# RULES OF THE

# E.L.C. PENSION FUND

# E.L.C. PENSION FUND

Extract from a round robin resolution of the Trustees of the ELC Pension Fund Dated 1 December 2020

Resolved that with effect from 1 June 2020 the set of Rules of the above FUND be substituted by these revised rules.

The reasons for the amendments are the following:

1. to incorporate amendments no 1 to 9 to the previous Rules of the FUND;
2. updated to reflect the latest legislative framework – a table with detailed comments is provided

**Certified that the Resolution in terms of which these Rules have been accepted has been adopted in accordance with the Rules of the FUND.**

Chairperson of Trustees

Principal Officer

Trustee

**REGISTERED** in terms of
Pension Funds Act. No. 24 of 1956

22 FEB 2021

FOR THE FINANCIAL SECTOR CONDUCT AUTHORITY

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## 1 GENERAL

1.1 The E.L.C. Pension Fund ("the FUND") was established by the United Evangelical Lutheran Church of Southern Africa with effect from 1 March 1975 and provided benefits in terms of the rules which applied at that date, determined in accordance with defined benefit funding principles.

With effect from 1 January 1997 the FUND was converted to provide benefits determined in accordance with defined contribution funding principles.

The FUND operates as an umbrella fund; provided that as the contribution rates and the benefits set out in the RULES apply without variation to all MEMBERS, the FUND shall not operate in accordance with special rules applicable to each EMPLOYER.

1.2 The registered office of the FUND is at 28 Varley Rd, Hayfields, Pietermaritzburg, 3201.

1.3 The object of the FUND is, in terms of the RULES, to provide retirement and other benefits for employees and former employees of the EMPLOYERS, and benefits in the event of their death.

1.4 The FUND, in its own name, shall be capable in law of suing and of being sued and of acquiring, holding and alienating property, movable and immovable.

1.5 These revised RULES include all amendments up to and including 1 June 2020. If the registration of the RULES in terms of the ACT is effected later than 1 June 2020, the RULES shall nevertheless take effect from 1 June 2020.

## 2 DEFINITIONS

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

**ACCOUNTS** shall mean the CONTINGENCY RESERVE ACCOUNTS, the PENSIONS ACCOUNT and the EMPLOYER SURPLUS ACCOUNT.

**ACT** shall mean the Pension Funds Act, No. 24 of 1956, any subordinate legislation issued in terms of that legislation and any amendments to the legislation or subordinate legislation that may apply from time to time.

**ACTUARIAL SURPLUS** shall mean actuarial surplus as defined in the ACT.

**ACTUARY** shall mean a natural person who is a fellow member of the Actuarial Society of South Africa or any other institution approved by the AUTHORITY by notice in the Government Gazette.

**ADMINISTRATORS** shall mean the entity appointed by the TRUSTEES in terms of the RULES to attend to the administration of the FUND.

**APPROVED PENSION FUND** shall mean a pension fund registered in terms of the ACT and approved as a pension fund in terms of the INCOME TAX ACT.

**APPROVED PENSION PRESERVATION FUND** shall mean a pension fund registered in terms of the ACT and approved as a pension preservation fund in terms of the INCOME TAX ACT.

**APPROVED PROVIDENT FUND** shall mean a pension fund registered in terms of the ACT and approved as a provident fund in terms of the INCOME TAX ACT.

**APPROVED PROVIDENT PRESERVATION FUND** shall mean a pension fund registered in terms of the ACT and approved as a provident preservation fund in terms of the INCOME TAX ACT.

**APPROVED RETIREMENT ANNUITY FUND** shall mean a pension fund registered in terms of the ACT and approved as a retirement annuity fund in terms of the INCOME TAX ACT.

**AUDITOR** shall mean an auditor registered under the Auditing Profession Act, No. 26 of 2005.

**AUTHORITY** shall mean the Financial Sector Conduct Authority established in terms of Section 56 of the Financial Sector Regulation Act, No. 9 of 2017, as amended.

**BENEFICIARY** shall mean a beneficiary as defined in the ACT, i.e. a DEPENDANT or a NOMINEE.

**CALCULATION DATE** shall mean the date on which the ADMINISTRATORS, acting in terms of the agreed practice of the FUND, calculate a MEMBER'S benefit following receipt of a completed election form or, in the case of the death of a MEMBER, following the death of the MEMBER.

**CATEGORY A EMPLOYER ORGANISATION** shall mean

(a) LUCSA;

(b) ELCSA - PMC;

(c) German Lutheran Church West Rand.

**CATEGORY B EMPLOYER ORGANISATION** shall mean

(a) Ziduli Properties T/A Hermannsburg School

(b) ELC Pension FUND;

(c) UELCSA;

(d) Hermannsburg School Trust;

(e) Nordrand Congregation;

(f) German Seniors Residence;

(g) St Peters Congregation;

(h) Gerdauer Congregation;

(i) Philippi Congregation;

(j) St Peters by the Lake Congregation;

(k) Lutheran Church Vanderbijlpark;

(l) St John's Lutheran Nursery School;

(m) Bethanien Lutheran Church;

(n) St Martini Lutheran Church;

(o) Kenosis Community Trust;

(p) Kruinpark Retirement Village;

(q) Deutsche Evangelische Leuterische Gemeinde Kroondal;

(r) New Germany Lutheran Church.

(s) Deutsche Schule Trust

**CATEGORY C EMPLOYER ORGANISATION** shall mean

(a) NELCSA;

(b) ELCSA Cape Church.

**CONTINGENCY RESERVE ACCOUNTS** shall mean the RISK CONTINGENCY RESERVE ACCOUNT, the PROCESSING ERROR RESERVE ACCOUNT, the SOLVENCY RESERVE ACCOUNT and the RISK BENEFIT PREMIUM ACCOUNT.

**CONVERSION DATE** shall mean 1 January 1997.

**DEFERRED RETIREE** shall mean a MEMBER who has retired from SERVICE in accordance with the RULES but who has not reached his ELECTED RETIREMENT DATE.

**DEPENDANT** shall mean a dependant as defined in the ACT.

**ELECTED RETIREMENT DATE** shall mean the date on which a MEMBER, including a DEFERRED RETIREE and a PAID-UP MEMBER, elects to retire from the FUND and becomes entitled to a PENSION, provided that in the case of a PAID-UP MEMBER he must have attained the age of fifty years or be permanently incapable of carrying on his occupation due to sickness accident, injury or incapacity through infirmity of mind or body.

**ELIGIBLE EMPLOYEE** shall mean an employee in the permanent full-time or permanent part-time SERVICE of any of the EMPLOYERS who does not and has not received pension benefits by virtue of his membership of the FUND or of a PREVIOUS FUND.

**EMPLOYER** shall mean an ORIGINAL EMPLOYER, a CATEGORY A EMPLOYER ORGANISATION, a CATEGORY B EMPLOYER ORGANISATION and a CATEGORY C EMPLOYER ORGANISATION, that has been admitted to participate in the FUND with the consent of the TRUSTEES.

In relation to any particular employee or MEMBER, "EMPLOYER" shall mean the EMPLOYER by whom that person is, or was last, employed.

**EMPLOYER SURPLUS ACCOUNT** shall mean the ACCOUNT established for holding ACTUARIAL SURPLUS allocated to the EMPLOYERS.

**FINANCIAL YEAR** shall mean each twelve-month period ending on 31 December.

**FOUNDER** shall mean the United Evangelical Lutheran Church in Southern Africa.

**FUND** shall mean the E.L.C. Pension Fund.

**FUND CREDIT** shall mean for each MEMBER, including a DEFERRED RETIREE and a PAID-UP MEMBER, the following:

(a) an OPENING BALANCE; plus

(b) the contributions received by the FUND in terms of Rule 4.1.1; plus

(c) the accumulated value of the contributions made by the EMPLOYER towards the MEMBER'S retirement benefit in terms of Rule 4.2.1; plus

(d) any additional contributions made by the MEMBER in terms of Rule 4.1.3; plus

(e) any amounts transferred to the FUND in respect of a MEMBER in terms of Rule 10.1; less

(f) in respect of a DEFERRED RETIREE or a PAID-UP MEMBER, expenses referred to in Rule 8.2.2; less

(g) any amount deducted in terms of Rule 12.4; plus

(h) any allocation of ACTUARIAL SURPLUS or transfers from the EMPLOYER SURPLUS ACCOUNT as may be decided by the TRUSTEES acting on the advice of the ACTUARY;

Increased or decreased by INVESTMENT RETURNS until the CALCULATION DATE.

**FUND SALARY** shall mean the MEMBER'S basic annual salary or wages and any other regular amounts which are regarded as pensionable by the TRUSTEES at the request of the EMPLOYER; provided that

(a) for the purposes of the FUND, FUND SALARY shall be determined on the first day of each month of membership of the FUND;

(b) if the remuneration which constitutes the MEMBER'S FUND SALARY is reduced at any time then, subject to the agreement of

the MEMBER, the EMPLOYER may direct that, for the purposes of the FUND, the reduction shall either not be applied in the calculation of the MEMBER'S FUND SALARY or shall be applied only partially.

**INCOME TAX ACT** shall mean the Income Tax Act, No. 58 of 1962.

**INDEPENDENT TRUSTEE** shall mean a TRUSTEE who is not employed by nor has a financial interest in the FOUNDER, an EMPLOYER or any service provider to the FUND.

**INSURER** shall mean an insurer registered or licensed in terms of the appropriate legislation.

**INVESTMENT RETURN** shall mean any income (received or accrued) including, if applicable, interest payable by the EMPLOYER in terms of Rule 4.1.4 and Rule 4.2.6, and capital gains and losses (realised and unrealised) of the FUND, less an allowance for any tax and the expenses (paid or accrued) related to the management and investment of the assets of the FUND; provided that

(a) such INVESTMENT RETURN may be positive or negative;

(b) the TRUSTEES may use a reasonable approximation, made in such manner as may be prescribed, to allocate INVESTMENT RETURN if there are sound administrative reasons why an exact allocation cannot be effected;

(c) where the assets of the FUND, or a portion thereof, are invested in a particular portfolio or portfolios, the calculation of INVESTMENT RETURN shall take into account the investment performance of such portfolio or portfolios.

**MEMBER** shall mean a person who has been admitted to membership of the FUND in accordance with the RULES and who has not received all of his benefits from the FUND and will, unless otherwise indicated, include a DEFERRED RETIREE, a PAID-UP MEMBER and a PENSIONER other than a QUALIFYING SPOUSE or QUALIFYING CHILD.

**NOMINEE** shall mean a person other than a DEPENDANT who has been

nominated in writing by a MEMBER to receive all or part of the lump sum benefits payable on the MEMBER'S death.

**NORMAL RETIREMENT DATE** shall mean the last day of the month in which a MEMBER attains age 65 years.

**OPENING BALANCE** shall mean in respect of an ACCOUNT or FUND CREDIT, the balance held in the ACCOUNT or FUND CREDIT immediately prior to 1 June 2020.

**ORIGINAL EMPLOYER** shall mean:

(a) the United Evangelical Lutheran Church in Southern Africa;

(b) the Evangelical Lutheran Church in Southern Africa (Cape Church);

(c) the Evangelical Lutheran Church in Southern Africa (Natal/Transvaal);

(d) any EMPLOYER who participated in the FUND from the Commencement Date.

**PAID-UP MEMBER** shall mean:

(a) a MEMBER who elected to leave his benefit in the FUND when he left SERVICE prior to 1 March 2019 for reasons other than retirement or death;

(b) with effect from 1 March 2019, a MEMBER whose benefit remains paid-up in the FUND following termination of SERVICE for reasons other than retirement or death.

**PENSION** shall mean the benefit paid from the FUND in terms of Rules 6.4, 7.1 and 7.2.

**PENSIONS ACCOUNT** shall mean the ACCOUNT established to hold the assets of the FUND in respect of PENSIONS in the course of payment.

**PENSIONER** shall mean any person in receipt of a PENSION, including a QUALIFYING SPOUSE and a QUALIFYING CHILD.

**PREVIOUS FUND** shall mean an APPROVED PROVIDENT FUND or APPROVED PENSION FUND in which the EMPLOYER participates or participated or in which a previous EMPLOYER participated and from which a MEMBER or a group of MEMBERS transferred in accordance with the provisions of Section 14 of the ACT.

**PRINCIPAL OFFICER** shall mean the principal officer of the FUND, appointed in terms of the RULES and the ACT.

**PRINCIPAL PENSIONER** shall mean a PENSIONER who contributed to the FUND while in the SERVICE of the EMPLOYER and became entitled to a PENSION from the FUND on his retirement in terms of the RULES.

**PROCESSING ERROR RESERVE ACCOUNT** shall mean the CONTINGENCY RESERVE ACCOUNT maintained in the FUND to provide for mismatching and timing differences in the actual investment or disinvestment from the times when they are deemed to have occurred in the calculation of benefits or the accrual of INVESTMENT RETURNS.

**QUALIFYING CHILD** of a MEMBER, other than a DEFERRED RETIREE or a PAID-UP MEMBER, or PRINCIPAL PENSIONER shall mean:

(a) a child MEMBER, including a child born out of wedlock and a legally adopted child, under the age of 18 years and unmarried; or

(b) a step-child, under the age of 18 years and unmarried, who, in the opinion of the TRUSTEES, was substantially dependent on the MEMBER or PRINCIPAL PENSIONER at the time of his death; and shall include

(i) at the discretion of the TRUSTEES, a child as defined in (a) or (b) above who is over the age of 18 years but under the age of 25 years if a full-time student or a child who is physically or mentally disabled;

(ii) a child born after the death of the MEMBER or PRINCIPAL PENSIONER who, but for such death would have been a QUALIFYING CHILD in terms of (a) or (b) above,

but shall exclude a child as defined in (a) or (b) above who was adopted or became a step-child after the MEMBER'S NORMAL RETIREMENT DATE, or the date of the MEMBER'S actual retirement, if earlier; provided that:

(aa) in the case of doubt the TRUSTEES shall, within their discretion, determine whether a child is a QUALIFYING CHILD;

(bb) the TRUSTEES may, in exceptional circumstances, ignore the maximum age of 25 years stated above, provided the EMPLOYER contributes such additional amounts to the FUND as the ACTUARY deems necessary to provide the relevant benefit.

**QUALIFYING SPOUSE** shall mean a person who, at the date of the MEMBER'S, excluding a DEFERRED RETIREE or a PAID-UP MEMBER, or PRINCIPAL PENSIONER'S death, was either:

(a) the spouse or civil union partner of the MEMBER or PRINCIPAL PENSIONER in accordance with the Marriage Act, No. 25 of 1961, the Recognition of Customary Marriages Act , No. 120 of 1998, the Civil Union Act, No. 17 of 2006 or in accordance with the tenets of any religion; or

(b) a permanent life partner in a cohabitation or dependence (by virtue of financial or other maintenance) of the MEMBER or PRINCIPAL PENSIONER, provided that

(i) in the event of the death of a PRINCIPAL PENSIONER, the QUALIFYING SPOUSE was a person as specified above at the MEMBER'S ELECTED RETIREMENT DATE;

(ii) the TRUSTEES may at their discretion recognise a person referred to in (a) above, where a marriage or other union has been dissolved, but where the other person is still financially dependent on the MEMBER or PRINCIPAL PENSIONER.

**REVENUE AUTHORITIES** shall mean the South African Revenue Service.

**RISK BENEFIT PREMIUM ACCOUNT** shall mean the CONTINGENCY RESERVE ACCOUNT maintained to meet part or all of the liability of the FUND for the payment of premiums to an INSURER(S) in terms of the provisions of the policy/policies of insurance issued to the FUND by an INSURER in order to insure part or all of the RISK BENEFITS.

**RISK BENEFITS** shall mean the death and disability benefits payable in terms of Rule 7 that are over and above a MEMBER'S FUND CREDIT.

**RISK CONTINGENCY RESERVE ACCOUNT** shall mean the CONTINGENCY RESERVE ACCOUNT maintained in the FUND to absorb the impact of an adverse experience in RISK BENEFITS not reinsured with an INSURER and to act as a conduit for the payment of RISK BENEFITS.

**RULES** shall mean these rules and such alterations as may at any time be applicable.

**SECONDED MEMBER** shall mean a MEMBER, as advised to the TRUSTEES by the EMPLOYER, who is either:

(a) seconded to the service of an organisation associated with the United Evangelical Lutheran Church in Southern Africa outside of the Republic of South Africa; or

(b) seconded to another Church or a university within the Republic of South Africa.

**SERVICE** shall mean employment with any of the EMPLOYERS.

**SOLVENCY RESERVE ACCOUNT** shall mean the CONTINGENCY RESERVE ACCOUNT maintained to protect the FUND against worsening demographic and economic experience of the FUND in relation to defined benefit liabilities of the FUND.

**TRUSTEES** shall mean the TRUSTEES appointed or elected in terms of the RULES.

**UNCLAIMED BENEFIT** shall mean an unclaimed benefit as defined in the ACT.

**UNCLAIMED BENEFITS FUND** shall mean an unclaimed benefits fund as defined in the ACT.

## 3 MEMBERSHIP

3.1 Each person who was a MEMBER of the FUND immediately prior to 1 June 2020 shall remain a MEMBER of the FUND.

3.2 Each person who becomes an ELIGIBLE EMPLOYEE on or after 1 June 2020 must as a condition of employment become a MEMBER of the FUND with effect from the first day of the month coincident with or next following the date on which he becomes an ELIGIBLE EMPLOYEE.

3.3 An ELIGIBLE EMPLOYEE who becomes a MEMBER in terms of Rule 3.2 must produce evidence of age acceptable to the TRUSTEES and must also produce such evidence as to the state of his health as the TRUSTEES, at the expense of the FUND, may require. Such MEMBER shall, if in the TRUSTEE's opinion he is not in good health, be subject to such restrictions in benefits as the TRUSTEES, acting on the advice of the ACTUARY, shall determine.

3.4 If a MEMBER transfers to another APPROVED PENSION FUND or an APPROVED PROVIDENT FUND in any of the circumstances envisaged in the RULES, then it is specifically provided that with effect from the date on which he becomes a member of such fund, contributions in terms of Rule 4 shall cease and in the event of his death or disablement, prior to transfer of his benefit in terms of the RULES from the FUND to such other fund the RISK BENEFITS will not be payable.

3.5 Unless otherwise provided for in the Rules, a MEMBER shall not be permitted to withdraw from membership while he remains in SERVICE.

3.6 Within 4 months of a person becoming a MEMBER of the FUND, the FUND shall request a list of all paid-up membership certificates in respect of any retirement savings of that MEMBER. The FUND shall request, for each paid-up membership certificate, whether the MEMBER wishes that the retirement savings be transferred to the FUND as envisaged in Rule 10.1.2. If a MEMBER wishes his retirement savings in respect of a paid-up membership certificate to be transferred to the FUND, the FUND shall arrange for such transfer without any charge being levied.

3.7 Each person in receipt of a PENSION shall provide such evidence of his survival or continued eligibility as the FUND may require. If such evidence is not produced, then the TRUSTEES may direct that payment of the PENSION be suspended until such evidence is produced.

# 4 CONTRIBUTIONS

## 4.1 Contributions by the Member

4.1.1 Each MEMBER shall contribute to the FUND throughout his SERVICE at the rate of 7.5% of his FUND SALARY.

4.1.2 Each MEMBER'S contributions shall be deducted by his EMPLOYER from his salary or wages and paid to the FUND.

4.1.3 A MEMBER may make additional contributions to the FUND, in order to secure greater benefits, in accordance with such conditions and procedures as the TRUSTEES may prescribe from time to time. Such additional contributions shall be allocated to the MEMBER'S FUND CREDIT.

4.1.4 Contributions shall be paid to the FUND within 7 days after the end of the month in respect of which contributions were made. If contributions are not paid to the FUND as required by the ACT, the EMPLOYER shall be required to pay late payment interest at the rate prescribed in the ACT. Any such interest shall be included in the INVESTMENT RETURN.

## 4.2 Contributions by the Employer

4.2.1 The EMPLOYER shall make contributions towards the retirement benefit of each MEMBER in its SERVICE at the rate of:

(a) in the case of a CATEGORY A ORGANISATION, 9.5 % of the MEMBER'S FUND SALARY; or

(b) in the case of a CATEGORY B EMPLOYER ORGANISATION, at the rate of 7.5% of the MEMBER'S FUND SALARY; or

(c) In the case of a CATEGORY C EMPLOYER ORGANISATION, at the rate of 10% of the MEMBER'S FUND SALARY.

4.2.2 The EMPLOYER shall also contribute at the rate of 4% of each MEMBER'S FUND SALARY to meet the cost of the RISK BENEFITS, the regular administration expenses of the FUND and such incidental expenses as may be determined by the TRUSTEES from time to time. Such amounts will be paid to the relevant service providers as required.

4.2.3 Should the cost of the RISK BENEFITS and expenses referred to in Rule 4.2.2 exceed 4% of a MEMBER'S FUND SALARY, the RISK BENEFITS shall be reduced to the proportion for which the cost has been paid, provided that the amount standing to the credit of the RISK BENEFIT PREMIUM RESERVE ACCOUNT shall be taken into account prior to such benefits being reduced, and, if there is a balance in that account, the premiums not covered by the 4% of FUND SALARY contribution will be made from that ACCOUNT.

4.2.4 The EMPLOYER shall also contribute such amounts as decided by the TRUSTEES on the recommendation of the ACTUARY from time to time, as may be necessary to eliminate an actuarial shortfall in the PENSIONS ACCOUNT.

4.2.5 The EMPLOYER may contribute to the FUND a once-off lump sum amount to fund an increase in the PENSION payable to a specific PENSIONER. Such amount will be credited to the PENSIONS ACCOUNT.

4.2.6 Contributions by the EMPLOYER must be paid to the FUND within 7 days after the end of the month to which they relate. If contributions are not paid to the FUND as required in terms of the ACT, the EMPLOYER shall be required to pay late payment interest at the rate prescribed by legislation. Any such interest shall be included in the INVESTMENT RETURN.

## 5 ACCOUNTS

### 5.1 Risk Contingency Reserve Account

5.1.1 A RISK CONTINGENCY RESERVE ACCOUNT is maintained in the FUND.

5.1.2 The RISK CONTINGENCY RESERVE ACCOUNT will be credited with the following amounts:

(a) An OPENING BALANCE; and

(b) Amounts transferred from other ACCOUNTS as envisaged in Rule 5.7.2; and

(c) Any reinsurance payments made to the FUND by an INSURER.

5.1.3 The RISK CONTINGENCY RESERVE ACCOUNT will be increased or decreased by the INVESTMENT RETURN earned on the assets in the ACCOUNT from time to time.

5.1.4 The RISK CONTINGENCY RESERVE ACCOUNT will be debited with the following amounts:

(a) Transfers to the PENSIONS ACCOUNT of the amount needed to pay PENSIONS in terms of Rule 7.1.1(b), 7.1.1(c) and 7.2;

(b) Payment to BENEFICIARIES of lump sum benefits in terms of Rule 7.1.1(a) and 7.2; and

(c) Amounts released from this ACCOUNT from time to time which amounts will be dealt with in accordance with the provisions of Rule 5.7.2.

## 5.2 Pensions Account

5.2.1 The PENSIONS ACCOUNT shall be credited with:

(a) An OPENING BALANCE;

(b) The value of the balance of a retiring MEMBER'S FUND CREDIT, after any commutation in terms of Rule 6.5, on such MEMBER'S retirement from the FUND;

(c) Transfers from the RISK RESERVE ACCOUNT in terms of Rule 5.1.4(a);

(d) Transfers from the SOLVENCY RESERVE ACCOUNT in terms of Rule 5.7.3

(e) Contributions by the EMPLOYER in terms of Rule 4.2.4; and

(f) Such amount as is contributed to the FUND by the EMPLOYER in terms of Rule 4.2.5 in respect of a specific PENSIONER.

5.2.2 The PENSIONS ACCOUNT shall be increased or decreased by the INVESTMENT RETURN earned on the assets in this ACCOUNT.

5.2.3 The PENSIONS ACCOUNT shall be debited with:

(a) PENSIONS payable in terms of the RULES;

(b) The cash value of any outstanding PENSION instalments being commuted in terms of the RULES, as well as any additional lump sums that may be payable.

(c) The regular administration and incidental expenses incurred in administering PENSIONER records as may be determined by the TRUSTEES from time to

time.

**5.3 Processing Error Reserve Account**

5.3.1 A PROCESSING ERROR RESERVE ACCOUNT is maintained in the FUND.

5.3.2 The PROCESSING ERROR RESERVE ACCOUNT will be credited with the following amounts:

(a) An OPENING BALANCE;

(b) Amounts transferred from other ACCOUNTS as envisaged in Rule 5.7.2; and

(c) Profits made by the FUND as a result of mismatching or timing differences related to the investment of the assets of the FUND.

5.3.3 The PROCESSING ERROR RESERVE ACCOUNT will be increased or decreased by the INVESTMENT RETURN earned on the assets in the account from time to time.

5.3.4 The PROCESSING ERROR RESERVE ACCOUNT will be debited with the following amounts:

(a) Expenses or losses incurred by the FUND as a result of mismatching or timing differences related to the investment of the assets of the FUND; and

(b) Amounts released from this ACCOUNT from time to time which amounts will be dealt with in accordance with the provisions of Rule 5.7.2.

**5.4 Solvency Reserve Account**

5.4.1 A SOLVENCY RESERVE ACCOUNT is maintained in the FUND.

5.4.2 The ACTUARY shall determine the balance of the SOLVENCY RESERVE ACCOUNT from time to time.

5.4.3 No INVESTMENT RETURNS will be added to the SOLVENCY RESERVE ACCOUNT.

5.4.4 The SOLVENCY RESERVE ACCOUNT will be reduced by amounts released from time to time. Such amounts will be regarded as ACTUARIAL SURPLUS and will be dealt with in accordance with the provisions of Rule 14.6.3.

**5.5 Risk Benefit Premium Account**

5.5.1 A RISK BENEFIT PREMIUM ACCOUNT is maintained in the FUND.

5.5.2 The RISK BENEFIT PREMIUM ACCOUNT will be credited with the following amounts:

(a) An OPENING BALANCE; and

(b) Amounts transferred from the EMPLOYER SURPLUS ACCOUNT.

5.5.3 The RISK BENEFIT PREMIUM ACCOUNT will be increased or decreased by the INVESTMENT RETURN earned on the assets in the account from time to time.

5.5.4 The RISK BENEFIT PREMIUM ACCOUNT will be debited with the following amounts:

(a) Payment of premiums to an INSURER as envisaged in Rule 4.2.3; and

(b) Amounts released from this ACCOUNT from time to time which amounts will be dealt with in accordance with the provisions of Rule 5.7.2.

**5.6 Employer Surplus Account**

5.6.1 An EMPLOYER SURPLUS ACCOUNT is maintained in the FUND.

5.6.2 The EMPLOYER SURPLUS ACCOUNT will be credited with the following amounts:

(a) An OPENING BALANCE; and

(b) such part of any ACTUARIAL SURPLUS as the TRUSTEES may decide.

5.6.3 The EMPLOYER SURPLUS ACCOUNT will be increased or decreased by the INVESTMENT RETURN earned on the assets in the account from time to time.

5.6.4 The balance standing to the credit of the EMPLOYER SURPLUS ACCOUNT may be used for any purpose envisaged in Section 15E of the ACT, other than as envisaged in Sections 15E(1)(e), 15E(1)(f) or 15E(1)(g), and the ACCOUNT will be debited accordingly.

**5.7 Excess assets in Accounts**

5.7.1 The ACTUARY will investigate the ACCOUNTS as at each valuation date.

5.7.2 If, following a valuation of the FUND, the ACTUARY is of the view that there are excess assets in any of the ACCOUNTS, other than the EMPLOYER SURPLUS ACCOUNT, the RISK BENEFIT PREMIUM ACCOUNT or the SOLVENCY RESERVE ACCOUNT, the TRUSTEES may, on the recommendation of the ACTUARY, decide to release monies from that ACCOUNT. The monies so released will be applied by the TRUSTEES, on the recommendation of the ACTUARY to fund a shortfall in the RISK

CONTINGENCY RESERVE ACCOUNT or the PROCESSING ERROR RESERVE ACCOUNT. The balance, if any, will be regarded as ACTUARIAL SURPLUS and will be dealt with in accordance with the provisions of Rule 14.6.3.

5.7.3 If the ACTUARY is of the view that there are excess assets in the SOLVENCY RESERVE ACCOUNT, such assets will be regarded as ACTUARIAL SURPLUS and will be dealt with in accordance with the provisions of Rule 14.6.3.

## 6 RETIREMENT BENEFITS

### 6.1 Amount of Pension

On a MEMBER'S retirement from SERVICE he shall become entitled to a PENSION. Such PENSION will become payable on his ELECTED RETIREMENT DATE and will be of such amount as can be secured by his FUND CREDIT at CALCULATION DATE, less any amount commuted in terms of Rule 6.5, and based on a conversion factor, as determined by the TRUSTEES on the advice of the ACTUARY, applicable to his age at his ELECTED RETIREMENT DATE. The PENSION shall be paid from the FUND in accordance with the provisions of Rule 6.3.

### 6.2 Retirement

6.2.1 A MEMBER who has reached age 50 years may, with the agreement of his EMPLOYER, retire from SERVICE on the last day of any month occurring before he reaches his NORMAL RETIREMENT DATE.

6.2.2 A MEMBER who has not retired in terms of Rule 6.2.1 must retire from SERVICE on reaching his NORMAL RETIREMENT DATE unless his EMPLOYER agrees to his remaining in SERVICE after that date.

6.2.3 The TRUSTEES, upon receipt of notification from the EMPLOYER that a MEMBER who does not qualify for a benefit in terms of Rule 7.2 has become totally and permanently incapable of efficiently carrying out his duties, shall agree to such MEMBER'S retirement from SERVICE at any time before he reaches NORMAL RETIREMENT DATE.

6.2.4 A MEMBER who is allowed to remain in SERVICE after his NORMAL RETIREMENT DATE shall retire from SERVICE on such later date prior to his reaching age 70 years as he agrees with his EMPLOYER.

**6.3 Deferred Retirees**

6.3.1 A MEMBER, who retires from SERVICE may defer his retirement from the FUND, in which case he will become a DEFERRED RETIREE and his benefit will become payable on his ELECTED RETIREMENT DATE.

6.3.2 If a MEMBER who retires from SERVICE does not act to receive his retirement benefit, he will be regarded as having deferred his retirement from the FUND and he will become a DEFERRED RETIREE, and his benefit will become payable on his ELECTED RETIREMENT DATE.

6.3.3 No contributions are payable to the FUND by or in respect of a DEFERRED RETIREE and no deductions may be made from the DEFERRED RETIREE'S FUND CREDIT in respect of RISK BENEFITS.

6.3.4 A DEFERRED RETIREE will not be entitled to any multiple of death or disability benefits in terms of Rule 7.

6.3.5 The cost of administration expenses as well as other fund management or incidental expense in respect of a DEFERRED RETIREE, as determined by the TRUSTEES, will be deducted from his FUND CREDIT.

6.3.6 At any time prior to his ELECTED RETIREMENT DATE, the FUND shall, at the request of a DEFERRED RETIREE, transfer the DEFERRED RETIREE'S FUND CREDIT at the CALCULATION DATE to an APPROVED RETIREMENT ANNUITY FUND or an APPROVED PENSION PRESERVATION FUND of his choice.

6.3.7 On his ELECTED RETIREMENT DATE, a DEFERRED

RETIREE will become entitled to the benefit referred to in Rule 6.1.

6.3.8 If a DEFERRED RETIREE dies prior to his ELECTED RETIREMENT DATE the DEFERRED RETIREE'S FUND CREDIT at the CALCULATION DATE which is in excess of any costs referred to in Rule 18.9 will become payable in accordance with the provisions of section 37C of the ACT.

6.3.9 If a DEFERRED RETIREE dies on or after his ELECTED RETIREMENT DATE but before he receives a benefit the DEFERRED RETIREE'S FUND CREDIT at the CALCULATION DATE which is in excess of any costs referred to in Rule 18.9 will be paid to his estate.

**6.4 Payment of Pensions to the Principal Pensioner**

6.4.1 Each PENSION payable in terms of the RULES to a PRINCIPAL PENSIONER shall be paid from the FUND and shall be payable by equal monthly instalments on the last day of each month, unless otherwise agreed.

6.4.2 Subject to such modification as may have been agreed in terms of Rule 6.4.1, the first monthly instalment of a PENSION payable to a PRINCIPAL PENSIONER shall be payable on the last day of the month following his retirement.

6.4.3 The last payment of the PRINCIPAL PENSIONER'S PENSION shall be due at the end of the calendar month in which the PRINCIPAL PENSIONER dies.

6.4.4 Subject to the Trustees' approval, a retiring MEMBER shall have the option to substitute for his Pension an alternative Pension of such amount as is calculated by the ACTUARY to be of equal value. The terms and conditions of payment of the alternative Pension shall be

determined by the Trustees in consultation with the ACTUARY and shall be communicated in writing to the retiring MEMBER.

6.4.5 The TRUSTEES shall review the level of PENSIONS being paid from the FUND and may direct that PENSIONS be increased. Any increase in PENSIONS shall be paid in terms of the PENSION increase policy adopted by the Trustees in consultation with the ACTUARY from time to time, and shall be payable from the date set out in the PENSION increase policy and subject to the minimum PENSION increase in terms of the ACT.

6.4.6 The PENSION payable to a PENSIONER in respect of whom the EMPLOYER contributes a once-off lump sum amount in terms of the provisions of Rule 4.2.5 will be increased by an amount determined by the ACTUARY.

**6.5 Commutation**

At the MEMBER'S ELECTED RETIREMENT DATE, a MEMBER may elect to commute for a lump sum

(a) if the amount available to secure such PENSION does not exceed the limit set by the relevant legislation from time to time, the whole of the available amount and in such case no PENSION shall be payable to a QUALIFYING SPOUSE in terms of Rule 7.1.3.1(a); or

(b) if the whole of such amount exceeds the limit referred to in (a), not more than one third of such amount and a PENSION shall be payable to a QUALIFYING SPOUSE in terms of Rule 7.1.3.1(a).

## 6.6 Retirement Benefit Counselling

A MEMBER shall be given access to retirement benefit counselling, as envisaged in the regulations to the ACT within such time period prior to his NORMAL RETIREMENT DATE as may be specified in the aforementioned regulations from time to time.

# 7 DEATH AND DISABILITY BENEFITS

## 7.1 Death Benefits

### 7.1.1 Benefit Payable on Death in Service Prior to Normal Retirement Date

If a MEMBER dies while in SERVICE prior to his NORMAL RETIREMENT DATE, that part of the following benefits that is in excess of any amount referred to in Rule 18.9, shall become payable:

(a) subject to the provisions of Rule 4.2.3, a lump sum benefit equal to twice the MEMBER'S FUND SALARY at the date of his death plus the MEMBER'S FUND CREDIT at CALCULATION DATE;

(b) a PENSION to his QUALIFYING SPOUSE equal to 30% of the MEMBER'S FUND SALARY immediately before his death, provided that the TRUSTEES manage to locate the QUALIFYING SPOUSE within twelve months of the MEMBER'S death;

(c) a PENSION in respect of QUALIFYING CHILDREN of the MEMBER equal in total to a percentage of the MEMBER'S FUND SALARY immediately before his death, in accordance with the following table:

| Number of Qualifying Children | Percentage of FUND SALARY |
|---|---|
| 1 | 7.5% |
| 2 | 15.0% |
| 3 | 22.5% |
| 4 or more | 30.0% |

Subject to the provisions of Rule 7.1.4, the PENSION payable in respect of QUALIFYING CHILDREN of a MEMBER shall be doubled for any month for which no PENSION is payable to a QUALIFYING SPOUSE of the MEMBER in terms of (b) above.

7.1.2 **Benefit payable on Death In Service after Normal Retirement Date**

If a MEMBER dies while in SERVICE after his NORMAL RETIREMENT DATE, there shall be payable that part of the benefits in (a) and (b) or (c) below that is in excess of any amount referred to in Rule 18.9:

(a) one third of his FUND CREDIT at the CALCULATION DATE;

plus

(b) benefits in terms of Rule 7.1.3, calculated as if the MEMBER had retired from SERVICE on the date on which he died and had commuted one-third of his FUND CREDIT for cash in terms of Rule 6.5; or

(c) in respect of a MEMBER who does not leave a QUALIFYING SPOUSE or QUALIFYING CHILDREN, the MEMBER'S FUND CREDIT at the CALCULATION DATE will become payable.

7.1.3 **Benefit payable on Death of a Principal Pensioner**

7.1.3.1 On the death of a PRINCIPAL PENSIONER, his PENSION shall cease as provided for in Rule 6.4. The following benefits shall become payable:

(a) a PENSION to his QUALIFYING SPOUSE, commencing on the PRINCIPAL PENSIONER'S death equal to 75% of the PRINCIPAL PENSIONER'S PENSION payable immediately prior to the commencement of the PENSION to the QUALIFYING SPOUSE;

(b) a PENSION in respect of the QUALIFYING CHILDREN of the PRINCIPAL PENSIONER, commencing on the PRINCIPAL PENSIONER'S death, equal in total to a percentage of the QUALIFYING SPOUSE'S PENSION, in accordance with the following table:

| **Number of Qualifying Children** | **Percentage of Principal Pensioner's Pension** |
|---|---|
| 1 | 7.5% |
| 2 | 15.0% |
| 3 | 22.5% |
| 4 or more | 30.0% |

Subject to the provisions of Rule 7.1.4, the Pension payable in respect of QUALIFYING CHILDREN of a PRINCIPAL PENSIONER shall be doubled for any month for which no PENSION is payable to a QUALIFYING SPOUSE of the PRINCIPAL PENSIONER in terms of (b) above;

(c) a PENSION to a designated DEPENDANT if the MEMBER had elected such PENSION as an alternative in terms of Rule 6.4.4;

7.1.3.2 The benefits payable on the death of a PRINCIPAL PENSIONER who was in receipt of a PENSION immediately prior to the CONVERSION DATE are set out in Appendix A.

7.1.4 **Commutation of Pension payable to Qualifying Spouse**

7.1.4.1 On the death of a MEMBER or PRINCIPAL PENSIONER, at THE request of his QUALIFYING SPOUSE, the TRUSTEES may in their discretion commute the PENSION for a cash payment to the QUALIFYING SPOUSE. Such cash payment will be determined by the ACTUARY.

Provided that such commutation must take place before the first instalment of the PENSION to the QUALIFYING SPOUSE is paid.

7.1.4.2 In the event of such commutation:

(a) any PENSION payable in respect of the QUALIFYING CHILDREN of the MEMBER or PRINCIPAL PENSIONER during the lifetime of the QUALIFYING SPOUSE shall not be affected; and

(b) the PENSION payable in respect of the QUALIFYING CHILDREN of the MEMBER or PRINCIPAL PENSIONER

after the death of the QUALIFYING SPOUSE shall not be doubled but shall be adjusted as decided by the TRUSTEES after consultation with the ACTUARY.

7.1.5 **Payment of Pensions to Qualifying Spouses or Qualifying Children**

7.1.5.1 The PENSION payable to each QUALIFYING SPOUSE or QUALIFYING CHILD shall be paid from the FUND.

7.1.5.2 The first monthly instalment of a PENSION payable to a Qualifying SPOUSE or a QUALIFYING CHILD shall be payable on the last day of the month following that in which the MEMBER or PRINCIPAL PENSIONER dies.

7.1.5.3 PENSIONS in respect of QUALIFYING CHILDREN of a MEMBER or PRINCIPAL PENSIONER shall be paid to or for the benefit of such QUALIFYING CHILDREN in such proportions as the TRUSTEES may decide.

7.1.5.4 No payment of a PENSION payable to a QUALIFYING SPOUSE shall become due after the death of the QUALIFYING SPOUSE and no payment of a PENSION payable to a QUALIFYING CHILD shall become due after the QUALIFYING CHILD dies or otherwise ceases to be a QUALIFYING CHILD.

7.1.5.5 The provisions of Rule 6.4.5 and Rule 6.4.6

shall apply *mutatis mutandis.*

7.1.6 **Payment of Lump Sum Death Benefit**

Payment of a lump sum death benefit which is not expressed as being payable to a particular person shall be made in terms of Section 37C of the ACT.

A BENEFICIARY to whom a benefit or part of a benefit is allocated may elect to take part of or the whole of the benefit allocated to him as an annuity purchased by the FUND in the BENEFICIARY'S name from an INSURER. The annuity so purchased shall be compulsory, non-commutable and non-assignable, payable for life and may be a living annuity as defined in the INCOME TAX ACT. The annuity shall be subject to the conditions of the REVENUE AUTHORITIES.

**7.2 Disability Benefit**

7.2.1 **Disability Pension**

If at any time prior to his NORMAL RETIREMENT DATE a MEMBER becomes disabled as contemplated in Rule 7.2.2.1, the MEMBER shall retire from SERVICE and the following monthly PENSION will be paid to him:

7.2.1.1 75% of the monthly equivalent of his FUND SALARY up to R10,000.00, plus

7.2.1.2 60% of the monthly equivalent of his FUND SALARY in excess of R10,000.00 up to R30,000.00; plus

7.2.1.3 50% of the monthly equivalent of his FUND SALARY in excess of R30,000.00,

Subject to a minimum of the PENSION which can be secured by the MEMBER'S FUND CREDIT, as determined by the actuary; and a maximum of the lesser of a R190,000.00 per month or the MEMBER's average monthly FUND SALARY applicable immediately prior to retiring from SERVICE.

7.2.2 **Disability Conditions**

7.2.2.1 For the purposes of this Rule, 'disabled' means that the MEMBER, in the opinion of the TRUSTEES, as a result of accident, illness or disease has become totally and permanently disabled and is therefore unable to follow an occupation for which, in the opinion of the TRUSTEES, he is reasonably suited due to his education, training and experience.

7.2.2.2 The TRUSTEES may take the necessary steps to monitor the condition of a MEMBER receiving a disability PENSION to prevent abuse of such benefit. Such steps may include the following:

(a) satisfying themselves that a MEMBER receives regular treatment by a medical practitioner or other competent person where there are reasonable prospects that such treatment may improve the MEMBER'S condition;

(b) arranging that the MEMBER submits proof of his disability to the satisfaction of the TRUSTEES;

(c) requesting proof to their satisfaction to

the TRUSTEES that he suffers a substantial loss of income from his own activities.

7.2.2.3 Notwithstanding the above:

(a) no PENSION shall be payable if the MEMBER is disabled during the first twelve months of his membership of the FUND and his disability arises from an injury or illness for which he received medical treatment in the six months immediately preceding the date on which he became a MEMBER of the FUND; provided that this condition may be waived at the sole discretion of the TRUSTEES; and

(b) if the disability PENSION has been wholly or partially reinsured with an INSURER, the terms and conditions governing payment of the benefit shall be the terms and conditions set out in the policy issued by the INSURER with whom the benefit has been reinsured and to any restrictions in terms of Rule 7.3.2.

7.2.3 **Commutation of the Disability Pension**

At the request of a MEMBER retiring on disability in terms of this Rule, the MEMBER may choose to commute for a lump sum:

(a) if the amount available to secure such PENSION does not exceed the limit set by the relevant legislation from time to time, the whole of the

available amount; or

(b) if the whole of such amount exceeds the limit referred to in (a), not more than one third of the PENSION payable in terms of Rule 7.2.1.

Any amount commuted shall become payable to the MEMBER on the first day of the month immediately following the MEMBER's retirement from SERVICE. The PENSION payable to the MEMBER shall be reduced proportionately as determined by the ACTUARY.

**7.3 Reinsurance of Risk Benefits**

7.3.1 The TRUSTEES may after consultation with the ACTUARY reinsure the death and disability benefits payable in terms of Rule 7.1 and Rule 7.2 with an INSURER.

7.3.2 In such case, the benefits shall be subject to any conditions imposed by the INSURER and the following provisions shall apply:

(a) the TRUSTEES shall, where so required by the INSURER, require a MEMBER to be examined at the INSURER'S expense by a medical practitioner appointed by the INSURER;

(b) acting on the results of this examination, the INSURER may decide that any part of the benefits payable in terms of Rule 7.1 or Rule 7.2 shall be restricted in such manner as decided by the INSURER;

(c) the TRUSTEES must inform the MEMBER in writing of the terms of any restriction imposed in terms of this Rule;

(d) if any part of the death and disability benefits payable in terms of Rule 7.1 and Rule 7.2 has been insured with an INSURER, such benefit shall not become payable unless the claim for the benefit has been admitted by the INSURER, or shall be limited to the amount paid by the INSURER.

## 8 WITHDRAWAL BENEFITS AND PAID-UP MEMBERS

### 8.1 Withdrawal

8.1.1 If a MEMBER who is not qualified to retire in terms of Rule 6 leaves SERVICE, whether of the MEMBER'S own accord or because of dismissal, including dismissal for incapacity, redundancy or retrenchment, such MEMBER'S FUND CREDIT as at date of leaving SERVICE will be retained in the FUND. Such MEMBER will become a PAID-UP MEMBER as envisaged in paragraph (b) of the definition of PAID-UP MEMBER.

8.1.2 It is recorded that the FUND CREDIT in respect of a MEMBER who became a PAID-UP MEMBER, as envisaged in paragraph (a) of the definition of PAID-UP MEMBER, is retained in the FUND.

### 8.2 Paid-Up Members

8.2.1 No contributions are payable by or in respect of a PAID-UP MEMBER.

8.2.2 The cost of administration expenses as well as other fund management or incidental expense in respect of a PAID-UP MEMBER, as determined by the TRUSTEES, will be deducted from his FUND CREDIT and paid to the relevant service providers.

8.2.3 A PAID-UP MEMBER may, at any time, elect in writing to the FUND:

(a) to transfer his FUND CREDIT at CALCULATION DATE to an APPROVED PENSION FUND, an APPROVED PROVIDENT FUND (subject to tax), an APPROVED RETIREMENT ANNUITY FUND or an APPROVED PENSION PRESERVATION FUND, provided that if

permitted by legislation, the PAID-UP MEMBER may elect to transfer his FUND CREDIT to more than one such fund; or

(b) to receive his FUND CREDIT at CALCULATION DATE as a cash lump sum; or

(c) to receive his FUND CREDIT at CALCULATION DATE partially as a cash lump sum and to transfer the remaining part in terms of (a) above.

8.2.4 A PAID-UP MEMBER who withdraws or transfers his benefit from the FUND in terms of Rule 8.2.3 above will have no further claim on the FUND once the benefit is paid or transferred in terms thereof and he will cease to be a MEMBER.

8.2.5 A PAID-UP MEMBER shall be given access to retirement benefit counselling, as envisaged in Regulation 38 to the ACT, before any payment or transfer as envisaged in Rule 8.2.3 above.

8.2.6 No RISK BENEFITS will be payable on the death or disability of a PAID-UP MEMBER and no deductions from the PAID-UP MEMBER'S FUND CREDITS will take place in respect of costs required to secure such RISK BENEFITS.

8.2.7 On the death of a PAID-UP MEMBER prior to his ELECTED RETIREMENT DATE or the date on which he elects to transfer or receive cash in terms of Rule 8.2.3, his FUND CREDIT at CALCULATION DATE will become payable and the provisions of Section 37C of the ACT will apply.

8.2.8 On the death of a PAID-UP MEMBER on or after his ELECTED RETIREMENT DATE or the date on which he elects to transfer or receive cash in terms of Rule

8.2.3, but prior to payment being made, his FUND CREDIT at CALCULATION DATE will be paid to his estate.

8.2.9 A PAID-UP MEMBER will be entitled to retire from the FUND on his ELECTED RETIREMENT DATE. The provisions of Rule 6 will apply *mutatis mutandis*.

## 9 TEMPORARY ABSENCE AND SECONDMENT

### 9.1 Temporary Absence

9.1.1 If a MEMBER is on leave with full normal remuneration, he shall contribute to the FUND in accordance with Rule 4.1.1 and the EMPLOYER shall continue to contribute in respect of him in accordance with Rule 4.2 and all benefits under the FUND in respect of him shall be maintained.

9.1.2 If a MEMBER is on leave with less than full normal remuneration the following shall apply:

(a) his FUND CREDIT shall be credited with any contributions towards retirement funding actually paid by the MEMBER and/or the EMPLOYER during such period of absence;

(b) the MEMBER shall continue to be covered for the death and disability benefits in terms of Rule 7 for a period of up to six months during such absence; provided that

(i) where the period of absence is due to study leave approved by the EMPLOYER, such cover shall remain in force for as long as the EMPLOYER approves such study leave;

(ii) any benefit which may become payable during such period of absence shall be based on the MEMBER'S FUND SALARY immediately prior to the commencement of such absence, or such lesser amount as the EMPLOYER may decide;

(iii) if the death and disability benefits payable

in terms of Rule 7 have been wholly or partially reinsured with an INSURER, such benefits shall continue to be payable for such period as is set out by the INSURER in the policy in terms of which the benefits have been reinsured.

After the expiry of the period of absence, the death and disability cover shall terminate unless the MEMBER has returned to active SERVICE or unless the TRUSTEES, at the request of the EMPLOYER and after consultation with the ACTUARY, have agreed to extend such period.

**9.2 Secondment**

A SECONDED MEMBER shall remain a MEMBER of the FUND for the period of his secondment, subject to the following special provisions:

(a) the SECONDED MEMBER'S FUND CREDIT shall be retained in the FUND;

(b) no contributions shall be made by the SECONDED MEMBER in terms of Rule 4.1.1 or by the EMPLOYER in respect of him in terms of Rule 4.2.1 and Rule 4.2.2;

(c) a SECONDED MEMBER shall cease to be covered for the RISK BENEFITS;

(d) if a SECONDED MEMBER leaves the SERVICE of the EMPLOYER or dies during the period of secondment, his FUND CREDIT shall become payable in terms of Rule 7.1.6 or Rule 8.2 as applicable;

(e) on the date on which the SECONDED MEMBER returns to active SERVICE with the EMPLOYER, contributions

by and in respect of him shall resume and the RULES of the FUND shall apply to him with effect from that date.

## 10 TRANSFERS

### 10.1 Transfers into the FUND

10.1.1 If a MEMBER or a group of MEMBERS transfers to the FUND from a PREVIOUS FUND, the FUND shall receive from the PREVIOUS FUND the amount payable to the FUND in respect of each such MEMBER. Such amount shall be applied under each MEMBERS FUND CREDIT.

10.1.2 If a MEMBER chooses to transfer his benefit in an APPROVED PENSION FUND, an APPROVED PROVIDENT FUND, an APPROVED PENSION PRESERVATION FUND or an APPROVED PROVIDENT PRESERVATION FUND to the FUND, the amount so transferred shall be applied under the MEMBER'S FUND CREDIT.

### 10.2 Transfers out of the FUND

If retirement benefit arrangements for employees of an EMPLOYER are restructured and in consequence MEMBERS become members of another APPROVED PENSION FUND or an APPROVED PROVIDENT FUND, the FUND CREDIT of each MEMBER in the SERVICE of that EMPLOYER who is eligible for membership of such fund on a date determined by the Trustees shall be transferred to such APPROVED PENSION FUND or APPROVED PROVIDENT FUND; provided that if such fund is an APPROVED PROVIDENT FUND the following shall apply:

(a) each such MEMBER may elect that the TRUSTEES shall transfer an amount equal to his own contributions to the FUND, increased or decreased by the INVESTMENT RETURN on such contributions to an APPROVED RETIREMENT ANNUITY FUND or, after payment of any tax thereon, to the APPROVED PROVIDENT FUND; and

(b) the TRUSTEES shall also transfer the balance of the MEMBER'S FUND CREDIT to such APPROVED PROVIDENT FUND.

The EMPLOYER shall cease to participate in the FUND on finalisation of the transfer.

## 11 TERMINATION AND PARTIAL TERMINATION OF THE FUND

### 11.1 Termination of the FUND

11.1.1 The FUND may be terminated:

(a) by the TRUSTEES; or

(b) by order of court; or

(c) if the FOUNDER decides that the FUND shall be terminated, subject to giving six months written notice to the TRUSTEES;

(d) if the FOUNDER for any reason ceases to operate.

11.1.2 If the FUND is to be terminated, then the following provisions shall apply:

(a) the TRUSTEES shall, subject to the approval of the AUTHORITY, appoint a liquidator who must liquidate the FUND with effect from the date of the AUTHORITY'S approval of his appointment;

(b) in accordance with the instructions of the liquidator, the total moneys available under the FUND after payment of all expenses incurred in the liquidation shall be applied to provide benefits for all MEMBERS and PENSIONERS on an equitable basis recommended by the ACTUARY and approved by the liquidator;

(c) the liquidator shall allocate the balance in the PENSIONS ACCOUNT to the PENSIONERS and on a basis determined by the ACTUARY. The amount available for each PENSIONER shall be used to purchase a PENSION from an

INSURER in the name of the PENSIONER on terms and conditions that are as similar to the PENSIONER'S PENSION as is reasonably possible; provided that the PENSION so purchased must be compulsory, non-commutable and non-assignable;

(d) The amount available under (b) above for a MEMBER other than a PENSIONER shall, as directed by the liquidator, either

(i) In the case of a DEFERRED RETIREE be transferred for his benefit to an APPROVED PENSION PRESERVATION FUND or an APPROVED RETIREMENT ANNUITY FUND,

(ii) In the case of all other MEMBERS be transferred for his benefit to another APPROVED PENSION FUND, APPROVED PROVIDENT FUND (subject to tax), APPROVED PENSION PRESERVATION FUND or APPROVED RETIREMENT ANNUITY FUND; or

(iii) if a MEMBER other than a DEFERRED RETIREE so requests, be paid to the MEMBER as a lump sum benefit

(e) if a person to whom an amount is payable cannot be traced, the amount referred to in (b) shall be paid to an UNCLAIMED BENEFITS FUND.

11.1.3 In making an apportionment in terms of Rule 11.1.2(b) the liquidator shall take into consideration every former MEMBER who left the FUND during the period of at

least twelve months ending on the date of commencement of liquidation. The former MEMBER'S apportionment shall be reduced by the amount of the benefit which he received on leaving the FUND.

11.1.4 When all payments have been made by the FUND in terms of Rule 11.1.2, the FUND shall have no further liability to any person and the FUND'S registration in terms of the ACT shall be cancelled.

11.1.5 It is specifically provided that no part of the balance standing to the credit of the EMPLOYER SURPLUS ACCOUNT may be paid to the EMPLOYER as envisaged in Section 15E(f) and Section 15I of the ACT on termination of the FUND in accordance with the provisions of this Rule 11.1.

**11.2 Partial Termination**

11.2.1 Any EMPLOYER may, for any reason whatsoever, give notice in writing to the TRUSTEES of its intention to cease its participation as an EMPLOYER in the FUND. In such case, the provisions of Rule 11.1 shall apply *mutatis mutandis*; provided that, that part of the FUND which is to be liquidated in terms of the ACT shall be limited to the total assets and liabilities attributable to the MEMBERS in SERVICE of the withdrawing EMPLOYER.

## 12 DEDUCTIONS FROM BENEFITS

12.1 The TRUSTEES shall have the right to make such deductions from the benefit to which a MEMBER or BENEFICIARY is entitled in terms of the Rules as are permitted in terms of Section 37D(1)(a), (b) and (c) of the ACT and, where applicable, in respect of which a claim has been lodged in writing within such reasonable time of the event giving rise to the benefit as the TRUSTEES may from time to time fix for making such claims.

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

(a) the amount withheld shall not exceed the amount that may be deducted in terms of Section 37D(b)(ii) of the ACT;

(b) the TRUSTEES in their reasonable discretion are satisfied that the EMPLOYER has made out a prima facie case against the MEMBER concerned and there is reason to believe that the EMPLOYER has a reasonable chance of success in the proceedings that have been instituted;

(c) the TRUSTEES are satisfied that the EMPLOYER is not at any stage of the proceedings responsible for any undue delay in the prosecution of the proceedings;

(d) once the proceedings have been determined, settled or withdrawn, any benefit to which the MEMBER is entitled is paid forthwith; and

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

12.3 If a MEMBER is retiring on from the FUND, the TRUSTEES shall have the right to commute for a lump sum an amount of the PENSION up to the maximum amount which may be commuted in terms of Rule 6.5 and to make the deduction from such lump sum.

12.4 The TRUSTEES shall have the right to make such deductions from the FUND CREDIT of a MEMBER as are permitted in terms of Section 37D(1)(d) and (e) of the ACT.

## 13 MANAGEMENT OF THE FUND

### 13.1 Trustees

13.1.1 Subject to the provisions of the ACT and of the RULES, TRUSTEES are responsible to direct, control and oversee the operations of the FUND.

13.1.2 The TRUSTEES and their alternates appointed in terms of the RULES shall be entitled to such remuneration for their services and any approved travelling expenses as decided by the TRUSTEES from time to time.

13.1.3 The TRUSTEES shall have the power in the name of the FUND to enter into and sign any contracts or documents and to institute, conduct, defend, compound or abandon any legal proceedings by or against the FUND and to make bye-laws prescribing the form and the manner in which claims are to be lodged and dealt with by the FUND.

### 13.2 Appointment of Trustees

13.2.1 The FOUNDER shall appoint a maximum of six TRUSTEES, of whom at least 50% must be INDEPENDENT TRUSTEES, and may also appoint alternate TRUSTEES to act in the event of a temporary absence of any TRUSTEE.

13.2.2 The following provisions shall apply to the TRUSTEES:

(a) the term of office of a TRUSTEE shall be 5 years and at the end of this period, the FOUNDER shall review the appointment of the TRUSTEE and either renew the appointment or make a new appointment;

(b) a TRUSTEE shall in any case cease to hold

office:

(i) if he gives written notice of resignation of his appointment as a TRUSTEE to the FOUNDER; or

(ii) if he has failed to attend three consecutive TRUSTEES' meetings without leave from the other TRUSTEES; or

(iii) If he is employed by an EMPLOYER and he ceases to be so employed; or

(iv) if he is removed in accordance with the provisions of the RULES.

**13.3 Removal of Trustee and disqualification from holding office as Trustee**

13.3.1 A TRUSTEE may be removed from office by the other TRUSTEES due to a breach of his fiduciary duties to the FUND, a breach of any code of conduct of the TRUSTEES or generally unsatisfactory performance, after the TRUSTEES have followed the process for removal set out below:

13.3.1.1 The TRUSTEE must be given proper written notice of a hearing to be convened.

13.3.1.2 The notice must include the date, time, and place of the hearing as well as details of the allegations.

13.3.1.3 The TRUSTEE must be given sufficient time to prepare a response.

13.3.1.4 The TRUSTEE will be entitled to be represented by a fellow employee of the EMPLOYER at the hearing.

13.3.1.5 The hearing must be properly conducted and chaired by an independent person appointed by the chairperson of the TRUSTEES. Such person may not be employed by the FUND or an appointed service provider to the FUND or any other entity with an interest in the matter.

13.3.1.6 The chairperson of the hearing must ensure that all allegations are thoroughly aired and responded to.

13.3.1.7 The chairperson of the hearing must prepare a written recommendation for the TRUSTEES.

13.3.1.8 The remainder of the TRUSTEES will be required to decide on the position of the TRUSTEE.

13.3.1.9 The TRUSTEES must attempt to reach consensus but if this is not possible the TRUSTEE decision-making provisions of the RULES will apply.

13.3.1.10 The decision must be communicated to the TRUSTEE.

13.3.2 No person in any of the following categories shall be eligible for appointment as a TRUSTEE and if a TRUSTEE at any time falls into any such category, he shall cease to hold office:

(a) a minor or any person who is insane or otherwise incapable of acting;

(b) any person who is disqualified from being a director in terms of an order under the Companies Act, No. 71 of 2008;

(c) an unrehabilitated insolvent;

(d) any person removed from an office of trust on account of misconduct;

(e) Any person who has been convicted and sentenced either to imprisonment without the option of a fine or to a fine exceeding the amount prescribed in terms of the Companies Act, No. 71 of 2008 for one (1) of the following: theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, any offence involving dishonesty or any offence in connection with the promotion, formation or management of a company.

**13.4 Meetings of Trustees**

13.4.1 The TRUSTEES shall meet from time to time but at least twice in every twelve months to conduct the business of the FUND. Four TRUSTEES shall constitute a quorum; provided that at least 50% thereof are INDEPENDENT TRUSTEES. A TRUSTEE will be regarded as present if he participates via video or telephonic link.

13.4.2 Minutes of all meetings must be kept and at least 15 days' notice of each ordinary meeting shall be given to each TRUSTEE; provided that at the discretion of the TRUSTEES this notice period may be waived or reduced.

13.4.3 The TRUSTEES shall elect one of their number as chairperson of the TRUSTEES for a period of 1 year. At the end of the term of office of the chairperson a new chairperson shall be appointed by the TRUSTEES,

provided that the existing chairperson shall be eligible for re-election. If the chairperson of the TRUSTEES is absent from any meeting, the TRUSTEES shall elect a chairperson for that meeting from their number.

13.4.4 At all meetings of the TRUSTEES the decision of the majority shall be binding and if the votes are equal the chairperson shall have a casting vote in addition to his deliberative vote.

13.4.5 A round robin resolution signed by all the TRUSTEES, or agreed to electronically by all the TRUSTEES, shall be of the same force and effect as a resolution passed at a meeting of TRUSTEES duly convened and held. Any resolution passed in terms of this Rule shall be noted at the first meeting of the TRUSTEES held after the passing of such resolution and must be recorded in the FUND'S minute book.

**13.5 Other Appointments**

13.5.1 The TRUSTEES shall appoint an ACTUARY and an AUDITOR and may withdraw any such appointment and make another appointment in its place at any time.

13.5.2 The TRUSTEES shall appoint a PRINCIPAL OFFICER in terms of the ACT and the provisions of any relevant directive, notice or conduct standard. The TRUSTEES may withdraw any such appointment and make another appointment at any time. If the PRINCIPAL OFFICER is absent from the Republic of South Africa or is otherwise unable to perform his duties in terms of the ACT, the TRUSTEES shall appoint another person as PRINCIPAL OFFICER, within such time period as may be prescribed by the AUTHORITY, of such continuing absence or inability.

13.5.3 If the PRINCIPAL OFFICER is not employed by an EMPLOYER, he shall be entitled to remuneration for his services. Such remuneration will be agreed to between the TRUSTEES and the PRINCIPAL OFFICER from time to time. In addition, the PRINCIPAL OFFICER, if he is not employed by an EMPLOYER, will be entitled to a refund of expenses incurred in performing his duties. The TRUSTEES will establish a remuneration and expenses policy in this regard.

13.5.4 The TRUSTEES may appoint consultants on such terms as they may determine and may withdraw any such appointment at any time.

13.5.5 The appointment and duties of the AUDITOR, ACTUARY and PRINCIPAL OFFICER will be subject to the provisions of the ACT.

**13.6 Indemnification of Officers of the FUND**

13.6.1 The TRUSTEES and all other officers of the FUND shall be indemnified by the FUND against all proceedings, costs and expenses incurred by reason of any claim in connection with the FUND not arising from their gross negligence, dishonesty or fraud.

13.6.2 The TRUSTEES must ensure that the FUND is insured against any loss resulting from the negligence, dishonesty or fraud of any of its officers.

**13.7 Sub-Committees**

13.7.1 The TRUSTEES may decide that any power of decision on any matter that is vested in them, over and above a matter referred to in Rule 14.1.6, shall be delegated, on such terms and conditions as they may specify, to a sub-committee, or sub-committees, of such of their number

as they nominate. The decision of a sub-committee to which a power is so delegated shall be recorded in the minutes at the next meeting of the TRUSTEES and shall be regarded as a decision of the FUND unless the TRUSTEES stipulate that it must be referred to them for ratification.

13.7.2 The delegation referred to above must be made in terms of a written mandate that provides that the powers and responsibilities delegated may be revoked at any time and that the sub-committee of the TRUSTEES must act within the mandate. In addition, it is specifically provided that the TRUSTEES remain accountable for any decision of the sub-committee to whom a power or responsibility is delegated.

**13.8 Meeting of Members**

The TRUSTEES may at their discretion convene a meeting of MEMBERS and shall convene such meeting if so requested by at least one third of the total number of MEMBERS in writing, stating the purpose of such meeting. The meeting shall be held in accordance with such procedures as may be determined by the TRUSTEES from time to time.

## 14 FINANCIAL PROVISIONS

### 14.1 Investments

14.1.1 All moneys received on account of the FUND must be paid into a banking account opened in the name of the FUND.

14.1.2 The TRUSTEES shall have full power, subject to the provisions of the ACT and the requirements of the AUTHORITY, to receive, administer and apply the moneys of the FUND and in their absolute discretion to invest, put out at interest, place on deposit, make advances, or otherwise deal with the moneys of the FUND upon such security and in such manner as they may from time to time determine and to realise, vary, reinvest or otherwise deal with such securities and other investments as they from time to time determine.

14.1.3 The TRUSTEES shall have power to effect policies of insurance with one or more INSURERS for the purpose of investing the FUND'S moneys in order to meet the cost of providing benefits in terms of the RULES and/or to insure, in whole or in part, the death and disability benefits payable in terms of the RULES.

14.1.4 The TRUSTEES may, subject to the requirements of the AUTHORITY, obtain an overdraft from a bank or borrow from an EMPLOYER or any other party, on such terms as they think fit, such sums as they approve for the purpose of completing any investment or meeting any temporary cash shortage and for this purpose may give such security as they decide.

14.1.5 All title deeds and securities must be registered in the name of the FUND or in the name of such nominee company acceptable to the AUTHORITY as the

TRUSTEES may appoint. The documents of title registered in the name of the FUND in connection with any investment or asset of the FUND must be kept in safe custody at the registered office of the FUND or in a banking institution, as decided by the TRUSTEES. Any documents of title registered in the name of a nominee company in connection with any investment or asset of the FUND must be kept in safe custody at the registered office of that company or in a banking institution, as decided by that company.

14.1.6 The power of the TRUSTEES to make investments and to realise, vary, reinvest or otherwise deal with the securities concerned, may be delegated by the TRUSTEES, on such terms and conditions as they may specify, to

(a) a sub-committee of such of their number as they nominate;

(b) A financial services provider defined as such in the Financial Advisory and Intermediary Services Act, No. 37 of 2002 and licensed by the AUTHORITY to manage investments; or

(c) A person approved in terms of the Financial Markets Act, No. 19 of 2012.

The TRUSTEES shall not be liable for the negligence, dishonesty or fraud of an institution or person referred to in (b) or (c) above.

14.1.7 (a) Notwithstanding the provisions of Rule 14.1.2, the investment powers of the TRUSTEES may be delegated by the TRUSTEES to each MEMBER of the FUND on such terms and conditions and in accordance with such procedures as the

TRUSTEES may prescribe from time to time. These terms, conditions and procedures include but are not limited to:

(i) the right of the TRUSTEES to determine, and change from time to time, the number, range and composition of any investment portfolios from which a MEMBER may elect to invest all or part of his FUND CREDIT and/or contributions paid by and in respect of him;

(ii) the right of the TRUSTEES, in their sole discretion, to take into account any charges incurred in connection with any investment choice made by a MEMBER when determining the INVESTMENT RETURN in respect of that MEMBER;

(iii) in the case of a MEMBER who does not elect within such timeframe specified by the TRUSTEES, an investment portfolio in respect of all or part of their FUND CREDIT and/or contributions paid by and in respect of him, the right of the TRUSTEES to select and change the appropriate investment portfolio best suited to such a MEMBER taking into account the period remaining to a notional target retirement age as determined by the TRUSTEES.

(b) The TRUSTEES shall take reasonable steps to ensure that MEMBERS are adequately informed of their investment choices available to them and the consequences of their decisions. The TRUSTEES shall in no way advise, influence or

assist MEMBERS in making their choices, such advice to be obtained by MEMBERS from their personal financial planners or such other financial advisors as the TRUSTEES may from time to time arrange for the benefit of MEMBERS.

(c) Whilst the TRUSTEES shall take reasonable steps to ensure that the interests of all MEMBERS are protected, the TRUSTEES and the FUND shall not be liable for any loss, damage or prejudice suffered, or alleged to be suffered, by any MEMBER or other person claiming to be entitled to a benefit or any other amount under the FUND, as a result of or in connection with any investment choice made by a MEMBER.

**14.2 Housing Loans**

14.2.1 The TRUSTEES shall have the power to grant a loan to a MEMBER for a purpose referred to in Section 19(5)(a) of the ACT. Such loan shall be subject to the provisions set out in Section 19(5)(b), (c) and (d) of the ACT.

14.2.2 The TRUSTEES shall also have the power to furnish a guarantee in favour of a person other than the FUND in respect of a loan granted by such other person to a MEMBER for a purpose referred to in Section 19(5)(a) of the ACT. Such guarantee shall be subject to the provisions set out in Section 19(5)(b), (c) and (d) of the ACT and the requirements of the AUTHORITY.

**14.3 Expenses**

Unless specifically provided elsewhere in the RULES, the expenses related to the management and administration of the

FUND, including the costs of audits and actuarial investigations and such incidental expenses as may be determined by the TRUSTEES from time to time, shall be borne by the FUND.

**14.4 Accounts**

The TRUSTEES shall cause full and true accounts of the FUND to be kept, such accounts to be made up as at the end of each FINANCIAL YEAR, to be audited by the AUDITOR and then to be submitted to the AUTHORITY.

**14.5 Late Payment Interest on Benefits**

Late payment interest may be payable on any benefit due to a MEMBER or BENEFICIARY, subject to the provisions of the ACT, on any amount transferred for his benefit to another APPROVED PENSION FUND, an APPROVED PROVIDENT FUND, APPROVED PENSION PRESERVATION FUND or an APPROVED RETIREMENT ANNUITY. Any such interest shall be paid in accordance with the practice of the FUND. It is specifically provided that if a MEMBER elects to transfer his benefit in terms of Rule 8.2.3 and his benefit is not transferred to the fund concerned before the expiration of the period prescribed by legislation, interest shall be payable on such benefit at a rate that is not less than the rate prescribed by legislation.

**14.6 Actuarial Valuation**

14.6.1 The financial condition of the FUND shall be investigated and reported on by the ACTUARY at intervals not exceeding three years or more frequently, if so recommended by the ACTUARY. The TRUSTEES shall forward a copy of such report to the AUTHORITY and shall cause a copy of such report or a summary thereof to be sent to every EMPLOYER participating in the FUND.

14.6.2 If the valuation discloses that there is a deficit, the manner of funding the deficit shall be considered by the TRUSTEES in consultation with the ACTUARY and the FOUNDER. The decision on how the deficit is to be funded shall be taken by the TRUSTEES on the advice of the ACTUARY and the FOUNDER.

14.6.3 If a valuation discloses an ACTUARIAL SURPLUS, such amount shall be dealt with by the TRUSTEES in terms of Section 15C(2) of the ACT.

## 15 ADMINISTRATION OF THE FUND

15.1 The TRUSTEES may appoint ADMINISTRATORS to administer the FUND in accordance with the instructions of the TRUSTEES.

15.2 The EMPLOYERS shall from time to time furnish to the TRUSTEES in respect of those employees who are MEMBERS all necessary particulars affecting their benefits or their entitlement to benefits under the FUND and the TRUSTEES shall ensure that such particulars are furnished to the ADMINISTRATORS. The TRUSTEES and the ADMINISTRATORS shall be entitled to act upon such particulars without further enquiry and shall not be responsible to any MEMBER or to the EMPLOYER or to any other person or body whatsoever for any mis-statements or errors or omissions which may be contained in such particulars.

15.3 The ADMINISTRATORS shall keep a complete record of all necessary particulars of the MEMBERS of the FUND and of all persons entitled to benefits and of all other matters essential to the operation of the FUND.

15.4 The ADMINISTRATORS shall keep full and true accounts of the FUND as required in terms of Rule 0.

15.5 All contracts and other documents pertaining to the FUND shall be signed by such persons as the TRUSTEES by resolution may appoint; provided that documents to be deposited with the AUTHORITY must be signed in the manner set out in the ACT.

15.6 The ADMINISTRATORS shall maintain professional indemnity and fidelity cover to indemnify the FUND against any loss resulting from the negligence, dishonesty or fraud of any person employed by them.

## 16 ALTERATIONS

16.1 The TRUSTEES may amend the RULES at any time; provided that any amendment which affects any EMPLOYER'S financial obligation to the FUND shall be subject to the consent of that EMPLOYER.

16.2 All alterations to the RULES shall be submitted to the AUTHORITY and any other statutory authority who so requires.

16.3 If the registration of any alteration to the RULES in terms of the ACT is effected on a date after the effective date of the alteration, the alteration shall nevertheless take effect from the effective date as stated in the alteration.

## 17 INTERPRETATION OF RULES AND DISPUTES

17.1 The decision of the TRUSTEES as to the meaning of or interpretation of the RULES or of any particular Rule or part of a Rule shall be final and binding on the EMPLOYERS, MEMBERS and every person claiming to be entitled to a benefit under the RULES, subject to the provisions of Section 30A of the ACT.

17.2 Any question which may arise with regard to a claim by any person under the RULES shall be decided by the TRUSTEES, subject to the provisions of Section 30A of the ACT.

17.3 If any person affected by a decision of the TRUSTEES in terms of Rules 17.1 or 17.2 is dissatisfied with the decision, he shall have the right to lodge a written complaint as envisaged in Section 30A of the ACT. If such person remains dissatisfied, he may lodge his complaint with the Pension Funds Adjudicator appointed in terms of the ACT which shall be dealt with in accordance with Sections 30D to 30P of the ACT.

17.4 The EMPLOYER, the TRUSTEES (or one or more of their number), or any other person having a complaint or dispute of fact or law shall, notwithstanding anything to the contrary in the RULES, have the right to invoke the complaint procedures in accordance with the ACT.

## 18 MISCELLANEOUS PROVISIONS

18.1 (a) Subject to payment of such fee as the TRUSTEES may require, a MEMBER shall be entitled on application to a copy of any of the documents referred to in Section 35(1) of the ACT.

(b) A MEMBER shall be entitled on application to inspect without charge a copy of any of the documents referred to in Section 35(2) of the ACT and to make extracts therefrom.

18.2 (a) Payment of each benefit in terms of the RULES shall be made to the person entitled thereto by means of electronic transfer into the bank account of such person to a bank registered in terms of the Banks Act, No. 94 1990, provided that payment to a third party may take place in accordance with the provisions of section 37A(4) of the ACT.

(b) Payment in terms of (a) shall constitute full and final settlement of all claims to the benefit against the FUND and neither the FUND, the TRUSTEES nor the ADMINISTRATORS shall have any further liability for the benefit to any person.

18.3 All benefits and rights to benefits in terms of the RULES shall be subject to the prohibitions as to reduction, cession, etc. contained in Sections 37A and 37B of the ACT.

18.4 The ADMINISTRATORS shall maintain a separate record in respect of benefits due under the FUND which have not been claimed or paid, including UNCLAIMED BENEFITS. Subject to the provisions of the ACT any such benefit shall be dealt with in the manner set out below –

18.4.1 If a person approaches the FUND at any stage the TRUSTEES 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 earned on the UNCLAIMED BENEFIT, 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 18.9; or

18.4.2 If so decided by the TRUSTEES, that part of the UNCLAIMED BENEFIT, increased by such interest as earned on the UNCLAIMED BENEFIT, that as at the date of transfer in terms of this Rule is in excess of the costs incurred by the FUND in the administration of such benefit and any amount referred to in Rule 18.9 may be transferred to an UNCLAIMED BENEFITS FUND.

18.5 Nothing in the RULES shall in any way restrict the right of the EMPLOYER to terminate the employment of any MEMBER or affect any agreement between the EMPLOYER and an employee in regard to conditions of SERVICE.

18.6 No person shall have any claim concerning the FUND either upon the FUND or against the EMPLOYERS, except in accordance with the RULES.

18.7 Admission to membership of the FUND shall be regarded as an acknowledgement by the MEMBER that he agrees that the RULES, including any alteration to the RULES, shall be binding upon him and upon any person claiming to derive a benefit under the FUND by virtue of his membership.

18.8 Subject to the requirements of the REVENUE AUTHORITIES as specified from time to time and to the payment by the EMPLOYER of such additional contribution, or contributions, as the

TRUSTEES after consulting the ACTUARY may decide to be necessary, the TRUSTEES, with the agreement of the EMPLOYER, may direct that any benefit payable to or in respect of any MEMBER be increased on such basis as shall be determined in consultation with the ACTUARY.

18.9 If any costs are incurred as a consequence of the TRUSTEES tracing any potential beneficiaries whose benefits due under the FUND are unclaimed or in order to give effect to the provisions of Section 37C of the ACT, such reasonable costs may be taken into account in the calculation of the benefits payable to such beneficiaries.

# APPENDIX A

## PROVISIONS APPLICABLE BENEFITS PAYABLE ON THE DEATH OF A PRINCIPAL PENSIONER IN RECEIPT OF A PENSION PAID FROM THE FUND IMMEDIATELY PRIOR TO THE CONVERSION DATE.

On the death of a PRINCIPAL PENSIONER in receipt of a PENSION paid from the FUND immediately prior to the CONVERSION DATE, his PENSION shall cease and shall be replaced by:

(a) a PENSION to his QUALIFYING SPOUSE, equal to the PENSION the PRINCIPAL PENSIONER was receiving immediately prior to the date of his death, and reduced by 1.5% of each completed year by which the PRINCIPAL PENSIONER was more than eight years older than the spouse and also reduced after eighteen months by one-third thereof, subject to the provisions of clause (b) (i) below;

(b) a PENSION in respect of the QUALIFYING CHILDREN of the PRINCIPAL PENSIONER equal to:

(i) if the PRINCIPAL PENSIONER leaves a QUALIFYING SPOUSE, a percentage of the PRINCIPAL PENSIONER'S PENSION as described in (a) above, in accordance with the following table:

| **Number of Qualifying Children** | **Percentage of Principal Pensioner's Pension described in (a) above** |
|---|---|
| 1 | 16 2/3rd % |
| 2 | 22 2/9th % |
| 3 | 27 7/9th % |
| 4 or more | 33 1/3rd % |

provided that the total payable by way of PENSION to the QUALIFYING SPOUSE and QUALIFYING CHILD or QUALITYING CHILDREN shall not exceed what the PRINCIPAL PENSIONER's PENSION would have been had he not died. Payment of any such excess shall be deferred and applied to extend the period referred to in (a) above, as determined by the ACTUARY; or

(ii) if the PRINCIPAL PENSIONER does not leave a QUALIFYING SPOUSE, the PENSION that the PRINCIPAL PENSIONER was receiving immediately prior to his death. Payment of such PENSION shall continue for 12 months, after which period it shall be reduced in accordance with the following table:

| **Number of Qualifying Children** | **Percentage of Reduction in Qualifying Children's Pension** |
|---|---|
| 1 | 66 2/3rd % |
| 2 | 55 2/9th % |
| 3 | 44 7/9th % |
| 4 or more | 33 1/3rd % |

(c) a designated DEPENDANT'S PENSION if the MEMBER had elected such alternative PENSION in terms of Rule 6.4.4.