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# GOVERNMENT NOTICE

## GOEWERMENSKENNISGEWING

### DEPARTMENT OF LABOUR DEPARTEMENT VAN ARBEID

No. R. 1249

4 October 2002

LABOUR RELATIONS ACT, 1995

#### METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL: AMENDMENT AND EXTENSION OF LIFT ENGINEERING COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour hereby, in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the collective agreement which appears in the schedule hereto, which was concluded in the Metal and Engineering Industries Bargaining Council and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the agreement, shall be binding on the other employers and employees in that industry, with effect from 14 October 2002 and for the period ending 30 June 2003.

**M. M. S. MDLADLANA**

Minister of Labour

No. R. 1249

4 Oktober 2002

WET OP ARBEIDSVERHOUDINGE, 1995

#### METAAL -EN INGENIEURSNYWERHEDE BEDINGINGSRAAD: UITBREIDING VAN HYSBAKINGENIEURS KOLLEKTIEWE WYSIGINGSOOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mpumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby, kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge 1995, dat die kollektiewe ooreenkoms wat in die Bylae hiervan verskyn en wat in die Metaal-en Ingenieursnywerhede Bedingingsraad aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die ooreenkoms aangegaan het, bindend is vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 14 Oktober 2002 en vir die tydperk wat op 30 Junie 2003 eindig.

**M. M. S. MDLADLANA**

Minister van Arbeid

### SCHEDULE

#### METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL LIFT ENGINEERING COLLECTIVE AMENDING AGREEMENT

In accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

#### Lift Engineering Association of South Africa

(hereinafter referred to as the "employers" or the "employer" organisation"), of the one part, and the

#### National Employees' Trade Union

and the

#### South African Electrical Workers' Association

(hereinafter referred to as the "employees" or the "trade unions"), of the other part, being the parties to the Metal and Engineering Industries Bargaining Council,

to amend the agreement published under Government Notice No. R. 405 of 31 March 1998, as renewed, amended and re-enacted by Government Notices Nos. R. 160 and R. 161 of 12 February 1999, R. 1314 of 12 November 1999, R. 1125 of 17 November 2000, R. 1013 of 12 October 2001, R. 1242 of 30 November 2001 and R. 529 of 3 May 2002.

#### 1. SCOPE OF APPLICATION OF AGREEMENT

(1) The terms of this Agreement shall be observed—

- (a) in the Iron, Steel, Engineering and Metallurgical Industry throughout the Republic of South Africa;
- (b) by all employers who are members of the employers' organisation and by all employees who are members of the trade unions, in respect of the maintenance and/or assembly and/or installation and/or repair of electrical and hydraulic lifts, escalators, moving walkways and goods lifts.

(2) The provisions of clauses 1 (1) (b) and 2 of this Agreement shall not apply to employers and employees who are not members of the employers' organisation and trade unions, respectively.

## 2. PERIOD OF OPERATION OF AGREEMENT

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 30 June 2003.

## 3. CLAUSE 3: DEFINITIONS

Substitute the following for the definition of Region F:

"'Region F' means the Province of the Orange Free State, and includes the Magisterial Districts of Bloemhof, Christiana, Coligny, Delareyville, Klerksdorp, Lichtenburg, Potchefstroom, Schweizer-Reneke, Ventersdorp and Wolmaransstad, in the Province of the Transvaal, and the Magisterial Districts of Barkly West, Britstown, De Aar, Douglas, Gordonia, Griekwastad, Hartswater, Hopetown, Kenhardt, Kimberley, Kuruman, Postmansburg, Philipstown, Prieska, Vryburg and Warrenton, in the Cape Province, and for the purposes of these particular areas the address of the Regional Council shall be: Metal and Engineering Industries Bargaining Council (Orange Free State and Northern Cape Region), P O Box 95, Welkom, 9460, or 136 Constantia Road, Welkom, 9459."

## 4. CLAUSE 6: STAND-BY DUTIES AND CALL-OUTS

Substitute the following for sub-clauses (d), (e) and (f):

- "(d) An employee who is required to be on stand-by on Monday to Friday shall receive a stand-by allowance of R18,73 per day, excluding Saturdays, Sundays and public holidays.
- (b) An employee who is required to be of stand-by on a Saturday shall receive a stand-by allowance of R28,14 per day.
- (f) An employee who is required to be of stand-by on a Sunday or public holiday shall receive a stand-by allowance of R37,52 per day."

## 5. CLAUSE 15: LEAVE BONUS

(1) Substitute the following for this clause:

### "15. LEAVE ENHANCEMENT PAY

For the purpose of this section—

'Leave qualification' shall be the qualification for the paid leave prescribed in section 12 of this Agreement, and the expression 'leave cycles' shall have a similar meaning.

'staggered leave' means a company level arrangement in terms of which leave qualification is determined by date of employment of every individual employee.

'L.E.P.' means leave enhancement pay:

1. Every employee shall be entitled under this Agreement to L.E.P. calculated at 8,33% of the actual rate applicable on the date on which the employee actually proceeds on leave: Provided that in the case of an employee who terminates his services or whose employment is terminated by the employer, the leave bonus shall be calculated at 8,33% of the actual rate applicable on the date of such termination of employment.
2. Whenever an employee to whom this subclause applies, qualifies for and takes his paid leave after the date of coming into operation of this Agreement, he shall at the same time be paid leave enhancement pay pro rata from the date of engagement in the case of an employee qualifying for his first period of paid leave in the service of an employer.
3. Whenever the employment of an employee terminates before he becomes entitled to paid leave, the employee shall be paid leave enhancement pay, proportionate to the number of shifts credited to him for leave purposes or, at his request, he shall be credited with a share of the leave enhancement pay calculated in the same manner.
4.
  - (a) No leave enhancement pay shall be credited for periods of employment which in terms of clause 12(2)(a)(i) and (ii) of this Agreement do not count towards the paid leave.
  - (b) Shifts or periods of absence which count for leave purposes in terms of section 12(2)(a)(ii) of this Agreement shall be included in the calculation of the bonus due.
5. Every employer in the industry is required to make an adequate monthly financial provision for the payment of employees leave enhancement pay. The parties to this Agreement regard full compliance with this provision as being of particular importance.
6. An employer may enter into an arrangement with the Bargaining Council to transfer the employees' monthly leave enhancement pay entitlement to the Bargaining Council for collection, safekeeping and distribution to the affected employees when due, in terms of this section.
7. Monthly Contribution Scheme
  - (a) As from 1 January 2003 employers in the industry shall, on a voluntary basis, be entitled to submit to the Council a monthly contribution towards the annual L.E.P. entitlements of their employees.



- (b) Whilst the provisions of this Clause provide for contributions in respect of the annual L.E.P. entitlements of employees, nothing herein contained shall preclude employers from making similar monthly contributions towards the employees' annual leave pay entitlements.
- (c) The Council's monthly L.E.P. collection scheme, as referred to in (a) above, shall be available in respect of all scheduled and unscheduled employees for whom the employer makes such monthly L.E.P. contributions. All employees for whom contributions are paid over to the Council must be identified by name, I.D. number and bank account number of the employee.
- (d) For purposes of subclauses (b) and (c) hereof the Council shall establish a L.E.P. fund into which all contributions received from employers will be deposited. Whilst participation in the Council's monthly contribution scheme will be at the employers' discretion, continued participation shall be compulsory once contributions commence in respect of the particular year in which contributions are made.
- (e) The employer may elect to discontinue participation in the Council's monthly contribution scheme in a specific year only after all employees on whose behalf the employer had paid over L.E.P. contributions qualified for and received their annual L.E.P. entitlements.
- (f) Any interest earned in the L.E.P. fund account resultant from the monthly contributions shall accrue to the Council and will be transferred to the Council's general account for its disposal.
- (g) Should any firm contributing on a monthly basis to the Council L.E.P. scheme be placed under provisional liquidation the Council shall, provided it is made aware thereof, inform the liquidator of the monies standing to the L.E.P. credits of all affected employees.
- (h) Due to administrative costs the Council will not pursue the failure by an employer to make the monthly contributions.
- (i) The Council shall, when so requested by the employer at the time of qualification for L.E.P., pay over to the employer or into the individual employees' bank accounts the contributions paid over by the employer to the Council as L.E.P. monies. The Council shall not accept responsibility for any shortfall in employee L.E.P. entitlements at qualification dates and its responsibility will be for payment of contributions made.
- (j) Complaints lodged by employees alleging short payment of L.E.P. monies shall be treated as a contravention of a Collective Agreement of the Council. Should Council investigation identify deliberate underpayments, the Council reserves the right to charge the employer a fee for services rendered.
- (k) The date/s on which such L.E.P. monies become payable by the Council shall be determined by the employer subject to a 30-day notice period. Where employment terminates prior to employee's qualification for paid leave and L.E.P., the employer shall be required to make such pro-rata payments and reclaim such monies from the Council.
- (l) The manner in which the Council shall transfer the employees entitlements shall either be by direct transfer into the employers or employees' bank accounts or alternatively, by a bank guaranteed cheque. For purposes hereof the Council shall be guided by the employers request.
- (m) The Council shall deem employers who do not wish to participate in the Council's L.E.P. monthly contribution scheme as financially capable of meeting their obligations in this regard."

#### 6. CLAUSE 17: PAID SICK LEAVE

Insert the following new subclause 13:

- "13. The employer and trade union parties agree that they will recognise traditional healers for paid sick leave purposes, in terms of this Agreement, provided that an appropriate regulatory body is created by the Government similar to that of the Health Professionals Council."

#### 7. CLAUSE 19: ALLOWANCES

Substitute the following for subclauses (3),(4),(5),(6) and (7):

- "(3). *Subsistence*: Where an employee is required to live away from his usual place of domicile, hotel accommodation, including meals, shall be provided. Alternatively, by mutual consent, a subsistence allowance of R125,08 per day shall be payable.
- (4) *Out-of-pocket expenses*: Employers shall pay an amount of R17,97 per day to employees to compensate them for additional non-recoverable expenses incurred where the work assignment entails overnight stay. This amount shall be payable irrespective of whether or not the employer pays full accommodation and board and lodging. Mutually agreed legitimate expenses over and above the R17,97 per day shall be reimbursed upon presentation of receipts.
- (5) *Dirt allowance*: A dirt allowance of R13,30 per shift shall be paid to lift mechanics engaged on the dismantling of existing installations and/or the stripping of lifts and escalators for modernisation and/or the changing of main hoisting and compensating ropes.

- (6) *Certificate allowance*: Subject to the provisions of section 37 of this Agreement, and in addition to wages and other allowances prescribed in this Agreement, the employer shall pay to each employee who is the holder of a certificate of registration issued in terms of the Occupational Health and Safety Act, 1993, an allowance of 30c per hour, including overtime.
- (7) *Underground allowance*: An allowance of R32,87 per shift shall be paid to employees who are required to work below the collar of any mine shaft for a shift or part of a shift."

#### 8. CLAUSE 34: SECURITY OF EMPLOYMENT AND SEVERANCE PAYMENT

Substitute the following for subclause 4(b):

- "(b) An employer and any employee representative shall at either's request consult in good faith at plant level with a view to reaching agreement on a higher severance payment than that stipulated in paragraph (a)".

#### 9. CLAUSE 36: WAGES

Substitute the following for the existing clause 36:

- "(1) No employer shall pay to any employee engaged on work classified in the Schedules to this Agreement wages lower than those stipulated and no employees shall accept wages lower than those stipulated, namely—
- (a) Category 1: R38,62 per hour;
  - Category 2: R28,33 per hour;
  - Category 3: R18,06 per hour;
  - Category 4: R14,64 per hour;
  - (b) Apprentices:
    - First year: R13,51 per hour;
    - Second year: R15,44 per hour;
    - Third year: R19,32 per hour;
    - Fourth year: R30,88 per hour.
- (2) Every employee who on the date of coming into operation of this Agreement is employed by an employer on work classified in this Agreement shall, while in the employ of the same employer and whether or not his actual rate of pay immediately prior to the said date was in excess of the rate specified for his class of work in this Agreement, be paid not less than the actual rate he was receiving immediately prior to the said date, plus an additional amount for his wage group as follows:

<i>Class of work</i>	<i>Amount per hour</i>
(a) Category 1 employees.....	337 cents
Category 2 employees.....	247 cents
Category 3 employees.....	157 cents
Category 4 employees.....	128 cents
(b) Apprentices:	
First year.....	118 cents
Second year.....	135 cents
Third year.....	168 cents
Fourth year.....	269 cents

OR

9,55% of the actual hourly rate of pay he was receiving on 30 June 2002, whichever additional amount is the greater: Provided that—

- (i) the additional amount payable in terms of this subclause to an employee for his class of work may be reduced by the amount of any increase granted to such employee on or subsequent to 1 July 2002: Provided further that any employee to whom no increase or only a part of the prescribed increase was granted on or after 1 July 2002, shall be remunerated by the payment of an amount within 16 weeks after the date of coming into operation of this Agreement on the basis stated below:

Amount per hour for the	}	less,	{Amount per hour of any
employee's class of work	}	if	{increase granted to the
as prescribed above	}	any	{employee on or after 1 July 2002

multiplied by the number of hours for which the employees concerned was entitled to payment of this wage for the period from the start of the first shift on or after 1 July 2002 to the first shift for which the amount per hour of the employee's class of work as prescribed above is paid or the date of coming into operation of this Agreement, whichever is the later;

- (ii) any employee who was engaged after 1 July 2002 at a rate of pay not less than the rate of pay prescribed for his class of work as at the date of coming into operation of this Agreement shall not be entitled to be paid the additional amount specified in this subsection for his class of work;

- (iii) no employer shall reduce the rate of pay of any employee to whom an increase in excess of the additional amount specified in this subsection for his class of work as awarded on or subsequent to 1 July 2002 and no employee shall be paid wages at a rate less than the rate for his class of work specified in this Agreement;
- (iv) an employer who intends to grant increases to all employees or to a particular category of employee in excess of the guaranteed personal minimum increases provided for above at the date of coming into operation of this Agreement shall consult the trade unions of which the employees concerned are members.

Where an employer, following such consultation, grants such increases over and above those provided for in this Agreement, the Bargaining Council shall be notified of the increases granted.

- (3) Operators may be employed on Category 2 and Category 3 work only if they have passed (a) training programme(s) recognised by the Bargaining Council and are in possession of a certificate of proficiency issued by the employer covering the functions that they are allowed to perform under the Schedules to this Agreement.
- (4) The employers who are party to this Agreement have undertaken to distinguish clearly, at the time of awarding wage increases, between the wage increase component negotiated in terms of this Agreement and any other increases, such as merit increases which may be granted to employees.
- (5) (a) No employee shall be employed on more than one occupation scheduled in this Agreement at different rates of pay in any one week including any overtime worked at a higher-paid occupation, unless payment is made as if such employee had been employed for the whole of that week in the higher-paid occupation: Provided that where a lower-paid employee is temporarily substituted for a higher-paid employee who is absent from his work and not employed elsewhere in the establishment, such substituted employee shall be paid at the higher rate only for the period he actually worked at the higher paid occupation. Any period of substitution of less than one-half shift in the aggregate in any one week shall not count for payment at the higher rate.
- (b) Where a lower paid employee is temporarily substituted for a higher paid employee—
  - (i) such substitution shall be part of career development aimed at developing the employee by providing exposure to the higher level job; and
  - (ii) such substitution is to be an integral part of the development programme and therefore a pre-requisite for successful completion of the programme.
- (6) An employer who intends to grant increases to all employees or a particular category of employee shall consult the trade unions of which the employees concerned are members.”.

#### 10. Insert the following new Clause 41

#### “CLAUSE 41: ATTENDANCE OF WORKER REPRESENTATIVES ON NATIONAL AND REGIONAL COMMITTEES OF THE BARGAINING COUNCIL

The provisions of Annexure C shall be observed.”

#### 11. ANNEXURE A: SECURITY OF EMPLOYMENT AND SEVERANCE PAY

Substitute the following for subclause 1(g):

“(g) Section 34 of the Lift Engineering Collective Agreement shall be complied with in determining the amount of severance pay to which an employee is entitled, providing employers and party trade unions, at either's request, consult in good faith at plant level with a view to reaching agreement on a higher severance payment”.

#### 12. Insert the following new Annexure C

#### “ATTENDANCE OF WORKER REPRESENTATIVES ON NATIONAL AND REGIONAL BARGAINING COUNCIL COMMITTEE

- The employer and trade union parties agree that it is important that workers representatives, appointed by the union to serve on the Bargaining Council National and Regional Committees, should participate at that level.
- To this end, the trade unions will by the 31 January of each year, notify the Council Secretary in writing of the names and contact details of the union worker representatives appointed to serve on these National and Regional Committees.
- The Council will maintain a register of these union representatives.
- The Council will, during February each year, notify the companies concerned of the appointment of their employees onto the specific Bargaining Council Committee/s and of the scheduled meeting dates of the committee/s for the year ahead.
- Where the Company is unable, for operational or other valid reasons to accept the absence of the employee on the dates concerned it shall immediately communicate with the Council in order that the problem be addressed. The Council Secretary may call upon a senior trade union official and employer representatives to assist in attempting to achieve an amicable resolution of the problem, including meeting with the employer in order to address the specific problems identified.

- Absence from the workplace to attend each scheduled meeting must be based on reasonable prior notice of the meeting to the employer supported by the presentation of the Agenda of the meeting by the worker representative.
- The representative's travelling and accommodation expenses will be borne by the Council."

Signed at Johannesburg, for and on behalf of the parties, this 10th day of July 2002.

**L TRENTINI**

**Member**

**M LANDMAN**

**Member**

**V MJIYAKO**

**Acting Council Secretary**

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