

DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 2571

7 October 2022

LABOUR RELATIONS ACT, 1995

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL: EXTENSION OF
THE DISPUTE RESOLUTION COLLECTIVE AGREEMENT TO NON-PARTIES**

I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(2) read with section 32(5) of the Labour Relations Act, 1995, declare that the collective agreement which appears in the Schedule hereto, which was concluded in the **Metal and Engineering Industries Bargaining Council** 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 March 2025.



MR. TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR

DATE: 28/09/2022

ANNEXURE A
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**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL
DISPUTE RESOLUTION AGREEMENT**

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SCHEDULE

**METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL
DISPUTE RESOLUTION AGREEMENT**

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

- Association of Electric Cable Manufacturers of South Africa;
- Cape Engineers' and Founders' Association;
- Constructional Engineering Association (South Africa);
- Consolidated Employer's Organisation;
- Eastern Cape Engineering and Allied Industries Association (ECEAIA);
- Electrical Engineering and Allied Industries' Association;
- Electrical Manufacturers Association of South Africa;
- Federated Employers Organisation of South Africa (FEOSA);
- Gate and Fence Association;
- Hand-Tool Manufacturers' Association (HATMA);
- Iron and Steel Producers' Association of South Africa;
- KwaZulu Natal Engineering Industries' Association;
- Lift Engineering Association of South Africa;
- Light Engineering Industries' Association of South Africa;
- National Employers' Association of South Africa (NEASA);
- Non-Ferrous Metal Industries' Association of South Africa;
- Plastics Convertors Association of South Africa (PCASA);
- Refrigeration and Air-Conditioning Manufacturers' and Suppliers' Association;
- South African Electro-Plating Industries Association;
- South African Engineers' and Founders' Association;
- South African Refrigeration and Air-Conditioning Contractors' Association (SARACCA);
- South African Pump Manufacturers' Association;
- South African Valve and Actuator Manufacturers' Association (SAVAMA);
- South African United Commercial Employers Organisation;

REGISTERED TRADE UNION OR "EMPLOYEE ORGANISATION" PARTY TO THE COUNCIL

- Metal and Electrical Workers' Union of South Africa (MEWUSA).
- Solidariteit/Solidarity;

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UASA-The Union;
 National Union of Metalworkers' of South Africa (NUMSA);
 South African Equity Workers' Association (SAEWA);

1. SCOPE OF APPLICATION OF AGREEMENT

(1) The terms of this Agreement shall be observed by employers and employees in the Iron, Steel, Engineering and Metallurgical Industry as defined hereunder, in the Republic of South Africa

"Iron, Steel, Engineering and Metallurgical Industries" means

- (a) the production of iron and/or steel;
- (b) the production of alloys and/or the processing and/or recovery and/or refining of metals (other than precious metals) and/or alloys from dross and/or scrap and/or residues
- (c) the general engineering and manufacturing engineering and metallurgical industries
- (d) the building and/or alteration and/or repair of boats and/or ships, including the scraping, chipping or scaling and/or painting of their hulls, and general woodwork undertaken in connection with ship repairs ;
- (e) the electrical engineering industry;
- (f) the lift and escalator industry ;
- (g) the plastics industry and
- (h) The iron, steel and metallurgical industry as defined in paragraph (a) to (g) above shall include the activities of Temporary Employment Service as defined in the section 198(1) of the Labour Relations Act, 66 of 1995 as amended ("the LRA"), who for reward procure for or provide to a client whose undertaking falls within the registered scope of Metal and Engineering Industries Bargaining Council any persons (employees as defined in section 198(2) of the LRA) to render services or to perform work in such undertaking.

For the purpose hereof-

- (a) **"General Engineering and Manufacturing Engineering and Metallurgical Industries" means** the industries concerned with the maintenance, fabrication, erection or assembly, construction,

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alteration, replacement or repair of any machine, vehicle (other than a motor vehicle) or article consisting mainly of metal (other than a precious metal), or parts or components thereof, and structural metal work, including steel reinforcement work, and the manufacture of metal goods principally from such iron and/or steel and/or other metals (other than precious metals) and/or alloys, and the finishing of metal goods, but does not include the Motor Industry.

"Precious metals" means the precious metals gold, silver, platinum and/or palladium and/or any alloy containing the said precious metals, or any of these in such proportion with any other metals to be the greater part in value of such alloy.

(b) "Electrical Engineering Industry" shall consist of:-

- (i) The manufacture and/or assembly from component parts of electrical equipment in the Republic of South Africa, namely generators, motors, convertors, switch and control gear (including relays, contactors, electrical instruments and equipment associated therewith), electrical lighting, heating, cooking, refrigeration and cooling equipment, transformers, furnace equipment, signalling equipment, radio or electronic equipment, including monitors, and other equipment utilising the principles used in the operation of radio and electronic equipment, the latter equipment to include, but not to be limited to, television, and further, incandescent lamps and electric cables and domestic electrical appliances, and shall also include the manufacture of component parts of the aforementioned equipment.
- (ii) Subject to clause (iii) hereunder, the installation, maintenance, repair and service of the equipment referred to in paragraph (i) above in the Provinces of the Transvaal and Natal; but does not include the activities of electrical contracting industry;
- (iii) The installation, maintenance, repair and service of television sets and monitors within the Republic of South Africa, excluding the installation, maintenance, repair and service in the Province of the Cape of Good Hope, and excluding in respect of the whole of the Republic of South Africa, the installation, maintenance, repair and service of monitors primarily intended for use in accounting and/or data processing and/or business procedures.

(2) "Electrical Contracting Industry" means the design, preparation, (other than manufacture for sale) and erection of electrical installation forming an integral and permanent portion of buildings and the repair and/or maintenance of such installations including any cable jointing

S.M. P

R.P. J.B. J.N. RA

- and electrical wiring associated therewith;
- (3) "Lift and Escalator Industry" means the manufacture and/or assembly and/or installation and/or repair of electrical lifts and escalators;
- (4) "Plastics Industry" means the industry concerned with the conversion of thermoplastic and/or thermosetting polymers, including the compounding or recycling thereof, or the manufacture of articles or parts wholly or mainly made of such polymers into rigid, semi rigid or flexible form, whether blown, moulded, extruded, cast, injected, formed, calendered, coated, compression moulded or rotational moulded, including in-house printing on such plastics by the manufacturers, and all operations incidental to these activities;
- (5) "Plastics" means any one of the group of materials which consist of or contains as an essential ingredient an organic substance of a large molecular mass and which, while solid in the finished state, at some stage in its manufacture has been or can be forced, i.e. cast, calendered, extruded or moulded into various shapes by flow, usually through the application, singly or together, of heat and pressure including the recycling or compounding thereof, but only where such compounding and/or recycling is as a result of the conversion for manufacture by the same employer, but shall exclude all extrusions into mono- and multi-filament fibres and other activities falling under the scope of the National Textile Bargaining Council;
- (6) "Machine" means any appliance, irrespective of the material of which it is made, but does not include an agricultural tractor.
- (7) "Metal goods" does not include agricultural tractor;
- (8) "Motor Industry" means-
- (aa) Assembling, erecting, testing, remanufacturing, repairing, adjusting, overhauling, wiring, upholstering, spraying, painting and/or reconditioning carried on in connection with-
- (a) chassis and/or bodies of motor vehicles;
- (b) internal combustion engines and transmission components of motor vehicles;
- (c) the electrical equipment connected with motor vehicles, including radios;

- (ab) automotive engineering;
- (ac) repairing, vulcanising and/or retreading tyres;
- (ad) repairing, servicing and reconditioning batteries for motor vehicles;
- (ae) the business of parking and/or storing motor vehicles;
- (af) the business conducted by filling and/or service stations;
- (ag) the business carried on mainly or exclusively for the sale of motor vehicles or motor vehicle parts and/or accessories (whether new or used) pertaining thereto whether or not such sale is conducted from premises which are attached to a portion of an establishment wherein is conducted the assembly of or repair of motor vehicles;
- (ah) the business of motor graveyards.
- (ai) the business of assembly establishments;
- (aj) the business of manufacturing establishments wherein are fabricated motor vehicle parts and/or spares and/or accessories and/or components;
- (ak) vehicle body building;

For the purposes of this definition;

- (9) "Automotive engineering" means the reconditioning of internal combustion engines or parts thereof for use in motor vehicles in establishments mainly or exclusively so engaged, whether such establishment is engaged in the dismantling and repair motor vehicles or not;
- (10) "Motor vehicle" means any wheeled conveyance propelled by electrical or mechanical power (other than steam) and designed for haulage and/or for the transportation of persons and/or goods and/or loads, including trailers and caravans, but does not include any equipment designed to run on fixed tracks, trailers designed to transport loads of 27 tons or over, or aircraft;
- (11) "Vehicle body building" means any or all of the following activities carried on in a Vehicle Body

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Building establishment-

- (i) The construction, repair or renovation of cabs and/or bodies and/or any superstructure, for any type of vehicle;
- (ii) the manufacture or repair of component parts for cabs and/or bodies and/or any superstructure and the assembling, adjusting and installation of parts in cabs, bodies or on the superstructure of vehicles;
- (iii) fixing cabs and/or bodies and/or any superstructure to the chassis of any type of vehicle;
- (iv) coating and/or decorating cabs and/or bodies and/or any superstructure with any preservative or decorative substance;
- (v) equipping, furnishing and finishing off the interior of cabs and/or bodies and/or superstructures;
- (vi) building trailers, but not including the manufacture of wheels or axles therefor;
- (vii) all operations incidental to or consequent upon the activities referred to in paragraphs (i), (ii), (iii), (iv), (v) and (vi).

For the purposes of this definition, "vehicle" does not include an aircraft, and "Motor Industry" as defined above shall not include the following-

- (i) the manufacture of motor vehicle parts and/or accessories and/or spares and/or components in establishments laid out for and normally producing metal and/or plastic goods of a different character on a substantial scale;
- (ii) the assembling, erecting, testing, repairing, adjusting, overhauling, wiring, spraying, painting and/or reconditioning of agricultural tractors, except where carried on in establishments rendering similar service in respect of motor cars, motor lorries or motor trucks;
- (iii) the manufacture and/or maintenance and/or repair of-
 - (aa) civil and mechanical engineering equipment and/or parts thereof, whether or not

mounted on wheels;

(bb) agricultural equipment or parts thereof; or

(cc) equipment designed for use in factories and/or workshops.

Provided that for the purposes of (aa), (bb) and (cc) above, "equipment" shall not be taken to mean motor cars, motor lorries and/or motor trucks;

(dd) motor vehicle or other vehicle bodies and/or superstructures and/or parts or components thereof made of steel plate of 3,175 mm thickness when carried on in establishments laid out for and normally engaged in the manufacture and/or maintenance and/or repair of civil and/or mechanical engineering equipment on a substantial scale.

The above mentioned interests shall not include the undertakings, industries, trades or occupations in respect of which Transnet Bargaining Council has been registered on 2 October 1991. The latter Council has been registered in respect of the undertakings, industries, trades or occupations of Transnet Limited known as Spoornet, South African Airways, Autonet, Portnet, Transtel, Transwerk, Promat, Protekon or any other business, undertakings, industry, trade, occupation, unit, department or section of Transnet Limited in the Republic of South Africa as these undertakings, industries, trades or occupations were constituted on 2 October 1991.

(12) Notwithstanding the provisions of sub-clause (1) above, the terms of this Agreement shall apply to-

(a) Any employee who is any person, excluding an independent contractor, who works for another person and who receives, or is entitled to receive, any remuneration and to an employer of such employees who means any person whomsoever [including a temporary employment service as defined in section 198(1) of the Act] 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 to assist him in the carrying on or conducting of his business in the registered scope of the council;

(b) Any other person who in any manner assists in carrying on or conducting the business of the employer in the registered scope of the council, and

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(c) Apprentices and trainees not engaged through the merSETA.

2. PERIOD OF OPERATION OF AGREEMENT

- (1) This Agreement applies to parties who signed the Agreement from date of signature until 31 March 2025.
- (2) This agreement shall come into operation for non-parties as determined by the Minister of Labour in terms of section 32 of the LRA.

3. DEFINITIONS

Unless the context or this agreement indicates otherwise any expressions, words or phrases used in this Agreement shall have the same meaning as those defined in the Labour Relations Act No. 66 of 1995, and any reference to an act shall include any amendments to such Act, further –

'Act' means the Labour Relations Act of 1995; (Act 66 of 1995) as amended, and includes any regulation made in terms of that Act.

'Commission' means the Commission for Conciliation, Mediation and Arbitration.

'Council' means the Metal and Engineering Industries Bargaining Council registered in terms of section 29 of the Act.

'Council Commissioner' means an individual appointed by the Council to resolve disputes.

'Dispute' includes an alleged dispute and means any situation where –

- (1) two or more parties are unable to reach agreement on a matter of mutual interest between them, and one or more of those parties advise the Council in writing that they are in dispute; OR
- (2) the Council by way of its agents or any other person so appointed by the Council in terms of the Act, declares a dispute against an employer and/or employee for failure to comply with the provisions of one or more of the Council's Agreements. Notification of declaration of dispute against an employer and/or employee in respect of the identified contraventions shall be in terms of this agreement; OR

(3) A dispute in terms of the Act (Act 66 of 1995) as amended.

"Employee" as defined in section 213 of the Act.

'Establishment' means any premises wherein or whereon the industry, or part thereof, as herein defined, is carried on;

"The Rules" means the Rules for the Conduct of Proceedings before the CCMA as published by the Commission in terms of Section 115(6) of the Act.

4. OBJECTIVES

The objective of this agreement is to provide for:

- (a) The funding of a dispute resolution centre as set out in Clause 5 below;
- (b) A dispute resolution procedure for resolving disputes in the industry in line with the accreditation certificate issued to the council by the CCMA from time to time; and
- (c) Rules and procedures to be applied in the resolution of disputes.

5. CONTRIBUTIONS

- (1) The provisions of this clause shall apply in respect of all employees engaged within the registered scope of the Council.
- (2) Contribution shall be made by employers in the manner specified hereunder:
 - (a) From the earnings of every employee to whom this Agreement applies the employer shall: in respect of weekly paid employees deduct seventy one cents (R0.71) each week, and in respect of monthly paid employees deduct three rand and seven cents (R3.07) each month; including periods in which the employee is absent of any paid leave. The equivalent monthly payment is three rand and seven cents (R3.07) per employee; and
 - (b) To the amount deducted in terms of paragraph (a) hereof, the employer shall add an equal amount and forward the total sum to the Council each month.

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- (c) The contribution in 2 (a) above will increase in the second and third years by the respective year on year inflation rate as at December as published by Stats SA, to be reviewed annually.
 - (d) The contribution collected by Council in terms of this agreement shall be for the exclusive use of all dispute resolution functions of the Council and shall be maintained in a separate account and accounted for separately.
- (3) The total amount payable to the Council in terms of sub-clause (2)(a), (b) and (c) hereof shall be forwarded to the Council each month.
- (a) Every employer in regions A, B, C, D, E, and F shall forward the amounts payable each month in terms of sub-clause (2) above, together with a statement in such form as may be specified from time to time by the Council, to reach the Metal Industries Benefit Fund Administrators (MIBFA), Central Funds Collection Office, 2nd Floor, Metal Industries House, 42 Anderson Street, Johannesburg, 2001, by no later than close of business on the 7th day of the subsequent month.
 - (b) The employer uses the postal services, courier services or any other means of delivery or transfer at his own risk. The relevant postal address is P O Box 61474, Marshalltown, 2107. A facility for direct bank-to-bank transfer of funds is also available. Enquiries to be directed to the Financial Manager at the above address or (011) 870-2000.
- (4) Regardless of whether any amount is payable to the Council in terms of this clause, every employer shall, not later than the 7th day of each month, forward to the Council in respect of the preceding month and in the manner indicated therein, the statement referred to in sub-clause (3) hereof, and shall record thereon the number of employees employed on Limited Duration Contracts of employment during the month to which the statement applies.
- (5) For the purposes of this sub-clause 'the Act' means the National Credit Act 34 of 2005.
- (a) If any amount that falls due in terms of this clause is not received in full by the Council by the 7th day of the month following the month for which the amount is payable, then the employer shall be liable to pay interest in accordance with the following provisions.

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- (i) The interest payable shall accrue on the balance of the amount outstanding from time to time from the 7th day until the full amount is received by the Council.
- (ii) The interest shall accrue at the same effective rate as the applicable maximum annual finance charge rates as if the amount outstanding were a "credit transaction" for the purposes of the Act. For purposes of calculating the interest, the provisions of section 1 read with Regulation 42(1) of the Act shall, *mutatis mutandis*, apply.
- (iii) The Council shall, in its absolute discretion, be entitled to waive payment by the employer of any interest that accrues in terms of this sub-clause.
- (iv) In the event of the Council's incurring any costs or becoming obliged to pay any collection commission by reason of the failure of the employer to make any payment on or before the due date, the employer shall then be liable to pay forthwith all such costs of whatever nature as between attorney and client and all such collection commission.
- (v) In addition to the above, all the other provisions of the Act that are relevant for the purposes of calculating any interest payable by the employer in terms of this subsection shall, *mutatis mutandis*, apply for these purposes."

6. DISPUTE RESOLUTION

6.1 PREAMBLE

- (a) Subject to sub-clause (c) below, the procedures set out in this Agreement shall be utilised to deal with all disputes arising within the Council's jurisdiction as defined in Clause (1), above.
- (b) Different processes shall be utilised for different types of disputes, as set out below. In the event of a dispute over which section should be applied, the dispute shall be processed in accordance with sub-clause 6.1.3.1 below. Notwithstanding this Agreement, parties may agree to meet whenever they mutually deem it necessary for the purpose of resolving a dispute. They may give consideration at their own cost to privately appointing a mediator, arbitrator or referring the dispute to any other process, as agreed between them.

- (c) Notwithstanding sub-clause (a) above, employers and employees may, through a collective agreement establish their own dispute procedure which does not necessitate them having to refer disputes to the Council, even though the parties fall within the Council's jurisdiction.
- (d) If at any stage after a dispute has been referred to the Council, it becomes apparent that the dispute ought to have been resolved through private dispute resolution in terms of a collective agreement or in terms of a private agreement between the parties to the dispute, the Council may refer the dispute back to the referring parties for processing in terms of their private dispute resolution procedure.
- (e) The Council is in terms of Section 127(5) of the Labour Relations Act No.66 of 1995 as amended accredited to conciliate and arbitrate disputes.

6.1.1. Negotiating Procedure

- (a) Where any party to the Council wishes to initiate negotiations for the amendment of any existing agreement or the introduction of a new agreement, that party shall submit its proposals in writing to the General Secretary of the Council at the address as listed in Schedule 1 to this Rules.
- (b) The General Secretary shall immediately arrange for the proposal to be circulated to all interested parties and shall take steps to arrange a negotiating meeting within 45 days of receipt of the proposal. Where the General Secretary, in consultation with the President of the Council, decides that the proposal relates to the negotiation of an industry matter, the date of the first negotiating meeting shall be decided at the next meeting of the Council's Management Committee, and such negotiating meeting shall be held within 30 days of that Management Committee meeting.
- (c) Further negotiating meetings may be held by agreement between the parties, who may also agree on any procedures, documentation, or any other matters for the purposes of assisting the negotiations.
- (d) If the negotiations have not been resolved in terms of sub-clause 6.1.1(b) above or as otherwise agreed between the parties, any party to those negotiations may declare a dispute by notice in writing to the Council and must satisfy the Council that a copy of the referral has been served on all other parties to the dispute. Industry disputes shall be processed in accordance with sub-clause 6.1.2 below.

6.1.2. Disputes about Negotiations

- (a) In the event that the General Secretary, in consultation with the President of the Council, decides that a dispute declared in terms of sub-clause 6.1.1(d) above is an industry matter, he/she shall arrange for the Management Committee to meet within 14 days of the declaration of such dispute, for the purposes of considering the matter.
- (b) The Management Committee shall use its best endeavours to settle the dispute and shall meet as often as it deems necessary for this purpose. In the course of its deliberations the Committee may give consideration to the following:-
 - (i) appointing a sub-committee to meet within a specified number of days, for the purposes of attempting to resolve the dispute, or to recommend to the Management Committee a process by which the dispute can be resolved;
 - (ii) referring the dispute to conciliation in terms of the Act and the Rules for conciliating and arbitrating disputes attached as Schedule A hereto. This shall be compulsory, in the case of a dispute involving a non-party to the Council;
 - (iii) referring the dispute to arbitration in terms of the Act and the Rules;
 - (iv) instructing the General Secretary to issue a certificate stating that the dispute remains unresolved.
- (c) Subject to this Agreement, if the dispute has not been settled within 30 days from the date on which the dispute was referred to the Council, and if the parties have not within that period agreed on a process to resolve the dispute, any party to the dispute shall be entitled to pursue whatever means are available in the Act to process that dispute.

6.1.3. Dispute Settlement Procedures

Disputes within the Council's jurisdiction in terms of section 51 of the Act and which do not fall within the scope of sub-clause 6.1.1 above, shall be dealt with in terms of the Act in conjunction with the CCMA Rules as published from time to time.

6.1.3.1 Disputes about the Interpretation or Application of the Council's Collective Agreements

S.M. [Signature]

[Signature] [Signature] [Signature] [Signature] [Signature] [Signature] [Signature] [Signature]

J.N.

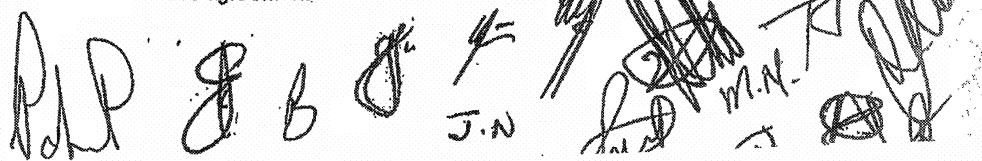
- (a) In the event of a dispute arising relating to the interpretation or application of a Collective Agreement in terms of section 24(2) of the Act, it shall be processed in terms of the Rules.
- (b) This part excludes demarcation disputes referred to in section 62 of the Act and which are to be referred to the Commission.
- (c) A party wishing to refer such a dispute may refer the dispute in writing, setting out the details of the dispute to the Council if:
 - (i) The collective agreement does not provide for a procedure.
 - (ii) The procedure provided for in the collective agreement is inoperative.
 - (iii) Any party to the collective agreement has frustrated the resolution of the dispute in terms of the collective agreement.

6.1.3.2. Enforcement of Collective Agreements by the Council

Disputes within the Council's jurisdiction in terms of section 33A of the Act shall be dealt with in terms of the Act and Clause 8 below, in conjunction with the Rules.

- (a) Despite any other provision the council shall monitor and enforce compliance with its collective agreements in terms of this clause or a collective agreement concluded by the parties to the Council.
- (b) For the purpose of this clause the collective agreement is deemed to include –
 - (i) any condition of employment of any employee covered by a collective agreement; and
 - (ii) the rules of any fund or scheme established by the Council.
- (c) The council may refer any unresolved dispute, in terms of this agreement, concerning compliance with any provision of a collective agreement to arbitration by an arbitrator appointed by the Council.
- (d) If a party to an arbitration in terms of this clause that is not a party to the Council, objects to the appointment of an arbitrator in terms of sub-clause (c) above, the Commission, on request by the Council must appoint an arbitrator.

- (e) An arbitrator conducting an arbitration in terms of this clause has the powers of a commissioner in terms of Section 142 of the Act, read with the changes required by the context.
- (f) An arbitrator acting in terms of this clause may determine any dispute concerning the interpretation or application of a collective agreement.
- (g) An arbitrator conducting an arbitration in terms of this clause may make an appropriate award, including –
 - (i) ordering any person to pay any amount owing in terms of a collective agreement;
 - (ii) imposing a fine for a failure to comply with a collective agreement in accordance with sub-clause (i) and Tables One and Two as set out hereunder;
 - (iii) charging a party an arbitration fee;
 - (iv) ordering a party to pay the costs of the arbitration;
 - (v) confirming, varying or setting aside a compliance order issued by a designated agent;
 - (vi) any award contemplated in Section 138(9) of the Act.
- (h) Interest on any amount that a person is obliged to pay in terms of a collective agreement accrues from the date on which the amount was due and payable at the rate prescribed in terms of Section 1 of the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975), unless the arbitration award provides otherwise.
- (i) An award in an arbitration conducted in terms of this clause is final and binding and may be enforced in terms of Section 143 of the Act.
- (j) If an employer upon whom a fine has been imposed in terms of this clause files an application to review and set aside an award made in terms of sub-clause (g) above, any obligation to pay a fine is suspended pending the outcome of the application.
- (k) The maximum fines that may be imposed by an arbitrator acting in terms of this clause is subject to variation by notice of the Minister as published in the Government Gazette. A notice in terms of this paragraph may specify the maximum fine that may be imposed –
 - (i) For a breach of a collective agreement –


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- (aa) not involving a failure to pay any amount of money;
 - (ab) involving a failure to pay any amount of money; and
- (ii) For repeated breaches of the collective agreement contemplated in subparagraph (a).

6.1.3.3 Arbitration in terms of Clause 6.1.2.2 above

- (a) The maximum fine that may be imposed by an arbitrator:
 - (i) For a failure to comply with a provision of a collective agreement not involving a failure to pay any amount of money, is the fine determined in terms of Table One; and
 - (ii) Involving a failure to pay an amount due in terms of a collective agreement is the greater of the amounts determined in terms of Table One and Table Two.

TABLE ONE: MAXIMUM PERMISSIBLE FINE NOT INVOLVING AN UNDERPAYMENT

No previous failure to comply	R100 per employee in respect of whom the failure to comply occurs
A previous failure to comply in respect of the same provision	R200 per employee in respect of whom the failure to comply occurs
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provisions within three years	R300 per employee in respect of whom the failure to comply occurs
Three previous failures to comply in respect of the same provision within three years	R400 per employee in respect of whom the failure to comply occurs
Four or more previous failures to comply in respect of the same provision within three years	R500 per employee in respect of whom the failure to comply occurs

TABLE TWO: MAXIMUM PERMISSIBLE FINE INVOLVING AN UNDERPAYMENT

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No previous failure to comply	25% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within three years	50% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within a year, or two previous failures to comply in respect of the same provisions within three years	75% of the amount due, including any interest owing on the amount at the date of the order
Three previous failures to comply in respect of the same provision within three years	100% of the amount due, including any interest owing on the amount at the date of the order
Four or more previous failures to comply in respect of the same provision within three years	200% of the amount due, including any interest owing on the amount at the date of the order.

7. EXEMPTIONS

- (1) Any person bound by this Agreement may apply for exemption.
- (2) The Council has the authority to consider applications for exemptions and/or licenses issued for exemptions.
- (3) All applications for exemption shall be made in writing on the appropriate application form, obtained from the Council, setting out relevant information, including:
 - (a) The provisions of the agreement in respect of which exemption is sought;
 - (b) The number of persons in respect of whom the exemption is sought;
 - (c) The reasons why the exemption is sought;
 - (d) The nature and size of the business in respect of which the exemption is sought;

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- (e) The duration and timeframe for which the exemption sought;
- (f) The business strategy and plan of the applicant seeking the exemption;
- (g) The recorded views expressed by the trade union or workforce itself during the plant level consultation process and where an agreement between the employer and the workforce is reached, the signed written agreement must accompany the application.
- (h) Any other relevant supporting data and financial information the Council may prescribe from time to time.
- (4) An exemption application in respect of a term or provision in a Collective Agreement:
- (a) Concluded in the Council that applies throughout the industry must be considered by an exemptions committee appointed by the Council.
- (5) The Council shall decide on an application for exemption within 30 days of receipt.
- (6) Upon receipt of an application by the Council, it shall immediately refer the application to the exemptions committee which may, if deemed expedient, request the applicant to attend the meeting at which the application is considered, to facilitate the deliberations.
- (7) The regional office may, if an application is found to be incomplete, request additional information from an applicant applying for exemption, the applicant will be afforded 30 days to provide the required information failing which the application will be deemed to be rejected.
- (8) In scrutinising an application, the exemption committee or the Independent Exemptions Appeal Board (IEAB) will consider the details of the application, the views expressed by the trade union or workforce, affected employers, any other representations received in relation to the application, and the factors and criteria as listed in sub-clause 12 below.
- (9) The General Secretary must advise the applicant in writing of the decision of the exemptions body within 15 days from the date of the decision.
- (10) In the event of the exemptions committee granting, partially granting (recommending) or refusing to grant an application, the applicant shall be informed for the reasons for the decision and have the right to appeal in writing on the appropriate appeal application form against the decision to the

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IEAB, within 14 days from the date of being informed of the outcome. Such an appeal must be filed with the Convenor of the IEAB on the following address (should the address change the Industry will be advised accordingly):

Attention: The IEAB Convenor – Mr Vice Ngonyama
 Metal and Engineering Industries Bargaining Council
 1st Floor Metal Industries House
 42 Anderson Street
 Johannesburg
 Gauteng, 2001
 Fax: (086) 636 8690
 Tel: (011) 639 8000
 Email: vicen@melbc.co.za

- (11) The IEAB shall hear and decide and inform the applicant and the Council as soon as possible but not later than 30 days after the appeal has been lodged against the decision of the exemption committee.
- (12) When considering an application or appeal, the exemption committee or IEAB whichever the case may be must consider, in addition to sub-clause 8, the following:
 - (a) Whether the granting of the exemption or appeal will prejudice the objectives of this agreement;
 - (b) The duration of an exemption granted on financial grounds, supported by a report from an independent auditor appointed by the Council, shall be limited to 12 months; and
 - (c) The duration of an exemption granted where better benefits exist shall remain in place provided that the replacement benefit remains more favourable.
- (13) In the event of the IEAB granting, partially granting (recommending) or refusing to grant the appeal, the applicant shall be informed in writing within 14 days from the date of the decision.
- (14) The decision of the IEAB is final and binding upon the applicant and the Council.

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(15) If an exemption or appeal is granted or partially granted (recommended), the exemption committee or the IEAB, shall issue a license for exemption, signed by the General Secretary, containing the following particulars:

- (a) The full name of the applicant(s) or enterprise concern;
- (b) The trade name;
- (c) The provisions of the Agreement from which exemption or appeal has been granted;
- (d) The period for which the exemption or appeal shall operate;
- (e) The date of issue and from which day the exemption or appeal shall operate;
- (f) The condition(s) of the exemption or appeal granted; and
- (g) The area in which the exemption or appeal applies.

(16) An employer to whom a license has been issued shall at all times have the license available for inspection at the workplace.

(17) The General Secretary must maintain a register of all exemption licenses.

8 DISPUTE RESOLUTION PROCEDURE FOR THE INTERPRETATION, APPLICATION, OR ENFORCEMENT OF COLLECTIVE AGREEMENTS

8.1 PREAMBLE

Words and phrases in this Section, unless the context otherwise indicates, have the same meaning as those defined in the Labour Relations Act No. 66 of 1995 ("the Act").

8.2. REFERRAL OF COMPLAINT

- (a) Any person or party may in writing refer a complaint about the interpretation, application or enforcement of any collective agreement entered into through the Council, to the Secretary of the Council ("the secretary") for investigation and resolution in terms of this clause.
- (b) Any such referral must be made within 60 days of either that person or party becoming aware of the problem giving rise to that complaint or the parties' failure to resolve the problem in accordance with their internal procedures, provided that the Administration Committee may condone a late referral on good cause shown.

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8.3 INVESTIGATION OF COMPLAINT

(a) The Secretary shall initiate an investigation of the complaint referred to in sub-clause 8.2(b) and inform any party against whom a complaint has been made, and may require a designated agent to investigate the matter. Any complaint which on investigation is disputed may be deemed to be a dispute for the purposes of this Procedure.

8.4 DESIGNATED AGENTS

(a) In the event of a designated agent being appointed in terms of sub-clause 8.3 above, or if a designated agent discovers an apparent breach of a collective agreement in the course of performing his/her duties, the designated agent shall have the powers granted designated agents in the Act and-

- (i) shall investigate the alleged breach and/or dispute;
- (ii) may endeavour to secure compliance with the collective agreement through conciliation;
- (iii) may issue a compliance order, which calls upon a person or party to comply in a special manner and within a specified time period, with the terms of a collective agreement; and
- (iv) as soon as possible after the investigation shall submit a written report to the Secretary, outlining steps taken to secure compliance, the outcome of these steps, and recommendations for resolving the matter (if not resolved). The Secretary shall provide the parties involved with a copy of the report.

8.5 SECRETARY'S FUNCTION

(a) On receipt of any report in terms of sub-clause 8.4(a)(iv) above, or based on the outcome of any investigation resulting from sub-clause 8.3 above, the Secretary may:-

- (i) Require a designated agent to make (further) investigations;

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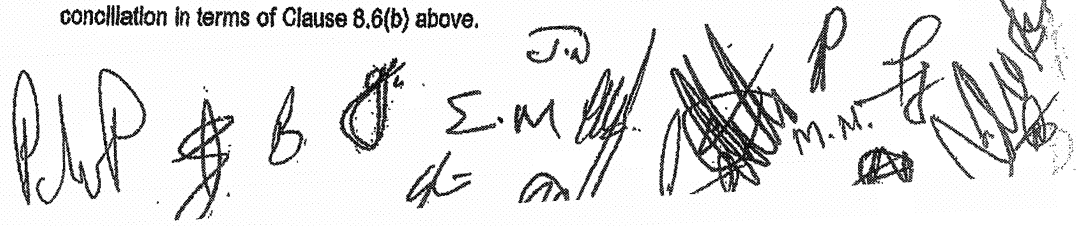
- (ii) Appoint a conciliator from the Council's panel of conciliators to conciliate the dispute;
- (iii) Issue a compliance order as contemplated in sub-clause 8.4(a)(iii) above, (if not issued previously).

8.6 CONCILIATION

- (a) If the dispute is not resolved within 30 days of a party providing written notice to the Council in terms of sub-clause 8.2(b) above or of a designated agent initiating an investigation in terms of sub-clause 8.4(a)(i) above, or any further period agreed between the parties, the Secretary shall refer it to conciliation if it has not previously been referred to conciliation in terms of this Procedure. The Secretary shall appoint a conciliator from the Council's panel of conciliators, for this purpose.
- (b) In any conciliation proceedings conducted in terms of this Procedure, the conciliator may use whatever process he/she feels is appropriate in an attempt to resolve the dispute, which may or may not require meetings with the parties or their representatives. The conciliation shall be deemed to have failed, if the conciliator declares it so in writing or if the dispute has not been resolved within 14 days of the appointment of a conciliator or the initiation of conciliation by a designated agent in terms of Sub-clause 8.4(a)(ii) above. This period may be extended by agreement between the conciliator and the parties involved.
- (c) At any conciliation meeting, a party to the dispute may appear in person or be represented only by a co-employee or by a bona fide member, office bearer or official of that party's registered trade union or registered employers' organisation and, if that party is a juristic person, by a director or an employee. These provisions may be varied by agreement between the parties to the dispute.

8.7 ARBITRATION

- (a) A dispute shall be referred to arbitration at the written request of any party to the dispute, provided such request is made to the Secretary within 30 days of the failure of conciliation in terms of Clause 8.6(b) above.



- (b) If the dispute is referred to arbitration, the Secretary shall appoint an arbitrator from the Council's panel of arbitrators. In making the appointment, the Secretary shall take into consideration any views the parties may express about their choice of arbitrator, and shall appoint an arbitrator who is independent of the Council in the event of the Council having a direct interest in the dispute.
- (c) After consultation with the parties and the appointed arbitrator, the Secretary must serve notice of the date, time and venue of the arbitration on:-
 - (i) the parties to the dispute;
 - (ii) any other person(s) or parties who he/she is aware may have a direct interest in the outcome of the arbitration.
- (d) In the event that the "other person(s) or parties" contemplated in sub-clause 8.7(c)(ii) above are employees of a party to the dispute, notice shall be deemed to be served if:-
 - (i) It is served on a trade union of which they are a member; or
 - (ii) It is prominently displayed on a notice board at their workplace.
- (e) Any notice contemplated in terms of sub-clause 8.7(d)(ii) above, shall provide for a process whereby such persons or parties, through their representatives, may elect to participate in the arbitration proceedings. The right of representation is subject to sub-clause (j) below.
- (f) The arbitrator may at any stage prior to or during the arbitration proceedings attempt to resolve the dispute through conciliation with the consent of the parties to the dispute. If appropriate, the arbitrator may refer the dispute to be conciliated by another conciliator.
- (g) In the event that the arbitrator attempts conciliation prior to the commencement of arbitration, any party to the dispute may, prior to the commencement of the arbitration object to that person continuing to arbitrate the dispute, by written notice to the secretary. In that event, the secretary shall appoint another arbitrator from the Council's panel as soon as possible.

- (h) The arbitrator may conduct the arbitration in the manner that he/she considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- (i) Subject to the arbitrator's discretion as to the appropriate form of the proceedings, a party to the dispute may give evidence; call witnesses of any other party, and address concluding arguments to the arbitrator.
- (j) In any arbitration proceedings conducted in terms of this Procedure, a party to the dispute may represent him/herself or be represented only by a legal practitioner, co-employee or by a bona fide member, office bearer or official of that party's trade union or employers' organisation and, if the party is a juristic person, by a director or an employee. These provisions may be varied by agreement between the parties to the dispute.
- (k) Any arbitration in terms of this Procedure is conducted in terms of the Arbitration Act, 1965, provided that in terms of Section 17 of that Act, it is agreed that no formal record of proceedings shall be kept. It is further agreed that arbitration awards may be delivered other than in the presence of the parties, thereby enabling arbitrators to deliver awards to parties by fax, post or other similar means.
- (l) If the party who referred the dispute to the Council fails to appear in person or to be represented at the arbitration proceedings after having been given written notification thereof, the arbitrator may dismiss the matter. Subject to sub-clause (q) below, the arbitrator's decision shall be final and binding on all parties to the dispute.
- (m) If a party other than a party who referred the dispute to the Council fails to appear in person or to be represented at the arbitration proceedings the arbitrator may:
- (i) continue with the arbitration proceedings in the absence of that party; or
 - (ii) adjourn the arbitration proceedings to a later date.
- (n) Within 14 days of the conclusion of the arbitration proceedings, the arbitrator must issue a signed arbitration award with reasons, and the Council must, as soon thereafter as possible, serve a copy of that award on each party to the dispute. The award shall be final and binding on all parties to the dispute.

- (o) On good cause shown by the arbitrator concerned, the secretary may extend the period during which the arbitration award is to be issued.
- (p) The arbitrator may make any appropriate award that gives effect to the collective agreement. In considering the retrospective application of any award, the arbitrator shall consider, *inter alia*, the period of operation of the collective agreement in question and the reasons for any delays in processing the dispute. The arbitrator may not include an order in the arbitration award for costs incurred by the parties, unless a party, or the person who represented that party in the arbitration proceedings, acted in a frivolous or vexatious manner, or unless such award is in accordance with a mandate agreed between the parties.
- (q) An arbitrator may at his/her own initiative or as a result of an application by an affected party, vary or rescind an award-
 - (i) erroneously sought or erroneously made in the absence of any party affected by the award;
 - (ii) in which there is an ambiguity, or an obvious error or omission, but only to the extent of that ambiguity, error or omission; or
 - (iii) Granted as a result of a mistake common to the parties to the proceedings.
- (r) The secretary or any of the parties may apply to make the arbitration award an order of the Labour Court under Section 158(1) of the Act.
- (s) Review proceedings may be instituted within six weeks of the date of the award, by any party who alleges a defect in the arbitration proceedings, or if the alleged defect involves corruption, within six weeks of the date that the party discovers the corruption. For the purposes of this section, a defect shall mean where:
 - (i) An arbitrator has committed misconduct in relation to his/her duties as arbitrator, or
 - (i) An arbitrator has committed a gross irregularity in the conduct of the arbitration proceedings or has exceeded his/her powers; or
 - (ii) The award has been improperly obtained

8.8 GENERAL

- (a) The provisions of this Clause stand in addition to any other legal remedy through which the Council may enforce a collective agreement.
- (b) Functions to be performed by the Council in terms of this section shall be performed by the secretary. The secretary may delegate any of his/her functions and responsibilities as set out in this Procedure.
- (c) If required by the Act, the Council shall process as an accredited agency any dispute referred in terms of this Procedure by a non-party to the Council, or appoint an accredited agency to conciliate and/or arbitrate that dispute. In the event of an agency being so appointed, the conciliation and/or arbitration shall nevertheless be conducted in accordance with this Procedure.
- (d) This procedure is concluded by the Council in accordance with section 24(1) of the Act, and disputes over the interpretation, application or enforcement of any collective agreement entered into through the Council shall be processed in terms of this Procedure, unless otherwise agreed by the parties to any such collective agreement.
- (e) The Council may be a party to a dispute which is processed in terms of this clause.
- (f) Subject to sub-clause 8.7(p) above, expenses incurred through conciliation and arbitration proceedings may be charged in any manner determined by the Council.
- (g) Any Court application in relation to this Procedure be it urgent or otherwise, shall be made to the Labour Court.
- (h) Any notice or service required in terms of this Procedure may be given by hand, fax or registered post.
- (i) Without on any way detracting from the rights and obligations emanating from this Procedure, it shall be interpreted and applied in a manner that promotes effective dispute resolution.

9. AGENTS

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 P
 DA
 M.N.
 M

- (1) The Council shall appoint one or more persons as agents in terms of section 33(1) of the Act to promote, monitor and enforce the terms of this Agreement.
- (2) A person appointed in terms of sub-clause (1) above shall thereafter be referred to as a designated agent and shall have the powers set out in section 33A and in Schedule 10 of the Act.
- (3) Enforcement of this agreement by a designated agent shall be in accordance with Clause 11 of this agreement.

10. RULES FOR THE CONDUCT OF PROCEEDINGS BEFORE CENTRE FOR DISPUTE RESOLUTION (CDR).

- (1) The Rules for the Conduct of Proceedings before the CCMA as published will apply.

11. RESOLUTION OF DISPUTES IN TERMS OF THIS AGREEMENT

- (1) Any dispute about the interpretation, application, or enforcement of this Agreement shall be referred to the Council and shall be dealt with in accordance with the provisions contained in Clauses 6.1.3.1 and 6.1.3.2 of this agreement.

REGISTERED EMPLOYERS' ORGANISATIONS PARTY TO THE COUNCIL:

Association of Electric Cable Manufacturers' of South Africa;

SIGNATURE:

DATE:

James

25-5-2022

Cape Engineers' and Founders' Association;

SIGNATURE:

DATE:

P. Plessis

26/5/2022

Constructional Engineering Association (South Africa);

SIGNATURE:

[Signature]

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DATE: 25/05/2022

Consolidated Employer's Organisation;

SIGNATURE: 

DATE: 27/05/2022

Eastern Cape Engineering and Allied Industries Association (ECEAIA);

SIGNATURE: 


DATE: 30-05-2022

Electrical Engineering and Allied Industries' Association;

SIGNATURE: 

DATE: 25/05/2022

Electrical Manufacturers Association of South Africa;

SIGNATURE: 

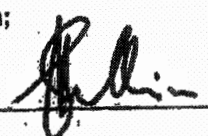
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Federated Employers Organisation of South Africa (FEOSA);

SIGNATURE: _____

DATE: _____


Gate and Fence Association;

SIGNATURE: 

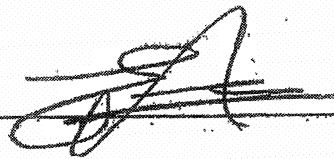
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Hand Tool Manufacturers' Association (HATMA);

SIGNATURE: _____



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DATE: 26/05/2022

Iron and Steel Producers' Association of South Africa;

SIGNATURE: 

DATE: 25/05/2022

KwaZulu Natal Engineering Industries' Association;

SIGNATURE: 

DATE: 27/05/2022

Lift Engineering Association of South Africa;

SIGNATURE: 

DATE: 25/05/2022

Light Engineering Industries' Association of South Africa;

SIGNATURE: 

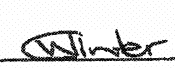
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National Employers' Association of South Africa (NEASA);

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DATE: _____

Non-Ferrous Metal Industries' Association of South Africa;

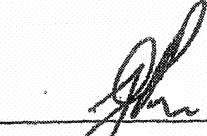
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DATE: 24/05/2022

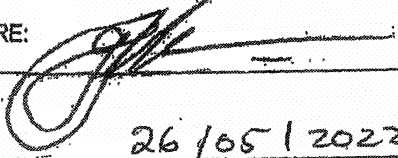
Plastics Converters Association of South Africa (PCASA);

SIGNATURE: 





 DATE: May 10th, 2022

Refrigeration and Air-Conditioning Manufacturers' and Suppliers' Association;

SIGNATURE: 
 DATE: 26/05/2022

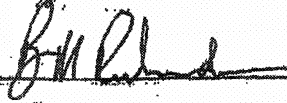
South African Electro-Plating Industries Association;

SIGNATURE: 
 DATE: 24/5/2022

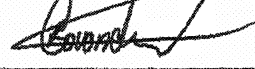
South African Engineers' and Founders' Association;

SIGNATURE: _____
 DATE: _____


South African Refrigeration and Air-Conditioning Contractors' Association (SARACCA);

SIGNATURE: 
 DATE: 27/05/2022

South African Pump Manufacturers' Association;

SIGNATURE: 
 DATE: 15/05/2022

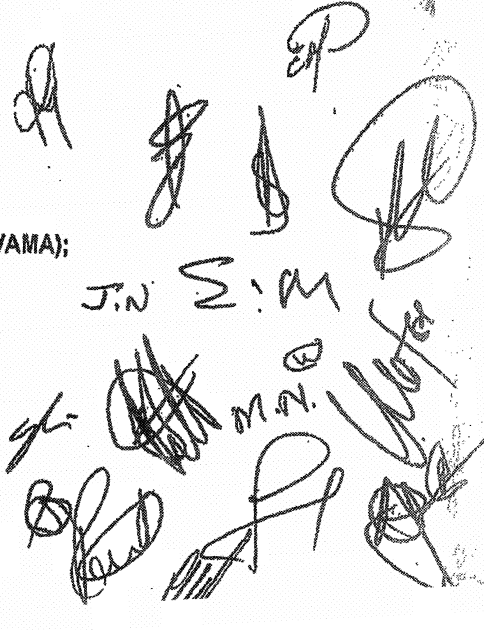
South African Valve and Actuator Manufacturers' Association (SAVAMA);

SIGNATURE: 
 DATE: 24/05/2022

South African United Commercial Employers Organisation;






 J.N. SIM
 M.N.
 EP

SIGNATURE:

DATE:

REGISTERED TRADE UNIONS OR "EMPLOYEE ORGANISATIONS" PARTY TO THE COUNCIL

Metal and Electrical Workers' Union of South Africa (MEWUSA)

SIGNATURE:

DATE:

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28/3/2022

Solidarity / Solidariteit

SIGNATURE:

DATE:

[Handwritten signature] F HUAN HEERDEN
25/03/2022

UASA-The Union

SIGNATURE:

DATE:

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05/04/2022

National Union of Metalworkers' of South Africa (NUMSA)

SIGNATURE:

DATE:

[Handwritten signature]
05/04/2022

S.A. Equity Workers' Association (SAEWA)

SIGNATURE:

DATE:

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25-03-2022

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