

AUTO WORKERS' PROVIDENT FUND

AMENDMENT NO. 3

Extract from the minutes of a meeting of the Board of the Auto Worker's Provident Fund held electronically on 20 May 2024

RESOLVED THAT with effect from 1 September 2024:

1. The following definitions shall be added to Rule 2.3 in alphabetical order:

"ELECTION DATE means the last day of the month during which a MEMBER in SERVICE who was fifty-five (55) years or older on 1 March 2021 notifies the FUND in writing that they wish to contribute to a SAVINGS COMPONENT and a RETIREMENT COMPONENT.

NON-RESIDENT MEMBER means a MEMBER who:

- (a) is or was a resident of the Republic of South Africa, who emigrated from the Republic and that emigration is recognised by the South African Reserve Bank for purposes of exchange control in respect of applications for that recognition received on or before 28 February 2021, and approved by the South African Reserve Bank or an authorised dealer in foreign exchange for the delivery of currency on or before 28 February 2022;
- (b) is a person who is not a resident of the Republic of South Africa for an uninterrupted period of three years or longer on or after 1 March 2021; or
- (c) departed from the Republic at the expiry of a visa obtained for the purposes of—
 - (i) working as contemplated in paragraph (i) of the definition of "visa" in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002); or
 - (ii) a visit as contemplated in paragraph (b) of the definition of "visa" in section 1 of the Immigration Act, 2002 (Act No. 13 of 2002), issued in terms of paragraph (b) of the proviso to section 11 of that Act by the Director General, as defined in that Act.

OPT-IN MEMBER means a MEMBER who was fifty-five (55) years or older on 1 March 2021 and who has notified the FUND in writing that they wish to contribute to a SAVINGS COMPONENT and a RETIREMENT COMPONENT, provided that such notification must take place within the time period prescribed in the INCOME TAX ACT and will be effective on the ELECTION DATE.

RETIREMENT COMPONENT in respect of a MEMBER other than a STATUS QUO MEMBER means the component of the MEMBER FUND ACCOUNT that comprises:

- (a) Two-thirds (2/3) of the contributions paid by the MEMBER and the EMPLOYER in respect of a period commencing on or after 1 September 2024 net of contributions in respect of RISK BENEFITS and ADMINISTRATION EXPENSES; plus
- (b) That portion of any transfer values received by the FUND from an APPROVED FUND in respect of the MEMBER that represents the MEMBER'S retirement component in that APPROVED FUND; plus
- (c) Transfers from the SAVINGS COMPONENT or the VESTED COMPONENT; less
- (d) Transfers to the retirement component of the MEMBER in another APPROVED FUND; less
- (e) A proportionate share in respect of ADMINISTRATION EXPENSES that are not or cannot be deducted from contributions; less
- (f) Amounts paid to an ANNUITY PROVIDER or transferred to the PENSIONS ACCOUNT to purchase or provide a PENSION, following the retirement or death of a MEMBER; less
- (g) Payment of any cash benefit to the MEMBER or any of their BENEFICIARIES; less
- (h) A proportionate share of any deduction made in terms of section 37D of the ACT, increased or decreased by INVESTMENT EARNINGS on the assets underlying the component.

SAVINGS COMPONENT in respect of a MEMBER other than a STATUS QUO MEMBER means the component of the MEMBER FUND ACCOUNT that comprises:

- (a) An opening balance equal to 10% of the value of the MEMBER FUND ACCOUNT immediately prior to 1 September 2024 or the ELECTION DATE, whichever is applicable, subject to a maximum amount of R30,000; plus
- (b) One-third (1/3) of the contributions paid by the MEMBER and the EMPLOYER in respect of a period commencing on or after 1 September 2024 or the ELECTION DATE, whichever is applicable, net of contributions in respect of RISK BENEFITS and ADMINISTRATION EXPENSES; plus
- (c) That portion of any transfer values received by the FUND from an APPROVED FUND in respect of the MEMBER that represents the MEMBER'S savings component in that APPROVED FUND; less
- (d) Transfers to the RETIREMENT COMPONENT; less
- (e) Annual savings withdrawals; less
- (f) Transfers to the savings account of the MEMBER in another APPROVED FUND; less
- (g) A proportionate share in respect of ADMINISTRATION EXPENSES that are not or cannot be deducted from contributions; less
- (h) Amounts paid to an ANNUITY PROVIDER or transferred to the PENSIONS ACCOUNT to purchase or provide a PENSION, following the retirement or death of a MEMBER;

- (i) Payment of any cash benefit to the MEMBER or any of their BENEFICIARIES; less
 - (j) A proportionate share of any deduction made in terms of section 37D of the ACT, Increased or decreased by INVESTMENT EARNINGS on the assets underlying the component
- Provided that there will be no SAVINGS COMPONENT in respect of a MEMBER who left SERVICE prior to 1 September 2024 and had made an election to receive a benefit in accordance with the provisions of the RULES.

STATUS QUO MEMBER means a MEMBER who was fifty-five (55) years or older on 1 March 2021 and who has not notified the FUND in writing that they wish to contribute to a SAVINGS COMPONENT and a RETIREMENT COMPONENT.

TAX YEAR means the period from 1 March each year until the last day of February of the following year.

VESTED COMPONENT means in respect of a MEMBER other than a STATUS QUO MEMBER, their MEMBER FUND ACCOUNT immediately prior to 1 September 2024 or the ELECTION DATE, whichever is applicable.

VESTED PRE-ANNUITISATION BENEFIT means:

- (a) In respect of a STATUS QUO MEMBER:
 - (i) The MEMBER FUND ACCOUNT at any particular date; less
 - (ii) Any amount transferred from an APPROVED FUND in respect of the MEMBER that was subject to annuitisation in that APPROVED FUND together with INVESTMENT EARNINGS on the transferred amount.
- (b) In respect of a MEMBER who was younger than fifty-five (55) years on 1 March 2021:
 - (i) The MEMBER FUND ACCOUNT immediately prior to 1 March 2021, if applicable; plus
 - (ii) Any amount allocated to the MEMBER FUND ACCOUNT as a result of the value of the MEMBER FUND ACCOUNT on 1 March 2021, if applicable; plus
 - (iii) Any amount transferred to the FUND in respect of the MEMBER which would not have been subject to annuitisation in the APPROVED FUND from which such amount was transferred; plus
 - (iv) INVESTMENT EARNINGS on the above amounts.

Provided that the above VESTED PRE-ANNUITISATION BENEFIT shall be reduced proportionately by any deduction permitted in terms of section 37D of the ACT after 1 March 2021. ”

2. Rule 8.5.4 shall be replaced with the following:

“8.5.4 At any time prior to their ELECTED RETIREMENT DATE, the FUND may, at the request of a DEFERRED RETIREE, transfer their FUND CREDIT to an APPROVED RETIREMENT ANNUITY FUND, APPROVED PENSION PRESERVATION FUND or APPROVED PROVIDENT PRESERVATION FUND of their choice, provided that with effect from 1 September 2024 or with effect from the ELECTION DATE in the case of an OPT-IN MEMBER, the SAVINGS COMPONENT, the RETIREMENT COMPONENT and the VESTED COMPONENT, if any, must be allocated to the savings component, the retirement component and the vested component in the APPROVED FUND to which the MEMBER transfers.”

3. Rule 8.6 shall be replaced with the following:

“8.6 **Member options on Retirement**

8.6.1 A MEMBER who has elected payment of their retirement benefit on the ELECTED RETIREMENT DATE will be entitled to a PENSION of their choice, which PENSION may be a PENSION paid by the FUND or a PENSION purchased in the name of a retiring MEMBER from one (1) or more ANNUITY PROVIDER(S) of the retiring MEMBER’S choice.

8.6.2 The retiring MEMBER may select the PENSION provided in terms of the ANNUITY STRATEGY of the FUND.

8.6.3 The retiring MEMBER will be entitled to take as a lump sum up to the whole of the MEMBER’S VESTED PRE-ANNUITISATION BENEFIT at DATE OF CALCULATION. If the MEMBER does not take the entire VESTED PRE-ANNUITISATION BENEFIT at DATE OF CALCULATION as a lump sum, the remaining balance will be used to purchase a PENSION or PENSIONS.

8.6.4 The retiring MEMBER will be entitled to take their SAVINGS COMPONENT at DATE OF CALCULATION as a lump sum. If the MEMBER does not take the entire SAVINGS COMPONENT at DATE OF CALCULATION as a lump sum, the remaining balance will be transferred to the RETIREMENT COMPONENT to be used to purchase a PENSION or PENSIONS.

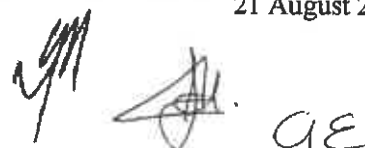
8.6.5 The retiring MEMBER will be entitled to take as a lump sum up to one-third of the difference between the VESTED COMPONENT and the VESTED PRE-ANNUITISATION BENEFIT at DATE OF CALCULATION, the remaining balance will be used to purchase a PENSION or PENSIONS.

- 8.6.6 If a MEMBER'S RETIREMENT COMPONENT plus the difference between the VESTED COMPONENT and the VESTED PRE-ANNUITISATION BENEFIT at DATE OF CALCULATION is less than the *de minimis* amount provided for in the INCOME TAX ACT from time to time or the MEMBER is a NON-RESIDENT MEMBER, that entire amount may be taken as a lump sum.
- 8.6.7 The MEMBER will be entitled to take up to one-third of the RISK BENEFIT referred to in Rule 8.10 as a lump sum and the balance must be used to purchase a PENSION or PENSIONS.
- 8.6.8 A PENSION purchased from an ANNUITY PROVIDER must be a compulsory, non-commutable, non-assignable annuity and must be payable for life.
- 8.6.9 Upon the purchase of one or more PENSION(S) in the retiring MEMBER'S name from one or more ANNUITY PROVIDER(S), the FUND will have no further liability to or in respect of the retiring MEMBER, the liability resting with the ANNUITY PROVIDER(S)."

4. Rule 8.12 shall be replaced with the following:

"8.12 Withdrawal and Paid-Up Members

- 8.12.1 If the SERVICE of a MEMBER terminates prior to their NORMAL RETIREMENT AGE as a result of their resignation, dismissal, retrenchment, redundancy, or reorganisation of staff by their EMPLOYER, the MEMBER FUND ACCOUNT shall be retained in the FUND, and the MEMBER shall become a PAID-UP MEMBER.
- 8.12.2 At any time prior to their ELECTED RETIREMENT DATE, a PAID-UP MEMBER who was a STATUS QUO MEMBER may elect:
 - 8.12.2.1 That the full amount of their FUND CREDIT, or any portion thereof, be paid to them in cash; and
 - 8.12.2.2 At the same time, that any balance of their FUND CREDIT not taken in cash be transferred to an APPROVED FUND or a combination of APPROVED FUNDS.
- 8.12.3 At any time prior to their ELECTED RETIREMENT DATE, a PAID-UP MEMBER who was not a STATUS QUO MEMBER may elect:
 - 8.12.3.1 To take their VESTED COMPONENT at DATE OF CALCULATION in cash; and

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- 8.12.3.2 To take their SAVINGS COMPONENT at DATE OF CALCULATION in cash if no withdrawal had been made during that TAX YEAR or, if a withdrawal had been made during that TAX YEAR, to take their SAVINGS COMPONENT in cash if it is less than R2,000; and
 - 8.12.3.3 In the case of a NON-RESIDENT MEMBER, to take the balance in their RETIREMENT COMPONENT in cash,
 - 8.12.3.4 At the same time to transfer the balance of their MEMBER FUND ACCOUNT after payment of any cash amount, or the whole thereof if the MEMBER does not wish to take cash, to an APPROVED FUND or a combination of APPROVED FUNDS, provided that the SAVINGS COMPONENT and the RETIREMENT COMPONENT must be allocated to the savings component and the retirement component in the APPROVED FUND to which the MEMBER transfers.
- 8.12.4 Once the full amount of the PAID-UP MEMBER'S MEMBER FUND ACCOUNT has been paid to them in cash and/or transferred to another APPROVED FUND, the PAID-UP MEMBER shall have no further claim against the FUND.
- 8.12.5 A PAID-UP MEMBER must be provided with a paid-up MEMBERSHIP certificate within two (2) calendar months of the FUND becoming aware that the PAID-UP MEMBER has left the SERVICE of the EMPLOYER.
- 8.12.6 No new contributions will be permitted by or in respect of the PAID-UP MEMBER, no deductions may be made from the PAID-UP MEMBER'S MEMBER FUND ACCOUNT in respect of RISK BENEFITS and no RISK BENEFIT shall be payable in respect of a PAID-UP MEMBER.
- 8.12.7 A PAID-UP MEMBER will be entitled to retire once they reach the age of fifty-five (55) years. The retiring PAID-MEMBER will become entitled to the retirement benefit specified in the RULES which will become payable on their ELECTED RETIREMENT DATE. The provisions of Rules 8.1, 8:6, 8.7 and 8.8 will apply mutatis mutandis.
- 8.12.8 A PAID-UP MEMBER may retire prior to attaining the age of fifty-five (55) years if they become permanently incapable of carrying on their occupation due to

sickness, accident, injury, or incapacity through infirmity of mind or body. The retiring PAID-MEMBER will become entitled to the retirement benefit specified in the RULES which will become payable on their ELECTED RETIREMENT DATE. The provisions of Rules 8.1, 8.6, 8.7 and 8.8 will apply mutatis mutandis.”

5. Rule 8.12A shall be added as follows:

“8.12A Savings Component

8.12A.1 A MEMBER may at any time request a savings withdrawal benefit of the full, or a portion of the SAVINGS COMPONENT and such savings withdrawal benefit will accrue for tax purposes on the date the savings withdrawal benefit is paid to the MEMBER and will be taxed in accordance with the tax bracket applicable to the MEMBER'S income as prescribed in the INCOME TAX ACT, provided that:

8.12A1.1 Only 1 (one) savings withdrawal benefit may be made during a TAX YEAR, unless the MEMBER has left the service of the EMPLOYER before retirement from employment and already received a savings withdrawal benefit in the same tax year resulting in the value in the SAVINGS COMPONENT being less than the amount prescribed in terms of the INCOME TAX ACT, in which case the MEMBER may make an additional withdrawal of the remaining value in the SAVINGS COMPONENT in the same TAX YEAR;

8.12A1.2 The minimum amount allowed for a savings withdrawal benefit is R2 000;

8.12A1.3 Where the FUND furnished a guarantee to a third party in respect of a housing loan to the MEMBER by the third party, as contemplated in Section 19(5) of the ACT, payment of a savings withdrawal benefit may be refused by the FUND, unless the FUND is satisfied that the MEMBER'S RETIREMENT COMPONENT, VESTED COMPONENT and any balance in the SAVINGS COMPONENT after such savings withdrawal benefit will be sufficient to honour the housing loan or guarantee;

8.12A1.4 Where judgement has been obtained in favour of the EMPLOYER ordering compensation or an acknowledgement of liability was

made by the MEMBER in favour of the EMPLOYER as allowed in section 37D of the ACT and submitted to the FUND, which permissible deduction has not been made yet, a savings withdrawal benefit may be refused, unless the FUND is satisfied that the MEMBER'S RETIREMENT COMPONENT, VESTED COMPONENT and any balance in the SAVINGS COMPONENT after such savings withdrawal benefit will be sufficient to satisfy such deduction;

8.12A1.5 Where there is a pending judgement in favour of the EMPLOYER ordering compensation as allowed in section 37D of the ACT, a savings withdrawal benefit may be suspended for a period of 12 (twelve) months if the MEMBER'S RETIREMENT COMPONENT, VESTED COMPONENT, and any balance in the SAVINGS COMPONENT after such savings withdrawal benefit is not sufficient to satisfy the pending judgement;

8.12A1.6 Where an enforceable divorce order has been granted and submitted to the FUND or a formal notification has been received from the MEMBER or non-member spouse that divorce proceedings have been instituted, a savings withdrawal benefit will be subject to the consent of the non-member spouse, unless the FUND is satisfied that the MEMBER'S RETIREMENT COMPONENT, VESTED COMPONENT and any balance in the SAVINGS COMPONENT after such savings withdrawal benefit will be sufficient to comply with the order; and

8.12A1.7 Where an enforceable maintenance order has been granted and submitted to the FUND, a savings withdrawal benefit may be refused, unless the FUND is satisfied that the MEMBER'S RETIREMENT COMPONENT, VESTED COMPONENT, and any balance in the SAVINGS COMPONENT after such savings withdrawal benefit will be sufficient to comply with the order."

6. Rule 9.3.1 shall be replaced with the following:

“9.3.1 The BOARD shall have the power to agree to the receipt by the FUND of the assets and liabilities in respect of one or more persons who have been accepted for MEMBERSHIP from another entity, subject to the provisions of the RULES, the ACT, and the INCOME TAX ACT. Upon finalization of the said transfer or amalgamation in accordance with the provisions of section 14 of the ACT, the persons so transferred shall become MEMBERS and the amounts transferred to the FUND in respect of such transferred MEMBERS shall be applied for their benefit under their MEMBER FUND ACCOUNTS, provided that if such amounts include savings components, retirement components or vested components, they will be credited to the MEMBER’S SAVINGS COMPONENT, RETIREMENT COMPONENT and VESTED COMPONENT in the FUND.”

7. Rule 9.7.5 shall be replaced with the following:

“9.7.5 Amounts allocated to MEMBERS, other than DEFERRED RETIREES, LIVING ANNUITANTS and PENSIONERS, may be transferred for their benefit to an APPROVED FUND or APPROVED FUNDS of their choice or may be paid to them in cash, provided that such a MEMBER’S RETIREMENT COMPONENT may not be paid in cash and must be transferred for their benefit to an APPROVED FUND.”

The reasons for the amendments are to provide for the Two-Pot provisions of the Income Tax Act that become effective from 1 September 2024 and in particular:

- (a) To include various new definitions to facilitate the Two-Pot provisions*
- (b) To amend the retirement and withdrawal rules in compliance with the Two-Pot provisions and allow for the Savings Account to be paid to Members on an annual basis.*
- (c) To update the transfer rules to provide for the different components from other Approved Funds to be appropriately allocated in the Fund.*

CERTIFIED that the above resolution has been adopted in accordance with the provisions of the Rules of the Fund



23 May 2024

CHAIRPERSON

DATE



23 May 2024

BOARD MEMBER

DATE



23 May 2024

PRINCIPAL OFFICER

DATE

