

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**DEPARTMENT OF EMPLOYMENT AND LABOUR**

NO. R. 4107

24 November 2023

LABOUR RELATIONS ACT, 1995**NATIONAL BARGAINING COUNCIL FOR THE HAIRDRESSING, COSMETOLOGY, BEAUTY AND SKINCARE INDUSTRY****CANCELLATION OF GOVERNMENT NOTICES**

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(7) of the Labour Relations Act, 1995, cancel Government Notices No. R.663 of 12 June 2020, R.965 of 4 September 2020, R.1264 of 27 November 2020, R.362 of 18 June 2021, R.2141 of 10 June 2022 and R.3619 of 23 June 2023 from the date of coming into operation of this agreement.



MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
 DATE: 03/11/2023

UMNYANGO WEZEMISEBENZI NEZABASEBENZI

R.


USUKU:

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995

UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI EMBONINI YOKULUNGISWA KWEZINWELE, UBUHLE KANYE NOKUNAKEKELWA KWESIKHUMBA:

UKWESULWA KWEZAZISO ZIKAHULUMENI

Mina, **THEMBELANI WALTERMADE NXESI**, uNgqongqoshe Wezemisebenzi nezabaSebenzi ngokwesigaba 32(7) soMthetho Wobudlelwano KwezabaSebenzi ka-1995, ngesula iZaziso zikaHulumeni ezingunombolo R.663 kuNhlanguvana 2020, R.965 kuMandulo 2020, R.1264 kuLwezi 2020, R.2141 kuNhlanguvana 2022, kanye no R.3619 somhla 30 kuNhlanguvana 2023 kusukela ngosuku lokusebenza kwalesi sivumelwano.



MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI NEZABASEBENZI
 USUKU: 03/11/2023

DEPARTMENT OF EMPLOYMENT AND LABOUR


NO. R. 4108

24 November 2023

LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL FOR THE HAIRDRESSING
COSMETOLOGY BEAUTY AND SKINCARE INDUSTRY: EXTENSION TO
NON-PARTIES OF THE CONSOLIDATED MAIN COLLECTIVE
AGREEMENT**

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and 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 **National Bargaining Council for the Hairdressing Cosmetology Beauty and Skincare Industry**, 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 the second Monday after the date of publication of this notice and for the period ending 31 December 2025.



MR. TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 03/11/2023

UMNYANGO WEZEMISEBENZI NEZABASEBENZI

R.

USUKU:

UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995

**UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI
EMBONINI YOKULUNGISWA KWEZINWELE, UBUHLE KANYE
NOKUNAKEKELWA KWESIKHUMBA: UKWELULWA KWESIVUMELWANO
PHAKATHI KWABAQASHI NABASEBENZI ESIHLANGANISAYO
NESIYINGQIKITHI SELULELWA KULABO ABANGEYONA INGXYENYE YASO**

Mina, **THEMBELANI WALTERMADE NXESI**, uNgqongqoshe Wezemisebenzi Nezabasebenzi, lapha ngokwesigaba 32(2) soMthetho Wobudlelwano kwezabasebenzi ka 1995, ngazisa ukuthi isivumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa uMkhandlu Kazwelonke Wokuxoxisana Kwabaqashi Nabasebenzi Embonini Yokulungiswa Kwezindle, Ubuhle kanye Nokunakekelwa Kwesikhumba, futhi ngokwesigaba 31 soMthetho Wobudlelwano kwezabasebenzi, ka 1995, esibopha labo abasenzayo, sizobopha abanye abaqashi nabasebenzi kuleyomboni kusukela ngoMsombuluko wesibili emva kosuku lokushicilelwa kwalesiSaziso kuze kube isikhathi esiphela mhlaka 31 kuZibandlela 2025.



MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI NEZABASEBENZI
USUKU: 03/11/2023

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SCHEDULE

**NATIONAL BARGAINING COUNCIL FOR THE HAIRDRESSING,
COSMETOLOGY, BEAUTY AND SKINCARE INDUSTRY****MAIN COLLECTIVE AGREEMENT**

in accordance with the provisions of the Labour Relations Act, No. 66 of 1995, made and entered into by and between the

Employers' Organisation for Hairdressing, Cosmetology and Beauty

(hereinafter referred to as the "*Employers' organisation*" on the one part)

and

UASA – The Union

(hereinafter referred to as the "*Trade union*" on the other part)

being the parties to the National Bargaining Council for the Hairdressing, Cosmetology, Beauty and Skincare Industry.

1. SCOPE OF APPLICATION

- 1.1 The terms of this Agreement shall be observed in the Hairdressing, Cosmetology, Beauty and Skincare Industry ("*the Industry*"), in the Republic of South Africa.

For the purpose hereof

"*Hairdressing, Cosmetology, Beauty and Skincare Industry*" means the trade in which employers and their employees are associated for the purpose of rendering hairdressing and cosmetology services in any establishment.

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"Barber or Barbering Services" means an employee that renders one or more or all of the following services in an establishment being: Clipper cuts, dry and wet razor shaving, treatment of facial and neck hair including beards and moustaches, hot towel treatments, facial massages, wet and dry cutting of hair, singeing and dry or wet blow drying of hair but specifically excludes any chemical services. The barbering services shall:

- (i) be performed predominantly on male clients;
- (ii) constitute at least 95% of all services rendered by an employee to clients;
- (iii) can only be rendered when the salon provides barbering services to its clients.

"Beauty and Skincare Industry" means the industry in which employers and its employees render "cosmetology services" which include but are not limited to cosmetic camouflage, spa treatments, tattooing, and/or painting of the face or any part of the body features; whether by permanent, semi-permanent or temporary means in any establishments where such services are rendered to members of the public.

"Cosmetology services" means any one or more or a combination of the operations generally and usually performed by nail technicians or beauty culturists or cosmeticians or cosmetologists or skincare therapists or somatologists or aesthetician or hairdresser.

"Establishment" means any place or premises from which hairdressing, cosmetology, beauty and/or skincare services are rendered but excluding canvas or sail gazebos or if such services are rendered in open space, unless chemicals are used in the execution of the hairdressing, cosmetology, beauty and/or skincare services rendered, in which event all such places or premises shall be considered to be an establishment.

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Hairstressing means any one or more of the following services usually performed by a person in an establishment, and includes, but is not limited to-

- (a) any service to the scalp or the hair of the head or face, including the following:
 - (i) shampooing, cleansing, conditioning and treating;
 - (ii) chemical reformation of the hair including permanent waving, relaxing and straightening of the hair;
 - (iii) hair colouring, including tinting, dyeing and colouring by means of permanent, semi-permanent or temporary processes, including the use of colour rinses, shampoos, gels or mousses; and lightening by means of tints, bleaches, highlights or high lifting tints or toners;
 - (iv) hair cutting and shaping;
 - (v) hair styling, designing, shaping, curling, waving, including blow drying, styling, tonging, crimping, straightening and silking;

Whether or not any apparatus, appliance, heat, preparation or substance is used in any of these operations;

- (a) massage or stimulative treatment of the face, scalp or neck;
- (b) adding hair, either natural or artificial, including hair extensions, board work, pastiche, wig making, or performing any of the above operations on any wig or hairpiece to be worn by any person; and
- (c) trichology and trichological treatment, including the treatment of abnormalities and disorders of the hair and scalp.

1.2 Notwithstanding the provisions of clause 1.1, the terms of this Agreement shall:

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- 1.2.1 apply only to Employees for whom a Basic Salary or Wage or Commission are specified in this Agreement and to the employers of such Employees; and
- 1.2.2 apply to Learners/Students only in so far as they are not inconsistent with the provisions of the Skills Development Act, 1998 or any contract entered into or any condition fixed thereunder

2. PERIOD OF OPERATION

- 2.1 The Agreement shall come into operation-
 - 2.1.1 In respect of the parties, as from the 1st of June 2023, for a period of two and a half years, up and to the 31st of December 2025; and
 - 2.1.2 in respect of non-parties, on such date as determined by the Minister of Employment and Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until the 31st of December 2025.
 - 2.1.3 in so far as any provision contained in this Main Collective Agreement is in conflict with the provisions of the National Minimum Wage Act, Act 9 of 2018 ("NMWA"), the provisions of the NMWA will prevail.

3. INDUSTRIAL ACTION

- 3.1 The provisions of clause 14 below shall apply to Industrial Action.

TERMS AND CONDITIONS THAT WILL APPLY NATIONALLY

4. DEFINITIONS

- 4.1 Any term or expression used in this Agreement which is defined in the Labour Relations Act, No. 66 of 1995 has the same meaning assigned to it in the Act. The masculine includes the feminine and *vice versa* and the singular includes the plural.

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4.2 Save where expressed distinction is made between definitions contained in this Agreement, the following words shall have the under mentioned meaning assigned to them, being:

4.2.1 "THE ACT" means the Labour Relations Act, No. 66 of 1995 as amended;

4.2.2 "AESTHETIC THERAPIST" means an Employee engaged in, but not limited to the following:

4.2.2.1 eyebrow shaping and plucking including the application of false or artificial eyebrow and/or eyelashes;

4.2.2.2 cosmetic (day, evening, bridal, fantasy) camouflage make-up, micro – pigmentation such as, microblading and shading and/or painting of the face and/or full body features, whether by permanent, semi-permanent or temporary means;

4.2.2.3 facial skincare knowledge and application of skin analysis, facial treatment, electrical equipment, machines and the treatment thereof;

4.2.2.4 removal of unwanted or superfluous hair from the head, face and/or body in whatever means excluding shaving, waxing, chemical depilatories, electrical or mechanical means, including sugaring and threading;

4.2.2.5 massage or any other stimulative treatments or exercise of the face, scalp, neck or full body, whether or not any apparatus, appliance heat, preparation or substance is used in any of these operations, including "stones", "bamboo" etc.;

4.2.2.6 body and slimming treatment: figure/body analysis, electrical equipment and the treatments thereof, basic knowledge of nutrition, Manual Lymph Drainage treatments, body wrap and self-tanning applications whether by hand or spray units;

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- 4.2.2.7 spa treatments: holistic and/or relaxing treatment i.e Indian head, hand and/or foot massage with or without substance such as different oils,
- 4.2.2.8 permanent lash treatments, intimate waxing for male and female clients, laser, LPG, and/or Endermology, microdermabrasion, chemical peels, micro needling, permanent make up, and or be able to assist a Medical Practitioner practicing in the Aesthetic Terrain/ field
- 4.2.3 **"TRAINEE BARBER"** means a barber who has never performed barber services and is in training in an Establishment for a period not exceeding 6 (six) months;
- 4.2.4 **"JUNIOR BARBER"** means a barber who has been engaged in rendering barbering services as a barber for a period of more than 6 (six) months and less than 1 (one) year;
- 4.2.5 **"SENIOR BARBER"** means a barber who has rendered barbering services as a barber for a period exceeding 1 (one) year;
- 4.2.6 **"BASIC CONDITIONS OF EMPLOYMENT ACT or BCEA"** means the Basic Conditions of Employment Act, No. 75 of 1997 as amended;
- 4.2.7 **"BASIC SALARY"** or **"WAGE"** means any payment in money, made or owing to any person in return for that person's working for any other person, as agreed and prescribed in this Agreement, as amended from time to time, as the minimum payable to an Employee in a specific job category;
- 4.2.8 **"B TECH SOMATOLOGIST 4 YRS"** means an Employee that holds a B.Tech degree and is engaged in, but not limited to the following:
- 4.2.8.1 eyebrow shaping and plucking, including the application of false or artificial eyebrows and eyelashes.

- 4.2.8.2 cosmetic (day, evening, fantasy) and camouflage make-up, and/or painting of the face and/or full body features, whether by permanent, semi-permanent or temporary means;
- 4.2.8.3 advance skin-care: skin analysis, facial treatment, electrical equipment, machines and the treatment of the skin: Advance facial skincare: Non-invasive and invasive classic deep cleansing facial treatment, chemical peels, IPL, rejuvenating, lasers, ultra and radio sound and more advanced electrical equipment and/or machinery;
- 4.2.8.4 removal of unwanted or superfluous hair from the head, face and/or body by whatever means, other than shaving, including waxing, chemical depilatories, electrical or mechanical means; including sugaring and threading, IPL, laser treatment;
- 4.2.8.5 massage or any other stimulative treatment or exercise of the face, scalp, neck or full body, whether or not any apparatus, appliance electrical micro current, heat, preparative substance and other non-invasive and invasive techniques is used in any of these operations; may also include any massage medium;
- 4.2.8.6 body and slimming treatment: figure/body analysis equipment and the treatment thereof, manual and mechanical (i.e Endermology) lymph drainage treatment, body wraps and non-invasive and invasive self-tanning applications whether by hand or spray units;
- 4.2.8.7 Aravetta Spa's and traditional Spa treatments: holistic and/or relaxing treatments i.e. non-invasive and invasive Indian head, hand foot and/or full body massages with or without substance such as different oils. Specialized electrical and mechanical equipment and non-surgical treatments;
- 4.2.8.8 specialized electrical equipment i.e. IPL/Laser/LPG/Endermology, etc.

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- 4.2.9 "BEAUTY TECHNOLOGIST" means an Employee that completed a 1 (one) year qualification to execute basic skincare, hand and foot treatments, hair removal, make up application, back and neck massages including a back treatment and body treatments including massage;
- 4.2.10 "BEAUTY THERAPIST" means an Employee who has completed a 2 (two) year formal qualification in respect of comprehensive skincare and body treatments, including but not limited to:-
- 4.2.10.1 massage or any other treatment or exercise to the face, scalp, neck or full body, whether or not any apparatus, electrical, micro current, appliance, heat, substance and other non-invasive techniques are used in any of these operations and may also include any massage medium and/or massage techniques with a holistic approach;
- 4.2.10.2 facial skincare therapy, which may include, but not be limited to electrical equipment and/or machines such as galvanic and/or high frequency,
- 4.2.10.3 apply Day, Evening and Bridal make up,
- 4.2.10.4 removal of unwanted or superfluous hair from the head, face and/or body by whatever means, other than shaving and may include, but not be limited to waxing and/or sugaring and/or threading and/or chemical depilatories;
- 4.2.10.5 provide an eyelash and/or brow tint and/or brow shaping treatment, which may include the application of artificial eyelashes,
- 4.2.10.6 body treatments which may include but not be limited to the use of electrical equipment and/or machines, apply body alignment and movement, exfoliation treatment, body wraps and/or mask treatments and/or the application of full body artificial tanning treatment.
- 4.2.11 "CCMA" means the Commission for Conciliation, Mediation and Arbitration, established in terms of the Labour Relations Act, 1995.

4.2.12 **"CASUAL EMPLOYEE"** means an Employee who is employed for less than 24 (twenty-four) hours per month and whose wages is calculated on the hourly or daily rate for his/her particular job category or an Employee that has been appointed in the temporary absence of a female Employee due to maternity leave, which appointment shall be limited to 122 (hundred and twenty-two) days in the latter instance;

4.2.13 **"CEO"** means the Chief Executive Officer of the Council;

4.2.14 **"CITY AND GUILDS"** means City and Guilds International as operating in the Republic of South Africa;

4.2.15 **"CLEANER AND/OR GENERAL ASSISTANT"** means an Employee, employed by an Employer in an Establishment who is engaged in any 1 (one) or more of the following activities:

4.2.15.1 cleaning and/or sweeping premises;

4.2.15.2 running errands;

4.2.15.3 providing refreshments to staff and clients of an Establishment;

4.2.15.4 sanitizing and disinfecting tools, equipment and surfaces;

4.2.15.5 washing dishes;

4.2.15.6 doing laundry;

but excludes any Employee that touches the head of any client

4.2.16 **"CLERICAL EMPLOYEE, RECEPTIONIST, TELEPHONIST, ADMINISTRATOR AND / OR FRONT DESK CO-ORDINATOR"** means an Employee who is employed in an Establishment and who performs 1 (one) or more of the following activities:

- 4.2.16.1 receives clients and/or book appointments,
 - 4.2.16.2 keep accounts and records;
 - 4.2.16.3 does any clerical work;
 - 4.2.16.4 handles cash;
 - 4.2.16.5 responsible for counter sales;
 - 4.2.16.6 responsible for stock control;
 - 4.2.16.7 responsible for advertising and promotion;
 - 4.2.16.8 arranges merchandising displays;
 - 4.2.16.9 running errands.
- 4.2.17 **"COLLECTIVE AGREEMENT"** means a written agreement concerning terms and conditions of employment or any other matter of mutual interest concluded by one or more registered trade unions on the one hand, and on the other hand that binds the terms of section 31 and 32 of the Act:
- 4.2.17.1 (one) or more employers;
 - 4.2.17.2 (one) or more registered employers' organisations; or
 - 4.2.17.3 (one) or more employers and 1 (one) or more registered employers' organisations;
- 4.2.18 **"COMMISSION"** means the amount of money payable by an Employer to an Employee by virtue of a commission agreement concluded between an Employer and Employee, or which may be prescriptive by virtue of this Agreement, which may consist of:

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- 4.2.18.1 **“Personal Services Commission”** or **“PSC”** being the manner in which commission is calculated, which is to be paid by an Employer to an Employee during the Employee’s annual leave, or in respect of notice pay or in respect of severance pay. This commission is calculated on services provided by an Employee in person, and on services rendered by other Employees when assisting the Employee, in the event of such other Employees not being entitled to commission, but excluding Retail Commission; and/or
- 4.2.18.2 **“Retail Commission”** being commission paid to an Employee in respect of the sale of products procured by such an Employee which may or may not be Target based; and/or
- 4.2.18.3 **“Target Based Commission”** means payment of an agreed percentage of commission on turnover above an agreed threshold which may or may not be prescribed by this Agreement.
- 4.2.19 **“COMMISSIONER”** means any person appointed by the governing body of the CCMA in terms of section 117 of the Labour Relations Act, 1995
- 4.2.20 **“COTT”** means the Central Organisation for Trade Testing;
- 4.2.21 **“COUNCIL”** means the National Bargaining Council for the Hairdressing, Cosmetology, Beauty and Skincare Industry registered in terms of section 29 of the Labour Relations Act, 1995;
- 4.2.22 **“COUNCIL REPRESENTATIVE”** means a person nominated by any party to represent such party to the Council;
- 4.2.23 **“DESIGNATED AGENT”** means any person appointed by the Minister in terms of section 33 of the Labour Relations Act, 1995;

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- 4.2.24 **"DAY OFF"** means authorized leave granted by an Employer to an Employee to be absent from an Establishment during any day upon which the Employer conducts business;
- 4.2.25 **"DRY BAR"** means an Establishment at which only Dry Bar Services are rendered;
- 4.2.26 **"DRY BAR SERVICES"** means only 1 (one) or more or all of the following services being:- a wash, blow dry, clip-on extensions, bang, up styling, tonging, setting, plaiting, crimping and straightening with a flat iron all of which will be rendered without applying any chemicals of whatsoever nature and explicitly excluding any cutting of hair;
- 4.2.27 **"DRY BAR WORKER"** means a person employed at a Dry Bar who only renders dry bar services;
- 4.2.28 **"EMPLOYEE"** means any person who is employed by or working for any Employer and who is receiving or is entitled to receive remuneration, and any other person who in any manner assists in the carrying on or conducting of the business of any Employer, and "employ" and "employment" have corresponding meanings;
- 4.2.29 **"EMPLOYER"** means any person who employs or provides work for any person and remunerates or expressly or tacitly undertakes to remunerate him, or who permits any person whatsoever in any manner assist him carrying on or conducting his business and "employ" and "employment" have corresponding meanings;
- 4.2.30 **"FULL TIME EMPLOYEE"** means an Employee whose hours of work are more than 24 (twenty-four) hours per month and not more than 45 (forty-five) hours per week in an Establishment;
- 4.2.31 **"FIRST YEAR OPERATOR"** means an Employee, appointed as an operator, that has been rendering Cosmetology Services for a period less than 1 (one) year whilst employed by one or more Employers;

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- 4.2.32 **"HALF DAY OFF"** means an authorized leave of absence for the balance of the working day after having executed 4 (four) continuous hours of work on that particular day and being fully remunerated for such entire day;
- 4.2.33 **"HAIRDRESSER/HAIRSTYLIST"** means an Employee or Working Employer in return for payment, in money or in kind, performs any 1 (one) or more or all of the Cosmetology Services usually performed by a Hairdresser/Hairstylist.
- 4.2.34 **"HAIRDRESSER/HAIRSTYLIST NON-QUALIFIED"** means a Hairdresser/Hairstylist that is not qualified as a Hairdresser/Hairstylist;
- 4.2.35 **"HAIRDRESSER/HAIRSTYLIST QUALIFIED"** means an Employee who:
- 4.2.35.1 holds a trade test certificate issued by COTT or the SSETA or City and Guilds, Diploma Level 3 (three); or
- 4.2.35.2 holds a certificate of proficiency under the training of Artisan's Act, 1951; or
- 4.2.35.3 holds any qualification which the Council in consultation with the SSETA or City and Guilds may recognize as a qualification, whether or not obtained in the Republic of South Africa; or
- 4.2.35.4 holds a masters certificate of the Employers' Organisation from any division thereof; or
- 4.2.35.5 holds a certificate of competency in hairdressing issued by the Council before coming into force of this Collective Agreement and thereafter;
- 4.2.36 **"HAIRDRESSING BEAUTY AND SKINCARE INDUSTRY PENSION FUND"** means the Hairdressing, Beauty and Skincare Industry Pension Fund.

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- 4.2.37 **"IMMEDIATE FAMILY"** means Employee's spouse, life partner, parent, adoptive parent, grandparent, child, adopted child, grandchild, brother or sister;
- 4.2.38 **"LEARNER"** or **"LEARNER HAIRDRESSER"** means any Employee who is in training under a written learner-ship contract registered with the SSETA, or who is in the process of applying for a learnership contract in terms of the Skills Development Act, No. 97 of 1998, and includes a minor;
- 4.2.39 **"NO DEFINITION"**
- 4.2.40 **"MAKE-UP ARTIST"** means an Employee engaged in the following treatment, but not limited to:
- 4.2.40.1 the application of false or artificial eyebrows or eye lashes;
 - 4.2.40.2 cosmetic (day, evening, bridal, fantasy) camouflage make up, and/or painting of the face and/or full body features whether by permanent, semi-permanent or temporarily means;
 - 4.2.40.3 basic application of the removal of unwanted or superfluous hair from the head, face and/or body and its features, including shaving, waxing and chemical depilatories;
 - 4.2.40.4 piercing.
- 4.2.41 **"MANAGER/ESS"** means an Employee who is employed to manage and oversee the day-to-day functions of an Establishment, including-
- 4.2.41.1 staff management;
 - 4.2.41.2 training and development of staff or overseeing the training and development of staff;
 - 4.2.41.3 stock control

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- 4.2.41.4 time management;
 - 4.2.41.5 marketing and promotions;
 - 4.2.41.6 administration, accounts and orders;
 - 4.2.41.7 grievance and disciplinary procedures;
 - 4.2.41.8 salon maintenance and security;
 - 4.2.41.9 housekeeping and running costs;
 - 4.2.41.10 cash control; and
 - 4.2.41.11 quality control of all of the above-mentioned functions.
- 4.2.42 **"MASSAGE THERAPIST"** means a person executing, performing or applying massage therapy;
- 4.2.43 **"MASSAGE THERAPY"** means the manual manipulation of soft body tissue including but not limited to muscle, connective tissue, tendon and ligaments by way of rubbing, stroking, kneading or various other methods, to enhance health, well-being and relaxation;
- 4.2.44 **"MINOR"** means an Employee who is 16 (sixteen) years or older, but who has not yet attained the age of majority, by virtue of turning 18 (eighteen) years old or otherwise;
- 4.2.45 **"MULTI SKILLED OPERATOR"** means an operator that also performs some of the duties of a Hairdresser/Hairstylists;
- 4.2.46 **"NAIL TECHNICIAN"** means 1 (one) of any of the 3 (three) job categories being either:-
- 4.2.46.1 **Qualified Nail Technician:** means an Employee that has completed a 1 (one) year formal qualification to apply artificial nails and provide nailcare therapy to the hands and/or feet; and

- 4.2.46.2 **Certified Nail Technician.** means an Employee that does not hold a formal qualification, but whom has received brand specific training and obtained a certificate for such skill acquired for purposes of applying silk and/or fibre and/or acrylic and/or gel nails which Employee may only operate within the brand that provided him or her with such training; and
- 4.2.46.3 **Unqualified Nail Technician:** means an Employee executing 1 (one) or more or all of the duties of either a Qualified Nail Technician or a Certified Nail Technician but does not have a qualification or certification issued by a Training Provider or brand.
- 4.2.47 **"NON-PARTY"** means any Employer or Employee who is not a member of a registered Employers' Organisation or Trade Union, which is a party to the Council.
- 4.2.48 **"OPERATOR"** means an Employee who is employed in an Establishment and who performs 1 (one) or more of the following activities:
- 4.2.48.1 draping, brushing, shampooing and/or towel drying client's hair;
- 4.2.48.2 removing veils, pins, rollers, clips and other setting aids;
- 4.2.48.3 preparing clients for highlighting of hair;
- 4.2.48.4 applying instant conditioners, rinses or colour shampoos;
- 4.2.48.5 placing clients under or removing clients from driers;
- 4.2.48.6 applying perm lotions;
- 4.2.48.7 neutralising and rinsing perms and relaxers;
- 4.2.48.8 assisting with foils, pulling out highlights and applying bleach over a highlight cap;

- 4.2.48.9 giving clients scalp treatments by the application of any hairdresser treatment products prescribed by the manufacturer of that product, excluding any treatment performed by infra-red ray, ultra-violet ray, or thermos treatment;
- 4.2.48.10 tinting and applying colour (permanent and semi-permanent) and applying toners and/or bleach;
- 4.2.48.11 cleaning and/or sweeping premises;
- 4.2.48.12 running errands;
- 4.2.48.13 providing refreshments to staff and customers of an Establishment;
- 4.2.48.14 sanitising and disinfecting tools, equipment and surfaces;
- 4.2.48.15 washing dishes; and
- 4.2.48.16 doing laundry and ironing.
- 4.2.49 **"PART-TIME EMPLOYEE"** means an Employee who is employed for not less than 1 (one) day per week or not more than 3 (three) days per week.
- 4.2.50 **"PARTY"** means any registered Employers' Organisation or Trade Union which is a Party to the Council and may refer to an Employer or Employee who is a member in good standing of any such Party.
- 4.2.51 **"PREMIUM"** means the payment of consideration, whatsoever the nature, in return for the training of any person in hairdressing;
- 4.2.52 **"PUBLIC HOLIDAY"** means a Public Holiday as referred to in the Public Holidays Act, Act 36 of 1994, as amended,

- 4.2.53 **"REMUNERATION"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for the other;
- 4.2.54 **"SALON ASSISTANT"** means an Employee, employed by an Employer in an Establishment who is engaged in 1 (one) or more of the following activities:-
- 4.2.54.1 cleaning, sweeping or washing the Establishment or utensils, receptacles, furniture or other articles;
 - 4.2.54.2 running errands;
 - 4.2.54.3 making tea or similar beverages;
 - 4.2.54.4 washing, drying and/or folding of towels and linen used in or at the Establishment;
 - 4.2.54.5 assisting Nail Technicians and/or Beauty Technologists and/or Beauty Therapists with routine tasks within the Establishment.
- 4.2.55 **"SPA ASSISTANT MANAGER"** means to work closely with the Manager/ess and is mainly responsible for providing administrative support in performing daily activities with a spa. The Spa Assistant Manager will act as Spa Manager in the absence of the Unit Manager and actively support in the co-ordination and managing of all spa employees. This position includes the marketing of the spa and nurturing of guest relations.
- 4.2.56 **"SPA ATTENDANTS"** means to maintain and administer the hygiene and safety procedures in the Spa working environment as per the standards set by the Employer. The attendants are to ensure that all front and back of house area is consistently monitored by following the cleaning guidelines and supervision of the manager. The Spa Attendant may from time to time need to assist the Spa Manager in serving guests food and beverages during groups and functions.

- 4.2.57 **"SPA MANAGER/ESS"** means an Employee who is employed to manage and oversee the management direction and development of a Spa. This includes, but is not limited to peaking retail sales, providing and training superior Spa services and effectively manage all Spa staff. To develop, monitor, and review all staffing needs and challenges, maximising scheduling opportunities, facility operations are in excellent working order, supply updated staff information and revenues for payroll, revenue management for target achievement, adhere and administer safety training, enforce standard operating procedures, create guest/client relations service satisfactory.
- 4.2.58 **"SPA RECEPTIONIST"** means an individual in charge of welcoming guests into the Spa, responding to all enquiries while observing set standards. A Spa Receptionist should have knowledge of the services and treatments offered at the Establishment including any offers and promotions that may be on at a particular time. Spa Receptionist duties also include prioritizing workloads, ensuring all operational procedures are met and ensuring that standards or appearance codes of conduct are adhered to and implemented to the latter.
- 4.2.59 **"SDA"** means the Skills Development Act, No. 97 of 1998 as amended;
- 4.2.60 **"SHORT TIME"** means the implementation of reduced working time i.e. fewer number of hours per day and/or fewer number of days per week, due to a shortage of work and/or any other justifiable contingencies beyond the control of the Employer, as contemplated in clause 20,
- 4.2.61 **"SOMATOLOGIST"** means an Employee who has completed a 3 (three) year formal qualification focussing on the scientific study of the human body in respect of which a diploma has been bestowed on him or her to enable him or her to treat and prevent a variety of skin and body conditions with a holistic and/or health related approach as well as improving the general wellness and aesthetic appearances through information and the practice of healthy lifestyle habits products and clinic treatments.

- 4.2.62 **"SPECIFIC SKILLED STYLIST"** means a person who does not hold any qualification in hairdressing, and who, wholly or mainly, performs 1 (one) or most of the following tasks:
- 4.2.62.1 braiding, weaving or plaiting;
 - 4.2.62.2 cutting only;
 - 4.2.62.3 adding hair extensions only;
 - 4.2.62.4 dreadlocks.
- 4.2.63 **"SSETA"** means the Services Sector Education and Training Authority in terms of SDA;
- 4.2.64 **"STUDENT"** means an Employee who may be a minor, employed in an Establishment who has entered into a Student Contract with the Employer and has submitted the student contract to the Council, in order to become qualified to render Cosmetology Services;
- 4.2.65 **"TRAINING PROVIDER"** means an institution accredited by SSETA, QCTO or registered by City and Guilds or approved by the Council to provide training;
- 4.2.66 **"TEMPORARY EMPLOYEE"** means an Employee employed by an Employer in terms of which it is agreed that-
- 4.2.66.1 the Employee is employed for a limited period of time, upon effluxion of which the Employee shall cease to be employed by the Employer; or
 - 4.2.66.2 is employed as a substitute for an Employee who is temporary absent, excluding in the event of maternity leave; or

- 4.2.66.3 is employed to perform a specific task or execute a specific project, upon finalisation of which the Employee's employment with the Employer will terminate and may include a contract worker".
- 4.2.67 "TIME-OFF" means authorized leave of absence on full pay for any reason whatsoever, usually in relation to time off in lieu of time worked in, but does not include any form of leave;
- 4.2.68 "WORKING EMPLOYER" means an Employer or owner who performs work similar to that carried out by an Employee;
- 4.2.69 "UNQUALIFIED" means, where it appears from a prefix to any job category stated in this Agreement or annexure thereto, an Employee executing one, or more or all of the duties of that particular category, but does not have a qualification or certification issued by a Training Provider.
- 4.3 Where any calculation is to be made in terms of this Agreement in respect of Commission or PSC, and the Employer is registered for Value Added Tax ("VAT"), the VAT shall be deducted prior to the calculation being made.

5. REGISTRATION OF AN ESTABLISHMENT

- 5.1 All Employers shall be obliged to ensure that an Establishment:
- 5.1.1 has been registered with the Council;
- 5.1.2 is operated by or employs at least one Hairdresser / Hairstylist: Qualified or B-Tech Somatologist or Beauty Technologist or Nail Technologist depending on the type of Cosmetology Services rendered;
- 5.1.3 has obtained a certificate from the Council to render Cosmetology Services.

6. APPLICATION FOR REGISTRATION OF AN ESTABLISHMENT

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- 6.1 Prior to the commencement of the rendering of Cosmetology Services at an Establishment, every Employer of an Establishment shall apply to the Council in the form specified in annexure "A" for registration of the Establishment and shall, as part of the registration process, also submit a duly completed annexure "B" in respect of all Employees employed at the Establishment.
- 6.2 A separate application shall be completed in respect of each Establishment operated by an Employer.
- 6.3 No disqualified person may have a direct or indirect interest in or operate an Establishment.
- 6.4 For the purpose of clause 6.3 above, a disqualified person shall be an Employer, that:
- 6.4.1 owes any sum to any Employee or former Employee in the Industry in respect of remuneration or wages, which remains unpaid in contravention of this Agreement, and/or;
- 6.4.2 owes any sum of money to the Council in contravention of any obligation under this Agreement; and / or;
- 6.4.3 has failed to pay contributions of any Employee, whether in whole or in part, to any benefit fund in contravention of the terms of this Agreement.
- 6.5 No Employer shall be entitled to operate an Establishment unless it has complied with the provisions of clause 6.1 above.
- 6.6 Should any of the details that appears on the annexure "A", submitted by the Employer upon registration of an Establishment as contemplated in clause 6.1 above, subsequent to registration, change, the Employer shall be obliged to, within 14 (fourteen) days of such change taking place, notify the Council by way of written notice stating the nature and details of the change, which will be submitted to the Council to amend@hcsbc.co.za.

7. RELATIONSHIP BETWEEN EMPLOYER, EMPLOYEE AND COUNCIL

- 7.1 An Employer who employs Part time, Casual or Temporary Employees shall:
- 7.1.1 notify the Council in writing of the employment of a Part time, Casual or Temporary Employee, within 7 (seven) days of employing such a person, and;
- 7.1.2 notify the Council in writing within 7 (seven) days of the termination of the services of the Part time, Casual or Temporary Employee.
- 7.2 Should an Employer fail to notify the Council of the appointment of the Part time, Casual or Temporary Employee that Employee shall be regarded as a permanent Employee and accordingly be entitled to all benefits, in terms of this Agreement.
- 7.3 An Employer may not employ any person in an Establishment to render any Cosmetology services unless the Employee rendering the Cosmetology services is qualified to do so within the meaning of this Agreement.
- 7.4 In the event of an Employee (including a Learner or a Student) taking up employment with or resigning from an Establishment, subsequent to the registration of the Establishment as contemplated in clause 6.1 above, the Employer shall, on or before the seventh day of the month following such appointment or resignation, notify the Council of such Employee's appointment or resignation, as the case may be, by, within the stated time period:-
- 7.4.1 submit a duly completed annexure "B" in the event of an Employee taking up employment with the Establishment; or
- 7.4.2 dispatching a written notice of such Employee's resignation which notification shall include the Employee's full names, surname, identity number and position held to amend@hcsbc.co.za.
- 7.5 An Employer shall:

- 7.5.1 furnish each Employee employed with a letter of appointment and Contract of Employment, which shall include the following:
- 7.5.1.1 the Employee's full names, address, ID number and occupation of the Employee;
 - 7.5.1.2 date of commencement of service;
 - 7.5.1.3 the title of the Employee's occupation;
 - 7.5.1.4 the remuneration or basic salary and/or commission and/or wages for that -occupation;
 - 7.5.1.5 the days and hours of work;
 - 7.5.1.6 the place of work, and an indication whether the Employee may render services at other Establishments of the same Employer, if applicable;
 - 7.5.1.7 the salary rate and method of calculation as well as frequency of payment;
 - 7.5.1.8 the rate of pay for overtime worked;
 - 7.5.1.9 details of deductions to be made from the Employee's salary;
 - 7.5.1.10 all leave entitlements;
 - 7.5.1.11 the period of notice required;
- 7.5.2 furnish each Employee with a copy of the Employee's letter of appointment;
- 7.5.3 make available copies of each Employee's letter of appointment for inspection by the Designated Agents of the Council.

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- 7.6 In the event of an Employee taking up employment with an Employer as from the first day of a calendar month up to the fourteenth day of that calendar month, the Employer shall deduct on the Employee's payday in that calendar month, all amounts as envisaged in this Agreement from the Employee's Basic salary or wages.
- 7.7 In the event of an Employee taking up employment with an Employer as from the fifteenth day up and to the last day of any calendar month, the Employer shall not make any deductions from the Employee's Basic salary or wages, on the Employee's payday during that particular calendar month.

8. KEEPING OF RECORDS BY AN EMPLOYER

- 8.1 Every Employer shall be obliged to retain a wage record indicating:
- 8.1.1 the dates in respect of which remuneration or Basic salary or wages are paid from time to time;
 - 8.1.2 the gross remuneration or Basic salary or wages payable in respect of each Employee;
 - 8.1.3 details of all deductions made by the Employer and the reason for the deduction, and;
 - 8.1.4 the nett amount paid to each Employee and the date and method of payment;
- 8.2 Every Employer shall be obliged to keep a register of the takings / turnover of each Employee indicating:
- 8.2.1 the date to which each entry relates;
 - 8.2.2 the name or identifying mark of each client who received any service by the Employee;

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- 8.2.3 the nature of the service provided to each client and payment made in respect thereof;
- 8.2.4 the name of the person who provided the service to each client by the Employee; and
- 8.2.5 the extent of products sold and payment made in respect thereof.
- 8.3 An Employer shall keep an attendance register for each Employee containing at least the information set forth in clause 8.4 below and shall record in that register the name and occupation of every Employee.
- 8.4 Every Employee shall record him / her being present at the workplace in the attendance register. It shall be incumbent upon the Employer to ensure that the register is correctly completed by every Employee. If an Employee fails, refuses or neglects to complete the register, the Council shall within 14 (fourteen) days be notified of such omission in writing. The attendance register shall contain the following information pertaining to the Employee:
- 8.4.1 his signature;
- 8.4.2 the time he commenced work;
- 8.4.3 the time of leaving work for that day;
- 8.4.4 the time of any leave of absence from work in terms of this Agreement;
- 8.4.5 overtime worked; and
- 8.4.6 Public Holidays worked.
- 8.5 If an Employee is unable to read or write, the Employer may on behalf of the Employee make and sign the necessary entries in the attendance register.

8.6 Each entry in any register required to be kept by an Employer in terms of this clause 8, shall be:

8.6.1 recorded in ink or ball point pen, but not in pencil;

8.6.2 accurate in all material respects.

8.7 Every register required to be kept by an Employer in terms of this clause 8 shall be:

8.7.1 kept in the Establishment at all times and be made available to a Designated Agent of the Council upon request; and

8.7.2 retained by the Employer for a period of three years from the date of the last entry in it.

9. ADMINISTRATION AND ENFORCEMENT OF THIS AGREEMENT

9.1 The Council shall be responsible for the administration and enforcement of the provisions of this Agreement and may issue rulings in accordance with this Agreement,

9.2 The Council and / or any of its officials, Employees, and agents shall incur no liability whatsoever for any act executed in accordance with the provisions of this Agreement and:

9.2.1 in respect of any representation made as to practice, procedure or law; and

9.2.2 for any ruling as referred to in clause 9.1 above and/or interpretation of this Agreement.

9.3 The Council may from time to time determine any forms which may be required to be completed by the persons mentioned in sections 31 and 32 of the Act, in order to facilitate compliance with any provisions of this Agreement.

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- 9.4 All Employers shall be obliged to furnish the Council with a remittance advice or other written documentation, as may be determined by the Council from time to time, indicating such information that the Council in its sole discretion may require, including but not limited to the number of Employees employed in an Establishment, the Basic salary or wages paid to Employees and payment made for and on behalf of Employees.
- 9.5 Should an Employer be in default of its obligations in terms of this Agreement, all monies paid to the Council by virtue of the provisions of this Agreement shall:
- 9.5.1 first be allocated to settle the oldest debt in full on a monthly basis i.e. all of the oldest arrears for a specific month will first be settled where after the balance, if any, will be allocated to the month/s thereafter on the basis that all contributions for a specific month will be settled in full before moving to the next month;
- 9.5.2 be allocated to the under mentioned beneficiaries in the following order of preference:
- 9.5.2.1 Pension / Provident fund;
- 9.5.2.2 Union Fees;
- 9.5.2.3 EOHCB Fees;
- 9.5.2.4 Council Fees;
- 9.5.2.5 Sick Pay Fund;
- 9.5.2.6 Sick Benefit Fund;
- 9.5.2.7 Agency fees;
- 9.5.2.8 Bargaining levy;
- 9.5.2.9 Basic Council Fee (Only Area A);

- 9.5.2.10 Minimum Council Fee (Only Area A);
 - 9.5.2.11 Penalties;
 - 9.5.2.12 RD Fees;
 - 9.5.2.13 Legal Fees;
 - 9.5.2.14 Interest on Pension Fund/Provident Fund
- 9.5.3 Should the payments received from Employers not specify a specific beneficiary, the payment so received will be allocated to the next beneficiary in the aforesaid order and so on until the payments received are sufficient to settle a beneficiary in full;
- 9.5.4 once the aforesaid allocations have been made, the Council will proceed to pay the beneficiaries, recorded in clause 9.5.2 above, accordingly;
- 9.5.5 the remittance advice or written document dispatched by the Employer to the Council on the date of payment shall indicate in respect of which Employees payment was made, for which beneficiary, what amount towards each beneficiary and time period for which the payment is made.
- 9.6 Every Employer shall be obliged to make available a legible copy of this Agreement to its Employees in the Establishment, which shall be readily accessible.
- 9.7 Notwithstanding anything to the contrary herein contained or implied by law, each and every term and condition of this Agreement shall be deemed to be separate and severable from the other terms hereof. If any term is found to be vague or invalid or unenforceable, that term shall be treated as *pro non scripto* and shall in no way affect the validity of the remaining terms and provisions hereof.

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- 9.8 An Employer shall afford an Employee, who is a representative or alternate of the board of the Council reasonable opportunity to attend to or execute his or her duties as representative or alternate of the board.
- 9.9 Any person who is obliged to give notice to the Council in accordance with the provisions of this Agreement shall do so in a manner as to ensure that the Council receives such notice. The person that dispatches the notices shall bear the onus to prove that it was dispatched.

10. ENFORCEMENT OF COLLECTIVE AGREEMENTS

- 10.1 If any person upon whom this Agreement is binding in terms of sections 31 and 32 of the Act, fails, neglects or refuses to comply with any provision of this or any other collective agreement concluded in the Council, the Council shall have the right to enforce such provision by any means permitted by any law or practice and may in addition resort to either one or both of the following remedies:
- 10.1.1 use any means permitted by law to enforce compliance with this Agreement;
or
- 10.1.2 regard the non-compliance as a dispute within the meaning of clause 13, and to resolve the dispute as provided for in the Council's Constitution.
- 10.2 A designated agent who has reasonable grounds to believe that an Employer, or Employee has not complied with the provisions of this Agreement may issue a compliance order.
- 10.3 A compliance order shall set out:-
- 10.3.1 the name of the Employer or Employee and location of every workplace to which it applies;
- 10.3.2 the provisions of this Agreement that the Employer or Employee has not complied with and the details of such non-compliance.

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- 10.3.3 any amount that the Employer or Employee is required to pay to an Employer or Employee or the Council;
- 10.3.4 any previous settlement agreement entered into by the Employer or Employee and the failure by the Employer or Employee to comply with such settlement agreement;
- 10.3.5 any steps that the Employer or Employee is required to take including, if necessary, to cease the contravention in question and the period of time within which such action should be ceased.
- 10.4 A designated agent must deliver a copy of the compliance order to the Employer or Employee reflected on such order and, to each Employer or Employee effected by it or, if this is impractical, a representative of the Employer or Employee.
- 10.5 The Employer or Employee must display a copy of the compliance order prominently at a place assessable to the effective Employer or Employee at the workplace reflected on such order.
- 10.6 An Employer or Employee must comply with the compliance order within the time period stated in the order unless the Employer or Employee objects thereto in terms of the procedure stated herein below.
- 10.7 The failure to deliver a copy of the compliance order to the Employer or Employee, or their representatives shall not make the compliance order invalid.
- 10.8 An Employer or Employee may object to a compliance order by making representations to the CEO within 7 (seven) days of receipt of the order.
- 10.9 If the Employer or Employee shows good cause at the time, the CEO may permit the Employer or Employee to object to the compliance order after the aforesaid 7-day period has expired.
- 10.10 After consideration, any representation by the Employer or Employee and any other relevant information, the CEO:-

- 10.10.1 may confirm, modify or cancel an order or any part of an order, and
- 10.10.2 shall specify the period within which the Employer or Employee is to comply with any part of an order that has been confirmed or modified.
- 10.11 The information that the CEO shall consider includes:-
- 10.11.1 any evidence concerning the Employer or Employee's compliance record;
- 10.11.2 the likelihood that the Employer or Employee was aware of the relevant provisions; and
- 10.11.3 the steps taken by the Employer or Employee to ensure compliance with the relevant provisions.
- 10.12 In the event of the CEO modifying or confirming the order, the CEO shall cause to serve a copy of the order so modified or confirmed on the Employer or Employee and on each Employer or Employee affected by it or, if in practical, on the Employer or Employee's representative.
- 10.13 If the CEO confirms or modifies the order or any part of the order, the Employer or Employee must comply with that order within the time period specified in the order.
- 10.14 The failure to deliver a compliance order so modified or confirmed to the Employer or Employee, or their representatives, shall not make the compliance order invalid.
- 10.15 An Employer or Employee who is not satisfied with the CEO's compliance order may refer the matter to Arbitration within 7 (seven) days after the compliance order was received from the CEO.
- 10.16 If the Employer or Employee has not complied with the compliance order and has not referred the matter to Arbitration in terms of clause 10 15 above, the CEO may refer the matter to Arbitration.

33**11. DESIGNATED AGENTS**

11.1 The Minister may, on request of the Council, appoint any person as a designated agent in terms of section 33 of the Labour Relations Act, 1995 to promote, monitor and enforce compliance with this Agreement.

11.2 A designated agent of the Council:

11.2.1 may secure compliance with this Agreement by amongst others:

11.2.1.1 conducting inspections;

11.2.1.2 investigating complaints; or

11.2.1.3 any other means the Council may adopt.

11.2.2 may perform any other functions that are conferred to or imposed on the agent by the Council;

11.2.3 shall have all the powers set out in Schedule 10 of the Labour Relations Act, 1995;

11.2.4 may issue a compliance order requiring any person to comply with this Agreement within the time period stated in the compliance order.

12. CO-OPERATION WITH DESIGNATED AGENTS

12.1 The Council shall employ the services of Designated Agents, appointed in terms of section 33 of the Labour Relations Act, 1995 to promote, monitor and enforce the compliance with the provisions of this Agreement.

12.2 Every Employer Manager or Manageress and Employees of an Establishment shall truthfully and to the best of their ability co-operate with a Designated Agent in the execution of the Designated agent's duties.

12.3 The provisions of the Agreement shall not be enforced against a Legal Owner operating within the Industry, which, for purposes of this Agreement, shall be defined as any person, partnership, enterprise or entity of whatsoever nature that:-

12.3.1 conducts hairdressing or cosmetology or beauty or skincare services from an Establishment, the premises of which is either owned by the Proprietor, hired from the owner of such premises, hires from any other person that has the right to occupy such premises, or occupies such premises by virtue of an agreement concluded with the owner of such premises or any other person that has the right to occupy such premises, and

12.3.2 either trades under his/her/its own name or under the name and style of the Establishment or that of any other Employer or legal owner; and

12.3.3 employs no Employees; and

12.3.4 may include persons that are normally referred to in the hairdressing industry as rent-a-chair.

13. PROCEDURE FOR DISPUTES, INCLUDING PRE-DISMISSAL ARBITRATION

13.1 Subject to section 127, read with section 188A of the Labour Relations Act, 1995:

13.1.1 a dispute which may arise in the Industry and which, in terms of the Labour Relations Act, 1995, must be referred to a Council, as defined in the Act, or

13.1.2 a dispute involving the interpretation or application of this Collective Agreement, or any other Collective Agreement concluded in the Council; must be dealt with in terms of the procedure set out in clauses 14 to 29, inclusive, of the Council's Constitution.

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- 13.2 The provisions of clause 13 of this Agreement apply to all persons upon whom this Agreement is binding in terms of sections 31 and 32 of the Labour Relations Act, 1995.
- 13.3 If an Employee institutes proceedings an Arbitrator may, at the hearing of the matter, in addition, determine any claim for an amount that is owing to that Employee in terms of this Agreement if -
- 13.3.1 the claim is referred in compliance with section 191 of the Labour Relations Act, 1995;
- 13.3.2 no compliance order has been issued and no other legal proceedings have been instituted to recover the amount.
- 13.4 A dispute concerning any amount that is owing to an Employee as a result of a contravention of this Agreement may be initiated jointly with a dispute initiated by the Employee over entitlement to severance pay in terms of this Agreement.
- 13.5 If there is a dispute of non-compliance arising out of this Agreement, the Council may refer this dispute to Arbitration by an Arbitrator appointed by the Council.
- 13.6 The Arbitrator so appointed will have the powers of a commissioner in terms of section 142 of the Labour Relations Act, 1995.
- 13.7 Section 138 of the Labour Relations Act, 1995, read with the changes required by the context, applies to any Arbitration conducted in terms of clause 13.5 above.
- 13.8 An Arbitrator conducting Arbitration in terms of clause 13.7 may make an appropriate award including:-
- 13.8.1 ordering a person to pay any amount owing in terms of this Agreement;
- 13.8.2 imposing a fine for failure to comply with this Agreement in accordance with section 33A(13) of the Labour Relations Act, 1995;

- 13.8.3 charging a party an Arbitration fee not exceeding R1,500.00.
- 13.8.4 ordering a party to the dispute to pay the costs of the Arbitration.
- 13.8.5 confirming, varying or setting aside a compliance order issued by a designated agent;
- 13.8.6 any award contemplated in terms of section 138(10) of the Labour Relations Act, 1995.

14. STRIKES AND LOCK-OUTS

- 14.1 No person bound by the provision of this Agreement shall engage in a lawful strike or lockout or any other conduct in the furtherance of a lawful strike or lockout in respect of any matter regulated by this Main Collective Agreement.
- 14.2 The Council shall be the only forum for negotiations and conclusion of substantive agreements on remuneration or Basic salaries or wages, and benefits and other conditions of employment between Employers and the Employers' organisation on the one hand and Employees and the trade union on the other hand, for purpose of concluding a collective agreement.

15. EXPENSES OF THE COUNCIL AND SUBSCRIPTIONS TO THE EMPLOYERS' ORGANISATION AND THE TRADE UNION

- 15.1 For the purposes of defraying the expenses of the Council, every Employer shall be obliged to deduct from the earnings of each Employee and pay to the Council, those deductions reflected in the appropriate column of the Basic salary or wages schedules which are attached hereto as annexure "H".
- 15.2 In addition to the deductions recorded in clause 15.1 above, the Employer shall:
 - 15.2.1 deduct from each Employee the levy amount as reflected from time to time in the Basic salary or wages schedules;

- 15.2.2 pay the Employer's contribution to the Council levy as reflected from time to time on the Basic salary or wage schedules.
- 15.3 An Employer shall be obliged to pay the total amounts owned in terms of clauses 15.2.1 and 15.2.2 to the Council not later than the date that is recorded in the Monthly Return form of the Employer.
- 15.4 Notwithstanding that the Council may issue an Employer with a pro-forma Monthly Return form partially completed with the information of the Employer in the Council's possession, it shall be incumbent upon the Employer to ensure that the information contained therein is accurate, and every Employer shall be obliged to record such amendments on the Staff amendment form as may be necessary to reflect all correct information of the Employer.
- 15.5 Every Employer who employs a member of the trade union shall deduct from the remuneration or Basic salary or wage of that Employee the subscriptions and levies payable to the trade union and pay the subscriptions and levies so deducted, monthly to the Council by not later than the date specified on the monthly return.
- 15.6 Every Employer who is a member of the Employers' Organisation shall be required to pay the monthly subscription and levies charged by that organisation to the Council, by no later than the dates specified on the monthly return.
- 15.7 All amounts payable to the Council in terms of this Agreement may be made by EFT or cheque into the bank account of the Council. The Council may amend its bank details, from time to time, by giving notice to that effect, to each Employer. The Council will not accept any cash payments at any of its offices. Should a cash amount be deposited directly into the bank account of the Council, the Council shall be entitled to charge to the depositor, the cash handling fee or bank costs incurred as a result of such cash payment being made, at a rate of 1.82% of the total amount deposited.

- 15.8 The onus shall be on any person claiming that payment was made to the Council to prove that payment was made.
- 15.9 Any amount that falls due in terms of any provision of this Agreement that is not received in full by the Council by the date specified, the Employer whom is obliged to make payment, shall be liable to pay a penalty calculated at 10% (ten percent) of the outstanding amount for that month which is outstanding.
- 15.10 For the purpose of this clause 15 the date specified means the 7th (seventh) day of the month following the month in respect of which the amount is payable.
- 15.11 The weekly contribution of weekly-paid Employees shall be calculated at the rate of three thirteenths of the monthly contribution.
- 15.12 All amounts stated in the Contribution Schedule exclude VAT.
- 16. EMPLOYERS' ORGANISATION: MEMBERSHIP FEES**
- 16.1 Every Employer who belongs to the Employers' Organisation shall pay a monthly membership fee in an amount calculated in terms of clause 16.3.
- 16.2 No Employer is compelled to become a member of the Employers' Organisation.
- 16.3 The monthly membership fee shall be set forth in annexure "C" hereto, which membership fee shall escalate per annum, as determined from time to time.
- 16.4 The monthly membership fees may be increased from time to time in the sole and absolute discretion of the Employers' Organisation.
- 16.5 The monthly membership fee shall be paid on or before the 7th (seventh) day of each succeeding month to the Employers' Organisation, care of the Council.

- 16.6 The Council shall prepare an analysis of all amounts received from Employers either by way of membership fees. The Council shall be entitled to deduct or receive a collection fee from the membership fees so collected, expressed as a percentage of the total of fees collected, which percentage will be determined and agreed upon from time to time by the parties to the Council.
- 16.7 The CEO shall cause to deposit all monies received in terms of this clause 16 into the Council's account and at the end of each month pay all membership fees received, to the Employers' organisation.
- 16.8 The Employers' organisation shall arrange for an annual audit of the membership fees received, within six months of its financial year by an auditor who:-
- 16.8.1 conducts the audit in accordance with generally accepted auditing standards;
- 16.8.2 report in writing to the Employers' organisation, and in this report expresses an opinion as to whether or not the Employers' organisation have complied with the provisions of its constitution relating to financial matters.
- 16.9 The Employers' organisation shall submit to the Council, within 30 (thirty) days of receipt of the auditor's report referred to in clause 16.8.2, a certified copy of that report.
- 16.10 Any person may inspect the auditor's report submitted to the Council in terms of clause 16.8.2 at the Council's head office.
- 16.11 The Council shall provide a certified copy of, or extract from, the auditor's report to any person requesting such copy or extract.
- 16.12 Any dispute about the application or interpretation of the provisions of this clause 16 shall be resolved in terms of the provision of the Council's constitution.

16.13 Notwithstanding the provisions of clauses 15.2.2 to 15.9 and 16.5 to 16.7 above, the Employers' Organisation, when an Employer is recruited as a new member that is not registered with the Council, and whilst waiting for the Council to attend to the registration of and the submission of a return to the Employer as contemplated in clause 6.1 above or to record such Employer to be a member of the Employers' Organisation and furnish the Employer with a return:-

16.13.1 may collect the membership fees directly from such newly recruited Employer until such time that the Employer is properly registered with the Council and has been furnished with a return or the Employer's membership with the Employers' Organisation has been properly captured by the Council and has been furnished with a return, and

16.13.2 whilst such membership fees are being collected by the Employers' Organisation, there will be no commission payable to the Council on the membership fees collected.

17. TRADE UNION: MEMBERSHIP FEES

17.1 Every Employer shall on a weekly or monthly basis, as the case may be, deduct from the remuneration or Basic salary or wages of its Employees a membership fee, if such Employee is a member of the Trade Union, as determined from time to time by the Trade Union and shall pay such membership fee to the Trade Union, care of the Council, by no later than the 7th (seventh) day of each month following on the month in which the deductions were made.

17.2 The Council shall prepare an analysis of all amounts received as membership fees. The Council shall be entitled to deduct a collection fee, expressed as a percentage of the total of membership fees collected, which percentage will be determined and agreed upon from time to time by the parties to the Council.

17.3 Employees who are not members of the Trade Union are not compelled to become members of the Trade Union, save for such areas where a Closed Shop agreement may be applicable.

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- 17.4 The CEO of the Council shall cause to deposit all monies received in terms of clause 17.1 into the Council's account and at the end of each month, pay all membership fees received, to the Trade Union.
- 17.5 The Trade Union shall arrange for an annual audit of the Union's membership fees, within six months of its financial year by an auditor who shall-
- 17.5.1 conduct the audit in accordance with generally accepted auditing standards;
- 17.5.2 report in writing to the Trade Union, and in this report express an opinion as to whether or not the Trade Union has complied with the provisions of its constitution relating to financial matters.
- 17.6 The Trade Union shall submit to the Council, within 30 (thirty) days of receipt of the auditor's report referred to in clause 17.5.2, a certified copy of that report.
- 17.7 Any person may inspect the auditor's report submitted to the Council in terms of clause 17.5.2 at the Council's head office.
- 17.8 The Council shall provide a certified copy of, or extract from, the auditor's report to any person requesting such copy or extract.
- 17.9 Any dispute about the application or interpretation of the provisions of this clause 17 shall be resolved in terms of the provision of the Council's constitution.
- 17.10 Notwithstanding the provisions of clause 17.1, 17.2 and 17.4 above, should the Trade Union recruit an Employee in the Industry as a new member and whilst waiting for the Council to capture the details of the Employee on its system or to capture the Employee's membership with the Trade Union on its system and, in both events, furnish the Employee's Employer with a return the Trade Union may collect the membership fees directly from the Employee and no commission shall be paid by the Trade Union to the Council in respect of the membership fees so collected.

18. EXEMPTIONS

18.1 General exemption from any provisions of this Agreement

- 18.1.1 An application for the exemption of the provisions contained in this Agreement by a party shall be heard by the Council's Exemption Committee. An application for the exemption of the provisions contained in this Agreement by a non-party shall be heard by an Independent Exemption Committee consisting of 2 (two) Commissioners accredited in accordance with the provisions of section 128 of the Labour Relations Act, 1995.
- 18.1.2 The Exemption Committee shall consist of 3 (three) persons, 1 (one) each appointed from each of the parties to this Agreement and a Council Employee.
- 18.1.3 An application for exemption shall be in writing and made to the CEO of the Council in the form as set forth in annexure "D" hereto.
- 18.1.4 All applications for exemption shall be supported by such supporting documentation as may be indicated or required by the Exemption Committee, from time to time, in order to properly assess the application for exemption.
- 18.1.5 The Exemptions Committee shall decide on an application for exemption within 30 (thirty) days of receipt by the CEO of the Council.
- 18.1.6 The person or entity moving for the application for exemption (*"the Applicant"*) may request the Exemption Committee that the application for exemption be amplified by means of oral argument on the date upon which the Exemption Committee considers the application, failing which the Exemption Committee will consider the application for exemption on the basis of the written application and supporting documents, submitted.
- 18.1.7 All applications shall comply with the following, being:-
- 18.1.7.1 it shall be fully motivated;
- 18.1.7.2 be accompanied by the required supporting documentation;

- 18.1.7.3 applications that adversely affect any rights and obligations of Employees, will not be considered unless the Employees or their representatives have been properly consulted and their views fully recorded in the application;
- 18.1.7.4 a presentation reflecting the objectives and strategies to be adopted by the Applicant during the exemption period, to rectify the non-compliance with this Agreement and indicating a time frame for such objectives and strategies to be achieved;
- 18.1.7.5 the time period for which exemption is required.
- 18.1.8 In considering an application for exemption, the Exemption Committee shall, amongst others, consider, but shall not be limited to, the following criteria:-
- 18.1.8.1 the Applicant's past record of compliance with the provisions of this Agreement and previous exemption granted;
- 18.1.8.2 any special circumstances that may exist;
- 18.1.8.3 any precedent that might be set as a result of the granting of the exemption;
- 18.1.8.4 the interest of the sector with specific reference to:-
- 18.1.8.4.1 unfair competition;
- 18.1.8.4.2 collective bargaining;
- 18.1.8.4.3 the dilution of the scope and jurisdiction of the Council.
- 18.1.8.5 the interest of Employees with specific reference to:-
- 18.1.8.5.1 exploitation;
- 18.1.8.5.2 job preservation.
- 18.1.8.6 the interest of the Applicant with specific regard to:-

18.1.8.6.1 financial stability;

18.1.8.6.2 operational requirements.

18.2 Exemption from Pension Fund

18.2.1 Should an application for exemption be moved for, for exemption from the HSBI Pension Fund, the following information and/or documentation, in addition to those set forth in clause 18.1 above shall be provided by the Applicant, being:-

18.2.1.1 written confirmation that Employees are members of the *alternative* pension fund;

18.2.1.2 written confirmation that the *alternative* fund is a registered pension fund in terms of the Pension Fund Act ("PFA");

18.2.1.3 a pension exemption application form duly completed by the broker of the *alternative* pension fund;

18.2.1.4 the extent of monthly contribution of each member towards the *alternative* pension fund and proof that the contribution of both the Employer and Employee are made.

18.3 Appeals

18.3.1 In accordance with the provisions of the Labour Relations Act, 1995 the Council hereby establishes an independent body, to be known as the Exemptions Appeal Body to consider appeals from both a party or non-party against a refusal of a party or non-party's application for exemption from the provisions of this Agreement and the withdrawal of such exemption by the Council.

18.3.2 An Applicant may lodge an appeal with the Council against the Exemption Committee's refusal for exemption or the withdrawal of exemption, which appeal shall be lodged within 14 (fourteen) calendar days of the Applicant

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being notified in writing of the exemption being refused or being withdrawn, as the case may be.

18.3.3 The Exemptions Committee shall hear, decide and inform the applicant and the Council as soon as possible and not later than 30 days after the appeal has been lodged against the decision of the exemptions body.

18.3.4 Any appeal shall be in writing and shall contain the following:-

18.3.4.1 grounds of appeal;

18.3.4.2 all supporting documentation which will be used in support of the appeal;

18.3.4.3 any other relevant information or documentation that may assist the Exemption Appeal Board to arrive at a conclusion.

18.3.5 Any appeal may be amplified by oral argument.

18.3.6 The criteria for the consideration of an appeal will be the criteria as set forth in clause 18.1.8 above.

18.3.7 The Exemption Appeal Body's finding on appeal shall be in writing and shall be made available to the Applicant.

18.3.8 The Exemption Appeal Body shall consist of at least 1 (one) Commissioner accredited in accordance with the provisions of section 128 of the Labour Relations Act, 1995 from the panel approved by the Council from time to time.

18.4 The granting of exemption or withdrawal thereof

18.4.1 When exemption is granted by the Exemption Committee or, on appeal by the Exemption Appeal Board, such exemption shall expressly specify:-

18.4.1.1 any conditions subject to which the exemption is granted;

18.4.1.2 the period during which the exemption is to operate;

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- 18.4.1.3 the circumstances, if any, in which the exemption may be withdrawn.
- 18.4.2 The CEO shall furnish the Applicant, should exemption be granted in favour of such Applicant, with a letter of exemption recording the:-
- 18.4.2.1 full name of the person/s in whose favour exemption is granted;
- 18.4.2.2 provisions of this Agreement from which exemption are granted;
- 18.4.2.3 conditions subject to which exemption is granted;
- 18.4.2.4 period during which exemption is to operate;
- 18.4.2.5 circumstances in which it may be withdrawn, if any.
- 18.4.3 Should circumstances dictate and permit, the Council may withdraw the exemption granted, the CEO of the Council shall notify the Applicant thereof, by furnishing it with at least 7 (seven) days' notice.
- 18.4.4 The Applicant may appeal the resolution by the Council to withdraw the exemption granted in accordance with the provisions of clause 18.4.3 above.

19. PAYMENT, CALCULATION OF BASIC SALARY OR WAGES AND AUTHORISED DEDUCTIONS

- 19.1 An Employer shall pay to an Employee a Basic salary or wages not less than the applicable prescribed Basic salary or Wages set forth in annexure "H", as amended from time to time.
- 19.2 Unless the contrary is expressly authorised in this Main Collective Agreement, nothing in this clause 19 shall operate to permit a reduction in the Remuneration or Basic Salary or Wages of an Employee who was receiving, at the date of coming into operation of this Agreement, a Remuneration of Basic Salary or Wage whilst such Employee remains in the employ of the same Employer.

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- 19.3 The provisions of clause 19.2 above shall apply to any Employee whose services are terminated by his or her Employer after the date of coming into the operation of this Agreement and who is re-employed by the same Employer within a period of 12. (twelve) months after such Employee's services were terminated.
- 19.4 Any remuneration or Basic salary or wages may be paid to an Employee, either weekly or monthly, as may have been agreed between the Employer and Employee. Should an Employee's services be terminated, for whatsoever reason, prior to the agreed date upon which any remuneration or Basic salary or wages are payable, the remuneration or Basic salary or wages shall be paid by the Employer within 7 (seven) days of the date of termination of the Employee's services.
- 19.5 If payment of the Employee's remuneration or Basic salary or wages is not paid by means of direct deposit or electronic funds transfer, to the bank account of the Employee, the remuneration or Basic salary or wages shall be paid in cash and be placed in a sealed envelope. The Employee shall acknowledge receipt in writing of the cash so received.
- 19.6 Should the Employee's remuneration or Basic salary or wages be paid in cash, payment shall take place at such place where the Employee is actually engaged or employed.
- 19.7 The Employer shall on the date of payment of the remuneration or Basic salary or wages to the Employee, furnish the Employee with a salary advice or written document reflecting the following:
- 19.7.1 the Employer's name and address;
 - 19.7.2 the full names and occupation of the Employee;
 - 19.7.3 the period for which the payment is made;
 - 19.7.4 the Employee's remuneration or Basic salary or wages in money;
 - 19.7.5 the amount and purpose of any deduction made from the Employee's remuneration or Basic salary or wages;

- 19.7.6 the actual amount paid to the Employee; and
- 19.7.7 if relevant to the calculation of that Employee's remuneration or Basic salary or wages: –
- 19.7.7.1 the Employee's rate of remuneration or Basic salary or wages and commission and overtime rate;
- 19.7.7.2 the number of ordinary and overtime hours worked by the Employee during the period for which the payment is made;
- 19.7.7.3 the number of hours worked by the Employee on a public holiday during that period.
- 19.8 The salary advice or written information mentioned in terms of clause 19.7 above shall be given to each Employee-
- 19.8.1 at the workplace or at such place agreed to by the Employee; and
- 19.8.2 during the Employee's ordinary working hours or within 15 (fifteen) minutes of the commencement or conclusion of those hours.
- 19.9 An Employer may not make any deduction from an Employee's remuneration or Basic salary or wages unless the deduction-
- 19.9.1 is required or permitted in terms of law, court order, arbitration award or in terms of this Agreement; and / or;
- 19.9.2 is in respect of subscriptions and levies to a union and / or;
- 19.9.3 is in respect of contributions to any benefit fund in terms of this Agreement; and / or;
- 19.9.4 is done in accordance with the provisions of clause 19.10 below; and/ or;

- 19.9.5 the Employee agrees to the deduction in writing
- 19.10 An Employer may deduct such amount from any amount payable to an Employee to reimburse the Employer against any loss or damage suffered or sustained subject to:
- 19.10.1 the loss or damage occurred in the normal course of the Employee's employment with the Employer and was due to an act or omission of the Employee;
- 19.10.2 the Employer followed a fair procedure and gave the Employee a reasonable opportunity to advance reasons as to why the deductions should not be made;
- 19.10.3 the total amount deducted does not exceed the actual amount of the loss or damage; and
- 19.10.4 the total deductions from the Employee's remuneration or Basic Salary or wages does not exceed one-quarter of the Employee's monthly remuneration or Basic salary or wages.
- 19.11 A deduction in respect of any goods purchased by the Employee shall specify the nature and quantity of the goods.
- 19.12 Any amount deducted from the Employee's Remuneration or Basic Salary of Wages in terms of clause 19.9 above, shall be paid to the beneficiary in whose favour the deduction has been made, in accordance with the time period and other requirements specified in any law, Court order, arbitration award or in terms of this Agreement. All statutory deductions that do not form part of this Main Collective Agreement such as PAYE and UIF shall be calculated on the actual Remuneration received by the Employee. All other deductions to be made in terms of this Main Collective Agreement shall be calculated on the Basic Salary or Wage as prescribed by this Agreement, unless otherwise

indicated by an agreement entered into by and between the Employer and Employee or any other legislation.

19.13 An Employer may not require or permit an Employee to-

19.13.1 repay any remuneration or Basic salary or wages except for overpayments previously made by the Employer resulting from an error in calculating the Employee's remuneration or Basic salary or wages; or

19.13.2 acknowledge receipt of an amount greater than the remuneration or Basic salary or wages actually received.

19.14 For the purposes of clause 19.15 below, "benefit fund" shall be a pension, provident, retirement, medical aid, SPF, SBF or a similar fund, as the case may be. The contributions to the benefit fund will be those as set forth in this Agreement.

19.15 Payment of contributions to a benefit fund shall be as follows:

19.15.1 any deduction made by an Employer from an Employee's remuneration or Basic salary or wages for purposes of payment to a benefit fund shall pay the amount so deducted to the benefit fund within seven days of the deduction being made.

19.15.2 any contribution that an Employer is required to make to a benefit fund on behalf of any Employee (other than that which is deducted from the Employee's remuneration or Basic salary or wages), shall be paid by the Employer to the benefit fund within seven days from the date upon which the Employee's remuneration or Basic salary or wages becomes due;

19.16 The time periods specified in this clause 19 shall not affect or deteriorate from any obligation on an Employer in terms of the rules of a benefit fund to make any payment within a shorter period of time.

19.17 Remuneration or Basic salary or wages which is payable monthly shall be paid by no later than 12H00 on the last working day of that month.

19.18 Payment of remuneration or Basic salary or wages for learners and students, as specified in the Remuneration/Basic Salary/Wage Schedules, shall be as follows:

19.18.1 a learner or student who has entered into a learnership or student contract with an Employer and has passed the theoretical, Practical and workplace component, of his / her training at an accredited Training Provider, shall start on the remuneration or Basic salary or wages as specified for Entry level on the Remuneration/Basic Salary/Wage Schedules and the remuneration/Basic salary or wage shall increase to the next level only when a statement of results from the service provider indicating the credits earned for that specific level, for example:-

19.18.1.1 a learner or Student who has entered into a learnership or Student contract with an Employer on a Part time basis with an accredited Training Provider prior to entering into a learnership or Student contract shall start on the remuneration or Basic salary or wages as specified for Entry level on the Remuneration/Basic Salary/Wage Schedules. Should the learner or Student pass any subsequent level, his / her remuneration or Basic salary or wages shall increase to the level passed as specified on the Remuneration/Basic Salary/Wage Schedules once a statement of results has been provided to the employer.

19.19 For the purposes of clause 19.18.1 for a Learner or Student to have passed a level, means to have passed both the theory and the practical examination for that level.

19.20 It shall be incumbent on the Learner or Student employed as envisaged in clause 19.18.1 to furnish the Employer with his / her examination results in order to be eligible to move to the next level specified on the Remuneration/Basic Salary/Wage Schedules for purposes of payment of that learner or Student's remuneration or Basic salary or wages.

20. SHORT TIME

- 20.1 An Employer that elects to implement short time must notify in writing all Employees concerned and give at least 1 (one) week notice thereof.
- 20.2 An Employee who is not given the specified notice is entitled to payment of full wages in lieu of notice.
- 20.3 Annual leave shall accrue at the full rate of entitlement during any period that an Employee is required to work short time.
- 20.4 The purposes of this clause 20.4 to clause 20.14 shall be distinguishable from the provisions of clause 20.1 to 20.3 above, in that, for purposes of this clause 20.4 to clause 20.14 "Short Time" shall be defined as the implementation of reduced working time i.e. a lesser number of hours per day or a lesser number of days per week that may be brought about as a result of an Employer being unable to conduct the business activities of an Establishment due to unforeseen circumstances, other than operational requirements within the meaning of section 189 of the Labour Relations Act, 1995.
- 20.5 Only members of the Employers' Organisation i.e. a Party, whose Establishments are duly registered within the meaning of clause 6.1 above and are not disqualified within the meaning of clause 6.4 above, shall be entitled to invoke Short Time.
- 20.6 Should the need arise for an Employer to invoke Short Time, the Employer shall:-
- 20.6.1 furnish the affected Employees and the Trade Union (in so far as the affected Employees are members of the Trade Union) and the Council with 10 (ten) clear calendar days' notice of the intention to invoke Short Time ("the notice period");

- 20.6.2 during the notice period, the Employer shall consult with the Trade Union (through its officials and elected shop stewards) (insofar as Employees are members of the Trade Union) and with Employees who are not members of the Trade Union to, amongst others, discuss the reasons for the Short Time to be invoked, the period of time that the Short Time will be implemented and the effect that the Short Time will have on the working hours of Employees.
- 20.7 During Short Time:-
- 20.7.1 the Employer shall, as far as practically possible, divide work that may be available amongst the Employees that are affected by the Short Time;
- 20.7.2 the Employer shall not be required to pay to the Employees their Basic Salary or Wages, and will only be paid per hour for the time that the Employees actually work;
- 20.7.3 all deductions, excluding subscriptions to the Employers' Organisation and the Trade Union will be paid on a pro-rata basis in respect of time actually worked;
- 20.7.4 an Employer shall furnish the affected Employees and the Trade Union, if applicable, and the Council with 5 (five) clear calendar days' notice of the intention to increase or further reduce working time;
- 20.7.5 whilst not working, the Employee may render services to any other Employer for Remuneration;
- 20.7.6 the affected Employee shall, within 48 (forty-eight) hours after having received notice of the Employer's election to terminate Short Time, return to the workplace to take up their duties.
- 20.8 An Employer shall not be entitled to implement Short Time for a period longer than 6 (six) months unless extraordinary circumstances are present which requires the implementing of Short Time for longer period than 6 (six) months.

- 20.9 In the event of the circumstances causing the Employer to invoke Short Time, be of such nature that it is impossible to furnish the affected Employees and Trade Union (in so far as the affected Employees are members of the Trade Union) with the notice as contemplated in clause 20.6.1, then, in such event, the Employer after having informed the affected Employees and Trade Union (in so far as the affected Employees are members of the Trade Union) of the election to invoke Short Time, may invoke the Short Time with immediate effect ("the Urgent Short Time").
- 20.10 Should the affected Employees that are members of the Trade Union or the Trade Union dispute the necessity to invoke Urgent Short Time ("the dispute"), the dispute shall be escalated to the representatives of respectively the Trade Union and Employers' Organisation in whose area the Establishment is situated ("the representatives").
- 20.11 The representatives shall use their best endeavours, without having to embark on any formal process to resolve the dispute.
- 20.12 In the event of the representatives being unable to resolve the dispute as to whether the circumstances justify Urgent Short Time being implemented, within 72 (seventy-two) hours of the Urgent Short Time being implemented, the dispute shall be escalated by any of the Trade Union or Employers' Organisation to the Council. The Council shall, upon being notified of such dispute, appoint its external legal representative to investigate the dispute adopting any process or proceedings within the sole and absolute discretion of the legal representative, and advise the parties of his or her determination, which will be made within 72 (seventy-two) hours from the dispute being referred to the Council.
- 20.13 The legal representative's determination will be final and binding on the parties.
- 20.14 The process contemplated in clauses 20.9 to 20.13 shall *mutatis mutandis* apply should the affected Employees or Trade Union dispute the Short Time being implemented for a period exceeding 6 (six) months as contemplated in clause 20.8 above.

21. LEAVE

21.1 Annual Leave

21.1.1 Annual leave shall fall due on the first working day after completion of each leave cycle.

21.1.2 An Employer must grant annual leave equal to the number of days the Employee would ordinarily have worked within a two-week period, not later than six months after the annual leave cycle. Should there be any leave days outstanding after this period; it must be paid to the Employee, subject to the provisions of clause 21.1.3 below.

21.1.3 Should the Employee refuse to take annual leave when instructed by the Employer, the leave will be forfeited, six months after the leave cycle.

21.1.4 Annual leave shall be taken:

21.1.4.1 in accordance with an agreement between the Employer and Employee;
or

21.1.4.2 if there is no agreement in terms of 21.1.3.1, at a time determined by the Employer.

21.1.5 An Employer and Employee may not enter into an agreement in terms of which the Employee forfeits leave against payment by the Employer save:

21.1.5.1 on termination of the Employee's employment; and

21.1.5.2 in accordance with sections 40(b) and (c) of the Basic Conditions of Employment Act, 1997.

21.1.6 In the event of an Employee's death, all leave pay accrued to the Employee at that point in time, shall be paid into the Employee's estate.

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21.1.7 An Employer may not require or permit an Employee to work during annual leave.

21.1.8 Annual leave may not run concurrently with notice of termination of employment or sick leave.

21.2 Maternity Leave

21.2.1 No Employer may require or permit any female Employee to work during the period commencing 4 (four) weeks prior to the expected date of birth and ending 13 (thirteen) weeks after the date of birth ("*maternity leave*").

21.2.2 An Employer shall: -

21.2.2.1 not be obliged to pay an Employee during maternity leave;

21.2.2.2 be obliged to allow an Employee to resume her employment if she reports for duty no later than 13 weeks after the date of birth.

21.2.3 Notwithstanding the aforesaid, no Employee may resume her employment, prior to a 6 (six) week period after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.

21.3 Union leave.

21.3.1. As per each Area below.

22. PERSONAL SERVICES COMMISSION ("PSC")

22.1 For purposes of this clause 22 and elsewhere in this Agreement where it is necessary to calculate PSC (leave pay or notice pay or severance pay), PSC will be calculated on the basis of:

22.1.1 the average monthly Target Based Commission, calculated over the preceding 12 (twelve) month period as at the date when the calculation is

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applicable (or pro-rata part thereof should the Employee be employed for less than a 12 (twelve) month period); multiplied by

- 22.1.2 the percentage PSC as agreed upon between the Parties to this Agreement i.e., Employers' Organisation and Trade Union; divided by
- 22.1.3 21.67 (twenty-one point six seven) in the event of a 5 (five) day working week or, 26 (twenty-six) in the event of a 6 (six) day working week; multiplied by
- 22.1.4 the number of days annual leave, or notice days in lieu of notice pay or severance pay, payable.
- 22.2 The sum total of the PSC calculated in clause 22.1 above will not be payable in respect of leave taken should:
- 22.2.1 the leave constitutes occasional leave and the normal payment to be made by the Employer to the Employee for the pay month in respect of which the occasional leave is taken, is more than the payment to be made should the aforesaid calculation be applied. For purposes of this clause "pay month" shall be interpreted as the monthly cycle in respect of which an Employee is entitled to receive payment from an Employer, irrespective whether this monthly cycle corresponds with calendar months;
- 22.2.2 the period of leave taken exceeds the statutory leave to which an Employee is entitled to in any 12 (twelve) month cycle of continued employment;
- 22.3 In the absence of any agreement between the Employer and Employee that neither party have to pay notice pay to the other, notice pay in terms of this clause 22 will be payable:
- 22.3.1 by an Employer to an Employee, if the Employee's employment is terminated and the Employer elects that the Employee should not work any notice period; or

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22.3.2 by an Employee to an Employer, if the Employee's employment is terminated and the Employee elects not to work any notice period. The Employer in such event may deduct the notice pay from any monies payable to the Employee.

22.4 The number of days for purposes of calculating:

22.4.1 notice pay, will be limited to those set forth in clause 23 below. For purpose of this calculation week shall be 5 (five) days for Employees working a 5 (five) day week and 6 (six) days for Employees working a 6 (six) day week;

22.4.2 severance pay, will be limited to those set forth in clause 37 of each Area.

22.5 Should Target Base commission earned by the Employee during a pay month when annual leave is taken, be more or equal to the average commission earned by the Employee during the preceding 12 pay months, no PSC shall be payable by the Employer to the Employee. For purposes of this clause "pay month" shall be defined as the normal interval as from the date upon which the last Commission is received until date when the next Commission is payable.

22.6 Examples of the calculation set forth in clause 22.1 above, are reflected in annexure "E" hereto.

23. TERMINATION OF SERVICE

23.1 An Employer or Employee, other than a Casual Employee, who wishes to terminate the Employee's employment with the Employer, shall be obliged to only give the following period of notice:

23.1.1 1 (one) calendar days' notice should termination occur during the 1st (first) month of employment;

23.1.2 1 (one) week if the Employee has been employed for a period exceeding 1 (one) month but less than 6 (six) months;

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23.1.3 2 (two) weeks' notice, if the Employee has been employed for a period exceeding 6 (six) months.

23.2 An Employer may waive the notice period by paying to the Employee in lieu of notice not less than:

23.2.1 1 (one) calendar day's remuneration or Basic salary or wages if the Employee has been employed for a period of 1 (one) month or less;

23.2.2 1 (one) week remuneration or Basic salary or wages if the Employee has been employed for a period exceeding 1 (one) month but not more than 6 (six) months;

23.2.3 2 (two) weeks remuneration or Basic salary or wages if the Employee has been employed for a period exceeding 6 (six) months; or

23.2.4 in the event of an Employee employed on a commission structure notice pay will, in terms of clause 23.2, be calculated as follows:

23.2.4.1 in accordance with the Remuneration/Basic Salary/Wage Schedule for that area, if applicable; plus

23.2.4.2 PSC, calculated in accordance with clause 22.

23.3 An Employee may terminate his / her employment without written notice by paying to the Employer, in lieu of notice, not less than:

23.3.1 1 (one) calendar days' remuneration or Basic salary or wages if the Employee has been employed for a period of 1 (one) month or less;

23.3.2 1 (one) week remuneration or Basic salary or wages if the Employee has been employed for a period longer than 1 (one) month but not exceeding 6 (six) months;

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23.3.3 2 (two) weeks remuneration or Basic salary or wages if the Employee has been employed for more than 6 (six) months.

23.4 Nothing contained in this clause 23 shall affect:

23.4.1 the right of the Employer or Employee to terminate the employment without notice for any cause recognised by law as sufficient;

23.4.2 the right of an Employee to claim that he has been unfairly dismissed.

23.5 An Employer may not terminate the services of an Employee during the Employee's temporary absence from work due to illness provided that:

23.5.1 the Employer was notified on the first occasion reasonable possible of the Employee falling ill; and

23.5.2 a medical certificate explaining the reason for the absence from work is presented to the Employer on the 1st (first) occasion reasonable possible of the Employee falling ill, but no later than on the Employee's return to work.

23.6 The notice period may not run concurrently with, and shall not be given during, an Employee's temporary absence due to annual leave, or maternity leave.

24. CERTIFICATE OF SERVICE

24.1 On termination of employment an Employee shall be entitled to a Certificate of Service substantially in the form of annexure "F" hereto.

25. PROHIBITION OF PRIVATE WORK

25.1 An Employee, whilst in the employ of an Employer engaged in the rendering of Cosmetology services, excluding Part time Employees, shall not:-

25.1.1 solicit clients or render or undertake to render any Cosmetology services other than instructed by his / her Employer;

25.1.2 be directly or indirectly involved in any way or manner whatsoever in any Establishment without the written permission of the Employer.

26. PROVISION OF EQUIPMENT

26.1 Save for the equipment recorded in clause 26.2 below, an Employer of an Establishment shall provide all necessary fittings to create an environment to effectively render Cosmetology services in an Establishment.

26.2 Each Employee shall provide his or her own equipment to render the Cosmetology services, including but not limited to:-

- 26.2.1 Curling tongs;
- 26.2.2 Flat irons;
- 26.2.3 Scissors;
- 26.2.4 Combs;
- 26.2.5 Hand dryers;
- 26.2.6 Clippers;
- 26.2.7 Blow dryers;
- 26.2.8 Rollers;
- 26.2.9 Pins;
- 26.2.10 Hairclips;
- 26.2.11 Razors;
- 26.2.12 Blades;
- 26.2.13 Neck brushes;

- 26.2.14 Additional Protective garments;
- 26.2.15 Highlight caps and strop;
- 26.3 Should only Barbering services be rendered in an Establishment:-
- 26.3.1 an Employer must provide each Barber with at least:
- 26.3.1.1 1 (one) sterilizing unit containing a solution of at least 40% (forty percent) formalin for the necessary purpose of sterilizing barbering tools, other than shaving brushes; and
- 26.3.1.2 a sterilizing cabinet operation with ultraviolet rays for the same purposes; and
- 26.3.1.3 an antiseptic bath containing a solution equivalent to that of formalin in the ration of 56 (fifty-six) ml to 2,25 (two and a quarter) litres of water for the purpose of sterilizing shaving brushes; and
- 26.3.1.4 a freshly laundered towel for the use of the Barber with each customer, and;
- 26.3.1.5 a liquid, powdered or tube soap or shaving cream, and;
- 26.3.1.6 a supply of clean paper to wipe the tools and in particular the razor after each stropping operation; and;
- 26.3.1.7 a styptic in the form of powder or liquid to be used as a spray or on a fresh clean piece of cotton wool, and
- 26.3.1.8 a covered receptacle for the purpose of receiving all soiled paper and cotton wool and hair after each operation;
- 26.4 A Barber shall provide his or her own:
- 26.4.1 2 (two) shaving brushes so as to allow for one brush, not in use, to be kept in the antiseptic bath; and

- 26.4.2 Razors;
- 26.4.3 Blades;
- 26.4.4 Neck brushes;
- 26.4.5 Scissors;
- 26.4.6 Combs;
- 26.4.7 Clippers;
- 26.4.8 Additional Protective garment, and
- 26.4.9 Strop

27. UNIFORMS AND PROTECTIVE CLOTHING

- 27.1 An Employer shall provide protective garments in an Establishment.
- 27.2 The costs of any uniforms supplied to Employees shall be borne in equal shares by the Employer on the one side and the Employee on the other side and be returned on the Employee's services with the Employer being terminated for whatsoever reason.

28. LEANERSHIP AND STUDENT CONTRACTS

- 28.1 An Employer may not employ a person as a Learner or Learner hairdresser (also known as an apprentice) unless a learnership contract registered with SSETA or a Student in terms of a student agreement registered with the Council and approved by the Council, has been entered into.
- 28.2 A learnership contract or student agreement shall be:

- 28.2.1 in writing and signed personally by the learner or student and his/her legal guardian in the event of the learner / student being a minor, the Employer and by the Training Provider;
- 28.2.2 concluded within 90 (ninety) days after the date of commencement of employment;
- 28.2.3 in accordance with the learnership contract prescribed by SSETA or student agreement prescribed by the Council, the latter of which is annexed hereto as annexure "G".
- 28.3 An Employer shall not, directly or indirectly, in any way or manner, receive any counter value of whatsoever nature, from a learner or student, for entering into a learnership contract or student agreement with a learner or student.
- 28.4 The Student shall, on an annual basis, pay a prescribed fee to the Council for purposes of administering the relationship between City and Guilds and the Student.
- 28.5 Learners and Students shall be compelled to become and remain members of the Sick Pay Fund, but shall be exempt from becoming members of the Pension Fund contemplated in clause 29 below and to contribute to the payment of a Council levy, until such time that the Learner / Student entered a Level 4 or has been engaged as a Learner / Student for a period of 30 (thirty) months, whichever happens first in time. For purposes of this clause 28.5 "engaged" shall mean the relationship between the learner / student and his or her employer by virtue of either a learnership contract or student contract being entered into, which contract will not be deemed to be an employment agreement between the learner / student and his or her employer. The exemption contemplated in this clause 28.5, shall not be applicable to any other category of trainees.
- 28.6 All Learners/ Students shall be registered with the Council and the expenses relating to benefits indicated in this Agreement, shall be deducted by Employers.

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- 28.7 An Employer shall be obliged to afford a Learner or Student time off to attend the courses that a Learner or Student is obliged to attend at a Training Provider as determined by the Learnership contract or Student Agreement, entered into with the Employer. The time that the Learner or Student spends at the Training Provider shall form part of the Learner or Student's normal working hours.
- 28.8 A Learner shall only be entitled to the allowances contemplated in schedule 2 of the NMWA if such a Learner has concluded a learnership agreement as postulated in section 17 of the Skills Development Act, Act 97 of 1998 i.e. a learnership agreement:-
- 28.8.1 entered into by and between the Learner, an Employer and an accredited Training Provider; and
- 28.8.2 which agreement is in the prescribed form and is registered in the prescribed manner.
- 28.9 Should a Learner conclude a learnership agreement in terms of section 17 of the Skills Development Act, Act 97 of 1998, the allowances postulated in schedule 2 to the NMWA will be used for purposes of calculating any compulsory contributions to be made in terms of this Main Collective Agreement.
- 29. PENSION FUND**
- 29.1 **Establishment of the fund**
- 29.1.1 The Pension Fund, known as the Hairdressing, Cosmetology, Beauty and Skincare Industry Pension Fund (hereinafter referred to as "*the Fund*") is the successor in the title of the following funds:
- 29.1.1.1 Hairdressing and Cosmetology Industry Provident Fund;
- 29.1.1.2 Natal Hairdressing Scheme;

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29.1.1.3 Hairdressing, Cosmetology, Beauty and Skincare Industry Fund;

29.1.1.4 Bargaining Council for the Hairdressing Trade, Cape Peninsula Provident Fund;

29.2 Contributions to the Fund

29.2.1 A member of the Fund shall make a monthly contribution to the Fund (*"the Member's contribution"*) equal to the percentage of his/her Basic salary and wages as set forth in annexure "H" hereto.

29.2.2 An Employer shall deduct, on a monthly basis, from the Basic salary and wages of each Employee, the Member's contribution.

29.2.3 Every Employer shall on a monthly basis contribute to the Fund (*"the Employer's contribution"*) an amount equal to the percentage of each Employee's Basic salary and wages as set forth in annexure "H" hereto.

29.2.4 An Employer shall by no later than the 7th (seventh) day of the month immediately following the month in respect of which the Member's contribution is deducted, pay to the Council, both the Member's contribution and the Employer's contribution and submit, a statement in such a format as prescribed in terms of Section 33 of the Pension Fund Act (*"the PFA"*).

29.2.5 No Member's contributions shall be deducted nor Employer's contributions be payable in respect of any period of time during which an Employee is on unpaid leave or unpaid absent as a result of illness or injury on duty, during which no or insufficient payment is due in that payroll cycle to the Employee by the Employer in terms of any provision of this Agreement or under any law.

29.2.6 If any amount due and payable in terms of this clause 29 or in terms

of any other provision of this Agreement, is not received in full by the Council on due date thereof, the Employer shall be liable to pay interest on the amount due, as defined in Section 13 of the PFA.

- 29.2.7 Contributions received by the Council in terms of this clause 29 shall be paid directly to the Fund.

29.3 Membership

- 29.3.1 Membership of the Fund shall be compulsory for all Employees, excluding Casual Employees, who are employed in the Industry and who are under the age of 60 (sixty) years of age as at the date of commencement of employment.

30. INDEMNITY

- 30.1 Neither the Council nor any of its Employees shall be liable for any debts or liability of the Fund and are indemnified by the Fund against losses or expenses incurred in the *bona fide* execution of their duties.

31. COMMISSION AGREEMENT

- 31.1 As per each Area below.
- 31.2 In all Areas where Commission is paid to an Employee without the Employee receiving a Basic Salary or Wage, either by virtue of a Commission Agreement or by virtue of the provisions of this Main Collective Agreement, then, in such event:-
- 31.2.1 the Commission paid shall include the National Minimum Wage as contemplated in schedule 1 to the NMWA; and
- 31.2.2 should the Commission payable to the Employee be less than the National Minimum Wage, as contemplated in schedule 1 of the NMWA, the Employer shall pay to the Employee a Commission of at least the National Minimum

Wage, irrespective whether Commission equal to the National Minimum Wage is due and payable to the Employee by virtue of the provisions of the Commission Agreement or this Main Collective Agreement.

- 31.3 The provisions of clause 31.2 above shall also include any Retail Commission payable to an Employee i.e. any Retail Commission payable to an Employee will be taken into consideration when payment is made to achieve the National Minimum Wage as contemplated in schedule 1 of the NMWA.

32. HOURS OF WORK

- 32.1 As per each Area below.

33. MEAL INTERVAL

- 33.1 As per each Area below.

34. OVERTIME

- 34.1 As per each Area below.

35. PUBLIC HOLIDAYS

- 35.1 As per each Area below.

36. SICK PAY

- 36.1 The provisions of the Sick Pay Fund ("SPF") rules as set forth in Annexure I, shall apply.

37. SEVERANCE OR RETRENCHMENT PAY

- 37.1 As per each Area below.

38. MEDICAL AID SCHEME AND MEDICAL INSURANCE PLAN

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38.1 As per each Area below.

38.2 As from the 1st of January 2019, no person shall be able to become a member of either the Sick Benefit Fund or the Medical Aid Scheme and Medical Insurance Plan, which Fund and Scheme shall continue for existing members thereof only. Should an existing member of either the Fund or the Scheme, terminate their employment relationship with their current Employer and take up Employment with a new Employer, such member may remain a member of the Fund or Scheme, as the case may be, subject to the current member and the new Employer both agreeing to contribute or already both contributing to either the Fund or the Scheme.

38.3 As from the 1st of January 2020, the Council will cease to facilitate and administer any Medical Aid Scheme and Medical Insurance Plan for the Industry.

39. BEAUTY AND SKINCARE

39.1 All of the definitions and terms and conditions relating to Beauty and Skincare, set forth in this Agreement, relating to and enforceable in the Republic of South Africa, shall be the same as those definitions and terms and conditions relating to Beauty and Skincare in Area B, excluding the following provinces and magisterial districts, being: the Province of Gauteng, the Province of Free State and the Magisterial Districts of Klerksdorp, Potchefstroom, Kimberley, East London, Humansdorp, Port Alfred, Port Elizabeth and Uitenhage, the Magisterial District of Durban, Inanda and Pinetown.

THE TERMS AND CONDITIONS WHICH ARE AREA SPECIFIC ARE SET FORTH HEREIN BELOW. IN SO FAR AS THERE MAY BE ANY CONFLICT BETWEEN THE PROVISIONS OF THIS AGREEMENT THAT ARE APPLICABLE ON A NATIONAL BASIS I.E. THE TERMS AND CONDITIONS RECORDED ABOVE, AND THOSE THAT MAY BE APPLICABLE TO A SPECIFIC AREA, RECORDED BELOW, THE PROVISIONS WHICH ARE AREA SPECIFIC, SHALL PREVAIL.

AREA A

The Province of Gauteng (excluding the Magisterial Districts of Bronkhorstspuit, Cullinan, Pretoria and Wonderboom), Province of Free State and the Magisterial Districts of Kimberley, East London, Humansdorp, Port Alfred, Port Elizabeth and Uitenhage, the balance of all the Magisterial Districts of the Eastern Cape Province, balance of all the Magisterial Districts of the Northern Cape Province and all the Magisterial Districts of the North West Province (excluding the Magisterial Districts of Brits, Rustenburg and Mankwe)

1. SCOPE OF APPLICATION OF THE AGREEMENT

1.1 The provisions of the National Agreement above, applies.

2. PERIOD OF OPERATION

2.1 The provisions of the National Agreement above, applies.

3. INDUSTRIAL ACTION

3.1 The provisions of the National Agreement, applies.

4. DEFINITIONS

Save for the definition of a Part Time Employee and the provisions relating thereto, as set forth below, the balance of the definitions of the National Agreement above, applies.

Part time employees

4.1 The working hours of part-time Employees shall be as follows:

4.1.1 a part-time Employee employed for 1 (one) day per week may not be employed for more than 9 (nine) hours per day;

- 4.1.2 a part-time Employee employed for 2 (two) days per week may not be employed for more than 9 (nine) hours per day and not more than 18 (eighteen) hours per week;
- 4.1.3 a part-time Employee employed for 3 (three) days per week may not be employed for more than 9 (nine) hours per day and not more than 27 (twenty-seven) hours per week.
- 4.2 The daily rate of remuneration shall be calculated on the basis that part-time Employees employed for 1 (one) day per week shall receive the prescribed Basic salary and wages divided by 26 (twenty-six) which shall constitute the daily rate.
- 4.3 For purposes of this clause 4 where annual leave is referred to in Area A, "Annual leave cycle", means a period of 12 (twelve) months employment with the same Employer, immediately following an Employee's commencement of employment or the completion of that Employee's prior annual leave cycle.
- 4.4 The leave of part-time Employees shall be as follows:
- 4.4.1 a part-time Employee shall be entitled to 1 (one) working day's leave for every 17 (seventeen) days worked;
- 4.4.2 a part-time Employee employed for 1 (one) day per week shall be entitled to 3 (three) working days' leave per 12 (twelve) month cycle;
- 4.4.3 A part-time Employee employed for 2 (two) days per week shall be entitled to 6 (six) working days' leave per 12 (twelve) month cycle;
- 4.4.4 A part-time Employee employed for 3 (three) days per week shall be entitled to 9 (nine) working days' leave per 12 (twelve) month cycle;
- 4.5 A part-time Employee who has completed 5 (five) continuous years of service with the same Employer, shall be entitled to the leave as follows:

- 4.5.1 if employed for 1 (one) day per week; 4 (four) working days per Annual leave cycle;
- 4.5.2 if employed for 2 (two) days per week, 8 (eight) working days per Annual leave cycle;
- 4.5.3 if employed for 3 (three) days per week; 12 (twelve) working days per Annual leave cycle.

4.6 The provisions of the SPF rules shall apply to sick pay payment to Part-time Employees in this Area.

5. REGISTRATION OF AN ESTABLISHMENT

5.1 The provisions of the National Agreement above, applies.

6. APPLICATION FOR REGISTRATION OF ESTABLISHMENT

6.1 The provisions of the National Agreement above, applies.

7. RELATIONSHIP BETWEEN EMPLOYER, EMPLOYEE AND COUNCIL

7.1 The provisions of the National Agreement above, applies.

8. KEEPING OF RECORDS BY EMPLOYER

8.1 Every Employer shall be obliged to record the time of commencement and termination of each meal break or of the day off in lieu of a meal break.

9. ADMINISTRATION AND ENFORCEMENT OF THIS AGREEMENT

9.1 The provisions of the National Agreement above, applies.

10. ENFORCEMENT OF COLLECTIVE AGREEMENTS

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10.1 The provisions of the National Agreement above, applies.

11. DESIGNATED AGENTS

11.1 The provisions of the National Agreement above, applies.

12. CO-OPERATION WITH DESIGNATED AGENTS

12.1 The provisions of the National Agreement above, applies.

13. PROCEDURES FOR DISPUTES, INCLUDING PRE-DISMISSAL ARBITRATIONS

13.1 The provisions of the National Agreement above, applies.

14. STRIKES AND LOCK-OUTS

14.1 The provisions of the National Agreement above, applies.

15. EXPENSES OF THE COUNCIL AND SUBSCRIPTIONS TO THE EMPLOYERS' ORGANISATION AND UNION

15.1 For the purposes of defraying the expenses of the Council, every Employer shall be obliged to deduct from the earnings of each Employee those deductions reflected in the appropriate column of the Contribution Schedule attached hereto, and to be read as if incorporated herein.

15.2 In addition to the deductions recorded in clause 15.1 above, the Employer shall:

15.2.1 pay the basic Establishment charge for each Establishment owned or operated by an Employer indicated in the Contribution Schedule;

15.2.2 pay the contribution payable by the Employer per Employee indicated in the appropriate column of the Contribution Schedule;

15.3 Should the total of the amounts specified in clauses 15.1 and 15.2, be less than the total minimum charge specified in the Contribution Schedule, the Employer shall pay the total minimum charge specified in the Contribution Schedule.

16. EMPLOYERS' ORGANISATION: MEMBERSHIP FEES

16.1 The provisions of the National Agreement above, applies.

17. TRADE UNION: MEMBERSHIP FEES

17.1 The provisions of the National Agreement above, applies.

18. EXEMPTIONS

18.1 The provisions of the National Agreement above, applies.

19. PAYMENT, CALCULATION OF BASIC SALARY OR WAGE AND AUTHORISED DEDUCTIONS

19.1 Remuneration or Basic Salary or Wages which are payable weekly shall be paid by no later than the close of business on the Friday of each week. If the Friday is a Public Holiday, payment shall be made by no later than the close of business on the preceding Thursday.

19.2 Remuneration or Basic salary or wages shall be calculated as follows:

19.2.1 for purposes of calculating the remuneration or Basic salary or wages of an Employee by time, an Employee shall be deemed ordinarily to work:-

19.2.1.1 45 (forty-five) hours in a week unless the Employee ordinarily works less than 45 (forty-five) hours in a week, in which event it will be calculated on the actual hours worked;

19.2.1.2 9 (nine) hours in a day, or 7.5 (seven and a half) hours in the case of an Employee who works for more than 5 (five) days a week, or the number of hours that an Employee works in a day in terms of an agreement concluded in accordance with section 11 of the Basic Conditions of

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Employment Act, 1997, unless the Employee ordinarily works a lesser number of hours in a day, in which event it will be calculated on the actual hours worked;

- 19.3 An Employee's monthly remuneration shall be four and one-third times the Employee's weekly wage:
- 19.4 The time periods mentioned in clause 19.2 above shall include any time period:
- 19.4.1 prior to the coming into effect of this Agreement;
- 19.4.2 during maternity leave, permitted in terms of this Agreement;
- 19.4.3 during which the Employee's services are terminated and the Employee is re-employed by the same Establishment or Employer, subject to the time period between the termination and re-employment not exceeding 90 (ninety) days.
- 19.5 After an Employee has been in the continuous service with the same Establishment or the same Employer/s:-
- 19.5.1 for a period of 5 (five) consecutive years of service, the Employee shall be entitled thereafter to additional basic salary or wages calculated at the rate of 5% (five percent) of the prescribed monthly basic salary for that category of Employee;
- 19.5.2 for a period of 10 (ten) consecutive years of service, the Employee shall be entitled thereafter to additional basic salary or wages calculated at the rate of 10% (ten percent) of the prescribed monthly basic salary for that category of Employee.
- 19.6 The provisions of clause 19.5 shall not apply to any beauty or skincare category.
- 19.7 Remuneration or Basic salary or wages specified for an Employee, in the schedules to this Agreement, who earns only commission and no Basic

Salary or wages, shall be exclusively for the purpose of calculating public holiday pay, leave pay, sick pay, UIF contributions, and contributions to all funds envisaged in this Agreement.

19.8 The Basic salary or wages payable in respect of this Area, is set forth in annexure "H".

20. SHORT-TIME

20.1 The provisions of the National Agreement above, applies.

21. LEAVE

21.1 Annual Leave

21.1.1 Every Employee except a Casual Employee shall be entitled, after 12 (twelve) consecutive months' service with the same Employer ("leave cycle"), to 3 (three) weeks' leave on full pay. The 3 (three) weeks shall consist of 18 (eighteen) working days.

21.1.2 An Employee who has completed 5 (five) continuous years' service with an Employer, though not necessarily with the same Employer, shall be entitled, on completion of the 5th (fifth) year of employment, to 24 (twenty-four) working days' leave, on full pay.

21.1.3 An Employee who is dismissed by an Employer 3 (three) months prior to the completion of 5 (five) years' continuous service and who is, within 30 (thirty) days after the completion of the 5 (five) year period, re-employed by the same Employer, shall be entitled to the 24 (twenty-four) working days' leave, as envisaged in clause 21.1.2 above.

21.1.4 An Employer must grant annual leave equal to the number of days the Employee would ordinary have worked within a two-week period, not later than six months after the annual leave cycle. Should there be any leave days outstanding after this period, it must be paid to the Employee, subject to the provisions of clause 21.1.5 below.

- 21.1.5 Should the Employee refuse to take annual leave when instructed by the Employer, the leave will be forfeited, six months after the leave cycle.
- 21.1.6 Annual leave shall be taken:-
- 21.1.6.1 In accordance with an agreement between the Employer and Employee;
or
- 21.1.6.2 if there is no agreement in terms of 21.1.6.1 at a time determined by the Employer;
- 21.1.7 An Employer and Employee may not enter into an agreement in terms of which the Employee forfeits leave against payment by the Employer save:
- 21.1.7.1 on termination of the Employee's employment;
- 21.1.7.2 when an Employee's employment is terminated prior to the completion of the leave cycle, the Employee shall be entitled to one 1 (one) day for every 17 (seventeen) days worked when the employment was terminated in respect of each completed week of employment. An Employee shall not be entitled to any leave pay if he / she worked for an Employer for less than 4 (four) weeks; and
- 21.1.7.3 as provided for in clause 21.1.4.
- 21.2 Family Responsibility Leave**
- 21.2.1 An Employer shall be obliged to give the father of a new-born child 3 days paternity leave as per the provisions of the National Agreement above.
- 21.2.2 During each leave cycle, an Employee shall be entitled to 3 (three) days' paid leave, which the Employee shall be entitled to take:
- 21.2.2.1 in terms of 21.2.1 when the Employee's child is born the provisions of the National Agreement above, applies.

21.2.2.2 when the Employee's child is sick.

21.3 Compassionate Leave

21.3.1 An Employer shall grant an Employee, during each leave cycle, a maximum of 6 (six) days' paid leave, which the Employee shall be entitled to take on the death of any of the Employee's immediate family.

21.3.2 Compassionate leave shall commence upon request of the Employee, but not prior to the day of the death and shall end (6) six working days thereafter.

21.3.3 An Employee shall be entitled to full pay whilst being on compassionate leave.

21.3.4 An Employee shall be obliged to present proof, to the reasonable satisfaction of the Employer, indicating the death and/or that the deceased is immediate family. If a dispute arises between the Employer and Employee as to the reasonableness of the proof tendered by the Employee, the CEO of the Council shall act as referee, whose decision shall be final and binding.

21.3.5 An Employer shall be obliged to afford an Employee compassionate leave on the death of any relative of an Employee, who is not immediate family subject to:-

21.3.5.1 in the event of compassionate leave being granted in terms of clause 21.3.5 the Employee shall be entitled to compassionate leave of 1 (one) day; but the Employer shall not be obliged to pay the Employee for that day;

21.3.5.2 an Employee shall be obliged to produce proof to the reasonable satisfaction of the Employer as to the fact of the death and the fact that the deceased is a relative;

- 21.3.5.3 if a dispute arises as to the reasonableness of the proof tendered by the Employee, the CEO of the Council shall act as referee whose decision shall be final and binding;
- 21.3.6 The provisions of clauses 21.3.1 to 21.3.5 shall apply only to Employees who:
- 21.3.6.1 have been in the employ of an Employer for longer than 4 (four) months; and
- 21.3.6.2 worked for at least 4 (four) days a week for that Employer.
- 21.3.7 Subject to clause 21.3.8, an Employer shall pay to an Employee, for a day's family responsibility leave taken in terms of 21.2.1 and 21.2.2 or compassionate leave taken in terms of 21.3.1 to 21.3.5, as follows:-
- 21.3.7.1 the remuneration or Basic salary or wages the Employee would ordinarily would have received for work on that day; and
- 21.3.7.2 payable on the Employee's usual pay day.
- 21.3.8 An Employee may take family responsibility leave in respect of the whole or part of a day.
- 21.3.9 Before paying an Employee for leave in terms of clause 21.2 and 21.3, an Employer may require reasonable proof of an event referred to in clauses 21.2.2 and 21.3.1 for which the leave is required.
- 21.3.10 An Employee's unused entitlement to leave in terms of clauses 21.2 and 21.3 shall lapse at the end of each leave cycle in which it accrues.
- 21.3.11 This Agreement may vary the number of days and the circumstances under which leave is to be granted in terms of clauses 21.2 and 21.3.

21.4 Union Leave

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21.4.1 Subject to reasonable conditions, a trade union representative is entitled to take reasonable time off with pay during working hours:-

21.4.1.1 to perform the functions of a trade union representative; and

21.4.1.2 to be trained in any subject relevant to the performance of the functions of a trade union representative.

22. PERSONAL SERVICES COMMISSION (PSC)

22.1 For purposes of the calculation set forth in clause 22 of the National Agreement above, the undermentioned percentages will be used in Area A, in accordance with the example set forth in annexure "E" hereto, being:

22.1.1 21% (twenty one percent) for the period 1 June 2023 to 31 May 2024 in respect of Parties and in respect of non-parties, on such date as determined by the Minister of Employment and Labour in terms of section 32 of the Act, until the 31st of May 2024;

22.1.2 22% (twenty two percent) for the period 1 June 2024 to 31 May 2025; and

22.1.3 23% (twenty three percent) for the period 1 June 2025 to 31 December 2025.

23. TERMINATION OF SERVICE

23.1 The provisions of the National Agreement above, applies.

24. CERTIFICATE OF SERVICE

24.1 The provisions of the National Agreement above, applies.

25. PROHIBITION OF PRIVATE WORK

25.1 The provisions of the National Agreement above, applies.

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26. PROVISION OF EQUIPMENT

26.1 The provisions of the National Agreement above, applies.

27. UNIFORMS AND PROTECTIVE CLOTHING

27.1 The provisions of the National Agreement above, applies.

28. LEARNERSHIP AND STUDENT CONTRACTS

28.1 The provisions of the National Agreement above, applies.

29. PENSION FUND

29.1 The provisions of the National Agreement above, applies.

30. INDEMNITY

30.1 The provisions of the National Agreement above, applies.

31. COMMISSION AGREEMENTS

31.1 An Employer that is obliged to pay commission, of whatsoever nature, to an Employee by virtue of the provisions of this Agreement or should an Employer and Employee voluntary enter into an agreement in terms of which such commission will be payable, the terms and conditions in respect of which commission will be paid shall be recorded in a written agreement concluded between the Employer and Employee.

31.2 An Employer shall within, 7 (seven) days of being requested to do so, furnish the Council with a copy of the Commission Agreement concluded with any Employee.

31.3 The failure by an Employer and Employee to record the terms and conditions of a Commission Agreement in writing, as stated in clause 31.1 above, shall not deteriorate from the Employer's obligation to pay Commission to the Employee.

31.4 Irrespective whether a Commission Agreement has been reduced to writing, an Employer shall pay the prescribed Commission to a Hairdresser / Hairstylist which will be calculated as follows:-

31.4.1 the Commission shall be calculated on turnover;

31.4.2 for purposes of calculating the turnover:-

31.4.2.1 VAT shall be deducted if the Establishment is registered for VAT; and

31.4.2.2 loyalty card contributions including, but not limited, to SAMBA and Pretorium Trust shall be deducted.

Commission payable to Employees on retail sales shall be calculated in accordance with the terms and conditions of commission agreements relating to retail sales entered into by and between an Employer and Employee, which Commission shall not be less than 5% after deduction of VAT, if applicable.

31.5 In the event of an Employer being unable or failing to produce the necessary documentation that is used to calculate the commission payable to an Employee, any documentation produced by the Employee indicating the commission payable shall constitute *prima facie* proof of the commission payable by the Employer to the Employee, unless the contrary is proven.

31.6 The Commission payable in terms of this clause 31 shall be:

31.6.1 30% (thirty percent) in respect of North-West, Free State, all the Magisterial Districts of the Eastern Cape Province and Kimberley;

31.6.2 40% (forty percent) in respect of the balance of Area A.

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31.7 A Qualified stylist in this Area A, shall not be entitled to any Basic salary or wages in addition to the Commission paid in terms of this clause 31.

31.8 The Basic salary or wages in respect of Hairdresser / Hairstylist Qualified in Area A, shall be used for purposes of calculating PSC, Pension fund contributions, Sick Pay Fund contributions, Notice Pay and Severance Pay, or in the event that exemption is granted in favour of an employer not to pay the Commission in terms of clause 31.6 above, but a different Commission as provided for.

32. HOURS OF WORK

32.1 The ordinary hours of work of an Employee may not exceed 45 (forty-five) hours, or 6 (six) days (including a Sunday), per week.

32.2 An Employee may not be permitted or required to work in excess of 9 (nine) hours per day, for 6 (six) days per week.

32.3 All hours of work of an Employee shall be consecutive, except for meal intervals.

32.4 The hours of work of each day shall be subject to the following -:

32.4.1 each Employee shall be entitled to at least a 30 (thirty)minute meal interval between 10H00 and 14H00;

32.4.2 no Employee may be required or permitted to work for more than a continuous 5 (five) hours period without an uninterrupted meal interval;

32.4.3 periods of work interrupted by an interval of less than 15 (fifteen) minutes shall be deemed to be continuous;

32.5 A Learner or Student shall be entitled to the same time off as any other Employee.

33. MEAL INTERVAL

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33.1 In exchange of the 30 (thirty) minute meal interval each day, an Employer and Employee may agree, at the time of commencement of employment; that the Employee shall be given a day off per week, subject to the following:

33.1.1 If the day off falls on a Public holiday, the Employee shall forfeit it;

33.1.2 If the day off does not fall on a Public holiday, the Employee shall have the benefit of both days;

33.1.3 It may only be agreed upon at the Employee's commencement of employment and no other time during the period of employment.

34. OVERTIME

34.1 An Employee, with the exception of an Employee employed in terms of a commission agreement, may be required to work overtime on not more than 3 (three) days per week and for not more than 10 (ten) hours in any week. Payment for overtime shall be at the rate of 1.5 (time and a half) for the hours worked.

35. PUBLIC HOLIDAYS

35.1 An Employee shall not work on a Public holiday unless both Employer and Employee have consented thereto.

35.2 Should a Public holiday fall on a day on which an Employee would ordinarily work, an Employer shall pay:

35.2.1 to an Employee who does not work on the Public holiday, at least the remuneration or Basic salary or wages that the Employee would ordinarily have received for a normal working day;

35.2.2 an Employee who does work on the Public holiday at least double the amount referred to in clause 35.2.1; or

- 35.2.3 if it is greater, the amount referred to in clause 35.2.1 plus the amount earned by the Employee for the time worked on that day.
- 35.3 If an Employee works on a Public holiday being a day that the Employee would not ordinarily work, the Employer shall pay that Employee an amount equal to:
- 35.3.1 the Employees' ordinary daily remuneration or Basic salary or wage; plus
- 35.3.2 the amount earned by the Employee for the work performed that day, whether calculated by reference to time worked or by any other method.
- 35.4 Any payment to be made by the Employer to the Employee in terms of this clause 35, shall be made on the Employee's usual pay day.
- 35.5 If a shift worked by an Employee falls on both a Public holiday and an ordinary work day, the whole shift shall be deemed to have been worked on the Public holiday notwithstanding the aforesaid and should the greater portion of the shift that was worked on the ordinary work day, the whole shift shall be deemed to have been worked on the ordinary work day.
- 35.6 In terms of section 2(2) of the Public Holidays Act, 1994 (Act No. 36 of 1994) as amended, a Public holiday is exchangeable for any other day which is fixed by agreement or agreed to between the Employer and the Employee.

36. SICK PAY

- 36.1 The provisions of the SPF rules shall apply in this Area.

37. SEVERANCE OR RETRENCHMENT PAY

- 37.1 An Employer that terminates the services of one or more Employees as a result of operational requirements shall be obliged to pay each Employee the following remuneration or Basic salary or wages in lieu of severance pay:

- 37.1.1 1 (one) day's remuneration or Basic salary or wages if the Employee has been employed for a period of 1 (one) month or less;
- 37.1.2 6 (six) days' remuneration or Basic salary or wages for each completed year of service or part thereof for an Employee who has been employed for a period less than 5 (five) consecutive years;
- 37.1.3 7 (seven) days' remuneration or Basic salary or wages for each completed year of service or part thereof for an Employee who has been employed for more than 5 (five) but less than 10 (ten) consecutive years;
- 37.1.4 8 (eight) days' remuneration or Basic salary or wages for each completed year of service or part thereof for an Employee who has been employed for 10 (ten) consecutive years or more;
- 37.1.5 in the event of an Employee who is employed on a commission-only structure, severance or retrenchment pay, in terms of clause 22 above, shall be calculated;
- 37.1.5.1 in accordance with the Remuneration/Basic Salary/Wage Schedules for that Area; plus
- 37.1.5.2 the following percentages of their Average PSC (Personal Services Commission) earned in the past 12 months, being:
- 37.1.5.2.1 21% (twenty one percent) for the period 1 June 2023 to 31 May 2024 in respect of Parties and in respect of non-parties, on such date as determined by the Minister of Employment and Labour in terms of section 32 of the Act, until the 31st of May 2024;
- 37.1.5.2.2 22% (twenty two percent) for the period 1 June 2024 to 31 May 2025;
- and
- 37.1.5.2.3 23% (twenty three percent) for the period 1 June 2025 to 31 December 2025.

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37.2 An example of the calculation envisaged in this clause 37 is reflected in annexure "E".

38. MEDICAL AID SCHEME AND MEDICAL INSURANCE PLAN

38.1 No medical aid or scheme applies in this area.

AREA B

The Magisterial Districts of Cullinan, Pretoria, Wonderboom, Bronkhorstspuit, Rustenburg, Brits, Mankwe and the Limpopo and Mpumalanga Provinces.

1. SCOPE OF APPLICATION OF THE AGREEMENT

1.1 The provisions of the National Agreement above, applies.

2. PERIOD OF OPERATION

2.1 The provisions of the National Agreement above, applies.

3. INDUSTRIAL ACTION

3.1 The provisions of the National Agreement above, applies.

4. DEFINITIONS

Save for the definition of a "Part Time Employee" and the provisions relating thereto, as set forth below, the balance of the definitions of the National Agreement above, applies.

4.1 Part time employees

"Part Time Employee" means an Employee employed for not more than 9 (nine) ordinary working hours per day, but more than 20 (twenty) hours per month and not more than 25 (twenty-five) ordinary working hours over a period of 4 (four) days per week.