

PETROSA RETIREMENT FUND

The Board of the PetroSA Retirement Fund resolved at *Perrow* on
..... *8 October 2018* that with effect from 1 April 2017 the Rules of the PetroSA Retirement Fund
be consolidated to incorporate the provisions of registered Amendments No. 1 – 7.

Certified that

- (a) the only change to the text of the registered Rules and Amendments is in Rule 2.4 in order
to indicate the date of this consolidation;

and

- (b) the Resolution in terms of which these Rules have been accepted has been adopted in
accordance with the Rules of the Fund.


.....
Chairperson of the Board


.....
Board Member


.....
Principal Officer

PETROSA RETIREMENT FUND

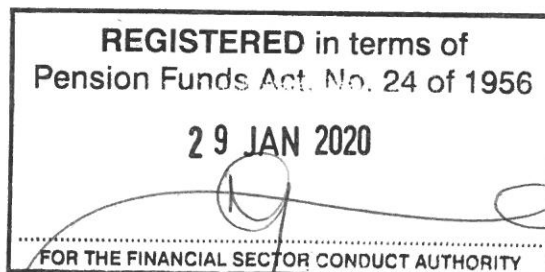


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RULES OF THE PETROSA RETIREMENT FUND

PART A: INTRODUCTION

RULE 1 - DEFINITIONS AND INTERPRETATION

1.
 - 1.1. The headings in this document are there to help readers find what they are looking for. They are not intended to be used to interpret the RULES.
 - 1.2. If a word used in these RULES is not defined in the RULES but is defined in the Pension Funds Act, it must be assumed that the word means what the Pension Funds Act says that it means.
 - 1.3. Unless these RULES say otherwise, if a word appears in the singular, it must be read to include the plural. Likewise, if a word appears in the plural, it must be read to include the singular.
 - 1.4. Unless it is clear from the context that this is not so, the following terms will have the meaning set out next to them –
 - 1.4.1. "ACCOUNT" means one of the ACCOUNTS established in RULE 33.
 - 1.4.2. "ACT" means the Pensions Fund Act, 1956, and the regulations and notices promulgated in terms thereof.
 - 1.4.3. "ACTUARIAL SURPLUS" means the difference between –
 - 1.4.3.1. the values that the ACTUARY has placed on the assets of the FUND less any credit balances in the MEMBER SURPLUS ACCOUNT and the EMPLOYER SURPLUS ACCOUNT; and
 - 1.4.3.2. the value that the ACTUARY has placed on the liabilities of the FUND in respect of the total of the amounts held in each MEMBER INDIVIDUAL ACCOUNT plus the EXPENSE RESERVE ACCOUNT and the PROCESSING ERROR RESERVE ACCOUNT.

- 1.4.4. "ACTUARY" means the person appointed as such by the BOARD in terms of RULE 24.
- 1.4.5. "ADJUDICATOR" means the person appointed by the Minister of Finance in terms of section 30C of the ACT.
- 1.4.6. "ADMINISTRATOR" means the ADMINISTRATOR appointed in terms of these RULES.
- 1.4.7. "APPROVED FUND" means a pension fund, a provident fund or a retirement annuity fund as defined in the Income Tax Act, 1962, and, if the fund is a preservation fund or a preservation provident fund, it will only be an APPROVED FUND if amounts transferred to it are transferred in accordance with the REVENUE AUTHORITY'S circular RF 1/98 or any circular that replaces it.
- 1.4.8. "AUDITOR" means an AUDITOR appointed in terms of these RULES.
- 1.4.9. "BENEFICIARY" means any person, including a MEMBER, who is or becomes entitled to any benefit in terms of the RULES.
- 1.4.10. "BOARD" means the FUND'S board of management referred to in RULE 16.
- 1.4.11. "COMPLAINANT" means any person who lodges a complaint as defined in the ACT with the ADJUDICATOR and who is –
 - 1.4.11.1. any MEMBER or former MEMBER; or
 - 1.4.11.2. any BENEFICIARY or former BENEFICIARY; or
 - 1.4.11.3. an EMPLOYER; or
 - 1.4.11.4. any 1 (one) or more members of the BOARD; or
 - 1.4.11.5. any person who has an interest in a complaint as defined in the ACT.

- 1.4.12. "EXPENSE RESERVE ACCOUNT" means the ACCOUNT referred to in RULE 37.
- 1.4.13. "CONTRIBUTIONS" means the CONTRIBUTIONS which must be paid to the FUND by an EMPLOYER in terms of RULE 5.2.
- 1.4.14. "DATE OF COMMENCEMENT" means 1 February 1996.
- 1.4.15. "DEPENDANT" means –
- 1.4.15.1. a person that a MEMBER is legally obliged to support financially or, if such MEMBER had not died, would have become legally obliged to financially support;
 - 1.4.15.2. a person who, in the opinion of the BOARD, was in fact financially dependent on the MEMBER at the time of his or her death;
 - 1.4.15.3. a person who was MARRIED to the MEMBER at the time of his or her death; or
 - 1.4.15.4. a person who is a child of the MEMBER, whether or not he or she was born after the death of the MEMBER and whether or not he or she is a minor, or was adopted by the MEMBER.
- 1.4.16. "DISABILITY BENEFIT FUND" means the benefit fund or its successor that the PRINCIPAL EMPLOYER established in terms of para (c) of the definition of "BENEFIT FUND" in section 1 of the Income Tax Act, 1962.
- 1.4.17. "ELIGIBLE EMPLOYEE" means any person who is in SERVICE and who is eligible in terms of RULE 4 to belong to the FUND.
- 1.4.18. "EMPLOYER" means the PRINCIPAL EMPLOYER and The Strategic Fuel Fund Association, who participates in the FUND with the consent of the PRINCIPAL EMPLOYER. With regard to a MEMBER, EMPLOYER means that EMPLOYER by whom the MEMBER is or was last employed.

- 1.4.19. "EMPLOYER SURPLUS ACCOUNT" means the ACCOUNT referred to in RULE 36.
- 1.4.20. "FINANCIAL YEAR" means the period of 12 (twelve) months ending on 31 January each year after 1 February 1996.
- 1.4.21. "FUND" means this fund, the PetroSA Retirement Fund.
- 1.4.22. "INVESTMENT RETURN" means the investment income or bonuses received or accrued from, and realised or unrealised capital gains or losses in respect of any investment in which an ACCOUNT is invested, less any tax or expenses attributable thereto or to the investments themselves as determined by the BOARD.
- 1.4.23. "MARRIED" means being a party to a marriage to MEMBER, which marriage is recognised by law; or if not so recognised by law, means being a party to an intimate relationship with a MEMBER intended by each to be permanent and, in the opinion of the BOARD, is in practical terms little different from a marriage recognised by law.
- 1.4.24. "MEMBER" means a person who has become a member of this FUND in terms of these RULES and whose membership has not terminated in terms of the RULES.
- 1.4.25. "MEMBER INDIVIDUAL ACCOUNT" means the ACCOUNT referred to in RULE 34.
- 1.4.26. "MEMBER SURPLUS ACCOUNT" means the ACCOUNT referred to in RULE 35.
- 1.4.27. "MEMBER TRANSFER AMOUNT" means that portion of the amount (inclusive of any bonuses and/or interest) transferred to the FUND in respect of a MEMBER from the PREVIOUS FUND as the ACTUARY determines is attributable to the MEMBER'S CONTRIBUTIONS made to the PREVIOUS FUND.
- 1.4.28. "MINIMUM INDIVIDUAL RESERVE" means the amount standing to the credit of the MEMBER INDIVIDUAL ACCOUNT together with a share of

the MEMBER SURPLUS ACCOUNT, the EXPENSE RESERVE ACCOUNT and the PROCESSING ERROR RESERVE ACCOUNT in the proportion that the MEMBER'S INDIVIDUAL ACCOUNT value as at the effective date of the calculation bears to the total of all MEMBER INDIVIDUAL ACCOUNTS as at that date, or such other method of apportionment as the BOARD deems reasonable.

- 1.4.29. "NORMAL RETIREMENT AGE" means the date when the MEMBER attains the age of 65 (sixty-five) years, provided that where there is a different age specified in the contract of service of the MEMBER with an EMPLOYER then the NORMAL RETIREMENT AGE is the contracted age.
- 1.4.30. "NORMAL RETIREMENT DATE" means the 1st (first) day of the month coinciding with or next following the attainment of the NORMAL RETIREMENT AGE.
- 1.4.31. "PENSION FUND" means the PetroSA Pension Fund.
- 1.4.32. "PENSIONABLE EARNINGS" means the pensionable portion of the annual remuneration package of a MEMBER as defined in the MEMBER'S contract of employment with the EMPLOYER, or if not so defined, as certified by the EMPLOYER. Any change in a MEMBER'S annual remuneration package, with a corresponding change in benefits and CONTRIBUTIONS in terms of these RULES, becomes effective from the actual date of change in the annual remuneration of the MEMBER.
- 1.4.33. "PREVIOUS FUND" means whichever of the PENSION FUND or the Mossgas Provident Fund or the Soekor Retirement Fund or the SFF Pension and Provident Funds to which the MEMBER previously belonged.
- 1.4.34. "PRINCIPAL EMPLOYER" means Petroleum Oil and Gas Corporation of South Africa (Proprietary) Limited.
- 1.4.35. "PRINCIPAL OFFICER" means the PRINCIPAL OFFICER of the FUND appointed in terms of RULE 23.

- 1.4.36. "REGISTERED INSURER" means an insurer registered in terms of the Long Term Insurance Act, 1998, or the Short-Term Insurance Act, 1998, whichever is applicable to the nature of the business conducted by the REGISTERED INSURER in relation to the FUND.
- 1.4.37. "REGISTRAR" means the Registrar of Pension Funds.
- 1.4.38. "REVENUE AUTHORITY" means the South African Revenue Service.
- 1.4.39. "RULES" means these RULES and such alterations hereof as may at any time be in force.
- 1.4.40. "SERVICE" means the full time permanent employment of a MEMBER by an EMPLOYER.
- 1.4.41. "PROCESSING ERROR RESERVE ACCOUNT" means the ACCOUNT referred to in RULE 38.
- 1.4.42. "DEFERRED MEMBER" means a MEMBER who has elected the option in terms of RULE 8.4.
- 1.4.43. "DEFERRED PENSION ACCOUNT" means the ACCOUNT referred to in RULE 39.1.
- 1.4.44. "PENSION" means the pension paid from the FUND as a flexible annuity in accordance with the provisions of RULE 6.3.2.
- 1.4.45. "PENSION ACCOUNT" means the ACCOUNT referred to in RULE 39.2.
- 1.4.46. "PENSIONER" means a retired MEMBER who elected on RETIREMENT FROM THE FUND to receive a PENSION paid from the FUND in terms of RULE 6.3.2.
- 1.4.47. "DEFERRED RETIREE" means a MEMBER who has retired from SERVICE in terms of RULE 6.1 and elected that his or her retirement benefit shall be retained in the FUND until RETIREMENT FROM THE FUND.

- 1.4.48. "RETIREMENT FROM THE FUND" means in relation to a DEFERRED MEMBER or a MEMBER who has retired from SERVICE in terms of RULE 6.1 –
- 1.4.48.1. prior to 1 March 2015, the date on which a benefit became due and payable from the FUND to such MEMBER; or
- 1.4.48.2. on or after 1 March 2015, the date on which such MEMBER elects to receive payment of his benefit in terms of paragraph 4 of the Second Schedule to the Income Tax Act, 1962 or, if later, the date on which the FUND receives notification of such election.
- 1.4.49. "CONTRIBUTION CATEGORY" means the CONTRIBUTION CATEGORY agreed by the MEMBER and the EMPLOYER for the purposes of the table in RULE 5.2.2.

RULE 2 – ESTABLISHMENT OF THE FUND

2.

2.1. **Commencement date**

The FUND was established with effect from the DATE OF COMMENCEMENT and was previously known as the Mossgas Retirement Fund.

2.2. **Registered office**

The registered office of the FUND is Petroleum Oil and Gas Corporation of South Africa (Pty) Limited, 151 Frans Conradie Drive, Parow, Cape Town, 7500.

- 2.3. With effect from 1 April 2010, in order to enable The Strategic Fuel Fund Association, an EMPLOYER who is an associate of The Petroleum Oil and Gas Corporation of South Africa (Proprietary) Limited, to participate in the FUND, the FUND shall become an umbrella fund, as contemplated in Regulation 30 (2) (t) (ii) of the ACT; provided that the FUND shall not operate in terms of special rules applicable to the participating EMPLOYERS, as the contributions and benefits provided for in the RULES shall apply to all MEMBERS.

- 2.4. These RULES are the consolidated RULES of the FUND and include all amendments up to and including 1 April 2017. If the registration of these RULES in terms of the ACT is effected later than 1 April 2017, the RULES shall nevertheless take effect from 1 April 2017.

RULE 3 – OBJECTS OF THE FUND

3. The objects of the FUND are to provide retirement and other benefits for employees and former employees of any EMPLOYER and for their DEPENDANTS.

PART B: MEMBERSHIP AND CONTRIBUTIONS**RULE 4 – MEMBERSHIP AND CONTRIBUTIONS**

4.

4.1. Eligibility

4.1.1. Every ELIGIBLE EMPLOYEE under NORMAL RETIREMENT AGE in the SERVICE of an EMPLOYER, who does not contribute to another APPROVED FUND in which such EMPLOYER participates, is eligible for membership of this FUND.

4.1.2. Notwithstanding any other provision to the contrary in any other RULE, the BOARD may accept any person as a MEMBER who does not meet the eligibility requirements of membership provided the PRINCIPAL EMPLOYER agrees thereto and subject to any requirements of the REVENUE AUTHORITY. Any person so accepted as a MEMBER in terms of this RULE 4.1.2 may have his or her membership of the FUND withdrawn at the discretion of the BOARD unless eligible for membership in terms of RULE 4.1.1. In withdrawing such membership the BOARD is not required to act reasonably or to give any reason for its decision.

4.2. Compulsory membership of this FUND

Every person who is eligible for membership of this FUND must become a MEMBER of it with effect from the 1st (first) day of the month immediately after his or her EMPLOYER notifies the FUND that his or her membership has become a condition of his or her employment. Subject to RULES 4.6 and 53, a MEMBER may not withdraw from membership while he or she remains employed by an EMPLOYER.

4.3. Temporary absence

4.3.1. When a MEMBER is on leave with full pay or with pay less than full pay, his or her membership continues; provided that the CONTRIBUTIONS in respect of a MEMBER on leave with pay less than full pay may be reduced by the EMPLOYER in proportion to the reduced PENSIONABLE EARNINGS of the MEMBER.

4.3.2. If a MEMBER is –

- 4.3.2.1. on leave without pay; or
- 4.3.2.2. seconded to the service of an organisation linked to the EMPLOYER outside the Republic of South Africa, in circumstances in which the EMPLOYER advises the FUND that contributions cannot be continued;

his or her membership continues, provided the EMPLOYER is not required to make any CONTRIBUTION in respect of the MEMBER for such period of leave or secondment.

- 4.3.3. If a MEMBER is in receipt of the disability income benefit from the DISABILITY BENEFIT FUND then such MEMBER remains a MEMBER, and the CONTRIBUTIONS must be made in respect of him or her by his or her EMPLOYER, until the termination of the disability income benefit.
- 4.3.4. Notwithstanding the provisions of RULE 4.3.3, at the request of a MEMBER in receipt of a benefit from the DISABILITY BENEFIT FUND, such MEMBER may be deemed to have retired from SERVICE on reaching the age of early retirement in terms of RULE 6.1.1 or be deemed to have left SERVICE in terms of RULE 8.2. In such case, CONTRIBUTIONS made in respect of him or her by the EMPLOYER shall cease and a benefit shall become payable in terms of RULE 6 or RULE 8.2, as applicable.

4.4. **Continued membership of section 197 transferees**

If the employment of a MEMBER is transferred to a new employer in terms of section 197 of the Labour Relations Act or if the employment of a MEMBER is otherwise changed from an EMPLOYER to another employer, that MEMBER may remain a MEMBER of the FUND for such period and on such conditions as the BOARD may decide and provided the new employer qualifies as an EMPLOYER. For so long as the MEMBER remains a MEMBER in terms of this RULE, his or her new employer will become an EMPLOYER in respect of that MEMBER for the purposes of the RULES. Similarly any person who transfers to an EMPLOYER in terms of section 197 of the Labour Relations Act who may notwithstanding this transfer continue to belong to the retirement fund of his or her previous employer is not obliged to become a MEMBER for as long as he belongs to that retirement fund and his or her EMPLOYER agrees thereto.

4.5. **Termination of membership on termination of SERVICE**

Subject to RULE 4.4, a MEMBER who ceases to be employed by an EMPLOYER automatically ceases to be a MEMBER of the FUND unless he or she, within 7 (seven) days thereafter becomes employed by another EMPLOYER. In that case he or she will, for the purposes of these RULES, be deemed to have commenced employment with his or her new EMPLOYER on the day immediately following the date on which he or she ceased to be employed by his or her former EMPLOYER. If he or she is not employed by another EMPLOYER within 7 (seven) days, he or she will become qualified for the benefit in terms of RULE 8.2.

4.6. **Compulsory membership of bargaining council fund**

If a MEMBER is required by law or collective agreements to belong to a fund established by a bargaining council in terms of the Labour Relations Act, he or she will cease to be a MEMBER of the FUND and the balance to the credit of his or her MEMBER INDIVIDUAL ACCOUNT, which for this purpose must not be less than his or her MINIMUM INDIVIDUAL RESERVE, less any tax which must be deducted from it and any other deductions which may be made in terms of these RULES, must be transferred to the bargaining council fund. After the benefit calculated in terms of RULE 8.2 has been transferred in terms of this rule, the FUND will have no further liability in respect of the MEMBER concerned.

4.7. **New EMPLOYER**

The BOARD with the consent of the PRINCIPAL EMPLOYER, may admit to membership the employees employed by any entity which becomes an EMPLOYER subject to such conditions as the BOARD, after consulting with the ACTUARY, may decide.

4.8. **MEMBERS must provide information**

When required by the BOARD, a MEMBER must provide it with satisfactory proof of his or her age and that of his or her DEPENDANTS and must give the BOARD any other information it may reasonably require from time to time. If a MEMBER does not comply with this rule, the BOARD may withhold payment of benefits to him or her or his or her DEPENDANTS or other beneficiaries until the proof or information is provided. If the information provided is false or wrong, the FUND will not be liable for any loss sustained by a MEMBER, DEPENDANT or other BENEFICIARY as a result.

RULE 5 – CONTRIBUTIONS

5.

5.1. CONTRIBUTIONS by MEMBERS

5.1.1. Subject to the approval of the BOARD, a MEMBER who was a member of an APPROVED FUND prior to becoming a MEMBER of the FUND may elect to transfer to the FUND the benefit to which he or she is entitled on leaving that fund.

5.1.2. Amounts received by the FUND in terms of RULE 5.1.1 must be credited to the MEMBER INDIVIDUAL ACCOUNT of the MEMBER concerned.

5.2 CONTRIBUTIONS by EMPLOYERS

5.2.1. Each EMPLOYER must contribute in respect of each MEMBER in its SERVICE the amount referred to in RULE 5.2.2, to provide for the benefits in respect of such MEMBER in terms of the RULES, as well as the expenses of the FUND in terms of RULE 44.

5.2.2. An EMPLOYER must contribute to the FUND at a rate determined according to the CONTRIBUTION CATEGORY selected by the MEMBER with the agreement of the EMPLOYER in accordance with the provisions of RULE 5.2.5. This rate is a percentage of 1/12th (one-twelfth) of each MEMBER'S PENSIONABLE EARNINGS determined in accordance with the table below:

CONTRIBUTION CATEGORY	Percentage of MEMBER'S PENSIONABLE EARNINGS
A	7.5
B	10.0
C	12.5
D	15.0
E	17.5
F	20.0
G	22.5
H	25.0
I	27.5

Out of the amount contributed by the EMPLOYER in terms of the table above:

- 5.2.2.1. such amount as may be agreed by the BOARD from time to time on the advice of the ACTUARY, but not exceeding 0.75% of the MEMBER'S PENSIONABLE EARNINGS, shall be allocated to the Expense Reserve Account to meet the expenses of the FUND referred to in RULE 44; and
 - 5.2.2.2. the balance shall be allocated towards retirement funding under the MEMBER INDIVIDUAL ACCOUNT.
- 5.2.3. An EMPLOYER may make CONTRIBUTIONS to the FUND in respect of any MEMBER with that MEMBER'S agreement, in addition to those made in terms of RULE 5.2.2.
- 5.2.4. In the case of a MEMBER referred to in RULE 4.3.3, the amount contributed in terms of RULE 5.2.2 shall be the amount received by the EMPLOYER for this purpose from the REGISTERED INSURER with whom the disability income benefit is insured, and paid to the FUND in respect of the MEMBER.
- 5.2.5. The following provisions apply to the selection of a CONTRIBUTION CATEGORY:
- (a) on 1 August 2016, each MEMBER in SERVICE on written notification to the BOARD and the EMPLOYER, may agree with his EMPLOYER to change to a different CONTRIBUTION CATEGORY and thereby to change the EMPLOYER'S contributions in respect of him to another rate of PENSIONABLE EARNINGS listed in the table in RULE 5.2.2; provided that:
 - (i) if a MEMBER does not agree with his EMPLOYER to change his CONTRIBUTION CATEGORY, he shall remain in his current CONTRIBUTION CATEGORY;

- (ii) a MEMBER who enters SERVICE on 1 August 2016 and fails to select a CONTRIBUTION CATEGORY from the table in RULE 5.2.2 above shall be regarded as falling under CONTRIBUTION CATEGORY C and the EMPLOYER shall contribute in respect of such MEMBER at the rate of 12.5% of PENSIONABLE EARNINGS;
- (b) after 1 August 2016:
- (i) each MEMBER who enters SERVICE shall be required to select a CONTRIBUTION CATEGORY from the table in RULE 5.2.2 above; provided that if he fails to select a CONTRIBUTION CATEGORY, he shall be regarded as falling under CONTRIBUTION CATEGORY C and the EMPLOYER shall contribute in respect of such MEMBER at the rate of 12.5% of PENSIONABLE EARNINGS;
 - (ii) on the MEMBER'S annual salary review date, as determined by the EMPLOYER, each MEMBER may, on written notification to the BOARD and the EMPLOYER, agree with his EMPLOYER to change to a different CONTRIBUTION CATEGORY and thereby to change the EMPLOYER'S contributions in respect of him to another rate of PENSIONABLE EARNINGS listed in the table in RULE 5.2.2; provided that if he does not agree with his EMPLOYER to change his CONTRIBUTION CATEGORY, he shall remain in his current CONTRIBUTION CATEGORY.

5.2.A. SPECIAL CONTRIBUTION by the PRINCIPAL EMPLOYER

- 5.2.A.1. An amount actuarially calculated by the PRINCIPAL EMPLOYER in respect of the Post Retirement Medical Aid subsidy obligation owed by it to those MEMBERS who are entitled to the subsidy shall be paid to the

FUND by the PRINCIPAL EMPLOYER as a special once-off CONTRIBUTION on a date agreed to between the PRINCIPAL EMPLOYER and the FUND in terms of a written agreement.

5.2.A.2. The total amount of the once-off CONTRIBUTION shall be paid in respect of those MEMBERS referred to in RULE 5.2.A.1 above who are specified in writing by the PRINCIPAL EMPLOYER to the FUND to have consented in writing to the termination of the PRINCIPAL EMPLOYER'S future obligation to them in respect of the Post Retirement Medical Aid subsidy by their request for the special once-off CONTRIBUTION.

5.2.A.3. The PRINCIPAL EMPLOYER shall specify in writing the special CONTRIBUTION amount to be paid in respect of each affected MEMBER, which amount shall be credited to the MEMBER INDIVIDUAL ACCOUNT of that MEMBER, together with interest, if any. The FUND may not accept any amount to be applied to the credit of a MEMBER INDIVIDUAL ACCOUNT unless proper notification is received from the PRINCIPAL EMPLOYER.

5.3. Payment of CONTRIBUTIONS

5.3.1. An EMPLOYER must pay to the FUND within the period required by law the CONTRIBUTIONS in terms of these RULES.

5.3.2. If an EMPLOYER pays the CONTRIBUTIONS late, it must pay interest on the late payment at the rate required in terms of the ACT.

5.3.3. It is specifically provided that, if a MEMBER'S membership –

5.3.3.1. commences before or on the 15th (fifteenth) day of the month, a full CONTRIBUTION shall be payable for the relevant month;

5.3.3.2. commences on or after the 16th (sixteenth) day of a month, no CONTRIBUTION shall be payable for the relevant month;

- 5.3.3.3. is terminated during any month and before or on the 15th (fifteenth) day of a month, no CONTRIBUTION shall be payable for the relevant month; and
- 5.3.3.4. is terminated on or after the 16th (sixteenth) day of a month, a full CONTRIBUTION shall be payable for the relevant month.

PART C: BENEFITS**RULE 6 – RETIREMENT BENEFITS**

- 6.
- 6.1. **Retirement from SERVICE**
- 6.1.1. A MEMBER may, with the consent of the EMPLOYER, retire from SERVICE at any time on or after the 10th (tenth) year before his or her NORMAL RETIREMENT DATE.
- 6.1.2. A MEMBER who has not retired in terms of RULE 6.1.1 must retire from SERVICE on reaching his or her NORMAL RETIREMENT DATE unless the EMPLOYER agrees to his or her remaining in SERVICE after that date.
- 6.1.3. If the BOARD and the EMPLOYER, after considering medical evidence acceptable to them, are satisfied that a MEMBER has become totally and permanently incapable of efficiently carrying out his or her duties as a result of his or her medical condition, they may agree to the MEMBER'S retirement from SERVICE at any time before he or she reaches his or her NORMAL RETIREMENT DATE.
- 6.1.4. A MEMBER who is allowed to remain in SERVICE after his or her NORMAL RETIREMENT DATE shall retire from SERVICE on such later date as may be agreed upon between the MEMBER and the EMPLOYER.
- 6.2. **Amount of benefit**
- On RETIREMENT FROM THE FUND, a MEMBER who has retired from SERVICE in terms of RULE 6.1 shall, as elected by the MEMBER, become entitled to either -
- 6.2.1. an annuity of such amount as can be purchased by the amount standing to the credit of his or her MEMBER INDIVIDUAL ACCOUNT (which must not be less than the MINIMUM INDIVIDUAL RESERVE of that MEMBER) in his or her own name from a REGISTERED INSURER in accordance with the provisions of RULE 6.3.1; or

- 6.2.2. subject to the provisions of any applicable legislation and such conditions as the BOARD may determine, a PENSION of such amount as can be provided by the amount standing to the credit of his or her MEMBER INDIVIDUAL ACCOUNT (which must not be less than the MINIMUM INDIVIDUAL RESERVE of that MEMBER) in the form of a flexible annuity paid from the FUND in accordance with the provisions of RULE 6.3.2;

after the exercise of any option in terms of RULE 6.3.3.

6.3. Payment of retirement benefits

6.3.1. Annuity purchased from a REGISTERED INSURER

If a retiring MEMBER elects to purchase an annuity from a REGISTERED INSURER in terms of RULE 6.2.1 the following shall apply -

- 6.3.1.1. an annuity so purchased shall be subject to the provisions of the Income Tax Act, 1962, the Long-term Insurance Act, 1998 and any requirements specified by the REVENUE AUTHORITY from time to time;
- 6.3.1.2. on purchase of an annuity in terms of this RULE, the FUND shall have no further liability in respect of the MEMBER, such liability resting with the REGISTERED INSURER from whom such annuity is purchased;
- 6.3.1.3. subject to the above provisions, the MEMBER may select the type of annuity so purchased; provided that such purchase is on the terms and conditions specified by the REGISTERED INSURER;
- 6.3.1.4. the choice of REGISTERED INSURER shall be that agreed between the MEMBER and the FUND in writing;
- 6.3.1.5. the FUND may obtain quotations from one or more REGISTERED INSURERS with the objective of assisting the MEMBER in making a decision on an appropriate annuity.

6.3.2. **Flexible Annuity Option**

If a retiring MEMBER elects the option in RULE 6.2.2., he or she shall become a PENSIONER and the following shall apply -

- 6.3.2.1. the annuity amount payable shall be determined by the PENSIONER on RETIREMENT FROM THE FUND and revised annually by the PENSIONER on each anniversary of his or her RETIREMENT FROM THE FUND, provided it complies with the requirements of the REVENUE AUTHORITY in respect of flexible annuities and shall be subject to such limitations on payment, draw down percentage and any other conditions as may be stipulated by legislation or by the FUND from time to time;
- 6.3.2.2. a PENSION ACCOUNT in the FUND shall be opened in respect of each PENSIONER who has elected a flexible annuity from the FUND, in which the opening credit to this account shall be the full value of his or her MEMBER INDIVIDUAL ACCOUNT on RETIREMENT FROM THE FUND, less any amount commuted in terms of RULE 6.3.3;
- 6.3.2.3. the BOARD will establish and maintain in terms of RULE 40.1 a policy document, which will set out, *inter alia*, the investment choices granted to PENSIONERS, the qualifying minimum amount of the MEMBER INDIVIDUAL ACCOUNT to secure a flexible annuity from the FUND, the provision of and the liability for the cost of the PENSIONER obtaining financial advice and counselling before electing this option and the default position in the event that the PENSIONER fails to make an annual election regarding the amount of the PENSION;
- 6.3.2.4. before electing a flexible annuity payable from the FUND, the BOARD may require that the retiring MEMBER receives financial counselling from a financial counsellor at the time he or she elects this option. The BOARD may also require this if it considers such counselling to be in the interest of

the PENSIONER at any time thereafter. The determination of who shall bear the costs of such financial counselling shall be set out in the policy document referred to in RULE 6.3.2.3;

- 6.3.2.5. the PENSIONER may on his or her own accord elect at any other time to obtain further counselling from a financial counsellor and shall bear the cost of such financial counselling;
- 6.3.2.6. when a MEMBER elects a flexible annuity from the FUND, he or she shall sign a declaration specifying that he or she has taken financial advice and understands the financial and mortality risks of this option. Any claim by a PENSIONER and his or her DEPENDANTS or nominated BENEFICIARIES against the FUND shall thereafter be restricted to the balance of the PENSION ACCOUNT in the FUND at any particular date;
- 6.3.2.7. if a PENSIONER in receipt of a flexible annuity from the FUND dies, the remaining balance in the PENSION ACCOUNT will be allocated by the BOARD to provide a flexible annuity, or other PENSION benefits as decided by the BOARD to the DEPENDANT(S) and/or nominated BENEFICIARIES in accordance with section 37C of the ACT;
- 6.3.2.8. subject to giving one calendar month's notice, a PENSIONER in receipt of a flexible annuity from the FUND may at any time after RETIREMENT FROM THE FUND instruct the FUND to apply the balance in his or her PENSION ACCOUNT to purchase an annuity from a REGISTERED INSURER in his or her own name. Accordingly, the amount standing to the credit of the PENSION ACCOUNT shall be transferred to the REGISTERED INSURER and the provisions of RULES 6.3.1.1 to 6.3.1.5 shall apply *mutatis mutandis*;

6.3.2.9. if at any time the balance in the PENSION ACCOUNT reduces below a minimum capital amount as determined by the BOARD and set out in the policy document referred to in RULE 6.3.2.3, the PENSIONER will be required to apply the balance to purchase an annuity from a REGISTERED INSURER in accordance with RULE 6.3.2.8.

6.3.3. Commutation

On RETIREMENT FROM THE FUND, prior to the purchase of an annuity in terms of RULE 6.2.1 or the commencement of payment of a PENSION from the FUND in terms of RULE 6.2.2, a MEMBER may elect to receive all or part of the benefit referred to in RULE 6.2 as a lump sum subject to such tax thereon as the REVENUE AUTHORITY may require to be paid.

6.4. Option to become a DEFERRED RETIREE

A MEMBER who has retired from SERVICE in terms of RULE 6.1 may elect to become a DEFERRED RETIREE, in which case the following special provisions shall apply to such DEFERRED RETIREE -

6.4.1. after the date on which the DEFERRED RETIREE retires from SERVICE with the EMPLOYER in terms of RULE 6.1, all contributions in terms of RULE 5.2 in respect of the DEFERRED RETIREE shall cease;

6.4.2. the MEMBER INDIVIDUAL ACCOUNT of the DEFERRED RETIREE shall continue to be maintained under the FUND and be credited with -

6.4.2.1. any amounts transferred from the MEMBER SURPLUS ACCOUNT or the EMPLOYER SURPLUS ACCOUNT; and

6.4.2.2. INVESTMENT RETURNS in respect of the investment portfolio(s) chosen by the DEFERRED RETIREE, if positive;

and be debited with -

6.4.2.3. amounts paid to BENEFICIARIES or transferred to a REGISTERED INSURER on the death of a DEFERRED RETIREE before RETIREMENT FROM THE FUND;

- 6.4.2.4. amounts transferred to the PENSION ACCOUNT or to a REGISTERED INSURER on the DEFERRED RETIREE'S RETIREMENT FROM THE FUND;
 - 6.4.2.5. any amount transferred to the EXPENSE RESERVE ACCOUNT in order to meet the expenses of the FUND in terms of RULE 44;
 - 6.4.2.6. INVESTMENT RETURNS in respect of the investment portfolio(s) chosen by the DEFERRED RETIREE, if negative; and
 - 6.4.2.7. any charges incurred in connection with any investment choice made by a DEFERRED RETIREE;
- 6.4.3. the amount standing to the credit of the MEMBER INDIVIDUAL ACCOUNT of the DEFERRED RETIREE shall become payable in the following circumstances -
- 6.4.3.1. in terms of RULE 6.3 to the DEFERRED RETIREE on RETIREMENT FROM THE FUND; or
 - 6.4.3.2. in terms of section 37C of the ACT if the DEFERRED RETIREE dies before RETIREMENT FROM THE FUND.

RULE 7 - DEATH BENEFIT

7.

7.1. Amount of benefit

On the death of a MEMBER while in SERVICE there is payable an amount equal to the value of the amount standing to the credit of the MEMBER INDIVIDUAL ACCOUNT, which must not be less than the MINIMUM INDIVIDUAL RESERVE of that MEMBER at the date of death.

7.2. Payment of benefit

- 7.2.1. Payment of the benefit in the event of death will be made in terms of Section 37C of the ACT. (Section 37C is repeated in the Annexure to the RULES).

- 7.2.2. Payment of the benefit in terms of this RULE 7 must be made in the form of an annuity purchased from a REGISTERED INSURER for the benefit of the BENEFICIARY. The BOARD shall determine the REGISTERED INSURER from whom this annuity is purchased as well as the terms of the annuity.
- 7.2.3. An annuity payable in terms of RULE 7.2.2 must be in the form of a compulsory non-commutable annuity payable for and based on the life time of the BENEFICIARY, and may not be capable of being transferred, assigned, reduced, hypothecated or attached by creditors as contemplated in sections 37A and 37B of the ACT.
- 7.2.4. The BOARD may, at the written request of a BENEFICIARY of any benefit in terms of this RULE 7, agree to the commutation of such portion of the benefit as it may decide; provided that if in terms of RULE 7.2.6 the REVENUE AUTHORITY requires any such commutation to be effected within a certain period of the death of a MEMBER then the provisions of this RULE only apply if the BOARD has within this period made a decision to whom to award the benefit in terms of this RULE.
- 7.2.5. On payment of the benefit to or for the benefit of a BENEFICIARY the FUND has no further liability to such BENEFICIARY.
- 7.2.6. The payment of the benefit in terms of this RULE 7, whether as an annuity or as a lump sum commutation of such portion of an annuity, shall be subject to such requirements and tax determined by the REVENUE AUTHORITY.

RULE 8 - LEAVING SERVICE

8.

8.1. Dismissal

- 8.1.1. If a MEMBER who is not qualified to retire from SERVICE in terms of RULE 6.1 is dismissed from SERVICE for theft, dishonesty, fraud or misconduct, or is allowed to resign from SERVICE in order to avoid such dismissal, he or she must receive a benefit equal to the value standing to the credit of his or her MEMBER INDIVIDUAL ACCOUNT provided that -

- 8.1.1.1. this benefit must not be less than the MINIMUM INDIVIDUAL RESERVE of the MEMBER;
- 8.1.1.2. if the MEMBER has admitted liability to the injured party and reimburses the full amount of the damage (including the costs of any investigation, auditor's fees, and the like directly associated with the theft, dishonesty, fraud or misconduct together with interest calculated at the maximum rate permitted by the law from the date/s on which the damage was suffered or costs incurred until the date of reimbursement) sustained by the EMPLOYER or other party injured by the conduct giving rise to the dismissal or resignation, within 6 (six) months from the date of his or her dismissal or resignation, he or she shall be entitled to the benefit provided for in RULE 8.2 and shall have the same options in respect thereof as are set out in that RULE.
- 8.1.2. A benefit referred to in RULE 8.1.1 must after the MEMBER'S dismissal or resignation become due and payable at the end of the month that the net amount thereof has been calculated, which net amount must be after any tax on such benefit has been assessed; provided that if any legal proceedings against the MEMBER have been commenced in respect of the damage referred to in RULE 8.1.1 then so much of the benefit as equals such damage will only become payable, if later than the above date, when a final judgement has been given or such proceedings have been finally discontinued by the injured party, notwithstanding any provision to the contrary contained in these RULES.
- 8.2. **Other reasons**
- 8.2.1. Subject to RULE 50, if a MEMBER not qualified to retire from SERVICE in terms of RULE 6.1 leaves SERVICE before his or her NORMAL RETIREMENT DATE for any reason in circumstances for which no benefit is specifically provided elsewhere in these RULES, the amount which he or she would have received in terms of RULE 6, if he or she had retired from SERVICE on the day of leaving SERVICE, must as the MEMBER elects, either -

8.2.1.1. be transferred to such APPROVED FUND as the MEMBER may decide;

or

8.2.1.2. be paid to the MEMBER in cash.

8.2.2. A benefit in terms of RULE 8.2.1.1 must be transferred, and a benefit in terms of RULE 8.2.1.2 must be paid, as soon as possible after the date of the MEMBER'S leaving SERVICE.

8.2.3. A MEMBER making an election in terms of RULE 8.2.1 must be advised of the tax consequences of such an election.

8.3. EMPLOYER'S notification of reasons for termination of SERVICE

For the purposes of establishing the benefit to which the MEMBER is entitled in terms of this RULE the BOARD is entitled to act without further enquiry on the particulars given to them by the EMPLOYER of the reason for the termination of the MEMBER'S SERVICE.

8.4. Option to become a DEFERRED MEMBER

Notwithstanding the provisions of RULE 8.2.1 and subject to the provisions of RULE 8.1.1.2, each MEMBER may elect to become a DEFERRED MEMBER, instead of transferring his benefit to an APPROVED FUND in terms of RULE 8.2.1.1 or his benefit being paid to him in cash in terms of RULE 8.2.1.2. In such case, the following shall apply -

8.4.1. all contributions in terms of RULE 5.2 in respect of the DEFERRED MEMBER shall cease;

8.4.2. a benefit equal to the amount standing to the credit of his or her DEFERRED PENSION ACCOUNT shall become payable -

8.4.2.1. in accordance with the provisions of RULE 6.3, to the DEFERRED MEMBER on RETIREMENT FROM THE FUND after attainment of normal retirement age as defined in section 1 of the Income Tax Act, 1962; or

- 8.4.2.2. in accordance with the provisions of RULE 7.2, to the BENEFICIARIES of the DEFERRED MEMBER if he dies before the benefit becomes payable in terms of RULE 8.4.2.1;
- 8.4.3. prior to either of the circumstances described in RULE 8.4.2.1 or RULE 8.4.2.2, if so requested by the DEFERRED MEMBER, the BOARD shall arrange for the transfer of the benefit referred to in RULE 8.4.2 to another APPROVED FUND.

RULE 9 - PAYMENT AND PROTECTION OF BENEFITS

- 9.
- 9.1. Money payable to any person in terms of these RULES must be paid by means of a bank transfer unless the BOARD and the person agree that payment will take place by other means. If any payment is made other than by bank transfer such payment is at the risk of the person entitled to payment and the BOARD is entitled to impose any term or condition of payment.
- 9.2. If the BOARD believes that it is appropriate, it may pay a benefit –
- 9.2.1. to a trustee of a trust established for the benefit of the person to whom the benefit is payable; or
- 9.2.2. to the guardian of the person to whom the benefit is payable if that person is a minor, or to his or her curator if that person is mentally incapable of managing his or her own financial affairs, for the benefit of the person concerned.
- 9.3. If, in the opinion of the BOARD, the circumstances in RULE 9.2.2 exist, it may withhold payment of the benefit until a guardian or a curator, as the case may be, has been appointed.
- 9.4. Unless specifically permitted in terms of the ACT, the Divorce Act, the Maintenance Act or the Income Tax Act, no benefit payable in terms of the RULES may be reduced, transferred, ceded, pledged or hypothecated or be attached or sold in satisfaction of a debt. If a BENEFICIARY attempts to transfer, cede, pledge or hypothecate a benefit, the FUND must suspend the payment of the benefit and may pay it directly to a DEPENDANT of the BENEFICIARY or to a guardian or trustee for the benefit of the BENEFICIARY.

- 9.5. Subject to the provisions of the ACT, if the estate of a BENEFICIARY is sequestrated or surrendered, the benefit will be deemed not to form part of the assets in the estate and may not be attached or sold by the curator of the estate or the BENEFICIARY'S creditors.
- 9.6. To the extent that interest may be due in respect of any benefit payable in terms of these RULES then such interest must be payable at the same rate and capitalised in the same way, if at all, as the interest received by the FUND on monies held by it in its bank account; provided that such interest payable must be reduced by the amount of tax thereon payable by the FUND.
- 9.7. Any payment made in terms of RULE 9.1 is to be in full and final settlement of the benefit in respect of which the payment is made.
- 9.8. Any payment of a benefit, including any transfer to an APPROVED FUND to or in respect of any MEMBER, DEPENDANT or BENEFICIARY, is subject to such tax of whatsoever nature levied by the REVENUE AUTHORITY.
- 9.9. As soon as the FUND is advised of the withdrawal from the FUND by a MEMBER or the RETIREMENT FROM THE FUND or death of a MEMBER, the assets backing any amount to the credit of his or her MEMBER INDIVIDUAL ACCOUNT or DEFERRED PENSION ACCOUNT, as applicable, must be reduced to cash as soon as possible. The cash proceeds of such assets is deemed to be the amount to the credit of such MEMBER INDIVIDUAL ACCOUNT or DEFERRED PENSION ACCOUNT, as applicable, at the date of withdrawal, death or RETIREMENT FROM THE FUND of the MEMBER concerned.
- 9.10. Neither the FUND nor the ADMINISTRATOR shall be liable for any loss directly or indirectly resulting from the late submission or non-submission by a third party (including the EMPLOYER) of documentation required to facilitate the processing of a claim.

**RULE 10 - DEDUCTION FROM BENEFITS OR TRANSFER VALUES OF AMOUNTS
DUE TO FUND OR EMPLOYER OR FORMER SPOUSE**

10.

10.1. Amounts due to MEMBER'S EMPLOYER for losses caused by the MEMBER

The BOARD may, where an EMPLOYER has instituted legal proceedings in a court of law against the MEMBER concerned for compensation in respect of damage

caused to the EMPLOYER as contemplated in section 37D of the Act, withhold payment of the withdrawal benefit until such time as the matter has been finally determined by a competent court of law or has been settled or formally withdrawn, provided that –

- 10.1.1. the BOARD is satisfied that the EMPLOYER has made out a *prima facie* case against the MEMBER concerned and there is reason to believe that the EMPLOYER has a reasonable chance of success in the proceedings that have been instituted;
- 10.1.2. the BOARD is satisfied that the EMPLOYER is not at any stage of the proceedings responsible for any significant undue delay in the prosecution of the proceedings;
- 10.1.3. the amount withheld may not exceed the amount of the damages alleged by the EMPLOYER;
- 10.1.4. once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled (after the deduction of any amount which may be paid to the EMPLOYER in terms of the ACT) is paid forthwith.

10.2. Amounts due to a MEMBER'S former spouse

The FUND must comply with any order properly issued by a court in terms of the Divorce Act by deducting any amount due to the former spouse of a MEMBER in terms of the order from the MEMBER'S benefit and paying such amount to the former spouse.

RULE 11 - UNCLAIMED BENEFITS

11.

11.1. The ADMINISTRATOR shall maintain a separate record in respect of benefits due under the FUND which have not been claimed. Subject to the provisions of the ACT any such benefit shall be dealt with in the manner set out below:

- 11.1.1. if a potential BENEFICIARY approaches the FUND at any stage the BOARD shall consider his claim and if the circumstances so warrant, shall pay to the BENEFICIARY that part of the benefit, increased by such

interest as the BOARD may allow, that as at the date of payment to the BENEFICIARY is in excess of any costs incurred by the FUND in the administration of such benefit and any amount referred to in RULE 11.2;

or

11.1.2. if so decided by the BOARD, that part of the benefit, increased by such interest as the BOARD may allow, that as at the date of transfer in terms of this RULE is in excess of any costs incurred by the FUND in the administration of such benefit and any amount referred to in RULE 11.2 may be transferred to a national fund established by legislation for the purpose of housing unclaimed benefits, or to a fund established by an administrator for the same purpose.

11.2. If any costs are incurred as a consequence of the BOARD tracing any potential BENEFICIARIES whose benefits due under the FUND are unclaimed, such reasonable costs may be taken into account in the calculation of the benefits payable to such BENEFICIARIES.

PART D: GOVERNANCE AND MANAGEMENT OF THE FUND

RULE 12 - FUND TO BE MANAGED IN TERMS OF ITS RULES

12.

The FUND must be managed in terms of its RULES. The RULES are binding on the FUND, its MEMBERS and their DEPENDANTS and on the PRINCIPAL OFFICER and the members of the BOARD.

RULE 13 – POWERS OF THE FUND

13.

The FUND is a juristic person which will continue to exist even when the MEMBERS and the members of its BOARD change. It has all of the legal capabilities and powers that a person with full legal capacity has to the extent that an artificial person can have them. These powers include the powers to –

- 13.1. sue and be sued in its own name;
- 13.2. conclude agreements;
- 13.3. acquire, own, hypothecate, hire, let and dispose of property, whether movable or immovable, and whether the property is physical property or intellectual property;
- 13.4. do all things that it needs to be able to do to achieve its objects and to carry out its functions and duties.

RULE 14 - POWERS AND DUTIES OF THE BOARD OF MANAGEMENT

14.

- 14.1. The BOARD is responsible for directing, controlling and overseeing the operation of the FUND in accordance with all laws which are applicable to the FUND and in accordance with these RULES. To the extent that it has not delegated its authority, the BOARD has the sole discretion to make decisions binding on the FUND.
- 14.2. When it directs, controls and oversees the operation of the FUND, the BOARD and each of its members must –

- 14.2.1. act with due care and diligence and in the best interests of the FUND;
 - 14.2.2. take all reasonable steps to protect the interests of the MEMBERS;
 - 14.2.3. act in good faith towards each EMPLOYER;
 - 14.2.4. avoid conflicts of interest; and
 - 14.2.5. act with impartiality in respect of all MEMBERS and beneficiaries.
- 14.3. The BOARD exercises the FUND'S powers referred to in RULE 14. In addition the BOARD has the power at its sole discretion to make arrangements for the administration of the FUND as long as they are not inconsistent with the ACT and the RULES and / or any relevant legislation.
- 14.4. The BOARD must –
- 14.4.1. ensure that proper registers and records of the operations of the FUND are kept. These records include proper minutes of all meetings and of all resolutions passed by the BOARD;
 - 14.4.2. ensure that true and full accounts of the FUND are kept in accordance with generally accepted accounting practice and any guidelines issued by the AUDITOR from time to time. Those accounts must be made up to the end of the FINANCIAL YEAR and must fairly present the FUND'S financial state of affairs and position and must be audited by the AUDITOR;
 - 14.4.3. ensure that proper controls are used to protect the assets of the fund, taking into account the advice of the AUDITOR;
 - 14.4.4. ensure that adequate and appropriate information is given to the MEMBERS informing them of their rights, benefits and obligations in terms of the RULES of the FUND and in accordance with the Constitution;
 - 14.4.5. take all reasonable steps to make sure that CONTRIBUTIONS are paid to the FUND on time and that the CONTRIBUTIONS are deposited in the FUND'S bank account on the first business day after they are received;

- 14.4.6. obtain expert advice on matters on which the BOARD is not expert;
- 14.4.7. ensure that the FUND operates and is administered in terms of the RULES of the FUND, the ACT and other applicable laws and that the RULES are in compliance with these laws;
- 14.4.8. ensure that the signatory powers of the BOARD are divided equally between those BOARD members appointed by the PRINCIPAL EMPLOYER and those BOARD members elected by the MEMBERS;
- 14.4.9. ensure that every title deed and other document which proves that the FUND is the owner of a particular property is kept in a safe or strongroom at an office of the FUND or in a bank;
- 14.4.10. make sure that only people who have the authority in terms of a resolution passed by the BOARD to sign on behalf of the FUND sign cheques, contracts or other documents on its behalf;
- 14.4.11. ensure that an alternate is or alternates are appointed to act in the place of 1 (one) or more BOARD members who for any reason cannot temporarily fulfil their responsibility as BOARD members; and
- 14.4.12. establish and review from time to time a code of conduct which each BOARD member must accept, including any sanction therein for any breach of that code.

**RULE 15 - DELEGATION OF POWERS AND DUTIES BY THE BOARD
TO ANOTHER PERSON OR BODY**

15.

The BOARD may delegate any of its powers and duties to another person or body including, but not limited to, a committee of the BOARD, the ADMINISTRATOR and an employee of the FUND. The BOARD may also delegate to the person or body the power to sub-delegate a power or a duty unless it is clear from the rule governing the power or function that it must not be delegated.

RULE 16 - COMPOSITION OF BOARD OF MANAGEMENT

- 16.
- 16.1. The BOARD will have not less than 8 (eight) members, 50% (fifty per cent) of which MEMBERS shall have the right to elect.
 - 16.2. The balance of the members of the BOARD will be appointed by the PRINCIPAL EMPLOYER. The PRINCIPAL EMPLOYER has the right to appoint the alternate to each member of the BOARD appointed by it.
 - 16.3. An alternate member of the BOARD RULE must act in the place of that BOARD member to whom he or she is an alternate BOARD member. At the request of the BOARD member to whom he or she is the alternate, or if unavailable, at the request of the chairperson of the BOARD.
 - 16.4. No person may act as an alternate BOARD member if disqualified from acting in terms of RULE 18.
 - 16.5. No person may act as a BOARD member or as an alternate until and unless he or she signs such form indicating his or her acceptance of this office. This form may include any undertaking to be given by the prospective BOARD member as the BOARD may decide or such consent to a security check as the BOARD may decide.
 - 16.6. The appointment of a person as an alternate to a BOARD member terminates –
 - 16.6.1. when the BOARD member concerned vacates office;
 - 16.6.2. Deleted.
 - 16.6.3. if the alternate is disqualified in terms of RULE 18 from acting as a member of the BOARD;
 - 16.6.4. if the alternate resigns as an alternate by notice in writing to the BOARD.

RULE 17 - ELECTED MEMBERS OF THE BOARD OF MANAGEMENT

- 17.
- 17.1. The BOARD must invite the MEMBERS to nominate persons, who may or may not be MEMBERS, for election. Only persons who are not disqualified from being members of the BOARD may be nominated. If more candidates are nominated than the number of vacancies exist, the BOARD must conduct the election according to

procedures set by the BOARD which must include a ballot of the members. If the number of candidates do not exceed the number of vacancies then such candidates shall be elected unopposed.

- 17.2. The candidates not elected in terms of RULE 17 shall, in order of precedence according to who received the greatest number of votes, act as alternates to the BOARD members elected in terms of RULE 17.
- 17.3. If no alternates are appointed in terms of RULE 17.2 then such alternates shall be appointed by the BOARD members appointed in terms of RULE 17.

RULE 18 - PERSONS DISQUALIFIED FROM BEING BOARD MEMBERS

18.

- 18.1. The following people are automatically disqualified from being appointed or elected or from remaining as members of the BOARD –

- 18.1.1. a person under 21 (twenty-one) years of age;
- 18.1.2. a person whom the BOARD, after considering appropriate evidence, has decided is physically or mentally incapable of performing the functions of a member of the BOARD;
- 18.1.3. a person whose estate has been sequestrated and who has not been rehabilitated by a court;
- 18.1.4. a person who has been convicted by a court of theft, fraud, forgery or any other offence involving dishonesty;
- 18.1.5. a person whom the BOARD, after hearing representations on the matter, has decided is not a fit and proper person to occupy a position of trust;
- 18.1.6. a person who, having been appointed in terms of RULE 16.2, has had his or her appointment as a member of the BOARD withdrawn by the PRINCIPAL EMPLOYER;
- 18.1.7. a MEMBER who has been appointed in terms of RULE 17.1 who is requested by not less than 40% (forty per cent) of the MEMBERS to vacate office;

- 18.1.8. if a BOARD member has a direct or indirect interest in a contract or proposed contract with the FUND or into which the FUND intends to enter and fails to declare both the nature and extent of his or her interest.

RULE 19 - TERM OF OFFICE OF THE BOARD

19.

- 19.1. A member of the BOARD will cease to be a member of the BOARD –
- 19.1.1. if he or she resigns by giving the chairperson of the BOARD a resignation letter, or, if it is the chairperson who is resigning, by giving the PRINCIPAL OFFICER a resignation letter;
- 19.1.2. if he or she has failed to attend 2 (two) consecutive meetings of the BOARD without the prior approval of the BOARD'S chairperson or without good cause;
- 19.1.3. after a period of 3 (three) years from the date of election by the MEMBERS or appointment by the PRINCIPAL EMPLOYER, as the case may be; or
- 19.1.4. if he or she becomes disqualified in terms of RULE 18.
- 19.2. If a member of the BOARD –
- 19.2.1. elected by the MEMBERS, ceases to be a BOARD member before his or her term of office has expired, the person, if any, with the next highest number of votes during the last election who is not already a member of the BOARD will act as a member of the BOARD in his or her place until the expiry of the term of office;
- 19.2.2. appointed by the PRINCIPAL EMPLOYER, ceases to be a BOARD member before his or her term of office has expired, the PRINCIPAL EMPLOYER will appoint another person to act as a member of the BOARD in his or her place until the expiry of the term of office.

- 19.3. A member of the BOARD who has completed his or her term of office is eligible for re-election to the BOARD by the MEMBERS or re-appointment to the BOARD by the PRINCIPAL EMPLOYER, as the case may be.

RULE 20 - REMUNERATION OF BOARD MEMBERS

- 20.
- 20.1. Members of the BOARD will receive from the FUND the refund of all expenses reasonably incurred by them on behalf of the FUND in accordance with policies and limitations set by the BOARD from time to time.
- 20.2. Payments to members of the BOARD in terms of this rule will be regarded as expenses of the FUND.

RULE 21 - CHAIRPERSON OF THE BOARD, MEETINGS OF AND DECISION-MAKING BY THE BOARD

- 21.
- 21.1. The BOARD must appoint a member of the BOARD to act as its chairperson. Subject to RULE 19 the appointment of the chairperson will expire 1 (one) year after that appointment but he or she will be eligible for reappointment. Unless at least 2/3rds (two-thirds) of the BOARD agree otherwise, the chairmanship of the BOARD must alternate between a member of the BOARD appointed by the PRINCIPAL EMPLOYER and a member of the BOARD appointed by MEMBERS.
- 21.2. The BOARD will meet as often as needed for the proper conduct of the business of the FUND but at least 3 (three) times per year. For a meeting to be properly constituted when it is first scheduled to take place, a quorum exists if there are at least 4 (four) BOARD members present of which at least 50% (fifty per cent) are BOARD members elected in terms of RULE 17.1. If a quorum is not present, the meeting may be rescheduled for a date at least 7 (seven) days later. At that meeting at least 1 (one) BOARD member appointed in terms of RULE 16.2 and at least 1 BOARD member elected in terms of RULE 17.1 must be present for the meeting to be properly constituted.
- 21.3. The chairperson of the BOARD may convene a special meeting of the BOARD if he or she thinks it necessary.

- 21.4. The Chairperson of the BOARD has to attend to reported disputes as in terms of RULE 31.
- 21.5. Subject to RULES 21.2 and 21.6, the PRINCIPAL OFFICER of the FUND must give the members of the BOARD at least 15 (fifteen) days written notice of each BOARD meeting. The notice must specify the time, date and place of the meeting and the general nature of the issues to be discussed at the meeting. Unless a majority of the members of the BOARD agree that other matters may be discussed at the meeting, only those issues indicated in the notice may be discussed.
- 21.6. A special meeting must be held within 10 (ten) working days of it being requested in writing by at least three members of the BOARD who have given the PRINCIPAL OFFICER –
- 21.6.1. written notice of the issues to be discussed at the special meeting; and
- 21.6.2. written reasons why the BOARD should not wait to discuss these issues at its next ordinary meeting.
- 21.7. Each meeting of the BOARD must be chaired by the chairperson or, if he or she is unable to do so, by another member of the BOARD selected for that purpose by the remaining members of the BOARD present at the meeting. The person chairing the meeting is responsible for ensuring that it is conducted in an orderly fashion. He or she may exclude from the meeting any member of the BOARD or other person who deliberately ignores instructions from the chairperson regarding the way that the meeting is to be proceed or who makes it difficult for the BOARD to function in an orderly fashion.
- 21.8. The chairperson of the BOARD must ensure that someone takes minutes of each meeting. Those minutes must be distributed in draft form to members of the BOARD by no later than two weeks after the meeting of the BOARD.
- 21.9. For any decision of the BOARD to be valid –
- 21.9.1. if it was taken in a meeting, RULE 21.2 must have been complied with and 50% (fifty per cent) plus 1 (one) of the members of the BOARD present must have voted in favour of the decision; and

- 21.9.2. if the decision was not taken in a meeting but was taken by “round robin resolution” instead, at least 2/3rds (two-thirds) of the members of the BOARD must have exercised their votes, each by indicating that he or she votes in favour or against or abstains from voting for or against the resolution and a majority of them must have voted in favour of the decision;
- 21.9.3. if the members of the BOARD reach deadlock on any issue –
- 21.9.3.1. the issue must have been reconsidered by the BOARD at a meeting within 10 (ten) working days of the date on which deadlock was reached and a majority of members present at the meeting must have voted in favour of the decision; or
- 21.9.3.2. if there is a dispute or deadlock between members of the BOARD on an issue which must be decided on an urgent basis, the BOARD must meet to discuss the issue within 10 (ten) working days of the deadlock being reached.
- 21.9.4. If the BOARD is in the view of the chairperson of the BOARD or the majority of the BOARD members unable to resolve the deadlock or dispute then an expert must be appointed by the BOARD. That expert must be agreed by the BOARD or, failing such agreement, must be decided by the nominee of –
- 21.9.4.1. the head of the Cape Town Bar in the case of a dispute of law or equity;
- 21.9.4.2. the head of the Actuarial Society of South Africa, in the case of a dispute relating to actuarial matter; or
- 21.9.4.3. the head of the South African Institute of Chartered Accountants, in the case of a dispute relating to an accounting matter).

Such expert or nominee must at the cost of the FUND submit a written recommendation on the matter to the BOARD at the meeting.

If the dispute is not resolved at this meeting of the BOARD, it must accept the recommendation of the expert which will then constitute a decision of the BOARD in the matter.

- 21.10. A BOARD member who has any direct or indirect personal financial interest (other than his or her interest as a MEMBER of the FUND) in a decision to be taken by the BOARD must disclose that interest before the decision is taken and must not vote on the matter.
- 21.11. A decision taken by "round robin resolution" must be noted at the next ordinary meeting of the BOARD and included in the FUND'S minute book.
- 21.12. The BOARD may decide on a general policy to govern any aspect of the business of the FUND and may record that policy in a "practice note". The BOARD must review its policies from time to time and may change its practice notes when appropriate.
- 21.13. A BOARD member may give a proxy provided it is in writing to any other BOARD member in respect of any matter or meeting. The BOARD member is liable in law for the consequences of the actions or omissions of his or her alternate.
- 21.14. Notwithstanding any other provision in the RULES to the contrary –
- 21.14.1. only those members of the BOARD elected in terms of RULE 17 may decide on the amounts to be debited to the MEMBER SURPLUS ACCOUNT, and the decision of such members will only be valid if unanimous;
- 21.14.2. only those members of the BOARD who are not elected in terms of RULE 17 may decide on the amounts to be debited to the EMPLOYER SURPLUS ACCOUNT; and the decision of such members will only be valid if unanimous;
- 21.14.3. any decision by the BOARD to allocate any ACTUARIAL SURPLUS will only be valid if approved by at least 75% (seventy-five per cent) of the BOARD members;
- 21.14.4. any decision by the BOARD to increase future benefits, other than through debiting the MEMBER SURPLUS ACCOUNT for any of the purposes in RULE 35.2, must receive the consent of the PRINCIPAL EMPLOYER in order to be valid.

21.15. The BOARD may at its entire discretion from time to time decide to apportion such ACTUARIAL SURPLUS in such proportions as the BOARD at its entire discretion may decide between the MEMBER SURPLUS ACCOUNT and the EMPLOYER SURPLUS ACCOUNT.

21.16. A vacancy on the BOARD when a decision is taken by it will not make that decision invalid provided there is a sufficient quorum which for this purpose means that the vacancy is deemed to be an absent BOARD MEMBER.

RULE 22 - BINDING NATURE OF BOARD DECISIONS

22.

A decision by the BOARD on a matter not governed by the RULES will be binding on the FUND and its MEMBERS unless and until set aside by a court or the ADJUDICATOR.

RULE 23 - PRINCIPAL OFFICER

23.

23.1. The BOARD must appoint a PRINCIPAL OFFICER and may withdraw that appointment and appoint a new PRINCIPAL OFFICER at any time.

23.2. The PRINCIPAL OFFICER must fulfil all the duties required of him or her in terms of the ACT, these RULES and the directions of the BOARD.

23.3. In particular, the PRINCIPAL OFFICER must –

23.3.1. sign all amendments to the RULES and submit them to the Registrar of Pension Funds for his or her approval and registration;

23.3.2. within 6 (six) months after the end of each FINANCIAL YEAR, send to all MEMBERS a written summary of all amendments made to the RULES which were registered within that FINANCIAL YEAR;

23.3.3. submit the FUND'S annual financial statements and other documents referred to in the ACT to the Registrar of Pension Funds as required by the ACT;

- 23.3.4. sign all FUND documentation that must be submitted to the Registrar;
 - 23.3.5. ensure that the FUND complies with the Tax on Retirement Funds Act, 1996; and
 - 23.3.6. perform all other functions which statutes require him or her to perform.
- 23.4. If the PRINCIPAL OFFICER is out of the country or is for any other reason unable to perform his or her duties for more than 30 (thirty) days then the BOARD must appoint someone to act as PRINCIPAL OFFICER in his or her place. If this happens, the BOARD must inform the Registrar of the temporary appointment within 30 (thirty) days.

RULE 24 - ACTUARY AND ACTUARIAL VALUATIONS

24.

- 24.1. The BOARD must appoint an ACTUARY who must be a fellow of an institute, faculty, society or chapter of actuaries approved by the Minister of Finance. The BOARD may withdraw that appointment and appoint a new ACTUARY in terms of the RULES.
- 24.2. The ACTUARY must perform the functions and fulfil the duties expected of a valuator in terms of the ACT unless these functions and duties are not applicable to this fund. The BOARD must let the ACTUARY have all the information that he or she requires in order to fulfil his or her functions and duties. The ACTUARY must be allowed to see and make copies of all the written documents that the FUND has and that are needed for this purpose.
- 24.3. Unless the Registrar of Pension Funds has certified that the FUND is not required to do this, the FUND must have its financial position investigated, valued and reported on by the ACTUARY as often as is required in terms of the ACT. The ACTUARY must submit his or her report to the BOARD and the BOARD must submit a copy of it to the Registrar and to each EMPLOYER.

RULE 25 – AUDITOR

25.

- 25.1. The BOARD must appoint an AUDITOR who –

- 25.1.1. is registered as an AUDITOR in terms of the Public Accountants and Auditors Act;
 - 25.1.2. is engaged in public practice; and
 - 25.1.3. is approved of by the Registrar of Pension Funds.
- 25.2. The BOARD may withdraw the appointment of the AUDITOR at any time and appoint a new AUDITOR.
- 25.3. The AUDITOR has –
- 25.3.1. the right to at all reasonable times see and make copies of the accounting records and all books, vouchers, documents and other property of the FUND;
 - 25.3.2. the right to get from the BOARD all such information and explanations in relation to the FUND that he or she thinks are necessary;
 - 25.3.3. the right to investigate whether there are adequate measures and procedures to ensure that the FUND operates in a sound, cost-effective and cost-efficient way for the benefit of MEMBERS and their DEPENDANTS; and
 - 25.3.4. the right to investigate any aspect of the management of the FUND which has a bearing on the control and use and expenditure of its assets.
- 25.4. Within 6 (six) months after the end of each FINANCIAL YEAR, the AUDITOR must submit to the BOARD statements of the FUND'S financial affairs in accordance with the provisions of the ACT. The statements must report whether, in the opinion of the AUDITOR –
- 25.4.1. the statements in all material respects fairly present the financial position of the FUND in accordance with generally accepted accounting practice;

- 25.4.2. the transactions during the FINANCIAL YEAR in question of which the AUDITOR is aware took place in accordance with the RULES;
- 25.4.3. the FUND has over the period been administered in accordance with all applicable laws and the relevant legal framework; and
- 25.4.4. there has been compliance with guidelines previously recommended by the AUDITOR for the proper management of the FUND'S assets.

RULE 26 - FUND ADMINISTRATOR

26.

The BOARD must appoint on terms decided by it 1 (one) or more companies to administer the FUND. The BOARD may only appoint a company that has been approved by the Registrar of Pension Funds as an ADMINISTRATOR. The BOARD may terminate the appointment of the ADMINISTRATOR and appoint a new ADMINISTRATOR.

RULE 27 - FUND DOCUMENTS

27.

- 27.1. The BOARD must authorise the chairperson of the BOARD, one or more of the other members and the PRINCIPAL OFFICER jointly to sign –
 - 27.1.1. any agreement binding on the FUND; and
 - 27.1.2. any document authorising legal action by the FUND.
- 27.2. Any documents to be deposited with the Registrar of Pension Funds must be signed as required in terms of the ACT.

RULE 28 - AMENDMENT OF THE RULES

28.

- 28.1. The BOARD may amend the RULES only if –
 - 28.1.1. it has first obtained the opinion of the ACTUARY on the RULE amendment;

and

- 28.1.2. the PRINCIPAL EMPLOYER has consented to the RULE amendment, if –
 - 28.1.2.1. the RULE amendment has the effect of increasing the financial liability of any EMPLOYER;
 - 28.1.2.2. the definition of NORMAL RETIREMENT AGE is altered.
- 28.2. Each rule amendment must be submitted to the Registrar of Pension Funds for his or her approval and registration.
- 28.3. The BOARD must notify the REVENUE AUTHORITY of each RULE amendment within 2 (two) months after it has been registered by the Registrar of Pension Funds.

RULE 29 - MEMBERS' MEETINGS

- 29.
 - 29.1. At the written request to the FUND of at least 100 (one hundred) MEMBERS or 30% (thirty per cent) of the MEMBERS whichever is the lesser, the BOARD must convene a meeting of MEMBERS at which:
 - 29.2. the MEMBERS may make representations to the BOARD on matters relating to the FUND; and
 - 29.3. the BOARD may convey information relating to the FUND to the MEMBERS present.

RULE 30 - RULES ARE NOT CONDITIONS OF SERVICE

- 30. These RULES are not conditions of SERVICE. They do not govern the rights of employees of an EMPLOYER and the rights of that EMPLOYER in regard to the employment of employees.

RULE 31 – DISPUTES

- 31.
 - 31.1. If a MEMBER or other person has a dispute with the FUND, he or she must either put his or her complaint in writing and deliver it to the PRINCIPAL OFFICER or, if he

or she cannot put it in writing, explain it to the PRINCIPAL OFFICER. The PRINCIPAL OFFICER must then write down the details of the complaint given to him or her and give them to the chairperson of the FUND.

- 31.2. The chairperson must either try to resolve the dispute or must refer it to a member of the BOARD, or a consultant or the ACTUARY or the AUDITOR or the ADMINISTRATOR with the instruction that he, she or it try to resolve the dispute.
- 31.3. If the dispute is not resolved within 30 (thirty) days after it was received, the COMPLAINANT and the BOARD may refer the matter to a suitable expert for an advisory opinion on the basis that –
- 31.3.1. the choice of the suitable expert is to be by agreement between the COMPLAINANT and the BOARD;
- 31.3.2. the COMPLAINANT and the BOARD are entitled at the cost of each to make their own representations to the suitable expert. The costs of the suitable expert concerned must be borne equally by each party unless the BOARD, at its entire discretion, decides to pay all such costs. It is recorded that any opinion by the suitable expert will not preclude the COMPLAINANT from referring the matter to the ADJUDICATOR in terms of the ACT.
- 31.4. If the dispute is not resolved within 30 (thirty) days after it was received, and the procedure in RULE 31.3 is not followed, then the PRINCIPAL OFFICER must respond to the COMPLAINANT in writing. If the COMPLAINANT is not satisfied with the response, or with the decision by counsel if referred to counsel in terms of RULE 31.3, he or she may refer the matter to the ADJUDICATOR in terms of the ACT.

RULE 32 CLAIMS AGAINST THE FUND

- 32.
- 32.1. No person has any claim against the FUND or the BOARD other than a claim that the RULES have not been complied with.
- 32.2. No person has a claim against the FUND in respect of any investments made by it in good faith.

PART E: FINANCIAL STRUCTURE OF FUND AND FUND INVESTMENTS

RULE 33 - STRUCTURE OF THE FUND ACCOUNTS

- 33.
- 33.1. The following accounts will be established in the records of the FUND –
- 33.1.1. MEMBER INDIVIDUAL ACCOUNT;
 - 33.1.2. MEMBER SURPLUS ACCOUNT;
 - 33.1.3. EMPLOYER SURPLUS ACCOUNT;
 - 33.1.4. EXPENSE RESERVE ACCOUNT;
 - 33.1.5. PROCESSING ERROR RESERVE ACCOUNT.
- 33.2. The FUND must maintain a portfolio account in respect of each portfolio of investments managed by it, and a consolidated portfolio account which is a consolidation of the portfolio accounts. All portfolios must comply with the requirements laid down in the ACT.
- 33.3. The BOARD may in consultation with the ACTUARY establish such other ACCOUNTS as it may decide for any purpose.

RULE 34 - MEMBER INDIVIDUAL ACCOUNT

- 34.
- 34.1. The following amounts must be credited to each MEMBER INDIVIDUAL ACCOUNT –
- 34.1.1. if applicable, the MEMBER TRANSFER AMOUNT relating to such MEMBER;
 - 34.1.2. if applicable, any CONTRIBUTION in terms of RULE 5.1;
 - 34.1.3. that part of the CONTRIBUTIONS made by the EMPLOYER in terms of RULE 5.2.2 that is allocated towards retirement funding in terms of RULE 5.2.2.2 and/or contributions in terms of RULE 5.2.3 and RULE 52A;
 - 34.1.4. positive INVESTMENT RETURN allocated from time to time by the BOARD;

- 34.1.5. any amount allocated from the MEMBER SURPLUS ACCOUNT or the EMPLOYER SURPLUS ACCOUNT.
- 34.2. The following must be debited to a MEMBER INDIVIDUAL ACCOUNT –
- 34.2.1. benefits paid on the death or termination of the membership of the MEMBER;
- 34.2.2. amounts transferred to a REGISTERED INSURER on the RETIREMENT FROM THE FUND or death of a MEMBER;
- 34.2.3. amounts transferred to an APPROVED FUND on the termination of a MEMBER'S membership of the FUND;
- 34.2.4. Deleted.
- 34.2.5. negative INVESTMENT RETURN allocated from time to time by the BOARD;
- 34.2.6. any charges incurred in connection with any investment choice made by a MEMBER.
- 34.2.7. transfers to the DEFERRED PENSION ACCOUNT of an amount in respect of a DEFERRED MEMBER;
- 34.2.8. transfers to the PENSION ACCOUNT of an amount in respect of a retiring MEMBER who elects the option in RULE 6.2.2.
- 34.3. All amounts credited to each MEMBER INDIVIDUAL ACCOUNT, and designated by the MEMBER for investment in the particular investment portfolio set up by the BOARD, must be credited to the corresponding investment account.

RULE 35 - MEMBER SURPLUS ACCOUNT

35.

- 35.1. There must be credited to the MEMBER SURPLUS ACCOUNT any ACTUARIAL SURPLUS apportioned to it by the BOARD in terms of section 15B or section 15C of the ACT.

- 35.2. The MEMBER SURPLUS ACCOUNT must at the discretion of the BOARD be credited with INVESTMENT RETURN when positive, and debited with any of the following:-
- 35.2.1. amounts allocated to improve the benefits for MEMBERS;
 - 35.2.2. an amount allocated on the termination of a MEMBER'S membership of the FUND;
 - 35.2.3. amounts paid to improve the benefits previously paid to former MEMBERS or the amounts previously transferred to other APPROVED FUNDS in respect of former MEMBERS;
 - 35.2.4. INVESTMENT RETURN when negative;
 - 35.2.5. such other purpose as the BOARD may by law be permitted to debit.

RULE 36 - EMPLOYER SURPLUS ACCOUNT

- 36.
- 36.1. There must be credited to the EMPLOYER SURPLUS ACCOUNT any ACTUARIAL SURPLUS apportioned to it by the BOARD in terms of section 15B, section 15C or section 15F of the ACT.
 - 36.2. The EMPLOYER SURPLUS ACCOUNT must at the discretion of the BOARD be credited with INVESTMENT RETURN when positive, and debited with any of the following –
 - 36.2.1. the cost of funding a contribution holiday as defined in the ACT;
 - 36.2.2. an amount paid to meet, in full or in part, expenses which an EMPLOYER is obliged to pay in terms of the RULES;
 - 36.2.3. any amount paid to improve the benefits payable to all MEMBERS, or any category of MEMBERS, as determined by the PRINCIPAL EMPLOYER;

- 36.2.4. any amount transferred to an EMPLOYER SURPLUS ACCOUNT in another FUND where an EMPLOYER is a participating employer provided the REGISTRAR approved thereof;
- 36.2.5. INVESTMENT RETURN when negative;
- 36.2.6. such other purpose as the BOARD may by law be permitted to debit;

provided that the BOARD may not debit the EMPLOYER SURPLUS ACCOUNT unless it has received a request from the PRINCIPAL EMPLOYER as to which purpose (RULES 36.2.1, 36.2.2, 36.2.3 or 36.2.4) he or she (the PRINCIPAL EMPLOYER) wishes the BOARD to debit the EMPLOYER SURPLUS ACCOUNT.

RULE 37 – EXPENSE RESERVE ACCOUNT

37.

37.1. The EXPENSE RESERVE ACCOUNT must be credited with the following –

- 37.1.1. such amount as the BOARD on the advice of the ACTUARY regarded as a reasonable estimate of the cost of complying with the provisions of the Pension Funds Second Amendment Act, Act No. 39 of 2001 regarding the apportionment of surplus in terms of section 15B of the ACT;
- 37.1.2. positive INVESTMENT RETURN allocated from time to time by the BOARD;
- 37.1.3. that part of the EMPLOYER'S CONTRIBUTIONS in terms of Rule 5.2.2 that is allocated in terms of RULE 5.2.2.1 towards meeting the expenses of the FUND referred to in RULE 44;
- 37.1.4. any amount transferred from the DEFERRED PENSION ACCOUNT to meet the expenses of the FUND in terms of RULE 44.

37.2. The EXPENSE RESERVE ACCOUNT must be debited with the following –

- 37.2.1. expenses of the FUND in terms of RULE 44, including the costs and expenses specifically arising as a result of the FUND'S compliance with the Pension Funds Second Amendment Act, Act No. 39 of 2001;

- 37.2.2. negative INVESTMENT RETURN allocated from time to time by the BOARD;
- 37.2.3. any amount released from this account as decided by the BOARD on the advice of the ACTUARY and apportioned by the BOARD in terms of section 15C of the ACT;
- 37.2.4. such amounts as the ACTUARY may recommend from time to time to be transferred to the PROCESSING ERROR RESERVE ACCOUNT.

RULE 38 – PROCESSING ERROR RESERVE ACCOUNT

38.

- 38.1. The Processing Error Reserve Account shall reflect the impact of any temporary mismatching of investments and disinvestments, of accrual and deduction of Retirement Funds Tax, of asset management fees payable and deducted, of assumed INVESTMENT RETURN, non-interest bearing debtors and creditors, sundry expenses and miscellaneous mismatches which arise in the day to day administration of the FUND.
- 38.2. The PROCESSING ERROR RESERVE ACCOUNT must be credited with the following –
 - 38.2.1. an opening balance as determined by the BOARD on the recommendation of the ACTUARY;
 - 38.2.2. positive INVESTMENT RETURN allocated from time to time by the BOARD;
 - 38.2.3. such amounts as may be recommended by the ACTUARY from time to time and agreed to by the BOARD;
 - 38.2.4. amounts transferred from the EXPENSE RESERVE ACCOUNT in terms of RULE 37.2.4.
- 38.3. The PROCESSING ERROR RESERVE ACCOUNT must be debited with the following –

- 38.3.1. negative INVESTMENT RETURN allocated from time to time by the BOARD;
- 38.3.2. such amounts as may be recommended by the ACTUARY from time to time and agreed to by the BOARD.

RULE 39 – DEFERRED PENSION ACCOUNT AND PENSION ACCOUNT

39.

39.1. **DEFERRED PENSION ACCOUNT**

- 39.1.1. The DEFERRED PENSION ACCOUNT must be credited with:
 - 39.1.1.1. the amount transferred from the MEMBER INDIVIDUAL ACCOUNT in terms of RULE 34.2.7;
 - 39.1.1.2. any amounts transferred from the MEMBER SURPLUS ACCOUNT or the EMPLOYER SURPLUS ACCOUNT;
 - 39.1.1.3. INVESTMENT RETURNS in respect of the investment portfolio(s) chosen by the DEFERRED PENSIONER, if positive.
- 39.1.2. The DEFERRED PENSION ACCOUNT must be debited with:
 - 39.1.2.1. amounts paid to BENEFICIARIES or transferred to a REGISTERED INSURER on the death of a MEMBER;
 - 39.1.2.2. transfers to another APPROVED FUND in terms of Rule 8.4.3;
 - 39.1.2.3. amounts transferred to the PENSION ACCOUNT or to a REGISTERED INSURER on the RETIREMENT FROM THE FUND of a DEFERRED MEMBER;

39.1.2.4. any amount transferred to the EXPENSE RESERVE ACCOUNT in order to meet the expenses of the FUND in terms of Rule 44;

39.1.2.5. INVESTMENT RETURNS in respect of the investment portfolio(s) chosen by the DEFERRED PENSIONER, if negative.

39.2. PENSION ACCOUNT

39.2.1. The PENSION ACCOUNT must be credited with:

39.2.1.1. the amount transferred from the MEMBER INDIVIDUAL ACCOUNT in terms of RULE 34.2.8 or from the DEFERRED PENSION ACCOUNT in terms of RULE 39.1.2.3 into the PENSION ACCOUNT on the RETIREMENT FROM THE FUND of a MEMBER who elects to receive a PENSION from the FUND in terms of RULE 6.3.2;

39.2.1.2. INVESTMENT RETURNS in respect of the investment portfolio(s) chosen by the PENSIONER, if positive;

39.2.1.3. any amount transferred from the MEMBER SURPLUS ACCOUNT.

39.2.2. The PENSION ACCOUNT must be debited with:

39.2.2.1. the monthly PENSION paid to the PENSIONER;

39.2.2.2. expenses related to the payment of flexible annuities, administration expenses, taxation and other statutory charges, and investment portfolio switching fees, if any;

39.2.2.3. benefits paid on the death of the PENSIONER;

39.2.2.4. any amount transferred to an annuity policy purchased from a REGISTERED INSURER in terms of RULE 6.3.2.8 or RULE 6.3.2.9;

- 39.2.2.5. INVESTMENT RETURNS in respect of the investment portfolio(s) chosen by the PENSIONER, if negative.

**RULE 40 – POWERS AND DUTIES OF THE BOARD IN RELATION TO
THE FUND'S INVESTMENTS**

40.

40.1. The BOARD must –

40.1.1. open a bank account in the name of the FUND into which all CONTRIBUTIONS must be paid;

40.1.2. develop an investment policy and strategy for the FUND, taking into account the long-term interests of the FUND and its MEMBERS. The policy and strategy must include guidelines on –

40.1.2.1. the investment objectives of the FUND;

40.1.2.2. the nature of investments which are appropriate to those objectives with reference, if appropriate, to different categories of MEMBERS;

40.1.2.3. the types of investments which the FUND is prepared to make and those that it is not prepared to make;

40.1.2.4. regular reviews of the performance of the investments;

40.1.2.5. the extent, if any, to which each MEMBER will be permitted to decide how assets attributable to him or her will be invested; and

40.1.3. in relation to the investments of the FUND –

40.1.3.1. cause these to be divided and invested in such separate investment portfolios as the BOARD at its sole discretion may decide;

- 40.1.3.2. have deducted from each investment portfolio so much of the expenses and taxes relating to the investments of such portfolio;
 - 40.1.3.3. if it considers it desirable, unitise each investment portfolio on such basis as it may decide;
 - 40.1.3.4. have valued at the end of each month the unit price of each portfolio if unitised, in accordance with the market values on the last trading day of each month of the assets underlying the investment portfolio concerned after such provision as it may determine has been made for the accrued investment income and the taxes and investment expenses relating to that portfolio.
 - 40.1.4. ensure that the FUND'S investments are made in accordance with the policy and strategy and in accordance with sound financial principles;
 - 40.1.5. establish effective measures for the control of the investments and to manage the risks associated with the investments of the FUND; and
 - 40.1.6. if the investment policy and strategy allows for the investment of assets in a futures contract, an option contract, loan stock or any instrument that the Registrar of Pension Funds by notice in the Government Gazette declares to be a financial instrument, take such prudent precautions to control the risks associated with investments in these kinds of instruments.
- 40.2. In addition to RULE 14 and subject to the ACT, the BOARD has the power to –
- 40.2.1. invest in and dispose of immovable property;
 - 40.2.2. invest, lend, put out at interest, place on deposit, make advances of or otherwise deal with the monies of the FUND upon such security and in such manner as it may decide from time to time; provided that if any amount is lent to a person on the basis of security in the form of a first mortgage over immovable property, the loan may not exceed such proportion of the market value from time to time of such property as the BOARD may decide in terms of a practice note;

- 40.2.3. sell, change, reinvest or otherwise deal with shares and other investments;
 - 40.2.4. obtain an overdraft from a bank or borrow from any other party such amount as it decides and on such terms as it thinks fit in order to complete any investment or meet any temporary unforeseen cash shortage. For this purpose it can give such security as it decides as long as together all amounts borrowed by the FUND do not exceed half of the FUND'S total income before deductions from all sources during the previous FINANCIAL YEAR unless authorised by the Registrar of Pension Funds;
 - 40.2.5. establish nominee or other companies or trusts or authorise an approved nominee PRINCIPAL EMPLOYER to hold the assets of the FUND for the purpose of the effective investment of the FUND'S assets; and
 - 40.2.6. effect policies of insurance with 1 (one) or more REGISTERED INSURERS for the purposes of investing the FUND'S monies in order to meet the cost of providing benefits in terms of these RULES.
- 40.3. The BOARD must ensure that all investments of the FUND are registered in the name of the FUND if not held as described in RULE 40.2.5.

PART F: GENERAL**RULE 41 - RIGHT TO INSPECT DOCUMENTS AND OBTAIN COPIES**

41.

- 41.1. Every MEMBER is entitled to see and, on payment of such sum as the BOARD may decide, receive copies of –
- 41.1.1. the RULES;
 - 41.1.2. the latest revenue account and balance sheet prepared in terms of the ACT;
 - 41.1.3. the report by the ACTUARY on the latest statutory valuation of the FUND, if there is one;
 - 41.1.4. any statement prepared in terms of section 17 of the ACT;
- 41.2. any scheme which is being conducted by the FUND in terms of section 18 of the ACT.

RULE 42 - AMALGAMATIONS AND TRANSFERS

42.

- 42.1. As long as they do so in terms of the relevant provisions of the ACT and any other relevant Act, the BOARD may –
- 42.1.1. amalgamate any business carried on by the FUND with any business carried on by any other person;
 - 42.1.2. transfer any business carried on by the FUND to any other person or body;
 - 42.1.3. accept the transfer of any business carried on by another person or body to the FUND.
- 42.2. Whenever the FUND amalgamates, transfers or accepts the transfer of any business, the BOARD must ensure that a written notice is sent to every MEMBER

who is to transfer out of the FUND and to every person who is about to transfer into the FUND. Full details of the amalgamation or transfer scheme must appear in the notice. The notice must be sent at least 60 (sixty) days before the scheme is submitted to the Registrar of Pension Funds for his or her approval.

- 42.3. The FUND may accept the transfer into it of persons who were members of any APPROVED FUND to which the PRINCIPAL EMPLOYER or an EMPLOYER or any body which was one of its legal predecessors or any body which has become wholly or partly owned by the PRINCIPAL EMPLOYER or an EMPLOYER who contributed on behalf of such persons. The fund may simultaneously accept the transfer into it of assets for the benefit of such persons in which event such amounts that are transferred in respect of a MEMBER shall be credited to his or her MEMBER INDIVIDUAL ACCOUNT.
- 42.4. If any assets received from any pension fund or provident fund which are not designated by the transferring fund to be credited to any of the accounts referred to in RULE 33.1 then such assets shall be allocated by the BOARD to such of the accounts referred to in RULE 33.1 as the BOARD in its discretion decides is appropriate.

RULE 43 - CONFIDENTIALITY OF INFORMATION

43.

The BOARD and each of the members of the BOARD are only entitled to such information from an EMPLOYER as they may reasonably require for the fulfilment of their responsibilities in terms of these RULES. They may only use such information for the administration and management of the FUND and may not disclose it to any person or body other than office-bearers or employees or agents of the FUND. Those persons likewise may only use the information for the administration and management of the FUND and may not disclose it to anyone else without the permission of the BOARD.

RULE 44 - EXPENSES OF THE FUND

44.

- 44.1. The FUND must pay all expenses incurred in the management and administration of the FUND and in auditing and conducting actuarial valuations of the FUND if those expenses were authorised by the BOARD in accordance with specific decisions taken by it or general policies formulated by it. Such expenses include all taxes and

levies payable by the FUND. The expenses must be debited from the EXPENSE RESERVE ACCOUNT which, if there is insufficient standing to the credit of this ACCOUNT at any time to meet any such expenses then such shortfall in that ACCOUNT must be made good proportionately from the amounts to the credit of each MEMBER INDIVIDUAL ACCOUNT or from the PROCESSING ERROR RESERVE ACCOUNT as the BOARD at its discretion may decide.

- 44.2. Notwithstanding RULE 44.1, the PRINCIPAL EMPLOYER shall be liable for all expenses incurred in the management and administration by the FUND of the special CONTRIBUTION paid in terms of RULE 5.2.A.

RULE 45 – CURRENCY

45.

All CONTRIBUTIONS and all benefits must be paid in South African currency.

RULE 46 – INDEMNITY

46.

The FUND will refund to a member of the BOARD all costs reasonably incurred by him or her in opposing a claim against the FUND which did not result from any negligence, recklessness, intentional unlawful acts, dishonesty or fraud by that member of the BOARD.

RULE 47 - FIDELITY INSURANCE

47.

- 47.1. The BOARD must ensure that the FUND is insured by the PRINCIPAL EMPLOYER, or a REGISTERED INSURER, against any loss which results from the error or omissions, negligence, recklessness, intentional unlawful acts or dishonesty of –

47.1.1. a member of the BOARD;

47.1.2. the PRINCIPAL OFFICER or any other official of the FUND; or

47.1.3. an employee of the FUND;

other than a loss which arises when the FUND sells an asset in accordance with a decision about its investments, or when the FUND receives a lower than expected return on its investments or as a result of the payment of a benefit in terms of the RULES.

RULE 48 - RESTRICTION ON EMPLOYERS' BENEFITS

48.

Save to the extent permitted by law or in terms of these RULES, an EMPLOYER may not derive monetary advantage from monies paid into or out of the FUND.

RULE 49 - CHANGE OF LEGISLATION

49.

If any legislation referred to in these RULES is amended or substituted then such amended or substituted legislation applies where applicable in these RULES.

PART G: TERMINATION OF AND TRANSFERS OUT OF THE FUND

RULE 50 - CHANGES TO THE EMPLOYERS

50.

50.1. Reconstruction of EMPLOYER

If an EMPLOYER is amalgamated with another body or is reconstructed in a similar or different form or is replaced by an organisation with the same functions as that EMPLOYER, then the reconstructed EMPLOYER or the new organisation will be allowed to take the place of the EMPLOYER in relation to the FUND unless the PRINCIPAL EMPLOYER notifies the BOARD to the contrary. If it does not choose to take or is precluded from taking the place of the EMPLOYER, and no other EMPLOYER is participating in the FUND, then the FUND must be wound up.

50.2. Winding up or transfer of the control in or operations of an EMPLOYER other than the PRINCIPAL EMPLOYER

50.2.1. This rule applies if one of the EMPLOYERS other than PRINCIPAL EMPLOYER –

50.2.1.1. is wound up; or

50.2.1.2. transfers its operations to a new organisation which is not an EMPLOYER as defined in these RULES; or

50.2.1.3. is amalgamated with another organisation which is not an EMPLOYER as defined in these RULES; or

50.2.1.4. stops paying CONTRIBUTIONS to the FUND after giving the FUND at least 2 (two) months' written notice of its intention to stop paying CONTRIBUTIONS.

50.2.2. If one of these events occurs, the credit of each MEMBER INDIVIDUAL ACCOUNT relating to the MEMBER of the EMPLOYER concerned must be transferred to an APPROVED FUND selected by that MEMBER'S new employer, provided that such credit is not less than the MINIMUM INDIVIDUAL RESERVE and provided further that each such MEMBER INDIVIDUAL ACCOUNT must be credited with such share in the credit balances in the MEMBER SURPLUS ACCOUNT, EXPENSE RESERVE

ACCOUNT and PROCESSING ERROR RESERVE ACCOUNT as the BOARD deems appropriate in the ratio that the liability of the FUND in respect of the MEMBERS leaving the FUND bears to the liability of the FUND towards all its MEMBERS at that date.

50.3. Transfer of employment

If the employment of a MEMBER is transferred in terms of section 197 of the Labour Relations Act from an EMPLOYER to another employer which does not participate in the FUND then the BOARD must transfer to the fund in which such employer participates the amount to the credit of the MEMBER INDIVIDUAL ACCOUNT relating to that MEMBER. The amount so transferred must not be less than the MINIMUM INDIVIDUAL RESERVE.

RULE 51 - TOTAL TERMINATION OF THE FUND

51.

51.1. Circumstances in which the FUND must be terminated

The FUND must be terminated if –

- 51.1.1. the BOARD passes a resolution saying that it would be in the best interests of its MEMBERS for it to be terminated, and the PRINCIPAL EMPLOYER agrees to this;
- 51.1.2. the PRINCIPAL EMPLOYER or the High Court decides that the FUND must be terminated; or
- 51.1.3. the EMPLOYER or if more than one EMPLOYER, then all of them, stop paying CONTRIBUTIONS to the FUND after each giving it 2 (two) months written notice of intention to stop paying the CONTRIBUTIONS and fewer than 2/3rds (two-thirds) of the MEMBERS decide by vote to keep the FUND going without CONTRIBUTIONS by the EMPLOYERS.

51.2. Appointment of Liquidator

If the FUND is to be terminated then the BOARD must appoint a liquidator subject to the approval of the Registrar of Pension Funds. The date of appointment, or confirmation of the appointment, of the liquidator by the Registrar of Pension Funds is the date of liquidation of the FUND.

51.3. Dissolution of the FUND when the BOARD or PRINCIPAL EMPLOYER decides that it must be liquidated

- 51.3.1. This rule applies if the BOARD or the PRINCIPAL EMPLOYER decides that the FUND must be liquidated and fewer than 2/3rd (two-thirds) of the MEMBERS decide by vote to keep the FUND going without CONTRIBUTIONS by the PRINCIPAL EMPLOYER. It does not apply if the High Court decides that it must be liquidated.
- 51.3.2. After paying the FUND's creditors, the liquidator must, on the basis set out in the ACT, distribute the remaining assets among the MEMBERS.
- 51.3.3. The amount allocated to a MEMBER must be transferred to an APPROVED FUND unless, in the opinion of the liquidator, it would be more appropriate for it to be paid to him or her in cash.
- 51.3.4. The liquidator must take all reasonable steps to find the people to whom money is due when the FUND is liquidated. If the liquidator cannot find any such people within 4 (four) months of the date on which the FUND started paying out liquidation benefits, the amounts which should have been paid to them may be paid into the Guardian's Fund. After that is done those people will have no claim against the FUND but can claim their money from the Guardian's Fund. The liquidator must report to the Registrar on the steps that he or she took to find the missing people and the amount that he or she paid into the Guardian's Fund for them.

51.4. Liquidation of the FUND when a court decides that it must be liquidated

If a court decides that the FUND must be liquidated, the liquidator must liquidate the FUND in terms of the relevant provisions of the ACT. If the court does not make section 410 of the Companies Act applicable to the liquidation or if it does not instruct the liquidator on what to do with unclaimed benefits, those benefits must be paid into the Guardian's Fund and the liquidator must report to the Registrar of Pension Funds on the amounts paid into the Guardian's Fund and the steps that he or she took to locate the beneficiaries.

**RULE 52 - CONTINUATION OF THE FUND WITHOUT CONTRIBUTIONS
BY PRINCIPAL EMPLOYER**

52.

- 52.1. If the BOARD or the PRINCIPAL EMPLOYER decides that the FUND must be liquidated and more than two-thirds of the MEMBERS decide by vote to keep the

FUND going without CONTRIBUTIONS by any EMPLOYER, then the PRINCIPAL EMPLOYER must consent to all the changes to the RULES that the BOARD decides are needed in order to provide for this.

RULE 53 - BULK TRANSFER FROM THE FUND

53.

If an EMPLOYER decides to establish or to participate in a new fund or scheme which will provide retirement benefits for its employees or for certain of its employees, the BOARD must, if the EMPLOYER asks it to and the PRINCIPAL EMPLOYER consents, transfer to the new fund in terms of the ACT those amounts standing to the credit of the MEMBER INDIVIDUAL ACCOUNTS of each of the MEMBERS employed by that EMPLOYER which the EMPLOYER requires to join the new fund; provided that the balance to the credit of each MEMBER INDIVIDUAL ACCOUNT must be not less than the MINIMUM INDIVIDUAL RESERVE.

ANNEXURE

(As referred to in RULE 7.2.1)

Section 37C of the Pension Funds Act, No. 24 of 1956**37C Disposition of pension benefits upon death of member**

- (1) Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund upon the death of a member, shall, subject to a pledge in accordance with section 19(5)(b)(i) and subject to the provisions of section 37A(3) and 37D, not form part of the assets in the estate of such a member, but shall be dealt with in the following manner:
 - (a) If the fund within twelve months of the death of the member becomes aware of or traces a dependant or dependants of the member, the benefit shall be paid to such dependant or, as may be deemed equitable by the board, to one of such dependants or in proportions to some of or all such dependants.
 - (b) If the fund does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member, and the member has designated in writing to the fund a nominee who is not a dependant of the member, to receive the benefit or such portion of the benefit as is specified by the member in writing to the fund, the benefit or such portion of the benefit shall be paid to such nominee: Provided that where the aggregate of the amount of the debts in the estate of the member exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit or the balance of such portion of the benefit as specified by the member in writing to the fund shall be paid to the nominee.
 - (ba) If a member has a dependant and the member has also designated in writing to the fund a nominee to receive the benefit or such portion of the benefit as is specified by the

member in writing to the fund, the fund shall within twelve months of the death of such member pay the benefit or such portion thereof to such dependant or nominee in such proportions as the board may deem equitable: Provided that this paragraph shall only apply to the designation of a nominee made on or after 30 June 1989: Provided further that, in respect of a designation made on or after the said date, this paragraph shall not prohibit a fund from paying the benefit, either to a dependant or nominee contemplated in this paragraph or, if there is more than one such dependant or nominee, in proportions to any or all of those dependants and nominees.

- (c) If the fund does not become aware of or cannot trace any dependant of the member within twelve months of the death of the member and if the member has not designated a nominee or if the member has designated a nominee to receive a portion of the benefit in writing to the fund, the benefit or the remaining portion of the benefit after payment to the designated nominee, shall be paid into the estate of the member or, if no inventory in respect of the member has been received by the Master of the Supreme Court in terms of section 9 of the Estates Act, 1965 (Act No. 66 of 1965), into the Guardian's Fund.
- (2) For the purposes of this section, a payment by a registered fund to a trustee contemplated in the Trust Property Control Act, 1988 (Act No. 57 of 1988), for the benefit of a dependant or nominee contemplated in this section shall be deemed to be a payment to such dependant or nominee.
- (3) Any benefit dealt with in terms of this section, payable to a minor dependant or minor nominee, may be paid in more than one payment in such amounts as the board may from time to time consider appropriate and in the best interests of such dependant or nominee: Provided that interest at a reasonable rate, having regard to the investment return earned by the fund, shall be added to the outstanding balance at such times as the board may determine: Provided further that any balance owing to such a dependant or nominee at the date on which he or she attains majority or dies, whichever occurs first, shall be paid in full.

- (4) (a) Any benefit dealt within in terms of this section, payable to a major dependant or major nominee, may be paid in more than one payment if the dependant or nominee has consented thereto in writing: Provided that –
- (i) the amount of the payments, intervals of payment, interest to be added and other terms and conditions are disclosed in a written agreement; and
 - (ii) the agreement may be cancelled by either party on written notice not exceeding 90 days.
- (b) If the agreement contemplated in paragraph (a) is cancelled the balance of the benefit shall be paid to the dependant or nominee in full.