLAH OMAR ROAD, DURBAN.
- [3] The object of the FUND shall be to provide BENEFITS for its MEMBERS upon their RETIREMENT, and in the event of permanent disablement.
- [4] The FUND shall consist of
- [a] monies standing to the credit of the FUND at the date of registration of the FUND in terms of the ACT ;
  - [b] the total weekly contributions of both the EMPLOYERS and EMPLOYEES paid into the FUND ;
  - [c] interest and / or dividends derived from the investment of any monies of the FUND ;
  - [d] any monies credited to individual MEMBERS in terms of Clause 15 of the former agreement ;
  - [e] any other monies to which the FUND may become entitled by virtue of the former agreement or for any other reason, or which may be donated to the FUND.
  - [f] any monies or other assets lawfully acquired from any other source whatsoever.

- [5] The FUND in its own name shall be capable of suing and being sued and of purchasing or otherwise acquiring, holding and alienating property, movable or immovable, or any interest therein.
- [6] For all purposes, including any legal proceedings for or against the FUND, the FUND shall be represented by the BOARD.
- [7] The FUND may, subject to the provisions of section 14 of the Act, amalgamate with or transfer its assets and liabilities or part thereof to or take transfer of the assets and liabilities or part thereof of any APPROVED PROVIDENT FUND or APPROVED FUND.

## **RULE 2. DEFINITIONS :**

In the interpretation of these RULES, words defined in the ACT and not in the RULES shall have the meanings assigned to them in the ACT, expressions signifying the singular, shall include the plural, all expressions implying the masculine, shall include the feminine and vice versa, unless inconsistent with the context, the following words and expressions shall have the following meaning :-

“ACT” means the Pension Funds Act No. 24 1956, as amended and the Regulations framed thereunder ;

“AGREEMENT” means a collective agreement concluded by the COUNCIL including agreements relating specifically to this FUND, or in the absence of such AGREEMENT the last AGREEMENT concluded between the parties as extended by Section 32 of the Labour Relations Act.

“ANNEXURE A” means the AGREEMENT relating specifically to CONTRIBUTIONS.

“APPROVED PENSION FUND” means a pension fund other than a PRESERVATION PENSION FUND, approved as such by the REVENUE AUTHORITIES for the purpose of these Rules.

“APPROVED PROVIDENT FUND” means a provident fund other than a PRESERVATION PROVIDENT FUND, approved as such by the REVENUE AUTHORITIES for the purposes of these RULES.

“APPROVED RETIREMENT ANNUITY FUND” means a retirement annuity fund approved as such by the REVENUE AUTHORITIES for the purpose of these RULES.

“ASSOCIATION” means the KwaZulu-Natal Furniture Manufacturers’ Association;

“AUDITOR” means an AUDITOR registered under the Auditing Professions Act, No. 26 of 2005 (as amended) appointed in terms of these RULES ;

“BOARD” means the BOARD of management appointed in terms of these rules of the FUND ;

“BENEFIT” means an amount of money ;

“CASUAL EMPLOYEE” means an employee who is employed by the same employer on not more than three days in any one week for the purpose of loading and off loading and for storing raw materials of any kind ;

“CHAIRPERSON” shall mean the person appointed by the BOARD in terms of RULE 3[1](e) ;

“COMMENCEMENT DATE” means 28 March 1958 provided that in the case of an EMPLOYER who first participates in the FUND after that date, means the date on which the EMPLOYEES of that EMPLOYER may first become MEMBERS of the FUND ;

“CONTRIBUTIONS” means the monies payable to the FUND in terms of the AGREEMENT ;

“COUNCIL” means the Bargaining Council for the Furniture Manufacturing Industry, KwaZulu-Natal registered in terms of Chapter III Section 29 of the Labour Relations Act;

“DATA RESERVE ACCOUNT” means a fund to be maintained under the FUND to be applied towards cost payable as result of data or administrative errors.

“DEFERRED MEMBER” means a MEMBER who has reached NORMAL

RETIREMENT DATE and has elected to defer his retirement ;

“DEPENDANT” means a DEPENDANT defined in the ACT ;

“EMPLOYEE” means a person employed by an EMPLOYER, including a WORKING PARTNER, DIRECTOR or MEMBER as defined in the AGREEMENT ;

“EMPLOYER” means a person or Company, Partnership, Close Corporation or Temporary Employment Service employing EMPLOYEES within the Scope of Application of the COUNCIL as set out in its Certificate of Registration.

“FINANCIAL YEAR” means the FINANCIAL YEAR of the FUND that begins on 01 July in each year and ends on 30 June of the year following ;

“FORMER AGREEMENT” means the Provident Fund and Mortality Benefit Association Collective Agreement as consolidated under Government Notice R224 of 27 February 2004, as amended reviewed and extended from time to time ;

“FUND” means the Provident Fund for the Furniture Manufacturing Industry, KwaZulu-Natal ;

“FUND CREDIT” means : for each MEMBER at any particular date the sum of :

- [a] the MEMBER’S contributions ;
- [b] the EMPLOYER’S contributions on behalf of the MEMBER ;
- [c] the MEMBER’S FUND RETURN, which may be positive or negative.

“FUND RETURN” means :

- [a] any income (received and accrued) other than contributions, less allowance for any tax and any expenses of the FUND, (paid and accrued) and ;
- [b] any capital appreciation or depreciation (realised and unrealised).

“FURNITURE MANUFACTURING INDUSTRY” or “INDUSTRY” means the registered scope of the COUNCIL as approved and set out in the annexure to its certificate of Registration in the areas indicated therein ;

“LEARNER” means an EMPLOYEE serving a written contract of Learnership entered into under the provisions of the Skills Development Act, 1986 Act No. 97 of 1978, as amended;

“MAIN AGREEMENT” means any current agreement for the INDUSTRY, published in terms of 32 of the Labour Relations Act, 1995, as amended, in which wages are prescribed. Or in the absence of such agreement, the last wage agreement published for the INDUSTRY in terms of the Labour Relations Act, 1995, as amended ;

“MEMBER” means an EMPLOYEE who has been admitted as a MEMBER of the FUND in terms of these Rules and the word “MEMBERSHIP” shall have a corresponding meaning;

“NETT CONTRIBUTIONS” means the sum of :

- [a] the MEMBER’S contributions ;
- [b] the EMPLOYER’S contributions on behalf of the MEMBER ;
- [c] the MEMBER’S FUND RETURN, which may be positive or negative.

“NORMAL RETIREMENT AGE” means the age of 65 years ;

“NORMAL RETIREMENT DATE” shall mean the first day of the month coinciding with or next following the date on which a MEMBER attains the normal retirement age as contemplated in the RULES ;

“PAID UP MEMBER” means a MEMBER whose BENEFIT is retained in terms of these RULES ;



“PRINCIPAL OFFICER” shall mean the person appointed by the BOARD in terms of RULE 3 [7] ;

“REGISTRAR” means the Registrar of Pension Funds ;

“RETIREMENT” means permanent retirement from the INDUSTRY through incapacity, ill-health or old age and “RETIRE” has a corresponding meaning ;

“REVENUE AUTHORITY” means the government authority which collects income tax as well as other taxes

“RULES” means these RULES of the FUND as amended from time to time where there is a divergence between the English text and the text in any other language, the English text shall prevail ;

“SECRETARY” means the SECRETARY of the COUNCIL ;

“TRADE UNIONS” means the TRADE UNION/S that are parties to the Council ;

TRUSTEES” means the TRUSTEES appointed in terms of these RULES of the FUND;

“UNCLAIMED BENEFITS” means a benefit which is payable in terms of these RULES that has not claimed for a period of 24 (twenty four) months.

“VALUATOR” means the VALUATOR appointed in terms of these RULES ;

### **RULE 3. ADMINISTRATION**

Unless otherwise provided for in these RULES, the management and administration of the FUND shall be conducted as follows :

#### **[1] Composition :**

- (a) The FUND shall be managed by a BOARD which shall perform the executive functions of the FUND as provided for in these RULES.
- (b) The BOARD shall consist of nine persons of which one person shall be the independent BOARD member.
- (c) 50% of the members of the BOARD shall be appointed by the TRADE UNIONS and the balance shall be appointed by the ASSOCIATION, provided ;-

  - (i) that a quorum shall be four and shall always include the independent BOARD member ;
- (d) In the event that the independent BOARD member is absent, there shall be no quorum.
- (e) The CHAIRPERSON of the BOARD may be elected from amongst the members of the BOARD, alternatively appoint a person that in the opinion of the BOARD is suitable to be appointed in the position of CHAIRPERSON ;
- (f) The terms of office for a BOARD member shall be three years. Such member may be re-elected as a BOARD member for a successive term.
- (g) The election of a CHAIRPERSON shall be done annually, such person may be re-elected as CHAIRPERSON for a successive term.
- (h) Each BOARD member may have an appointed alternate as representative on the BOARD.
- (i) The CHAIRPERSON shall have no alternate and in his absence from any meeting, the members of the BOARD who are present shall elect a CHAIRPERSON from amongst themselves to act as CHAIRPERSON for that meeting.

- (j) BOARD members may be remunerated by the FUND as decided by the BOARD after taking into consideration the latest survey and / or literature available on the remuneration of BOARD members available from time to time. The amount to be paid in terms of this RULE shall not constitute a monthly salary.

**[2] Disqualification from holding office as Board Member.**

Any member of the BOARD shall cease to hold office if :

- [a] he becomes mentally incapacitated, incompetent or otherwise incapable of acting ; or
- [b] his estate is sequestrated or surrendered or assigned for the benefit of his creditors ; or
- [c] he is convicted in the Republic of South Africa or elsewhere of theft, fraud, forgery ; or
- [d] is removed by a competent court of law from any office of trust on account of misconduct ; or
- [e] he is convicted of any offence and sentenced to imprisonment without the option of a fine ;
- [f] he resigns from the BOARD or where he is a member elected representative, resigns from the INDUSTRY ;
- [g] should any member of the BOARD cease to hold office, the BOARD shall as soon as practical arrange for the appointment of a replacement member.

**[3] Powers and Duties :**

- [a]** The BOARD shall have the authority to effect policies of insurance with a registered insurer for the purposes of investing the FUND'S monies in order to meet the cost of providing benefits or insuring benefits in terms of these RULES and to appoint the ADMINISTRATOR to attend to the day to day administration of the FUND.
- [b]** The BOARD shall have the authority to transfer assets and liabilities of the FUND or a portion thereof to another registered fund and to take transfer of the assets and liabilities or portions thereof from another registered fund, provided that the REGISTRAR approves such transfer.
- [c]** The BOARD shall have the authority to furnish a guarantee in respect of a loan for the purposes of housing, provided by a registered financial institution. No resolution of the BOARD at such meeting shall be effective unless unanimously agreed upon by all members present, including alternates standing in for principal members being absent from the meeting.
- [d]** The BOARD shall have the authority, in the name of the FUND to enter into contracts on behalf of the FUND and to institute, conduct, defend, compound or abandon any legal proceeding by or against the FUND.
- [e]** The BOARD shall have the authority to do all such things as are in its opinion, conducive to the attainment of the objects of the FUND.

**[4] Operational Procedures :**

- [a]** The BOARD shall meet to conduct business of the FUND not less than once every four months.
- [b]** Special Meeting may be called at any time, provided that two or more members of the BOARD submit a joint request outlining the agenda for such a special meeting of the BOARD.

**[c]** The quorum of the BOARD shall be at least four members of the BOARD, of which at least two shall be members elected by the TRADE UNIONS including alternates standing in for any members who are not present at the meeting.

**[d]** All matters shall be decided by consensus. If no consensus can be reached on a particular matter, that matter shall be referred to the next meeting of the BOARD. If no consensus can still be reached at that meeting, the matter shall be referred to an independent mediator agreed by the BOARD who shall attempt to obtain consensus on the matter under dispute. In the event that deadlock has been reached on the matter under dispute, the mediator must make a ruling, which ruling shall be final and binding. Any costs incurred shall be met by the FUND.

**[5] Resolutions in writing :**

A Resolution in writing signed by all the members of the BOARD who may at the time be present in the town where the registered office of the Funds is situated, being not less than are sufficient to form a quorum, shall be as valid and effectual as if it had been passed at a meeting of the BOARD duly called and constituted, provided that where any such member is not so present but has an alternate who is present, then such Resolution must also be signed by such alternate.

**[6] Control by BOARD :**

The control of the assets, management and administration of the FUND shall be vested in the BOARD ; provided that the BOARD may delegate its powers, on such terms and conditions not inconsistent with the RULES as the BOARD may determine in its discretion.

**[7] Principal Officer :**

The BOARD shall appoint a PRINCIPAL OFFICER in terms of the ACT and may withdraw any such appointment and make another appointment in its place at any

time. The BOARD shall ensure that the provisions of Sections 8(3) and 8(4) of the ACT are complied with. If the PRINCIPAL OFFICER is absent from the Republic of South Africa or otherwise unable to perform his duties, the BOARD shall within 30 days appoint another person as PRINCIPAL OFFICER for the period of his absence or inability. To this end, the BOARD may appoint a licensed administration organisation to administer the FUND as the BOARD in its discretion deems fit. In its discretion, the BOARD may from time to time revoke or review the appointment of such organisation.

**[8] Indemnification :**

[a] The FUND hereby indemnifies the BOARD and each of the members of the BOARD from and hold's them harmless against all claims, costs, damages and expenses which are claimed from or incurred by the BOARD and/or any such member relating directly to the administration and/or management of the FUND, provided that such claims, costs, damages and/or expenses do not arise from any negligence of, or fraud on the part of the member against whom such claim is made.

[b] The BOARD shall insure the FUND against loss resulting from fraud and/or dishonesty of any of its officers, for such amounts as the BOARD, in its discretion, may from time to time determine.

[c] The BOARD may, in its discretion, reinsure with a third party all, or such a portion of the benefits granted by the FUND as it may decide, on such terms and conditions as it may from time to time deem fit.

**[9] Appointment of an AUDITOR :**

[a] The BOARD shall appoint an AUDITOR to the FUND. The BOARD shall ensure that the provisions of Section 9 (2) of the ACT are complied with. Such appointment may be terminated by either party by giving three calendar months' written notice to the other party.

[b] The BOARD shall cause full and true accounts of the FUND to be kept and financial statements to be made up annually as at the end of each FINANCIAL YEAR and it shall cause such financial statements to be audited by the AUDITOR. A copy of the financial statements shall be available for inspection by MEMBERS and EMPLOYERS.

**[10] Banking and/or other accounts :**

[a] All moneys received on account of the FUND shall be paid into a banking account or deposit account opened in the name of the FUND with such bank / registered financial institution as the BOARD may determine ; and all operations on such accounts shall be by means of cheques or other instruments signed by such person/s as are duly authorised by the BOARD.

[b] Moneys of the FUND, which are not immediately required may from time to time be lent, invested, placed on deposit or otherwise dealt with by the BOARD alone upon such security and in such a manner as it, in its discretion, may determine, and may in particular be advanced on the security of first mortgage bonds on immovable property provided that any advance on first mortgage shall not exceed 90% of the market value of the immovable property concerned as assessed on the date of the advance.

The BOARD may realise, vary, re-invest or otherwise deal with such moneys, securities and investments as it may from time to time in its discretion, decide.

All title deeds, securities and other assets shall be registered in the name of the FUND or in the name of such nominee Company acceptable to the REGISTRAR as the BOARD may appoint.

[c] The BOARD may obtain overdraft facilities from a bank or borrow money from any person, institution or other fund on such terms and conditions as it may decide, for any purpose it may deem necessary or desirable in the interests of the FUND, and with that object it may pledge or otherwise hypothecate any or all of its assets ; provided that the aggregate of such loans shall not at any time exceed

50% of the Fund's gross income from all sources during the immediately preceding FINANCIAL YEAR.

**[11] Appointment of VALUATOR :**

[a] The BOARD shall appoint a VALUATOR to the FUND . The BOARD shall ensure that the provisions of Section 9A(2) of the ACT are complied with. Such appointment may be terminated by either party giving three calendar months' written notice to the other party.

[b] The BOARD shall cause the financial position of the FUND to be investigated and reported upon by the VALUATOR at intervals not exceeding three years, unless the FUND is exempted from such valuation in terms of Section 17 of the ACT. The VALUATOR shall embody the results of each such actuarial investigation in a written report to the BOARD, in which he shall make such recommendations as he considers desirable to enable the FUND to continue the benefits provided for under these RULES. The BOARD must submit a copy of such report to the Registrar within 12 months of the FINANCIAL YEAR.

**[12] Incidental Expenses :**

The expenses in connection with, or incidental to, the management of the FUND, including the cost of audit and of actuarial investigations described in sub-Rules [9] and [11] above, shall be borne by the FUND.

**[13] BOARD'S powers relative to FUND'S registration :**

The BOARD shall be empowered to do such acts and to execute such documents as may be necessary to incorporate and register the FUND.

**[14] Contracts and other documents :**

Contracts and other documents binding on the FUND shall be executed in such a manner as the BOARD may determine ; provided that documents to be submitted



to the REGISTRAR shall be signed in a manner prescribed by the regulations under the ACT.

**[15] Exemptions :**

The FUND may apply in writing to the REGISTRAR for exemption from certain provisions of the ACT that may be required from time to time, subject to conditions as may be determined by the REGISTRAR relating to such application for exemption.

**RULE 4. MEMBERSHIP :**

**Conditions of Membership :**

**[1]** Subject to the provisions of Sub-Rule (2), MEMBERSHIP of the FUND shall be compulsory and shall -

[a] consist of all EMPLOYEES (other than CASUAL EMPLOYEES) for whom a wage is prescribed in the MAIN AGREEMENT and LEARNERS ;

[b] subject to the approval of the BOARD, consist of such other persons who are employed in the INDUSTRY permanently and the EMPLOYER has agreed to the conditions as set out in these RULES.

**[2] MEMBER Leaving the Industry :**

MEMBERSHIP shall cease when an EMPLOYEE leaves the INDUSTRY permanently after a waiting period of six months has elapsed following termination of his employment as advised by the EMPLOYER in terms of the AGREEMENT, which termination shall not be as a result of ill-health, disability, death or retirement. Notwithstanding anything to the contrary herein contained, until the MEMBER has notified the FUND that he has left the INDUSTRY permanently after the waiting period of six months, he will become a PAID UP MEMBER.

**[3] MEMBER ceased paying contributions :**

In the event that a MEMBER ceases to pay contributions to the FUND, but still remains in the service of an EMPLOYER within the INDUSTRY, he will become a PAID-UP MEMBER and shall only be entitled to withdrawal BENEFITS as per RULE 6.

**RULE 5 : CONTRIBUTIONS**

**[1] MEMBER and EMPLOYER Contributions :**

Read with the AGREEMENT, the contributions to the FUND by MEMBERS and EMPLOYERS, shall be as follows :

- [a]** MEMBERS' weekly deduction from wages shall be 7,25% of actual hours worked to a maximum of 44 hours per week.
- [b]** EMPLOYERS' weekly contribution shall be equal to that of the MEMBER'S deductions as stipulated under Sub-Rule 1[a] above.
- [c]** The normal MEMBER contributions paid in terms of this RULE read with the AGREEMENT, shall be referred to as MEMBER'S current contribution

**[2] Additional Contributions :**

The contribution rates shall be as it appears under Sub-Rules [a] and [b] to be effective as from 01 August 2011 as it appears in the AGREEMENT.

- [a]** In addition to the contributions prescribed in the AGREEMENT.
  - [i]** a MEMBER may, subject to the consent of the BOARD, make such contributions, regular in rate and frequency of payment, as he may agree with the BOARD.

[ii] a MEMBER who, immediately prior to becoming a MEMBER, was a MEMBER of any other APPROVED PROVIDENT FUND, APPROVED PENSION FUND, PRESERVATION PROVIDENT FUND or PRESERVATION PENSION FUND, may transfer the benefit to which he became entitled on leaving that fund into the FUND.

[b] Amounts paid to the FUND in terms of (a) shall be applied as the MEMBER'S additional contributions.

**[3] MEMBER'S transferred benefits from an APPROVED FUND, APPROVED PENSION FUND, PRESERVATION PROVIDENT FUND or PRESERVATION PENSION FUND :**

[a] In the case of each MEMBER who was a MEMBER of an APPROVED PROVIDENT FUND, APPROVED PENSION FUND, PRESERVATION PROVIDENT FUND or PRESERVATION PENSION FUND and does not elect that such benefit be retained in that fund, the FUND shall receive the benefit to which the MEMBER became entitled on ceasing to be a MEMBER of that fund, after payment of any income tax due thereon.

[b] That part of an amount received in terms of (a) which is notified to the BOARD by the APPROVED PROVIDENT FUND, APPROVED PENSION FUND, PRESERVATION PROVIDENT FUND or PRESERVATION PENSION FUND as representing the contributions made by the MEMBER of that fund in accordance with the provisions of the Agreement relating to that fund, increased by such fund's return (if any) as was added thereto under that fund but reduced by such income tax as was apportioned thereto by that fund, shall be applied as the MEMBER'S transferred contributions.

[c] The remainder (if any) of the amount received in terms of (a) shall be applied as the MEMBER'S additional contributions.

**[4] EMPLOYER'S Contributions :**

The EMPLOYER shall contribute in respect of the MEMBER at the rate contained in the AGREEMENT. The allocation of these contributions, which shall be credited to the MEMBER and shall be referred to as the EMPLOYER'S current contribution. The cost of the FUND'S administration shall be determined by the BOARD from time to time and shall be accounted for in the FUND RETURN.

## **RULE 6. BENEFITS**

### **[1] Normal Retirement :**

Except as otherwise provided for in these RULES, every MEMBER shall retire on the attainment of NORMAL RETIREMENT AGE, on giving prior written notice to the BOARD, and shall be entitled to an annuity of such amount as can be purchased by his FUND CREDIT at the date of his retirement, provided that the MEMBER may elect to commute part or whole of such benefit for a lump sum.

### **[2] Late Retirement :**

Subject to the consent of his EMPLOYER, a MEMBER who has reached his normal retirement age may remain in service after that date and may then retire on such date, not later than the date on which he reaches age 70, as he agrees with his EMPLOYER. On his late retirement he shall be entitled to an annuity of such amount as can be purchased by his FUND CREDIT at the date of his retirement, provided that the MEMBER may elect to commute part or the whole of such benefit for a lump sum.

### **[3] Ill health :**

If a MEMBER, in the opinion of the BOARD, through accident or ill health has become continuously and permanently unable to perform his usual work in the FURNITURE INDUSTRY, such a MEMBER may elect to retire at any time prior to NORMAL RETIREMENT AGE, provided that a MEMBER'S disability shall not be permanent or continuous if it can be substantially removed by surgery or any other

medical treatment which the MEMBER with due allowance for the risk and prognosis of success of such treatment, can reasonably be expected to undergo.

On his ill health retirement, he shall be entitled to an annuity of such amount as can be purchased by his FUND CREDIT at the date of his retirement provided that the MEMBER may elect to commute part or whole of such BENEFIT for a lump sum.

**[4] Purchase of annuity :**

An annuity which becomes payable in terms of sub-Rules [1], [2], [3] or [4] shall be purchased by the FUND in the MEMBER'S name from a REGISTERED INSURER, and thereafter the FUND shall have no further liability in respect of the MEMBER such liability resting with the REGISTERED INSURER from whom such annuity or annuities are purchased. The annuity or annuities shall be payable for life and the purchase shall be subject to any further requirements of the REVENUE AUTHORITIES if more than one annuity is purchased. Each MEMBER hereby appoints the BOARD as his duly authorised agent to do all things necessary to procure the purchase of the annuity or annuities.

**[5] Retrenchment :**

If the BOARD on written proof is satisfied that a MEMBER has been retrenched due to the re-organisation of staff or the abolition of his office or post for reasons beyond his control, or to retrenchment in general, then the MEMBER shall receive a lump sum benefit equal to his FUND CREDIT.

**[6] Death :**

In the event of the death of a MEMBER before retirement or withdrawal from the FURNITURE INDUSTRY in terms of the provisions of these Rules, there shall be payable a lump sum benefit equal to his FUND CREDIT at the date of his death.

**[7] Payment of death benefit :**

Payment of the benefit referred to in sub-Rule 7 shall be made in terms of Section 37C of the ACT.

**[8] Leaving Furniture Industry :**

In the event of a MEMBER leaving the FURNITURE INDUSTRY, for reasons other than those referred to in sub-Rules 1, 2, 3, 4 and 5 and thereby ceasing to be a MEMBER, he shall receive a lump sum equal to his FUND CREDIT, with FUND RETURN to the date of calculation of such benefit, provided that the MEMBER was engaged outside the INDUSTRY for a period of not less than 6 (six) consecutive months or has reached his NORMAL RETIREMENT DATE.

**[9] Unclaimed Benefits :**

**[a]** The BOARD may take such steps as it deems necessary to trace a MEMBER entitled to any UNCLAIMED BENEFIT in terms of these RULES which cost shall be deducted from such UNCLAIMED BENEFIT payable to the recipient.

**[b]** Any unpaid BENEFIT other than a BENEFIT payable in terms of RULE 6, which is not paid within a period of 24 (twenty four) months, or as determined by the REVENUE AUTHORITY, shall remain identifiable in the FUND.

**[c]** In the event that a BENEFIT remains unclaimed for a period of 24 (twenty four) months, the UNCLAIMED BENEFIT to remain within the FUND provided that such UNCLAIMED BENEFIT shall be ring fenced and appear as a separate line item within the books of account of the FUND.

**[d]** An UNCLAIMED BENEFIT shall only become payable provided that the BOARD is satisfied that a valid claim has been submitted and that any additional information that may be required by the FUND, has been provided.

- [e] Any valid claim received as contemplated under SUB-RULE [d], shall be paid from the ring fenced UNCLAIMED BENEFIT amount account held for this purpose as contemplated by SUB-RULE [c].

**[10] Transfer to another fund :**

- [a] If a MEMBER leaves the service of an EMPLOYER in circumstances which entitle him to a benefit in terms of Sub Rule [5] or Sub Rule (8) then he may, at his option, transfer all or, subject to the proviso to this RULE, part of such benefit to another APPROVED PROVIDENT FUND, PRESERVATION PROVIDENT FUND, APPROVED PENSION FUND or APPROVED RETIREMENT ANNUITY FUND ; provided that transfer to a PRESERVATION PROVIDENT FUND is subject to the requirements of the REVENUE AUTHORITIES as specified from time to time.
- [b] If a MEMBER while remaining in the service of the EMPLOYER, ceases to qualify for membership of the FUND in terms of the conditions of the AGREEMENT, and the MEMBER at his option elects to cease contributing to the FUND, the MEMBER shall become a PAID-UP MEMBER.

**[11] Benefits retained in the Fund :**

The benefit retained in terms of this Rule, shall be increased or decreased with FUND RETURN.

- [a] no further contributions shall be payable by or on behalf of the PAID-UP MEMBER on or after the date of ceasing contributions to the FUND;
- [b] the PAID-UP MEMBER shall become entitled to a BENEFIT on his retirement, or upon leaving the INDUSTRY after six months have lapsed in accordance with the AGREEMENT, or it shall become payable to his beneficiaries in terms of Section 37C of the ACT if he dies before retiring ;

- [c] if the PAID-UP MEMBER becomes a compulsory MEMBER in terms of the AGREEMENT or takes up employment with another EMPLOYER within the FURNITURE INDUSTRY ;
  - [i] he shall cease to be regarded to as a PAID-UP MEMBER ;
  - [ii] the benefit shall be reinstated under his FUND CREDIT; and
  - [iii] the RULES of the FUND shall, *mutatis mutandis* apply to him with effect from that date.

## **RULE 7. GENERAL**

### **[1] Guarantees for loans :**

The BOARD shall have the power to furnish a guarantee in respect of a loan to a MEMBER by a Financial Institution approved by the BOARD for a purpose referred to in Section 19(5)(a) of the ACT and, if so required for such purpose, may make a deposit in pledge with such institution as collateral security. Such guarantee shall be subject to the requirements of the REGISTRAR and shall further be subject to such conditions as may be determined by the BOARD from time to time in respect of a minimum loan amount and a maximum level of collateral as a percentage of the cash benefit payable if the MEMBER were to leave the FUND.

- [a] In the event that a guarantee is furnished as contemplated by this RULE, a MEMBER must authorise a cession in securitatem debiti against his FUND BENEFIT equal to the value of the guarantee so furnished.
- [b] THE BOARD shall have the power to redeem any of the outstanding amounts owing. In the event that a MEMBER leaves the INDUSTRY in terms of the provision of RULE 6[8].
- [c] SUB-RULE [b] above shall apply *mutatis mutatis* in case a MEMBER defaults on his loan repayments, subject to proof being submitted to the



BOARD that all reasonable steps have been taken by the Financial Institution that has granted the loan to secure compliance with regard to the repayment of the loan.

**[2] Deductions from benefits :**

The BOARD shall have the right to make such deductions from the BENEFIT to which a MEMBER or other beneficiary is entitled in terms of the Rules as are permitted in terms of Section 37D of the ACT and in respect of which a claim has been lodged in writing within such reasonable time of the event giving rise to the benefit as the BOARD may from time to time fix for making such claims.

Notwithstanding any contrary provisions in these Rules, the BOARD may, where an EMPLOYER has instituted legal proceedings in a court of law and/or laid a criminal charge against the MEMBER concerned for compensation in respect of damage caused to the EMPLOYER as contemplated in Section 37D of the ACT, withhold payment of the benefit until such time as the matter has been finally determined by a competent court of law or has been settled or formally withdrawn ; provided that :

- [a] the BOARD in their reasonable discretion are satisfied that the EMPLOYER has made out a prima facie case against the MEMBER concerned and there is reason to believe that the EMPLOYER has a reasonable chance of success in the proceedings that have been instituted ;
- [b] the BOARD is satisfied that the EMPLOYER is not at any stage of the proceedings responsible for any undue delay in the prosecution of the proceedings ;
- [c] once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled is paid forthwith ;

[d] if the MEMBER'S benefit exceeds the amount of the EMPLOYERS claim, then the balance shall be paid to the MEMBER in accordance with RULE 6 ; and

[e] the BOARD at the express written request of a MEMBER whose benefit is withheld, may, if applicable and practical, permit the value of the MEMBER'S benefit as at the time of such request to be isolated, in whatever manner the BOARD believes appropriate, from the possibility of a decrease therein as a result of poor investment performance.

**[3] Rights of termination of service – no claim for damages :**

Nothing in these RULES shall prejudice the right of an EMPLOYER to dispense with the service of, or to dismiss any employee ; nor the right of any EMPLOYEE to leave the services of his EMPLOYER on complying with the conditions of his employment. Any benefits contingent or absolute to which a MEMBER may claim to be entitled under these RULES shall not on his dismissal be a ground for any claims for damages or any increase in a claim for damages in any action brought against the FUND or the BOARD or his EMPLOYER in respect of such dismissal.

**[4] Claim - only in terms of RULES :**

No person, whether a MEMBER or otherwise shall have any claim, right or interest upon the FUND or any contributions thereto, nor any interest therein or any claim upon or against the BOARD, except under and in accordance with the provisions of these RULES.

**[5] Evidence of age :**

Each MEMBER shall supply such evidence of age and other information as the BOARD may require from time to time. If at any time it is proved to the satisfaction of the BOARD that the age of a MEMBER has been incorrectly given, then the BOARD shall have the power to make such adjustments or alterations to BENEFITS as, in its absolute discretion, it deems fit.

**[6] Interpretation of RULES :**

The decision of the BOARD as to the meaning of or interpretation of these RULES or of any particular RULE or part of a RULE shall, subject to the provisions of Section 30A of the Act, be final and binding on the EMPLOYER'S MEMBERS and every person claiming to be entitled to a benefit under these RULES.

**[7] Decisions with regard to claim :**

Any question which may arise with regard to a claim by any person under these RULES shall be decided by the BOARD.

**[8] Evidence :**

In deciding on any question of fact, the BOARD shall act upon such evidence as it deems adequate, whether such evidence amounts to legal proof or not.

**[9] Evidence - Discretion :**

In arriving at a decision, the BOARD may receive representations orally or in writing in such manner and on such terms as it may determine, in its absolute discretion.

**[10] Amendment to RULES :**

**Shall not be to disadvantage of MEMBERS :**

[a] The BOARD may:-

- [i] make such new RULES and regulations or alter or repeal any existing RULE as it may deem fit ; provided that any such new RULES, alterations or repeals shall not be to the general disadvantage of MEMBERS ;

- [II] notwithstanding the provisions of the preceding SUB-RULE, if as a result of any valuation by the VALUATOR in terms of RULE 3. [11](b), the BOARD considers that the FUND is no longer capable of meeting the BENEFITS provided for in these RULES, it may make such new RULES or regulations or alter or repeal any existing RULE which it may deem necessary in the circumstances.

**Amendments effecting Fund's financial condition :**

- [b] Any proposed amendments to these RULES affecting the financial conditions of the FUND, shall first be submitted to and reported upon by the VALUATOR.

**Submission to REGISTRAR and other Authorities :**

- [c] All alterations to the RULES shall be submitted to the REGISTRAR, the REVENUE AUTHORITIES and any other statutory authority who so requires.

**Amendment – not permitted if affecting main purpose of FUND :**

- [d] No amendments whatsoever may be made to these RULES which have the effect of altering the main purpose of the FUND, namely the provision of benefits for MEMBERS at retirement.

**Effective date :**

- [a] If the registration of any amendment to the RULES in terms of the ACT is effected on a date later than the effective date of the amendment, the amendment shall nevertheless take effect from the effective date as stated in the amendment. Should the effective date not be determined the amendment will take effect from date of registration thereof in terms of Section 12(4) of the ACT read with Regulation 24(b) of the ACT.

**[11] BOARD – incorporation and registration of FUND in Conformity with requirements of ACT and Commissioner for Inland Revenue :**

The BOARD shall be empowered to do such acts and to execute such documents as may be necessary to incorporate and register the FUND in terms of the ACT and to have the FUND approved by the REVENUE AUTHORITIES in terms of the Income Tax Act 1962. If the REVENUE AUTHORITIES at any time refuse to approve the FUND, or part thereof, for the purpose of enabling the EMPLOYERS or the MEMBERS to obtain the benefit of exemption or allowance in respect of income or other tax, or if the BOARD considers it expedient, having regard to any ruling of the REVENUE AUTHORITIES with regard to income or other tax, the BOARD may, subject to the prior approval of the COUNCIL, make such alterations to the RULES as may be necessary to enable such approval to be obtained or to confirm with such a ruling.

**[12] Expiry of AGREEMENT - reasons for, and necessary actions by BOARD :**

In the event of the expiry of the AGREEMENT by effluxion of time or for any other cause, the BOARD shall continue to administer the FUND and may make such arrangements or enter into such AGREEMENTS as may be necessary for continuing the FUND under modified conditions, or dispose of the assets for the benefit of its MEMBERS in accordance with the advice of the VALUATOR : provided that in no case shall any assets, or any part thereof, be refunded to the EMPLOYERS.

**Winding up – appointment of liquidator :**

[a] In the event of the discontinuance of contributions to the FUND, the BOARD shall appoint a liquidator, whose appointment shall be subject to the approval of the REGISTRAR.

**Winding up – liquidator’s obligations :**

[b] The liquidator shall realise the assets of the FUND and shall apportion the proceeds amongst the MEMBERS on a basis recommended by the VALUATOR and approved by the liquidator and shall include each former MEMBER whose membership ceased during the period of twelve months ending on the date of commencement of liquidation, but shall reduce the amount of such person's apportionment by the amount of his benefit on cessation of membership. The liquidator shall then pay each beneficiary the amount of his benefit in cash.

[c] If a person to whom an amount is payable cannot be traced the amount referred to in (b) above shall be paid to the Guardian's Fund.

**[13] BOARD - actions to be for benefit and protection of MEMBERS only :**

The BOARD may, in its absolute discretion, make arrangements and do anything not inconsistent with these RULES or any amendment to them, which, in its opinion, is for the benefit and protection of MEMBERS and/or other beneficiaries.

**[14] Unexpected contingency :**

In the event of a contingency arising which has not been provided for in these RULES, the decision of the BOARD thereon, if not inconsistent with the provisions of these RULES, shall be final and conclusive.

**[15] Data Processing And Reserve Account**

**1]** A Data Processing and Reserve Account shall be maintained under the FUND to which shall be credited :

**[a]** an opening balance as determined by the BOARD on the recommendation of the ACTUARY as at the surplus APPORTIONMENT DATE ;

**[b]** investment returns on the credit balance in the DATA RESERVE ACCOUNT at a rate as confirmed by the ACTUARY that is equal to the return that the FUND has earned on its investments.

**2]** The DATA RESERVE ACCOUNT shall be debited with :

**[a]** costs payable by the FUND as a result of data or administrative errors ;

**[b]** the release into the FUND any amount not required to protect the FUND against adverse data and / or contingencies as determined by the BOARD in consultation with the ACTUARY.

**[c]** the DATA RESERVE ACCOUNT shall not be allocated proportionally on the exit of any MEMBER or group of MEMBERS from the FUND, but may be released into the FUND at the discretion of the BOARD in consultation with the ACTUARY.

**3] (a)** THE DATA RESERVE ACCOUNT shall never have a negative balance.

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