

**METAL AND ENGINEERING INDUSTRIES
BARGAINING COUNCIL**

**CONSOLIDATED 2020/2023
SAEFA AGREEMENT**

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CLAUSE 1: SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed -
- (a) in the Metal Industry, as set out in the registered scope of the MEIBC, throughout the Republic of South Africa;
 - (b) by all employers who are members of the South African Engineers and Founders Association (SAEFA) and by all of the trade unions recognised by the MEIBC.
- (2) The provisions of clauses (1)(1)(b), 2 and the special provisions of this Agreement shall not apply to employers and employees who are not members of the South African Engineers and Founders Association and trade unions respectively.

CLAUSE 2: PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on the date that may be fixed by the Minister of Labour in terms of Section 32 of the LRA and shall remain in force until 30 June 2023.

CLAUSE 3: DEFINITIONS

Any reference in this Agreement to the Republic of South Africa shall be deemed to be those areas and/or Provinces as they existed immediately after the coming into operation of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993). Any expressions used in this Agreement which are defined in the Labour Relations Act, as amended, shall have the same meaning as in that Act, and any reference to an Act shall include any amendments to such Act; further unless inconsistent with the context - '**Act**' means the Labour Relations Act, (as amended);

'**Apprentice**' means an employee serving under a written contract of Apprenticeship registered or deemed to have been registered under the Manpower Training Act, 1981, and includes a minor employed on probation in terms of the Act or a trainee in terms of the Atrami Agreement, as well as a learner in terms of Chapter IV of the skills Development Act, 1998 (definition of —apprentice) substituted by R.1829 of 24 December 2003)

'class of work scheduled' means the work performed by employees in terms of the grade determination for the activities as per "ANNEXURE TS", it is recorded that this ANNEXURE has the same content as per the MAIN AGREEMENT concluded by the parties to that agreement including SAEFA for the period 2014 to 2017.

'continuous employment' means any period during which an employee has been continuously employed by the same employer and for the purposes of this Agreement periods of employment with the same employer broken by not more than 12 months from the date of termination of employment owing to the discharge or retrenchment of the employee by the employer to the re-engagement of the employee shall be deemed to be continuous employment;

'Continuous processes' means activities within a business or organization that are ongoing and sustained, and that are not designed to cease except for in an emergency;

'Council' means the Metal and Engineering Industries Bargaining Council (MEIBC);

'employee' means an employee whose minimum rate of pay or activity is scheduled in this Agreement or an employee employed under exemption from this Agreement or under conditions determined by the Council, or an Apprentice;

'employer' means any person [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 in any manner to assist him in the carrying on or conducting of his business;

'employ of the same employee' and 'employment with the same employer' shall, for the purposes of Clauses 12(2)(a) and 14(1) of this Agreement, include unbroken employment in the same business carrying on activities which fall within the scope of the Industry whether or not the ownership of that business has altered as a result of sale, change of control, amalgamation, reconstruction, liquidation, compromise with creditors or otherwise;

'establishment' means any premises wherein or whereon the activities of the Industry, or part thereof, as herein defined, are carried on, within the context of this agreement references to the Enterprise or Company or any other form of business are included as an establishment for the interpretation of this agreement;

'hourly rate' means the rate per hour for the class of work scheduled in this Agreement or, whichever is the greater, the actual rate per hour the employee is receiving: provided that where a 'rate per week' is specified, the hourly rate of the employee shall be his rate

per week for his class of work scheduled in this Agreement or the actual weekly rate of the employee, whichever is the greater, divided by the number of ordinary hours worked in the establishment concerned; and 'ordinary hourly rate' means the hourly rate for ordinary time excluding Public Holiday Pay, overtime and allowances;

'**Law**' includes Common Law;

'**public holiday**' means New Year's Day, Human Rights Day, Good Friday, Family Day, Freedom Day, Workers' Day, Youth Day, National Women's Day, Heritage Day, Day of Reconciliation, Christmas Day and Day of Goodwill, as specified in Schedule 1 of the Public Holidays Act, 1994 (Act No 36 of 1994) or any other day so declared by the President of South Africa in a proclamation published in a Government Gazette: Provided that whenever any public holiday falls on a Sunday, the following Monday shall be a public holiday; and provided further that any public holiday may be exchanged for any other ordinary working day as mutually agreed upon.

'**journeyman**' means an employee who has completed a contract of Apprenticeship under the Manpower Training act, 1981, or a contract of Apprenticeship recognised by the Council in any one of the classes of work specified who is in possession of a certificate recognised or issued by the Council enabling him to be employed as a journeyman;

'**Regions**' means the Magisterial Districts as defined in the Constitution of the Bargaining Council;

'**TES**' means temporary employment services as defined in Section 198 of the Act;

'**trainee**' means an employee under training in terms of section 30 of the Manpower Training Act, 1981, on work classified in this Agreement or an employee under training in terms of the provisions of a contract issued or recognised by the Council, which includes contracts under the Artisan Training and Recognition Agreement for the Metal and Engineering Industries, as published under Government Notice R.655 of 8 May 1998.

CHAPTER 2

CLAUSE 4: HOURS OF WORK

(1) Working Time Arrangements;

Ordinary working hours will be determined by the enterprise. The metal industry observes different forms of operations and working time arrangements should be convenient to accommodate the operational requirements of the enterprise;

(a) The nature and extent of these working arrangements depend on what is operationally acceptable at individual company level and may include the following types of arrangements:

- Compressed working weeks (employees work up to 12 hours per day without receiving overtime payment in return for a shorter workweek);
- Working an unpaid additional hour each week during the year in return for an agreed number of additional days' paid annual leave;
- The operation of shifts at ordinary rates over weekends; and
- Any other working time arrangement agreed between workers and management;
- Any combination of the above.

(2) Any enterprise operating five (5) days per week may elect to observe;

(a) Ordinary hours of work at 40 hours in any one week for—

- (i) employees on day shift and/or night shift;
- (ii) employees working on the two and/or three-shift system.

(b) The ordinary hours per shift in sub-clause 2 shall not exceed –

- (i) nine hours in any day if the employee works for five days or fewer in a week; or an employee's ordinary hours of work in terms of sub-clause (1) and 2(a) may by agreement be extended by up to 15 minutes in a day but not more than 60 minutes in a week to enable an employee whose duties include serving members of the public to continue performing those duties after the completion of ordinary hours of work.

(3) An employer may, to facilitate the keeping of a record of the starting and stopping times and hours of work of his employees, require them to clock in and out of work and may, before paying to any employee any wages and/or remuneration for any period not

recorded by the clock, require that employee to show satisfactory proof of having been at work: Provided that an employee shall be paid in terms of this Agreement for all time recorded by the clock which falls within the starting and stopping times of the shift for that day of the week, excluding meal breaks, as notified by the employer to his employees in terms of sub-clause (6) and for all time which he is required by the employer to work which does not fall within such starting and stopping times.

- (4) Subject to sub-clause 1 and Clause 9 overtime shall be voluntary and unless otherwise authorised by the Council, the maximum overtime that may be worked by an employee in any week, including work on Sundays, shall not exceed 10 hours per week: Provided that in establishments that operate a three-shift continuous-process system, which includes up to a maximum of eight hours' overtime in the normal week, an employee shall be deemed to have agreed to regard such overtime as compulsory overtime if he accepts work at such an establishment. The additional hours worked by the employee, as a consequence of the reduction in working time in the Industry provided for in sub-clause (1) above, shall be paid at ordinary rates of pay.
- (5) Subject to sub-clause 1 in any establishment working a two-shift or three-shift system, no employee may work at night time for more than 12 consecutive shifts and no employee may work more than one shift in any period of 24 hours except when a change in the rotation of shifts makes this necessary.
- (6) An employee shall not be required or permitted to work for more than five hours continuously without an uninterrupted interval of not less than one hour, during which interval the employee shall not be required or permitted to perform any work: Provided that—
- (a) an employer and the trade union or, where no trade union is involved with the workforce itself, may by mutual consent of not less than the majority of his employees, agree—
- (i) to reduce the period of the interval to not less than 30 minutes, in which case the employer shall grant to each of his employees a rest interval of not less than 10 minutes as nearly as practicable in the middle of each work period before and after the interval, during which periods the employee shall not be required or permitted to perform any work. Such rest intervals shall be deemed to be part of the ordinary hours of work of the employee concerned;
- or

- (ii) to reduce the period of the interval to not less than 30 minutes and to observe a 10-minute rest interval as nearly as practicable to the middle of the morning work period and may further agree to dispense with the afternoon 10-minute rest interval, subject to the proviso that such an arrangement shall mean that the normal finishing time on Fridays shall be advanced by 60 minutes and employees paid for the equivalent time not so worked;
 - (iii) when, by reason of any overtime worked, an employer is required to give employees a second interval, such interval may be reduced to an interval of not less than 15 minutes;
- (b) except as provided for in (a) (i), (ii) and (iii) hereof, periods of work interrupted by intervals of less than 60 minutes shall be deemed to be continuous.
- (7) An employer who requires an employee to perform night work on a regular basis after 23:00 and before 06:00 the next day must –
- (a) inform the employee in writing or orally if the employee is not able to understand a written communication, in a language that the employee understands –
 - (i) of any health and safety hazards associated with the work that the employee is required to perform; and
 - (ii) of the employee's right to undergo a medical examination in terms of paragraph (b);
 - (b) at the request of the employee, enable the employee to undergo a medical examination, for the account of the employer, concerning the hazards referred to in (a)(i) above –
 - (i) before the employee starts, or within a reasonable period of the employee starting, such work; and
 - (ii) at appropriate intervals while the employee continues to perform such work; and
 - (c) transfer the employee to suitable day work within a reasonable time if –
 - (i) the employee suffers from a health condition associated with the performance of night work; and
 - (ii) it is practicable for the employer to do so.

For the purpose of sub-clause (7), an employee works on a regular basis if the employee works for a period of longer than one hour after 23:00 and before 06:00 at least five times per month or 50 times per year.

- (8) Every employer shall display in his establishment in a place readily accessible to his employees a notice specifying the starting and finishing times of work for each shift or shifts of the week and the meal hours.

CLAUSE 5: OVERTIME AND PAYMENT FOR WORK ON SUNDAYS

- (1) Subject to sub-clause (4)(1) time worked by employees after the completion of the usual shifts in the establishment concerned shall be regarded as overtime and be remunerated at one and one-half times the hourly rate subject to the shift system in use.
- (2) Subject to Clause 4(1) and Clause 9 overtime shall be voluntary and unless otherwise authorised by the Council, the maximum overtime that may be worked in any week, including Sundays, shall not exceed 10 hours per week.
- (3) Where overtime is worked after the completion of the normal hours of a shift the employee shall be allowed a rest period of at least eight hours after completing the overtime before the next normal shift starts.
- (4) If an employee is required to report for work before the usual starting time for that day of the week, he shall be paid at one and one-half times his hourly rate for time worked until the usual starting time of the shift.
- (5) Subject to sub-clause 4(1) and Clause 9, if an employee (other than an employee engaged on urgent maintenance, compressed working weeks and/or urgent repairs) works on Sunday, he shall be paid at double the hourly rate for time worked, with a minimum payment of double the hourly rate for the hours of a normal shift: provided that where the employer provided work to occupy the employee for the hours of a normal shift and the employee fails or refuses to work the full period required of him, such employee shall be entitled to payment only for the period actually worked.
- (6) Notwithstanding the provisions of subsection (1), where in any one week an employee absents himself from work during any or all of the ordinary hours of a shift or shifts observed in the establishment concerned, such ordinary hours not worked by the employee shall be deducted from the hours of overtime worked and the hours so deducted shall be remunerated at the employee's ordinary rate: Provided that –

- (i) if the number of ordinary hours of work on which the employee is absent in any one week is in excess of the number of overtime hours worked, all such overtime hours shall be remunerated at the employee's ordinary hourly rate; and
 - (ii) where an employee is absent from work with the permission of his employer or absent on account of sickness or circumstances beyond his control, the provisions of this subsection shall not apply and the overtime hours worked in such case shall be remunerated at the overtime rate applicable to the overtime hours worked: Provided that an employer may call on an employee for a medical certificate or any other proof of cause of absence. Payment under this subsection shall be made as provided for in Clause 6 of this Agreement.
- (7) Notwithstanding the provisions of subsection (1), an employer may enter into an agreement with employees to work up to 45 hours in a week and to remunerate the employees for the 45 hours at the employees' normal hourly rate.

CLAUSE 6: PAYMENT OF EARNINGS

- (1)(a) Except as otherwise agreed, any amount due to an employee in terms of this Agreement shall be paid weekly, by EFT (Electronic Funds Transfer), on Friday. The EFT payment shall be made by not later than the ordinary stopping time and shall include all payments due to the employee calculated up to and including the shift completed on the preceding Tuesday of the same week: Provided that where employment terminates before the ordinary pay-day, all payments due to the employee in terms of this Agreement shall be paid to him upon his employment so terminating.
- (b) Every employee shall, on payment, be given a statement showing his total earnings, ordinary time and overtime payments, allowances, deductions and the number of shifts accrued towards holiday leave.
- (c) An employer shall communicate the prevailing method of payment observed in an establishment to a newly employed employee and draw the employee's attention to sub-clause (2)(e), if applicable.
- (2)(a) An employer may, with the consent of the majority of his employees, agree that the provisions of this subsection shall apply to all employees in the establishment.

- (b) Where, by agreement as set out in 2(a) above, the method of payment of employers / employees changes from weekly to monthly, the Council shall be deemed to have approved such agreement: Provided that –
- (i) all payments due to the employee/s in terms of this Agreement shall be payable to the employee/s on the last Friday of each calendar month;
 - (ii) the monthly remuneration of employee/s shall not be less than the amount the employee/s would have been entitled to, had such employee/s been paid weekly;
 - (iii) employee salaries shall be increased by not less than the equivalent of any statutory increase payable in terms of any Council Agreement from time to time;
 - (iv) all other provisions of the Agreement shall continue to apply unless otherwise exempted;
 - (v) all contributions payable in terms of any Council Agreement applicable to such employee/s shall be maintained unless the employee/s or the establishment are legally exempted or excluded from payment of such contributions.
- (c) Before converting to monthly payments, the employer shall give to the employees concerned and to the Regional Council at least three months' notice in advance of the introduction of monthly payment, specifying the manner in which payment of earnings shall be made in the establishment.
- (d) Any employee entering into employment in an establishment where the provisions of sub-clause (2)(c) applies, shall be deemed to have accepted such monthly payment as a condition of employment.
- (e) Notwithstanding anything to the contrary contained in this Agreement, payment of leave pay may be made in accordance with the provisions of subsection (2) in the same manner as that by which payment of earnings is made.
- (3) If mealtimes are agreed to in terms of Clause 4(6)(a)(i or ii), the meal interval of 30 minutes will not form part of the ordinary working day.
- (4) Except as otherwise provided in this Agreement, no deduction of any description, other than the following may be made from the amount payable in terms of this Agreement to any employee;
- (a) for canteen services where the deduction is authorised by stop-order terminable by the employee at not more than 28 days' notice of termination of his agreement to this deduction;

- (b) where an employee is absent from work, including absence during any unpaid leave granted in extension of the paid leave provided for in this Agreement a pro rata amount for the period of such absence;
 - (c) with the written consent of the employee, deductions for sick benefit, insurance, pension and provident funds or contributions to recreation funds;
 - (d) contributions to the funds of the Council;
 - (e) any amount that an employer is obliged by law, ordinance or legal process to pay and has paid on behalf of an employee;
 - (f) where an employer, owing to clerical or accounting or administrative error, or miscalculation, pays an employee any remuneration in excess of the amount legally payable, the employer shall be entitled to recover the amount of the overpayment by deduction from subsequent wages or earnings subject to the following provisions:
 - (i) The deductions may be made from one or more payments of wages or earnings, but no one deduction may exceed 15 percent of the wages or earnings from which it is deducted;
 - (ii) no such deduction shall be made from any leave pay or leave bonus payable under this Agreement either to the employee or to the Council;
 - (iii) no such deduction or deductions shall be made unless the employer, in writing, notifies the employee prior to the time of the first deduction, and the Council within seven days of the first deduction of the circumstances under which the overpayment was made, of the amount thereof, and of the amount of the proposed deduction or deductions.
- (5) With the written consent of the employee, deductions in respect of subscriptions to a trade union party to the Council shall be deducted by the employer from the wages of an employee and shall be paid over to the relevant trade union.
- (6) No premium for the training of an employee shall be charged or accepted by an employer: Provided that this subsection shall not apply in respect of training schemes to which the employer is legally required to contribute.
- (7) The employer shall keep a record of each payment to each employee for a period of not less than three years. The record must reflect the employee's name, date of birth, job grade, date of engagement, date of termination (where applicable), rate of pay, nature of

each payment and, in the case of wages, the total earnings, ordinary time and overtime payments, allowances, deductions and number of shifts accrued towards holiday leave.

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CLAUSE 7: PAYMENT FOR PUBLIC HOLIDAYS

- (1)(a) If an employee is not required to work on a public holiday that falls on a day which would otherwise be an ordinary working day for such an employee, he shall be paid at his ordinary hourly rate for the ordinary working hours of that day of the week.
- (b) If an employee works on a public holiday that falls on a day which would otherwise be an ordinary working day for such an employee, he shall be paid for the number of hours payable in terms of subsection (1)(a) and, in addition, he shall be paid at one and one-third times the hourly rate for time worked up to the said number of hours.
- (c) If an employee works on a public holiday that falls on a day which would otherwise not be an ordinary working day for such an employee, he shall be paid an amount which shall be not less than the wage payable to such an employee in respect of the time which is ordinarily worked by him on a working day and in addition, he shall be paid at one and one-third times the hourly rate for time worked.
- (2) For the purposes of this section, the ordinary hourly rate of employees employed on incentive bonus work shall be the hourly rate for the class of work scheduled in this Agreement.

CLAUSE 8: SHIFT ALLOWANCES

- (1) Enterprises operating in terms of a three-shift system shall be required to observe the following: -

DAY SHIFT 06:00 -14:00	NO SHIFT ALLOWANCE
AFTERNOON SHIFT 14:00 – 22:00	8% OF HOURLY RATE, ONLY APPLICABLE AFTER 3RD CONSECUTIVE SHIFT, ALL SHIFTS INCLUDED
NIGHT SHIFT 22:00 – 06:00	15% OF HOURLY RATE, ONLY APPLICABLE IF 3RD SHIFT IS WORKED, ALL SHIFTS INCLUDED

- (2) Enterprises operating in terms of a compressed working week or applying agreed upon shift system shall observe the following: -

DAY SHIFT 06:00 -18:00	NO SHIFT ALLOWANCE
NIGHT SHIFT 18:00 – 06:00	15% OF HOURLY RATE, ONLY APPLICABLE AFTER 3RD CONSECUTIVE SHIFT, ALL SHIFTS INCLUDED

- (3) The Employer may elect to vary the starting and ending times of the shift by one hour to optimise travel arrangements. By way of example to apply a start time of 05h00 and an end time of 17h00.

CLAUSE 9: SHORT-TIME: REDUCTION OR INCREASE OF WORKING HOURS

- (1) An employer may require his employees to work for a lesser number of hours than the ordinary hours of work of his establishment, owing to any one of the following –
- (a) a shortage of work and/or materials in which case an employer shall give his employees, trade union/s involved and the Regional Office of the MEIBC five calendar days' notice of his intention to work short-time, and he shall, so far as is practicable, spread the work available among the employees affected. Where the employee is expressly required by the employer to report at the establishment on any one day for the purpose of ascertaining if work will be made available, such an employee shall receive not less than four hours' work or pay in lieu thereof, in respect of such day. If the employee is not required to attend the establishment, the employer shall advise the employee on the working day immediately preceding the day on which he is not required to attend;
 - (b) unforeseen contingencies and/or circumstances beyond the control of the employer. If the aforementioned circumstances should arise, an employer shall not be required to pay wages to his employees, except for the periods actually worked: provided that if the employer believes that work may be resumed and he expressly instructs his employees to present themselves for employment on a particular day, they shall receive not less than four hours' work or pay in lieu thereof, in respect of such day. Unforeseen contingencies and/or circumstances beyond the control of the employer referred to in this paragraph shall not include inclement weather.
- (2) Short shifts worked whilst working short time shall count as shifts actually worked. Employees shall be credited with the full shifts for an ordinary week for purposes of the paid leave.

- (3) An employer shall notify the Regional Council in the area concerned of the working of short-time –
- (a) in terms of subsection (1)(a) above, at the same time as the employees are notified; and
 - (b) in terms of subsection (1)(b) above, no notification is required.
- (4) In the event of unforeseen orders received, the hours of work or amount of days per week may be increased to accommodate for the additional hours required by giving no less than 48 hours' notice to employees and the Council. In applying the aforesaid the employer will observe the following:
- (a) The additional hours worked will be paid at the applicable overtime rates;
 - (b) The notice to the employees and the Council must contain the reason for the additional hours and the estimated period of the increased working hours;
 - (c) The work must be spread amongst all employees as far as practicably possible; and
 - (d) May not exceed a period of 6 weeks at a time.

CLAUSE 10: STANDBY & CALL-OUT ALLOWANCE

- (1) Where an employer requires an employee to be on standby the employee shall be paid an amount of not less than two hours' pay for each period of twenty-four hours or less on standby: Provided that this allowance shall be forfeited if the employee fails to respond to a call-out or if the call-out is within 30 minutes from the end of the employee's normal shift.
- (2) Where an employee is called out whilst on standby he shall be paid at the appropriate overtime rates for the time worked with a minimum payment of not less than two hours' overtime.
- (3) Where over-time is worked after the completion of the normal hours of a shift, the employee must be allowed a rest period of at least eight hours before the next normal shift starts. Where the rest period extends into the next shift, then the overlapping period into the shift is regarded as a paid period that the employee is not required to work'
- (4) The above provisions will not affect existing arrangements at establishments.

CLAUSE 11: WORKING IN TIME ARRANGEMENTS

- (1) An employer, with the support of not less than the majority of his employees covered in this Agreement and affected by the proposed arrangement, obtained via a ballot, may enter into an arrangement to work in time in order to achieve the extension with pay of—
 - (a) any paid public holiday provided for in clause 7 of this Agreement; or
 - (b) periods not ordinarily worked by employees; or
- (2) An employer, may elect to close his establishment—
 - (a) on any ordinary working day; or
 - (b) for any period of work forming part of any ordinary working day, and observe such day as a paid public holiday in doing so exchanging any paid public holiday falling on a Tuesday, Wednesday or Thursday for any other working day of the week
- (4) Where arrangements to work in time, as referred to in sub clause (1) are entered into such arrangements shall not include working in time on Sundays.
- (5) Where employment terminates before the date for which time had been worked in, in terms of sub clause (1) all hours so worked shall be deemed to be overtime hours subject to payment at the appropriate overtime rate applicable.
- (6) Time worked in by employees in terms of sub clause (1) or (2) shall count towards leave pay and/or leave enhancement pay entitlements as provided for in clauses 12 & 13.
- (7) Where such working-in time arrangements are entered into the employer shall notify the Regional Council concerned thereof within 14 days of such decision, specifying—
 - (a) the outcome of the ballot;
 - (b) the day/days for which time will be worked in;
 - (c) the day/days on which such time will be worked in.

CHAPTER 3

CLAUSE 12: LEAVE PAY

- (1) Leave payments provided for in this section shall, subject to paragraphs (a), (b), (c) and (d) hereof, be computed at the hourly rate as defined in this Agreement which the employee is receiving or entitled to receive on the date of qualification for his paid leave. Leave will be equal to the number of shifts an employee is required to work during a 3 week cycle. Employees will for the first 6 months of his / her employ qualify for 1 days leave every 17 shifts worked.
- (a) The leave pay of an employee who takes leave on the date on which he becomes entitled thereto, or who takes leave within four months from the date on which he becomes entitled thereto, as provided for in sub-clause (2)(f), shall be calculated at the rate applicable as at the date on which he became entitled to such leave: Provided that if the employee's leave is deferred at the request of the employer and is taken within four months from the date of qualification, the employee shall be paid his leave pay calculated at the rate applicable on the date on which he proceeds on leave; provided further that if any statutory increase occurs during the period between the qualification date and the date of return from leave, his leave pay shall, not later than seven days after he has returned from leave, be adjusted retrospective from the date of coming into force of such increase.
- (b) The leave pay of an employee in respect of whom an exemption has been granted and at his own request to take his leave after the four-month period provided for in sub-clause (2)(f), shall, subject to the conditions contained in the certificate of exemption, be calculated at the rate applicable on the date on which the employee became entitled to leave: Provided that for purposes of this calculation, the rate applicable shall, subject to subparagraphs (i) and (ii) hereof, include any statutory increase which comes into effect subsequent to the date on which the employee qualifies for leave.
- (c) The leave pay of an employee whose leave, at the request of an employer and after exemption has been applied for and been granted is postponed beyond the four-month period provided for in sub-clause (2)(f) shall, subject to the conditions contained in the certificate of exemption, be calculated at the rate applicable on the date on which the employee actually proceeds on leave. If any statutory increase occurs whilst the employee is on leave, the employer shall, not later than seven days after the employee

has returned from leave, adjust the leave pay by the amount of such increase retrospectively from the date on which such increase became effective.

- (2) Every employee shall be entitled under this Agreement to three consecutive weeks' paid leave subject to the following conditions:
- (a) The qualification for the paid leave shall be number of shifts ordinarily worked in a three week cycle, exclusive of overtime actually worked. Provided that –
- (i) employment with the same employer for less than 25 shifts, shall count for the paid leave provided that an employee whose employment is terminated after he has worked 17 shifts, shall be credited for purposes of paid leave, with the number of shifts he has actually worked for that employer; provided further that where an employee's service is broken in terms of this proviso and he resumes work for the same employer he shall, if he has not worked for another employer in the interim, be credited for purposes of paid leave with the total number of shifts worked for such employer;
 - (ii) periods of absence on account of sickness totalling not more than 26 shifts, in any one qualifying period for paid leave, shall count for paid leave: Provided that an employer shall be entitled to call upon the employee for a medical certificate in proof of cause of absence. Periods of absence on account of an accident arising out of and in the course of the employee's employment shall count for leave purposes if it has been determined that such accident falls under the Compensation for Occupational Injuries and Diseases Act, 1993, and the periods of absence counting for purposes of paid leave shall be the periods of disablement contemplated by the said Act;
 - (iii) Periods of absence on account of family responsibility leave shall not count towards paid leave; and
 - iv) Periods of absence to attend the training or perform the functions as a trade union representative or office bearer shall count for paid leave, subject to adherence to all the requirements contained in Clause 32(5 & 7) of this agreement.
- (b) An employee's leave shall include at least three week-ends and be for one unbroken period.
- (c) Should an employee proceed on leave, the employer shall, for each public holiday which falls within the employee's period of leave and which otherwise would have

been an ordinary working day for such an employee extend the leave period by one working day with full pay.

- (d) Payment for each such public holiday as contemplated in 12(2)(c) above shall be paid to the employee in a manner as provided for in clause 7 of this Agreement by his employer on his ceasing work to go on leave or in such manner as agreed between the employer and the employee
 - (e) Application for the leave shall be made by an employee within one month of the date on which he becomes entitled thereto.
 - (f) The leave shall be granted by the employer so as to commence within a period of six months of the date on which the leave is due.
 - (g) An employee shall be entitled to and shall take his leave within a period of six months from the date on which the leave is due, unless exemption has been granted.
 - (i) No employee shall engage in any employment for gain during the period of his leave. When an employee takes his paid leave, the monies payable to him for the purpose shall be paid to him, in the manner provided for in section 6 of this Agreement, by his employer on his proceeding on leave.
- (3) If the employment of an employee terminates before he becomes entitled to paid leave in terms of subsection (2), he shall be paid leave pay pro rata to the number of shifts worked less any deduction required by law for income tax.

CLAUSE 13: LEAVE ENHANCEMENT PAY

For the purposes of this section –

‘Leave Qualification’ shall be the qualification for the paid leave prescribed in section 12 of this Agreement, and the expression —

‘leave cycles’ shall have a similar meaning. Staggered Leave means at Company level no annual shut down is observed and arrangement in terms of which leave qualification is determined by either date of employment of every individual employee or by agreement on the leave period;

‘L.E.P.’ means Leave Enhancement Pay;

- (1) Every employee shall, subject to sub-clause 4(b), be entitled under this Agreement to L.E.P. calculated at 8.33% of the actual hourly rate applicable on the date on which the employee proceeds on leave. Provided that in the case of an employee who terminates his services or whose employment is terminated by the employer, the L.E.P. shall be calculated at 8.33% of the actual rate applicable on the date of such termination of employment.
- (2) Whenever an employee to whom this sub-clause applies qualifies for and takes his paid leave after the date of coming into operation of this Agreement, he shall at the same time be paid L.E.P. on a pro rata basis from the date of engagement in the case of an employee qualifying for his first period of paid leave in the service of an employer.
- (3) Whenever the employment of an employee terminates before he becomes entitled to paid leave, the employee shall be paid L.E.P., proportionate to the number of shifts credited to him for leave purposes or, at his request, he shall be credited with a share of the L.E.P. calculated in the same manner.
- (4)(a) No L.E.P. shall be credited for periods of employment where the employee has not reported for duty.
 - (b) This provision will not apply in cases where the employer has negotiated and introduced a performance measurement system.
 - (c) Shifts or periods of absence which count for leave purposes in terms of section 12(2)(a)(ii) of this Agreement shall not be included in the calculation of the L.E.P. due.

CLAUSE 14: PAID SICK LEAVE

- (1) Sick leave cycle in this clause means the period of 36 months' employment with the same employer, immediately following –
 - (a) an employee's commencement of employment; or
 - (b) the completion of that employee's prior sick leave cycle.
- (2) Whenever an employee is absent from work through sickness or injury (other than sickness or injury caused by his or her own misconduct) the employer shall grant, at the

commencement of every sick leave cycle, the following amount of paid sick leave: an equal amount of shifts worked in 30 calendar days.

- (3) During the first six months of employment with an employer, an employee will be entitled to one working day's paid sick leave in respect of each 26 shifts worked;
- (4) The employee's entitlement to sick leave is reduced by the number of days' sick leave taken in terms of sub-clause (3) above.
- (5) An employer must pay the employee for each day of absence, as provided for above, on the employee's usual payday an amount equivalent to what the employee would have received had he or she worked the ordinary hours of the shift for that day of the week.
- (6) The employer, before making payment of any amount payable to an employee for any period of absence from work of more than two consecutive days or on more than two occasions during an eight week period, may require the employee to produce a medical certificate signed by a medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professional council established by an Act of parliament.
- (7) The employer may require an employee to produce a medical certificate in respect of any absence from work on a Friday or Monday or on the working day immediately before or after any paid public holiday before making payment of any amount payable in terms of this sub clause.
- (8) If it is not reasonably practical for an employee who lives on the employer's premises to obtain a medical certificate, the employer may not withhold payment in terms of sub-clause (6) unless the employer provides reasonable assistance to the employee to obtain the certificate.
- (9) Where an employer is by law required to pay fees for hospital or medical treatment in respect of an employee, and pays such fees in respect of any sickness or injury referred to in this clause, the amount so paid may be set off against the payment for sick leave due in terms of this clause.
- (10) An employer, who is of a reasonable belief that an employee's absence from work resulting from an injury on duty will be compensable in terms of the Compensation for Occupational Injuries and Diseases Act 1993, must pay the employee 75% of his or her ordinary hourly rate for the period of the absence up to a maximum period of three months from the date of the accident. The employer shall recover this payment from the Compensation Commissioner.

(11) An employee is not entitled to pay sick leave-

- (a) during periods of absence from work for which compensation is payable under the Compensation for Occupational Injuries and Diseases Act 1993;
- (b) in respect of periods during which the employee was absent due to the working of short time; or
- (c) during any other period of authorised absence excluding authorised absence for training or further education.

CLAUSE 15: FAMILY RESPONSIBILITY LEAVE

For purposes of this clause, —

‘child’- means a person who is under 18 years of age provided that for purposes of sub-clause 2(d)(ii), this age shall not apply.

- (1) This section applies to an employee who has been in the employ of the same employer for longer than four months and who works for at least four days a week for that employer.
- (2) An employer must, at the request of the employee, grant the employee three days’ paid leave during each annual leave cycle, which the employee is entitled to take-
 - (a) when the employee’s child is sick; (child includes a person certified to be not accountable upon proof presented); or
 - (b) when the employee’s spouse is sick, or
 - (c) in the event of the death of-
 - (i) the employee’s spouse or life partner; or
 - (ii) the employee’s parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling and/or parents-in-law.
- (3) Subject to sub-clause (5), an employer must pay an employee for a days’ family responsibility leave-
 - (a) the wage the employee would ordinarily have received for work on that day; and
 - (b) on the employee’s usual pay day.
- (4) An employee may take family responsibility leave in respect of the whole or a part of a day.
- (5) Before paying an employee for this leave, an employer may require reasonable proof of the event contemplated in (2) above for which the leave was required. For purposes of

administrative control an employer may maintain a register detailing the identity of all qualifying dependents in respect of which this provision may operate and all employees will be required to provide the requisite information to the employer, where so requested.

- (6) An employee's unused entitlement to leave referred to in this clause accrues to a maximum of nine days paid leave over a three-year period of employment. This accrued leave may only be used in the event of the death of any of the persons detailed in (2) above. For any other reasons defined in (2) above entitlement is limited to 3 days per annum.

Draft

**CLAUSE 16: MATERNITY LEAVE OR LEAVE IN RESPECT OF THE ADOPTION
OF A CHILD UNDER TWO YEARS OF AGE.**

Notwithstanding anything to the contrary contained in this Agreement, the following special provisions shall apply to an employee who is unable to continue working due to pregnancy and adoption of a child under two years of age:

(1) For the purposes of this clause:

(a) **'employee'** means a female employee who is unable to continue working owing to pregnancy or the adoption of a child under two years of age and includes employees employed in a manufacturing or production process whose rate of pay is not scheduled in this Agreement but whose activities are directly concerned with the creation of the engineering goods and/or services as covered by the scope of application of this Agreement, but does not apply to the work carried out by administrative staff and/or those employees employed on non- production operations;

(b) **'permanent employee'** means any employee other than an employee who is specifically employed on a short-term contract, as provided for in terms of this clause, to substitute for an employee who is unable to continue working owing to pregnancy or the adoption of a child under two years of age.

(c) **'substitute employee'** means any employee other than an employee who is specifically employed on short term contract, as provided for in terms of this clause, to substitute for an employee who is unable to continue working owing to pregnancy or the adoption of a child under two years of age.

(2) A permanent employee shall be entitled to the following benefits when such employee is unable to continue employment owing to pregnancy or the adoption of a child under two years of age:

Period of Leave

	Pregnancy	Stillborn	Adoption of children under two years of age
Employees with one year or more continuous service with the same employer.	26 weeks	12 weeks	26 weeks
Employees with less than one years' continuous service with the same employer	18 weeks	8 weeks	18 weeks

Note: A qualifying permanent employee, falling under the scope of the Metal and Engineering Industries Sick Pay Fund Agreement, shall receive a benefit from the Sick Pay Fund equating to 100% of her wages.

- (3)(a) The employer and employee shall enter into a written agreement specifying –
- (i) the date of return to work mutually agreed upon between the employer and employee;
 - (ii) that should the employee wish to return to work earlier than the date referred to in (i), the employee shall give the employer not less than four weeks' prior notice of such intention;
 - (iii) provided the employee is so entitled, the benefits the employee is eligible for, from the Metal and Engineering Industries Sick Pay Fund or in respect of the employee's participation in any other fund, organization or scheme providing benefits in respect of pregnancy or adoption of a child under two years of age and in respect of which exemption has been granted or is granted, from the provisions of the Metal and Engineering Industries Sick Pay Fund Agreement; and the employer shall provide the employee with such claim forms as may be necessary in respect of the benefits due to the employee and should assist the employee to complete the claim(s) prior to the date of proceeding on maternity leave or leave in respect of the adoption of a child under two years of age in order that such claims may be submitted on proceeding on maternity leave;

(iv) the details of the employee's occupation and rate of pay at the time of proceeding on maternity leave.

A female employee seeking to utilize the adoptive leave provisions shall notify the employer of the institution of the adoption proceedings and shall keep the employer informed of progress in the adoption process, including the anticipated date that the adoption will take effect.

- (4) Provided the employee returns to work on the date referred to in paragraph (3)(i) or (3)(ii) of this clause, the employer shall place the employee –
- (i) in the same or in a similar position to the position held prior to her proceeding on maternity or adoption leave;
 - (ii) on a rate of wages and conditions of employment not less favourable than the rate of wages and conditions of employment that applied prior to the maternity or adoption leave, including any general increases passed on during the period of absence.
- (5) On returning to work the employee shall—
- (i) be treated as having unbroken service, except that the period of absence shall not be counted as service for the purpose of leave pay and leave enhancement pay calculation in that leave cycle;
 - (ii) not suffer any prejudice for the purpose of promotion and/or merit increases as a result of the absence;
 - (iii) be entitled to any increase prescribed for the job grade in any collective agreement which comes into operation during the period of absence;
 - (iv) not suffer any decrease in status relative to other employees as a result of the period of absence.
- (6) During the period of maternity or adoption leave provided for in this clause, the employer shall be entitled to employ a substitute temporary employees on a short-term contract of employment as provided for in the Annexure to this clause at rates of pay not less than the rate of pay prescribed in this Agreement for the work undertaken by the substitute temporary employee, or where there is no rate prescribed in this Agreement, at the rate normally paid to an employee employed for work in operative or manufacturing

processes. Short-term contracts for substitute temporary employees shall inform the employee at the time of engagement that the contract shall terminate—

- (i) on the return to work of the employee who is absent;
 - (ii) on being given not less than three weeks written notice that the employee who is absent has given the employer notice of an earlier return to work, as provided for in sub clause (3)(a)(ii) above. The substitute temporary employee shall signify acceptance of these conditions in writing. If, at the end of the short-term contract, the substitute temporary employee continues in the employment of the employer, the provisions of this Agreement shall replace the conditions of the short-term contract where applicable.
- (7) During an employee's pregnancy an employer must offer her suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if the employee is required to perform night work (between the hours of 18h00 and 06h00) and it is practical for the employer to do so.
 - (8) For the purposes of any retrenchment or reduction in the workforce that may arise during the absence of any employee, the employee shall be classified and dealt with as an employee in employment.
 - (9) The provisions of clause 12(2) of this Agreement in respect of leave pay shall be applied on proceeding on maternity leave.
 - (10) The provisions of section 25, —Maternity Leave of the Basic Conditions of Employment Act shall apply, and read in context with the changes required.

ANNEXURE to CLAUSE 16
SHORT-TERM CONTRACT OF EMPLOYMENT FOR SUBSTITUTE TEMPORARY
EMPLOYEES

In terms of clause 33 of the Consolidated SAEFA Agreement CONTRACT OF EMPLOYMENT The employer hereby agrees to engage the services of (the substitute temporary employee) and the substitute temporary employee hereby agrees to accept service with the employer on the following terms and conditions:

- (i) The duration of this Contract of Employment shall be for a maximum period of six months from to or shall terminate upon returning to work of (the permanent employee) in terms of clause (ii) below.
- (ii) The Contract of Employment shall terminate on the agreed date of return of(the permanent employee) or three weeks after the substitute temporary employee has been given written notice that the permanent employee has given the employer notice of an earlier return to work, as the case may be, as provided for in clause 6(a)(ii) of this Agreement.
- (iii) For the purpose of any retrenchment or reduction in the workforce that may arise during the absence of the permanent employee, all contracts of substitute temporary employees shall be terminated before permanent employees are considered for retrenchments.
- (vi) On completion of the contract period as detailed in (i) or (ii) above, this contract shall automatically terminate. Such termination shall not be construed as being retrenchment but shall be completion of contract.
- (v) The remaining conditions of employment, not expressly detailed above, shall be the existing employer policy, rules and regulations and the general conditions of employment as contained in the Consolidated SAEFA Agreement.
- (vi) Where employment continues after the return of the permanent employee (.....), this contract shall automatically terminate and the provisions of the Consolidated SAEFA Agreement shall apply. The substitute temporary employee hereby acknowledges that he understands and accepts the contents of this contract.

Signed at..... on2

..... Employer.....

..... Employee

..... Witness

CHAPTER 4

CLAUSE 17: UNAUTHORISED EMPLOYMENT

Notwithstanding anything to the contrary in this Agreement, no provision which prohibits the engagement or employment of an employee on any class of work or on any conditions shall be deemed to relieve the employer from paying the remuneration and observing the conditions which he would have had to pay or observe had such engagement or employment not been prohibited, and the employer shall continue to pay such remuneration and observe such conditions as if such engagement or employment had not been prohibited.

CLAUSE 18: OUTWORK AND HIRE OF LABOUR

- (1) Every employer, including a TES, undertaking to execute or complete any work in any Region other than the Region in which his establishment is registered with the Council shall notify the nature and place of work in writing to the Regional Council for the area in which the work is done within seven days of the commencement of such work and shall maintain at such place of work a register of the hours worked by all employees and their remuneration in respect thereof.
- (2) The use of TES in production positions shall be in accordance with the provisions conferred to in the Act.

CLAUSE 19: EMPLOYMENT OF MINORS AND ISSUE OF CERTIFICATES, ETC

- (1) Subject to the provisions contained in Clause 20 of this agreement, no employer shall employ a minor in terms of this Agreement without obtaining the prior approval of the Council and a certificate from the Council in such form as it may specify.
- (2) Any permission given in terms of subsection (1) may be withdrawn by the Council for any good and sufficient reason it deems fit and on receipt of notification from the Council the employer shall forthwith dispense with the services of the minor to whom the notification refers or, as the case may be, retain the minor's service at the full rate specified for the class of work performed.
- (3) When permission is withdrawn in terms of subsection (2), the employer shall forthwith return the certificate to the Council for cancellation.

CLAUSE 20: EMPLOYMENT OF PERSONS UNDER 15 YEARS OF AGE

No employer shall employ any person under the age of 15 years.

Draft

CHAPTER 5

CLAUSE 21: EXEMPTIONS

1. General

- (a) Any party bound by this Agreement may apply for an exemption. Parties to this agreement may only in exceptional circumstances apply for a monetary exemption, these applications must include a full disclosure of reason for the application and supporting documentation in respect of the reason should be attached. Exemptions will be considered on merit and do not necessarily require audited financial statements.
- (b) The authority of the Council is to consider applications for exemptions and grant exemptions.
- (c) All exemptions will be considered by the National Exemptions Committee and representatives will be appointed and confirmed annually. All applications for exemption must be considered within 30 days from date of receipt.
- (d) In the event of outstanding information, the application for exemption will be deemed to be incompetent and additional and/or outstanding information may be requested within 14 days from date of receipt in respect of an exemption application. If such information is not received within a period of 30 days from such a request the applicant will be informed that the application will lapse.
- (d) The Council hereby establishes an exemptions body, constituted of persons independent from the Council, to consider all applications for exemption from the provisions of the Council's Collective Agreements. In terms of s32(3)(e) of the Act, the Council also establishes an Independent Appeals Board to hear and decide within 30 days of date of appeal any appeal brought against the Exemptions Board's refusal of an application for exemption from provisions of the collective agreement or withdrawal of an exemption by the Exemptions Board or the Council.
- (e) Any enterprise that employs less than 20 employees qualifies for an automatic exemption from the provisions of this Agreement.

2. Fundamental principles for consideration

- (a) All applications must be in writing and fully motivated and sent to the Regional Office of the Council for the area in which the applicant is located. The application should be made in terms of the prescribed procedure and the criteria outlined in 3 will apply when such application is considered.
- (b) In scrutinising an application for exemption, the Council will consider the views expressed by the employer and the workforce, together with any other representations received in relation to that application.
- (c) The employer must consult with the workforce, through a trade union representative or, where no trade union is involved, with the workforce itself, and must include the views expressed by the workforce in the application. Where the views of the workforce differ from that of the employer, the reasons for the views expressed must be submitted with the application. Where an agreement between the employer and the workforce is reached, the signed written agreement must accompany the application.
- (d) The exemption shall not contain terms that would have an unreasonably detrimental effect on the fair, equitable and uniform application of this Agreement in the Industry.
- (e) Wage and wage related exemptions shall not generally be granted beyond the expiration of the Agreement provided that the Council may at its discretion and on good cause shown agree to a longer period (but not an indefinite period).
- (f) Applications for exemptions involving monetary issues may not be granted retrospectively.
- (g) An application for exemption shall not be considered if the contents of the application are covered by an arbitration award binding the applicant.

3. Criteria for exemption

Applications shall comply with the following requirements:

- (a) Be fully motivated
- (b) Be accompanied by relevant supporting data, business plan and financial information if applicable;
 - i. In cases where the application is based on financial reasons the following will apply:
 - a. Financial information to be considered is limited to Income Statements only;

- b. There must be an 8% return on turnover before adding back director emoluments;
- (c) Applications that affect employees' conditions of employment shall not be considered unless the employees or their representative have been properly consulted and their views fully recorded in an accompanying document. The employees or their representative will be responsible to file their views with the Council;
- (d) The nature of the relief sought dictates, the application shall be accompanied by a plan reflecting the objectives and strategies to be adopted to rectify the situation giving rise to the application and indicating a time frame for the plan.
- (e) Indicate the period for which the exemption is sought.
- (f) The applicant's past record (if applicable) of compliance with the provisions of the Collective Agreement and licences of exemption;
- (g) Any special circumstances that exist;
- (h) Any precedent that might be set;
- (i) The interest of the Industry in respect of; (if applicable)
 - i. Unfair competition;
 - ii. Collective bargaining;
 - iii. Potential labour unrest;
 - iv. Increased employment;
- (j) The interest of the employees in respect of; (if applicable)
 - i. Exploitation;
 - ii. Job preservation;
 - iii. Sound conditions of employment;
 - iv. Possible financial benefits;
 - v. Health and safety;
 - vi. Infringements of basic rights.
- (k) The interest of the employer in respect of; (if applicable)
 - i. Financial stability;
 - ii. Impact on productivity;
 - iii. Future relationship with employees' and trade union;
 - iv. Operational requirements

Urgent applications

- (a) In cases of urgent applications, details may be emailed or delivered to the Council in the region where the applicant is located.
- (b) The Council or Chairperson and Vice Chairperson of the MEIBC will consider the application, make a decision and communicate that decision to the applicant without delay.
- (c) The applicant is expected to put forward a substantive explanation as to the urgency of the application.

4. Process

- (a) The Council shall issue to every person to whom exemption has been granted an exemption licence, setting out the following:
 - (i) the full name of the person or enterprise concerned;
 - (ii) the provisions of this Agreement from which the exemption has been granted;
 - (iii) the conditions subject to which exemption is granted;
 - (iv) the period of the exemption;
 - (v) the date from which the exemption shall operate; and
 - (vi) the area in which the exemption applies.
- (b) The Council shall ensure that –
 - (i) all exemption licences issued are numbered consecutively;
 - (ii) an original copy of each licence is retained by the Council;
 - (iii) a copy of the exemption licence is sent to the applicant.
- (c) Unless otherwise specified in the licence of exemption, any exemption from this Agreement shall be valid only in the region of the Council in which the application was made.
- (d) The Council may withdraw the exemption at its discretion.

5. Appeals

- (a) An Independent body, referred to as the Independent Exemptions Appeal Board (the Board) shall be appointed and shall consider any appeal against an exemption granted or refused by the Council, or a withdrawal of an exemption in respect of parties and non-parties, within 30 days from the date the appeal was filed.

- (b) The Council Secretary will, on receipt of an appeal against a decision of the Council, submit it to the Independent Exemptions Appeal Board for consideration and finalisation.
- (c) In considering an appeal the Board shall consider the recommendations of the Council and any further submissions by the employers or employees shall take into account the criteria set out above and also any other representations received in relation to the application.
- (d) Should the appeal be successful an exemption licence shall be issued in terms of sub-clause (4)(a) and (b) above and shall be subject to sub-clause (4)(c) and (d).

a) EXEMPTIONS QUESTIONNAIRE

- i. This attached questionnaire is the only document that will be considered for any applications for exemptions from this Agreement and must be completed as required by this clause. Any incomplete application form will be deemed to be an incompetent application and will not be considered until and unless a complete application is submitted. Only complete applications will be deemed to be a competent application for consideration as set out in this clause.
- ii. Where an agreement with the trade union representatives or workforce is reached in respect of the exemption applied for and attached, such application may be dealt with administratively by the MEIBC Office.

[page one]

APPLICATION FOR EXEMPTION QUESTIONNAIRE

[Clause 21 of the Consolidated SAEFA Agreement]

DATE OF THIS APPLICATION: _____ 20__

PART 1. REGISTRATION DETAILS:

1. 1. Council Registration Number: _____
1. 2. Date the firm was Registered with the Council: _____
1. 3. Name of firm: _____
1. 4. Address of firm: _____
1. 5. Telephone Number: _____ Fax Number: _____
1. 6. E-mail Address: _____
1. 7. Contact person: _____
1. 8. Name of Employer Organization: _____
1. 9. Activities of firm: _____
- 1.10. Are any Director/s – Member/s – partner/s – owners/s of the firm a Shareholder in any other Business? _____ If yes please specify

PART 2. LABOUR DETAILS:

2. 1. Total Number of Employees (Staff included):

--	--	--	--

2. 2. Total Number of Scheduled Employees (Staff excluded):

--	--	--	--

2. 3. Name/s of Trade Union/s involved: _____

[page two]

PART 3. EXEMPTION DETAILS:

3.1. Specify Exemption applied for by ticking the appropriate box:

- To pay below the minimum wage rates (Clause 32)
- To pay below the minimum increase (Clause 32)
- Leave Enhancement Pay (Clause 13)
- Increase maximum hours of overtime (Clause 4(4))
- Shift Allowances (Clause 8)
- Other: Clause: _____ Description: _____

3.2. Period for which the exemption is sought: _____ **20** to
_____ **20**_____

3.3. Who will the exemption affect?

- Workshop
- Site
- All Employees

3.4. Which parties have been consulted?

- Trade Union Representatives
- Employees

3.5. Date of consultation/s: _____ **20**_____

3.6. Did affected parties support the Application?

- Yes
- No, (If not, please advise attendees that they should provide their written reasons to the employer to be attached)

[page three]

PART 4. COMPLIANCE:

4.1 Has any previous exemptions from this agreement been granted?

- Yes (If yes, please indicate the type of exemption that was granted)

- No

4.2 Has the firm during the past 12 months had to institute (please tick)

- Short time
 Lay off
 Retrenchment

(If any of the above have been marked, the periods and/or dates as well as employees affected must be specified and attached to this application)

PART 5. ATTACHMENTS:

5.1 The following documents, if required, must be attached to this application:

- Minutes of consultation meeting with Trade Union Representatives and/or Employees
- Attendance register specifying names and signatures of persons who attended consultation meeting
- Where an agreement between the employer and the workforce is reached, the signed written agreement
- Motivation which explains
- Difficulties being faced by the firm
 - Any special circumstances that exist
 - Any precedent that might be set
 - The interest of the industry, employees and employer
- Business Plan that reflects the objectives and strategies to be adopted by the firm to rectify the situation giving rise to the application and an indication of a time frame for the plan.
- Income Statements for the past three months

5.2 All relevant documentation pertaining to the Application MUST be attached in order to ensure an expeditious reply. If any Section of this document is NOT completed or any document/s is not attached, the Council will not consider the Application.

[page four]

DECLARATION:

The details reflected in this document have been provided by the employer or person so designated as true and correct to the best of their knowledge at the date of this Application. It is understood that all information contained in this document is subject to verification if required. Any information found to have been incorrect would result in immediate disqualification of the Application.

SIGNED.....

DATE.....

PLEASE PRINT NAME _____

DESIGNATION _____

Draft

CHAPTER 6

CLAUSE 22: EXHIBITION OF AGREEMENT

Every employer shall obtain, and on request from any employee, make available for perusal a legible copy of this Agreement plus all subsequent amendments thereof, in a format approved by or acceptable to the Council.

CLAUSE 23: ADMINISTRATION OF AGREEMENT

The Council shall be the body responsible for the administration of this Agreement.

CLAUSE 24: AGENTS

- (1) The Council shall appoint one or more specified persons as Agents to assist in giving effect to the terms of this Agreement. For the purpose of enforcing or monitoring compliance with this agreement, as the case may be, an Agent of the Council shall have the right to enter and inspect the premises, examine records and question the employer and/or his employees in any manner that he deems appropriate: Provided that such rights be exercised only as is reasonably required for the purpose of enforcement of, or monitoring compliance with the Agreement.
- (2) After each inspection of an employer's records and operations the agent shall prepare a report for the attention of the employer, worker representatives and, in the case of an individual complainant, the complainant concerned, confirming the date and time of the inspection and, if any contraventions of the Agreement were identified, a summary of the contraventions and the action that management is required to take to rectify the contraventions. Any disclosure of information shall comply with the provisions of the Act.
- (3) A designated agent shall have the powers set out in sections 33 and 33A of the Act and in Schedule 10 of the Act.

CLAUSE 25: PROHIBITION OF CESSION AND/OR SET-OFF

- (1) No claim whatsoever by any employee against the Council shall be capable of being ceded, and no purported cession thereof shall be binding upon the Council.
- (2) Set-off shall not operate and is expressly excluded as between any amounts payable to an employee as referred to in section 6 and any amount payable by such employee, the deduction of which is prohibited by that section; and this provision shall be deemed to be a term of every contract of employment between employer and employee.

CLAUSE 26: TERMINATION OF EMPLOYMENT

- (1) A contract of employment terminable at the instance of the employer or the employee may be terminated only on notice of not less than-
 - (a) one week, if the employee has been employed for six months or less;
 - (b) two weeks, if the employee has been employed for more than six months.
 - (c) Four weeks, if the employee has been employed for more than one year with the same employer
- (2) The provisions of sub-clause 1 above shall not affect -
 - (a) the right of an employer or employee to terminate a contract of service without notice for any good cause, recognised by law as sufficient;
 - (b) Any agreement between an employer and employee providing for a longer period of notice than the periods referred to in sub-clause 1(a) or (b) or (c) above.
- (3) Notwithstanding the provisions of sub-clause (1) above, an employer may pay to an employee wages for and in lieu of the prescribed or agreed period of notice.
- (4) Whenever the contract of service is terminable by the notice period referred to in sub-clause 1(a) or (b) or 2(b) above and the employee fails to give notice or to work such notice period, the employer may deduct pay in lieu of such notice period in the establishment concerned.

- (5) For the purpose of this clause, — week shall be a week consisting of the ordinary hours of work as referred to in Clause 4(1) of this Agreement. Notice must be given on the first day at the commencement of the working week for the employee.
- (6) The termination of employment by an employer on notice in terms of this Agreement does not prevent the employee challenging the fairness or lawfulness of the termination or dismissal.

CLAUSE 27: CERTIFICATE OF SERVICE

Every employer shall provide each employee on the termination of his employment with a certificate of service showing full names of the employer and employee, the nature of the employment, the dates of commencement and termination of the contract and the rate of remuneration at the date of such termination, and the employer shall forward a copy of such certificate of service to the Regional Council concerned: provided that where in this Agreement the wage of any employee is determined by length of service it shall be incumbent on the employee to produce a certificate of service to his new employer on change of employment in order to become entitled to remuneration prescribed for length of service.

CLAUSE 28: TECHNOLOGICAL CHANGES AND WORK RE-ORGANISATION

(1) For the purpose of this clause technological change means the introduction by the employer of manufacturing equipment substantially different in nature or type from that previously utilised by the establishment or of substantial modifications to present manufacturing equipment.

(2) *Notification*

- (a) The employer shall notify the union of any such technological change not less than ninety days prior to the implementation date of such change. This notice shall be given in writing and shall contain relevant information including:-
 - (i) the nature of the change;
 - (ii) The approximate date on which the employer proposes to effect the change;
 - (iii) The employees likely to be affected by the change;

- (iv) The anticipated effect of the change on employees working conditions and terms of employment; and
 - (v) any other relevant information relating to the anticipated effects on employees including the change in skills.
- (b) The provisions as contained in the Section 189 / 189A of the Act will be observed.

(3) *Work Re-organisation*

Where an employer intends introducing major work re-organisation which will substantially and materially affect the work of employees, the employer shall consult in an endeavour to reach agreement with representatives of the trade unions represented at the establishment and any employee representative body to discuss the implications of the work re-organisation including: - the need to re-train employees affected by such work re-organisation; and - any possible impact on the health, safety and work environment of the affected employees. The provisions as contained in the Section 189 / 189A of the Act will be observed.

- (4) The employer shall notify the union of any such work re-organisation not less than 60 days prior to the implementation of such change.
- (5) Where the introduction of work re-organisation may result in retrenchments or redundancies, the security of employment provisions of this agreement (section 30) and the Act shall be observed.

CLAUSE 29: SECURITY OF EMPLOYMENT AND SEVERANCE PAYMENT

(1) *Retrenchment of employees*

- (a) If there are lay-offs and/or retrenchments of employees on account of shortage of work or other circumstances in the establishment, the employer shall, not later than seven days after the date of retrenchment, notify the Council in writing of –
 - (i) the number of employees retrenched;
 - (ii) the effective date of the retrenchments;
 - (iii) the occupational categories scheduled in the Agreement of the employees retrenched;
 - (iv) the basis of identifying employees retrenched; and
 - (v) the specific reason for retrenching the employees.

- (b) The procedure to be followed in the event of lay-offs, relocation or closure of an establishment, retrenchments, redundancies and the operation of limited-duration contracts of employment shall be as provided for in the Act.
- (c) Where non-observance of the procedure under the Act gives rise to a dispute, such dispute shall be regarded as an alleged unfair dismissal dispute and may be dealt with by the Bargaining Council and, if necessary, the Labour Court in terms of section 191 of the Act.

(2) *Severance payment*

- (a) In the case of retrenchment an employer, subject to sub-clause (2), shall pay to each employee who is retrenched, in addition to any other amounts to which he is entitled in terms of this Agreement on termination of service, a severance payment of a minimum of one weeks' wages for each completed year of service together with the following:
 - (i) Pro rata allowance(s) where applicable;
 - (ii) pro rata leave pay; and
 - (iii) an amount equal to the weekly employer contribution to any applicable benefit funds of which the employee was a member at the time of retrenchment; in respect of each completed year's service with the same employer.

(3) *Re-employment of retrenched employees*

Where an employer has retrenched employees he shall, if he subsequently engages additional employees, as far as is practicable give preference to the re-engagement of those employees who were retrenched from his establishment who are qualified and available to undertake the categories of work required by the employer. If the same category of work becomes available such retrenched employee will, for a period of three years from date of retrenchment, be offered employment at the rate he / she was employed at, at the time of retrenchment. In addition, increases agreed to during the employee's period of absence will also be added on to the rate of pay of such employee. In the event a retrenched employee is offered a lower level of employment such offer will be at the appropriate and applicable rate of the position offered.

(4) Promotion, training and/or retraining

- (a)(i) Where promotion opportunities occur within the establishment of an employer, the employer shall specify the requirements of candidates for promotion in terms of –
 - (aa) educational or other qualifications;
 - (ab) training and/or retraining;
 - (ac) experience and/or related experience; and
 - (ad) Employment Equity targets.
- (ii) The employer shall, on request, furnish this information to the Council.
- (iii) The employer shall be free, subject to the provisions of subsection (7) hereof, to promote on the basis of merit any employees from among those of his employees who meet the requirements specified for the job.

CLAUSE 30: PROCEDURES FOR THE NEGOTIATION OF AGREEMENTS AND SETTLEMENT OF DISPUTES

- (1) The Bargaining Council shall within the undertaking, sector, trade or occupation and in the area in respect of which it has been registered, endeavour, by the negotiation of agreements or otherwise, to prevent disputes from arising, and to settle disputes that have arisen or may arise between employers and employers' organisations and employees or trade unions and take such steps as it may think expedient to bring about the regulation or settlement of matters of mutual interest to employers or employers' organisations and employees or trade unions. Parties agree that once a certificate of non-resolution is issued in terms of Section 135 of the Act, it will be peremptory to approach the CCMA in respect of Section 150(2).
- (2) All sector negotiations must be initiated and processed in terms of the Council Constitution and Clause 33 of this Agreement.
- (3) For the purposes of complying with the Act, the Council shall follow the procedures set out in the Metal and Engineering Industries Bargaining Council Dispute Resolution Agreement.

CHAPTER 7

CLAUSE 31: ORGANISATIONAL RIGHTS

- (1) Trade Unions party to the MEIBC automatically qualify to have membership fees deducted by the employer.
- (2) The automatic right referred to in (1) will be granted subject to the following:
 - (a) Any *employee* who is a member of a trade union referred to in (1) may authorise the employer in writing to deduct subscriptions or levies payable to that trade union from the *employee's* wages;
 - (b) An *employee* may revoke an authorisation given in terms of subsection (1) by giving the employer and the representative trade union one month's written notice.
- (3) Upon proof of membership trade unions party to the MEIBC automatically qualify to, upon prior notice, access the premises of the employer subject to the following:
 - (a) Any *official* of a trade union is entitled to, upon prior notice, enter the employer's premises in order to communicate with members, or otherwise serve their interests;
 - (b) Hold meetings outside of working hours;
 - (c) Vote at the employer's premises in any election or ballot contemplated by that trade union's constitution; and
 - (d) The rights conferred by this sub-section are subject to any conditions as to time and place that are reasonable and necessary to safeguard life or property or to prevent the undue disruption of work.
- (4) In any place of work in which at least 10 members of a trade union are employed, those members are entitled to elect from among themselves—
 - (a) if there are 10 members of the trade union employed in the workplace, one trade union representative;
 - (b) if there are more than 10 members of the trade union employed in the workplace, two trade union representatives;
 - (c) if there are more than 50 members of the trade union employed in the workplace, two trade union representatives for the first 50 members, plus a further one trade union representative for every additional 50 members up to a maximum of seven trade union representatives;
- (5) Subject to the workload, a trade union representative is entitled to take 5 days off with pay during working hours provided that—

- (a) The trade union request the release of the trade union representative not less than seven (7) working days in advance of the time off requested;
 - (b) Failure by the trade union representative to attend the training or perform the functions as requested in (a) will result in the trade union representative forfeiting the entitlement to be paid for the period requested.
- (6) Once a trade union representative is elected as an Office Bearer it is incumbent on the trade union to advise the employer accordingly.
- (7) In addition to the 5 days time off referred to in (5) and in compliance with (6) an Office Bearer is entitled to an additional 5 days of with pay during working hours provided that-
- (a) The trade union request the release of Office Bearer not less than seven (7) days in advance of the time off requested;
 - (b) Failure by the Office Bearer performing the functions as requested in (a) will result in the Office Bearer forfeiting the entitlement to be paid for the period requested.
- (8) The entitlement to time off contained in this part of the Agreement is limited to the number of trade union representatives as referred to in (4).

CHAPTER 8

CLAUSE 32: WAGES

(1) Transitional Provisions applicable to employees employed prior to 1 July 2017 who continue in the employment of the same employer after 1 July 2017:

(a) Subject to sub-clause (2) hereunder, an employee who has been in the employ of the same employer prior to the coming into operation of this agreement shall retain his / her wage rate.

(b) An employee who commenced employment with an employer after coming into operation of this agreement shall not receive a wage lower than stipulated in sub-clause (2).

(2) Subject to sub-clause (3) no employer shall pay to any employee engaged on work classified in the schedules to this Agreement wages lower than those stipulated and no employees shall accept wages lower than those stipulated, namely –

Table A

Grade	Minimum Hourly Rate
A	R51,30
AA(6)	R48,93
AA (start)	R46,72
AB	R44,63
B	R42,70
C	R41,14
D	R40,31
DD	R37,39
DDD	R35,77
E	R34,18
F	R32,76
G	R31,27
H	R30,00

APPRENTICE WAGE SCHEDULE:

APPRENTICE YEAR	% OF CORRESPONDING GRADE
YEAR 1	60%
YEAR 2	70%
YEAR 3	80%
YEAR 4	90%

CLAUSE 33: LEVELS OF BARGAINING

- (1) The Metal and Engineering Industries Bargaining Council shall be the sole forum for negotiating matters contained in this Agreement and all substantive matters of mutual interest;
- (a) during the currency of the Agreement, no matter contained in the Agreement may be an issue in dispute for the purposes of a strike or lock-out or any conduct in contemplation of a strike or lock-out;
- (b) any provision in a collective agreement binding an employer and employees covered by the Council, other than a collective agreement concluded by the Council, that requires an employer or a trade union to bargain collectively in respect of any other matter contained in this Agreement, is of no force and effect;
- (2) Where bargaining arrangements at plant and company level, excluding agreements entered into under the auspices of the Bargaining Council, are in existence, the parties to such arrangements may, by mutual agreement, modify or suspend or terminate such bargaining arrangements. In the event of the parties to such arrangements failing to agree to modify, suspend or terminate such arrangements by the date of implementation of the Agreement, the wage increases on scheduled rates and not on the actual rates shall be applicable to such employers and employees until the parties to such arrangement agree otherwise.

CLAUSE 34: RESOLUTION OF DISPUTES

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 the Metal and Engineering Industries Bargaining Council Dispute Resolution Collective Agreement and Council Constitution.

Draft

CLAUSE 35: ANNEXURE A

LIMITED DURATION CONTRACT OF EMPLOYMENT

CONTRACT OF EMPLOYMENT

(The employer)..... agrees to engage the services of (the employee) and the employee hereby agrees to accept service with the employer on the following terms and conditions:

INITIAL

(i) (a) The contract of employment in terms of this Agreement shall be for a maximum period of months/weeks from date of employment, for the purpose of turn-around work) from..... to..... or completion of the specific work detailed hereunder:
.....
.....

(b) The contract of employment for short-term fluctuations in workload shall not exceed a period of four months from date of employment, viz fromto....., or completion of the specific work detailed hereunder:

(Note: Should a period longer than four months be required to complete a specific task or activity, the period and the specific task or activity must be specified hereunder:)
.....
.....

INITIAL

(ii) On completion of the contract detailed in (i) above, this contract shall automatically terminate. Such termination shall not be construed as being retrenchment but as completion of contract.

The employee shall nonetheless still be given five shifts notice of expiry of the contract period.

(iii) The remaining conditions of employment, not expressly detailed above, shall be existing employer policy, rules and regulations and the general conditions of employment as contained in the Main Agreement for the Plastic Industry, subject to the limitation set out in (ii) above.

(iv) Where employment continues after completion of this contract in terms of (i) above this contract shall become null and void and the provisions of the Consolidated SAEFA Agreement shall apply.

(v) Subject to the amendment of the general conditions of employment as set out in (ii) above, the engagement conditions shall be:

(a) Occupation

(b) Rate of pay.....

INITIAL

Parties agree that entering into this contract of employment no expectation of employment beyond the period or order as stipulated above is created, and no dispute or claim can be filed in respect of same.

The employee acknowledges that he/she understands the contents of this contract, and signifies acceptance thereof.

Signed at on..... 20.....

Employer

Employee.....

Witness.....

INITIAL

Note: The employer and employee shall, during the period of employment in terms of this contract, observe the provisions of the applicable Benefit Fund Agreements.

COMPRESSED WORKING WEEK

The following will apply in respect of a compressed working week.

Compressed working week refers to either a 3 team 2 shift or 4 team 2 shift system.

The following additional key aspects should be observed.

1. Public holidays will be paid in accordance with the Clause 7.
2. Shift allowances to be calculated and paid in terms of Clause 8.
3. Sick leave days will remain referred to in Clause 13.
4. 2 DAY SICK LEAVE WITH IN 8 WEEK CYCLE. – Clause 13 shall apply.
5. HOURS OF WORK. – 48 hours at normal time, including Saturdays and Sundays part of the scheduled shifts
6. ANNUAL WAGES TAKE HOME. – To be in accordance with the amount of hours worked per week
7. FAMILY RESPONSIBILITY LEAVE – Provisions of the Clause 14 shall apply.
8. LEAVE ENHANCEMENT PAY – will be in accordance with the provisions of Clause 11.
9. ANNUAL LEAVE – Provisions of Clause 10 shall apply.
10. DECEMBER HOLIDAY – as per the Agreement, the employer will have to apply to the Regional Council should we decide not to observe the annual shut down. At present the annual shut down will still be observed as in the past.

**THIS SAEFA CONSOLIDATED WAGE AGREEMENT 2020/2023 SIGNED IN
JOHANNESBURG ON _____ 2020**

SOUTH AFRICAN ENGINEERS AND FOUNDERS ASSOCIATION

METAL AND ELECTRICAL WORKERS UNION OF SOUTH AFRICA

NATIONAL UNION OF METAL WORKERS OF SOUTH AFRICA

SOUTH AFRICAN EQUITY WORKERS ASSOCIATION

SOLIDARITY

UNITED ASSOCIATION OF SOUTH AFRICA (UASA -THE UNION)