Agreement in the Mechanical and Electrical Engineering Industries

Term of agreement 1 January 2006 to 31 December 2010

ASM	Association of Swiss Engineering Employers (Swissmem)
Employees Switzerland	Swiss Association of Employees
Unia	Trade union Unia
SYNA	SYNA – the Trade Union
SKO	Swiss Management Organization
KV Schweiz	Swiss Association of Commercial Employees

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Agreement in the Mechanical and Electrical Engineering Industries

Term of agreement 1 January 2006 to 31 December 2010

Translation. In the event of a dispute, the German version is binding.

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between

ASM
Association of Swiss Engineering Employers (Swissmem)

and the following employee associations:

Employees Switzerland
(Swiss Association of Employees)

Unia
Trade union Unia

SYNA
SYNA – the Trade Union

SKO
Swiss Management Organization

KV Schweiz
Swiss Association of Commercial Employees

hereinafter referred to as «contracting parties»

The object of the Agreement is to make a contribution towards the positive development of the mechanical and electrical engineering industries for the benefit of employers and employees alike.
It is based on the principle of good faith, which obliges each of the contracting parties to give due consideration to the interests of the other party.

With the present Agreement the parties wish

- to intensify cooperation between employers and employees and their organizations, specifically by strengthening employee participation at plant level and by regulating the parties' rights of consultation, co-determination and negotiation
- to agree an up-to-date framework of contractual rights and obligations
- to promote the social, economic and ecological development of the mechanical and electrical engineering industries
- to keep Switzerland competitive as an industrial location in a social market economy by promoting innovations and modern forms of work organization
- to establish a standard procedure for settling differences of opinion
- to maintain industrial peace.

Art. 1 Area of application

1 The Agreement applies to all personnel employed on the basis of a limited or unlimited time arrangement by member companies of the ASM in Switzerland, regardless of the number of hours worked.

2 In principle the Agreement covers all employees within the meaning of the Swiss Federal Labour Law (Arbeitsgesetz), regardless of their position and type of work. The company shall determine to what extent the Agreement shall apply to executive personnel, except in relation to the provisions governing employee participation.

3 The provisions of the Agreement shall apply analogously to home workers, temporary staff employed for periods of up to three months, trainees and short-term workers. These persons are not, however, subject to the Agreement.

4 Article 13.1 par. 2 and 3, Articles 36 – 39 and Article 48 apply to trainees. The other provisions apply analogously. However, trainees are not subject to the Agreement.

5 Withdrawals from the ASM shall be communicated to the contracting parties.

Art. 2 Industrial peace and settlement of conflicts

1 The contracting parties acknowledge the importance of industrial peace and undertake to maintain it unreservedly and to bring influence to bear on their members to do likewise. Consequently, any kind of industrial action is ruled out, even where matters not covered by the Agreement are concerned.

2 This absolute industrial peace shall also be binding on the individual employer and employee.

3 Differences of opinion and conflicts shall be resolved in accordance with the provisions of the present Agreement (Article 10.2 Differences of opinion at plant level, Article 10.3. Differences of opinion between contracting parties).

Art. 3 Freedom of association

Freedom of association is guaranteed to both sides.

Art. 4 Solidarity contributions

1 The employees subject to the Agreement who work less than 12 hours a week and do not belong to any employee association pay a solidarity contribution.

2 For administrative reasons, members of the employee contracting parties will have an amount deducted from wages equivalent to the solidarity contribution.

3 The solidarity contribution is a standard amount of CHF 5.– a month or CHF 60.– a year and is deducted from the employee's wages every month. If the financial development of the solidarity contribution fund so requires, the solidarity contribution can be raised to a maximum of CHF 7.– a month through an agreement between the contracting parties.

4 The contracting parties will maintain a fund to manage the solidarity contributions. The fund will finance, in particular:
- reimbursements to the members of the employee contracting parties
- payments to members of the employee contracting parties for partial relief of membership contributions
- contributions to the employee contracting parties to cover their costs for implementing out the Agreement
- contributions to the training of employee representatives
- publication of the Agreement
- documents for informing trainees about the Agreement

5 The administrative details are governed by a separate agreement between the contracting parties.

Art. 5 Contributions to further training

1 The employees subject to the Agreement who work less than 12 hours a week and the employers pay a contribution to further training.

2 The contribution to further training is CHF 2.– a month or CHF 24.– a year. Employers and employees each pay half of the contribution. The employee contribution is deducted from the individual employee's wages.

3 The contracting parties will maintain a fund to manage the contributions to further training. Contributions of the contracting parties and other revenues can be paid into the fund.

4 The fund will finance, in particular:
- joint training institutions and events of the contracting parties
- the examining bodies of the contracting parties
- joint further training campaigns of the contracting parties
- joint information and further training brochures,

and will disburse funds to the contracting parties.

5 The administrative details are governed by a separate agreement between the contracting parties.

Art. 6 Employee representative bodies

1 In order to promote good relations and mutual trust, and to strengthen and enforce the Agreement, bodies shall be elected to represent employees in the companies.

2 The members of the employee representative bodies shall enjoy a special position of trust and they must not, either during or after their term of office, be discriminated against as a result of the proper conduct of their activities. This also applies to all personnel who stand for election to an employee representative body. Management and employee representative bodies shall cooperate on the basis of the principle of good faith.

3 These employee representative bodies (works councils, salaried staff representatives, middle management representatives, employees' spokespersons, etc.) shall be authorized to safeguard the interests of the employees within their area of representation in dealings with the company, giving due consideration to the concerns of the trainees.

4 Each representative body may initiate and implement the procedure for dealing with differences of opinion as set forth in Article 10.

5 Employees and employers at each company shall agree on the type and area of representation and the number of sectors to be represented.

6 If more than one employee representative body exists in a company, they must be granted equal treatment in the performance of their duties.

7 Appointment, powers and activities of employee representative bodies are governed by the provisions covering participation of employees at plant level.

8 If there is no employee representative body, the special negotiating rights and collective consultation rights accorded to employee representative bodies under the Agreement may be exercised by a majority of the employees concerned.

Art. 7 Cooperation at plant level

[1] Cooperation at plant level can only take place if management, superiors and employees are kept informed openly, comprehensively and in good time. Management and employees will keep each other mutually informed on all important matters relating to work, the workplace, the working organization and working relations.
To enable plants to be run as efficiently as possible, management shall ensure that members of middle management are provided with comprehensive information in good time and in accordance with their position.

[2] Matters of general concern which affect all or some of the employees covered by the Agreement and which pertain to the employer/employee relationship shall, in the first instance, be dealt with at plant level by the appropriate employee representative bodies and management.

[3] Personal matters of individual employees shall be dealt with through the official channels. The employee may, however, request the support of his or her representative body. This shall not prejudice the competence of the civil courts in the event of litigation relating to employee claims under the terms of employment.

Art. 8 Cooperation between the contracting parties

Art. 8.1 Principle

The contracting parties undertake to cooperate on the basis of good faith in accordance with the objectives of the Agreement. They shall discuss matters of common interest, create joint organizations and conduct campaigns. In particular they undertake to bring influence to bear on their members with a view to securing their adherence to the Agreement. If necessary, they shall make use of the statutory and legal means at their disposal.

Art. 8.2 Joint committees

The contracting parties may establish either ad hoc or permanent committees to deal with matters such as
- training and education
- equal opportunities and equal treatment for women and men, as well as migration
- health promotion and safety at work
- the organization of work and equipment
- environmental issues
- promoting an understanding of social partnership.

Art. 8.3 Exchange of views and experience

As a rule, the contracting parties shall hold annual meetings to exchange views and experience on general economic questions, special sectoral problems and the application of the Agreement in practice.

Art. 8.4 Cooperation on social and economic matters

1 At the request of either contracting party, discussions will be held on matters of common interest relating to the social market economy including in particular employment issues and models, preventive measures and issues relating to freedom of movement of persons between Switzerland and the EU, with particular reference to wage dumping.

2 The contracting parties may look into possibilities of concerted action vis-à-vis the authorities or the general public. The contracting parties undertake not to issue their own statements before negotiations have been concluded. Should this be impossible because of lack of time, the contracting party concerned shall inform the other party without delay and give a brief explanation of its position.

3 If there is no agreement between all contracting parties, the ASM may take joint political action with one or more of the contracting parties.

Art. 8.5 Cooperation on environmental issues

1 The contracting parties shall jointly promote an environmental policy in which ecological and economic interests meaningfully complement each other. At the same time, due consideration shall also be given to compatibility with European practice and to the competitive situation.

2 Employers and employees alike are to be encouraged to introduce ecological improvements in plant operations with a view to promoting the efficient use of natural resources and reductions in emissions and risks.

3 Employers and employees shall actively endeavour to ensure that in terms of research, manufacture, distribution, recycling and disposal their products comply with market-economy, social and environmental demands. The employee representative body is to be informed annually of the efforts in this area.

Art. 8.6 Equality of opportunity and equal pay for women and men

[1] The contracting parties support equality of opportunity and equal pay for women and men.

[2] Under the Equality Law (Gleichstellungsgesetz), employees may not be discriminated against either directly or indirectly on the basis of their sex. Should the employee representative body suspect general violations of the prohibition of discriminatory practices, it can require the management to review the situation and discuss any corrective measures which may be needed. If an employee feels discriminated against individually, she or he can call on the employee representative body for clarification. Any litigation is to be settled in the civil courts.

[3] The contracting parties shall jointly draw up instructions and recommendations for companies on how women in particular can be assisted in their personal development. To this end, they shall form a joint committee pursuant to Article 8.2.

Art. 8.7 Equal treatment and integration of foreign employees

The contracting parties support the equal treatment and integration of foreign employees at plant level. To this end they shall work together to draw up instructions and recommendations for companies.

Art. 8.8 Changes during the term of the Agreement

[1] If, during the term of the Agreement, one of the contracting parties believes that an important aspect of the contractual relationship needs clarification, amendment or supplementation, the contracting parties undertake to discuss such questions and seek a solution in good faith.

[2] Until an agreement is reached or a new solution found, the existing provisions shall remain in force.

Art. 8.9 Relationship between the ASM and employee associations

[1] Employee associations shall act independently in exercising their rights and fulfilling their obligations vis-à-vis the ASM. They may discuss specific concerns and wishes with the ASM. They may also reach separate agreements, which arise as a consequence of provisions of the present Agreement.

[2] The ASM may conclude separate agreements with one or more parties to the agreement on joint partnership operations and may manage special funds for this purpose.

Art. 8.10 Innovative processes

1 The contracting parties agree that the development and introduction of innovative processes and the organization of work in companies must be an important topic of open-minded cooperation.

2 Interaction between the organization, technology and personnel is a dynamic process which is to be organized with optimum participation of all concerned.

3 Management shall inform employees or their representatives in good time of major developments affecting them in the context of technical and organizational structural change and give them the opportunity to express their point of view.

4 As far as possible, employees and their representatives shall be asked to participate in shaping and investigating innovative processes and to integrate employee concerns into any considerations regarding such processes. To this end, special committees pursuant to Article 39 may also be formed from members of the employee representative bodies and particularly qualified employees. Alternatively, suitable employees may be admitted to corresponding project organizations.

Art. 9 Cooperation between companies and contracting parties

1 The contracting parties welcome an exchange of information and contacts between companies and local representatives of the employee associations.

2 The employee representatives may consult representatives of the employee associations or other persons in whom they have confidence and have them participate in their meetings.

3 If external experts participate on behalf of management in an internal company working group concerned with issues relating to systems of wages and working hours, the employee representatives may also call on a representative from an employee association to participate in an advisory capacity. The associations invited shall be at liberty to choose whether or not to attend.

4 In matters of importance, employee representatives and management may agree to request the participation of particular association representatives at joint meetings. The associations invited shall be at liberty to choose whether or not to attend.

5 Unless management and employee representatives have agreed otherwise, contacts and consultations pursuant to par. 1, 3 and 4 are not intended for negotiating purposes, and will not affect the procedure for dealing with company issues.

Art. 10 Dealing with differences of opinion

Art. 10.1 Principle

The application of the procedures for dealing with differences of opinion is a legitimate right.

Art. 10.2 At plant level

1 If employee representatives and management are unable to agree in their negotiations, they may each call on the contracting parties on both sides for clarification and mediation (association negotiations) in the following cases:
- general wage changes
- divergence from normal working hours subject to Article 12.4 par. 4
- introduction and implementation of wage assessment and performance-related pay schemes
- the interpretation and application of the present Agreement, provided there are no provisions to the contrary.

2 In the event of plant closures or large-scale redundancies, the employee representative body has the right to call upon the contracting parties to negotiate on the impact of such measures on employees, immediately and without internal negotiations.

Art. 10.3 Between contracting parties

1 If one of the contracting parties alleges
- differences of opinion with another contracting party relating to the interpretation of the Agreement, involving more than one company, or
- a breach of the Agreement by another contracting party,

the parties immediately involved shall endeavour to reach an agreement.

2 The contracting parties not directly involved in the matter shall be informed and can participate in the proceedings if they can demonstrate a vital interest in the matter.

Art. 10.4 Arbitration procedure

1 If the contracting parties fail to reach a consensus pursuant to Articles 10.2 and 10.3, either contracting party may submit the case to a court of arbitration. The court may make a conciliation proposal before reaching a decision. The decision of the court of arbitration shall be final.

2 The court of arbitration shall consist of a president and two members. The president shall be appointed jointly by the parties. Each side shall then appoint one further member. If this is not done within 10 days, the president shall make the appointment.

3 The domicile of the court of arbitration shall be determined by the parties to the proceedings. Unless agreed otherwise by the parties in a specific case, the proceedings shall be governed by the intercantonal agreement on arbitration. Proceedings shall be executed as quickly as possible.

4 The costs of the proceedings shall be shared equally by the parties irrespective of the result.

5 Public confrontation shall be avoided before the arbitration decision has been handed down.

Art. 10.5 Special cases

In special cases not covered by Articles 10.2 and 10.3, the contracting parties may be consulted for clarification and mediation with the consent of both employee representatives and management. If no agreement is reached, they may submit the case to a court of arbitration by mutual agreement.

Art. 10.6 Contracting parties concerned

1 In the procedure for settling disputes, the contracting parties chosen by the employee representatives shall represent the employees.

2 Where there are several areas of representation, a further contracting party may take part in the proceedings at the request of a minority of the employee representatives.

3 Where only one area of representation is involved, the employees may be represented at the proceedings by those contracting parties which have a vital interest in the matter and sufficient representation.

4 Contracting parties not involved in the proceedings shall be entitled to information on the matter if they so request.

5 Other participants in the procedure for settling disputes may be determined by the contracting parties by special agreement on a permanent or ad hoc basis.

6 In all other respects, the contracting parties shall be subject to independent rights and obligations.

Art. 11 Relationship to other agreements

The present Agreement takes precedence over local, regional or other collective employment agreements of the contracting parties or their subsidiary organizations.

Art. 12 Working hours

Art. 12.1 Standard annual working hours

[1] Full-time employees normally work a maximum of 2,080 hours per annum (52 x 40 hours), not including breaks. The 12-month period used to calculate the annual number of working hours may differ from the calendar year.

[2] In the case of holidays, public holidays that fall on a working day and paid absences, eight hours will be counted per working day.

[3] Annual working hours are intended to reduce the need for employees to work overtime.

[4] The arrangement of working hours should be regulated in a manner comprehensible to employees and take into account their planning needs within the framework of operating capabilities. Companies are recommended to arrange working hours in such a way as to allow public transport or car pooling arrangements to be used and the personal circumstances of the employees to be taken into account.

Art. 12.2 Implementation at company level

The implementation of standard annual working hours at company level shall be subject to the following maximum conditions:

a) The weekly maximum working time under the Swiss Federal Labour Law (Arbeitsgesetz) is 45 hours. Excess hours worked are counted as overtime; under the Labour Law, a maximum of 170 such hours may be worked per year. These hours must be specifically reported and can be offset by the employees at their request.
b) Full-time employees must be considered as working at least 5 hours per working day.
c) Wages shall be paid at a uniform rate, regardless of fluctuations in working hours.
d) After one year, a maximum excess of 100 hours may be carried over to the following year. Additional excess hours shall be regarded as overtime.
   These and other excess hours may be transferred to an individual long-term account, provided that such an account has been set up pursuant to Article 12.7 par. 7 and that the employee so wishes. Transfers to a long-term account during ongoing application of Article 57.2 with increased hours transfer are excluded.
e) A maximum shortfall of 100 hours may be carried over to the following year. Additional shortfalls shall be at the employer's expense.

Art. 12.3 Procedures

1 Arrangements for the implementation of standard annual working hours at company level will be prepared by management and employee representatives and agreed in writing. On implementation, the first plant agreement shall be concluded for a maximum period of 24 months, with the option for an interim discussion.

2 Before concluding such a plant agreement, the employee representatives may seek advice from the employee contracting parties.

3 Should management and employee representatives fail to reach an agreement, the contracting parties of both sides may be brought in to mediate. If no agreement is reached, the 40-hour week shall apply, subject to conventional flexitime systems.

4 Flexitime systems shall be developed in consultation with the employee representatives.

5 In specific instances, standard annual working hours may be stipulated in individual contracts of employment. The employee representatives must be informed of the fact.

6 Working hours shall be recorded in an appropriate form. The companies must ensure that the employees are kept informed of their individual accounts.

Art. 12.4 Shift work

1 The contracting parties agree that in order to remain competitive, some plants may need to introduce or extend shift work. It should therefore be made as easy as possible for such plants to introduce and organize shift work.

2 At company level, arrangements for shift work shall be laid down in a set of rules which should cover, in particular, shift plans, shift patterns, allowances, entitlements to time off, opportunities for further training, health protection, assignments outside shift work and calculations of holidays and absences.

3 Rules relating to shift work must be laid down right at the outset with the participation of the employee representatives who are entitled to be consulted on the issue. If the employee representatives do not include workers doing shift work, the latter are to be consulted beforehand.

4 Management and employee representatives may agree to less than 40 working hours per week or 2,080 hours per year. Shorter working hours may also take the form of granting a shift vacation.

5 If older employees doing shiftwork so wish, the companies shall offer them, wherever possible, equivalent jobs with normal working hours.

Art. 12.5 Overtime

1 Individual employees are obliged to work as much overtime as they are able to and as much as they can reasonably be expected to in good faith. As far as possible, companies are recommended to avoid long-term extensive overtime work by recruiting additional employees and periodically discussing the relevant trend with the employee representatives.

2 When overtime is required, it shall from the outset be paid at the regular wage rate (excluding end-of-year bonus pursuant to Article 16), plus a supplement of 25%. By mutual agreement between employer and employee, overtime may be compensated by granting equivalent time off work.

3 Employees are entitled to claim compensation for overtime pursuant to Article 12.2 a).

4 If part-time employees work longer than their contracted working hours, these hours are counted as overtime. Up to the limit of standard company working hours, by mutual written agreement a different solution for the payment in lieu of such overtime hours may be arrived at than that described in par. 2.

5 In the case of management employees and other employees performing a job requiring equivalent qualifications, or where justified in the light of employees' special functions, other benefits to be paid by the employer in lieu of the overtime and the supplement may be agreed in writing in order to permit this to be subject to the Agreement.

6 Normally, depending on the structure of the organization, the company informs the employee representatives of the number of overtime hours, hours worked in excess of the legal maximum and unused holiday twice yearly.

Art. 12.6 Brief absences

1 Brief absences to perform urgent personal business must be made up for beforehand or afterwards, unless the employer grants them during working hours.

2 Where the system of annual working hours is used, such arrangements shall remain subject to company regulations, although these must be generally equivalent in nature in their entirety.

Art. 12.7 Long-term account

1 On the basis of a set of rules agreed between management and the employee representatives, companies may introduce the option of an individual long-term account for employees. The long-term account is intended to enable individual employees to accumulate balances of entitlement to time off work over long periods of time. Such balances can subsequently be used in particular to take leave for professional or personal education or training, for extended vacations, time off work to look after dependants, temporary reductions in the individual's workload, flexible retirement and similar purposes.

2 A long-term account can be credited in respect of the following:
- excess hours pursuant to Article 12.2 d); in this context, the annual carry-over and the balance deposited into the long-term account may not exceed an annual maximum of 200 hours
- a maximum of 5 days holiday per year pursuant to Article 13.5
- overtime.

3 The time credited to employees in the long-term account shall be entirely at the disposal of the individuals concerned, although they must take account of the needs of the company when taking time off.

4 The rules agreed between management and the employee representatives shall determine in particular the scope of the arrangements, the maximum number of hours that can be credited annually, the maximum term of validity, the maximum and minimum number of hours that can be taken off and the provisions for converting and securing the balance of free hours outstanding if and when the individual leaves the company, ownership of the company is transferred or the company becomes insolvent.

5 Companies are recommended to financially hedge the long-term balance externally.

6 If employment is terminated by a company, the latter is recommended to capitalize accumulated credit hours and to credit vested pension benefits at the employee's request.

7 Within the framework of the rules, individual agreements shall be concluded with specific employees relating both to the establishment of a long-term account as such, and to the number and nature of the accumulated excess hours and/or holiday entitlement, the term of validity and the mode of access to balances. The individual employees shall be notified of the balance of their long-term accounts on an annual basis.

Art. 13 Holidays

Art. 13.1 Duration

1 Annual holiday entitlement per calendar year

	Working days
From age 20	25
From age 40	27
From age 50	30

2 Duration of holidays for trainees and under-twenties

Trainees	Under-twenties	Weeks
1st year	Up to age 17	7
2nd year	From age 17	6
3rd + 4th year	From age 18 up to and including the calendar year in which twentieth birthday falls	5

3 Companies may count events similar to holidays, such as trainee camps, youth leave, etc. as part of the 6th and 7th holiday weeks for trainees and under-twenties.

Art. 13.2 Calculation of holiday entitlement

1 The basis for calculating the length of holiday is the age which the individual employee reached on 1 January of the calendar year for which the holiday is to be taken.

2 Public holidays which fall during an employee's holiday, and which are paid in accordance with Article 14, are not deducted from his or her holiday entitlement.

3 Employees who take up or cease employment during the calendar year shall be entitled to holidays in proportion to the time worked during the calendar year.

4 If an employee gives notice after taking holidays, the employer may demand repayment of wages corresponding to the amount of leave taken over and above the proper entitlement.

Art. 13.3 Reduction in holiday entitlement

1 For absences totalling more than three months during a calendar year owing to military service, accident, sickness or maternity leave, the annual holiday entitlement shall be reduced by one twelfth for each additional complete month of absence.

[2] Maternity leave does not lead to any reduction in holiday entitlement.

[3] It shall be left to the discretion of the employer to offset other absences against holidays. Leave for the care of sick members of the family shall not be deducted from the holiday entitlement.

Art. 13.4 Taking holidays

[1] The employer will determine the timing of holidays, taking particular account of the interests of employees with family obligations to the extent that operational constraints permit.

[2] Holidays should generally be granted during the course of the working year; at least two consecutive weeks must be taken. As far as possible, residual holiday entitlement should be taken during the period of notice.

Art. 13.5 Amalgamation and conversion of holidays

[1] Employers and employees may agree in writing to amalgamate up to five days of annual holiday entitlement over and above the statutory minimum as long-term holidays.

[2] By voluntary agreement with the employer, employees may convert up to five days of annual holiday entitlement over and above the statutory minimum into a proportionate reduction in working hours. The agreement must be made in writing and must be for a limited period.

Art. 14 Public holidays

[1] After consultation with employee representatives, companies shall set aside at least 9 days (including 1 August) as public holidays, as a permanent rule. Should these fall on a working day, no deduction shall be made from the wages of salaried employees.

[2] Employees on hourly rates shall be paid for the hours lost during public holidays, provided these do not fall on a work-free Saturday or Sunday.

[3] Public holidays which fall on a work-free Saturday or Sunday may not be compensated by taking other free days.

Art. 15 Wages

Art. 15.1 Principle

Employees are entitled to equal pay for equivalent work, irrespective of sex and nationality. Design and implementation of wage systems must not lead to discrimination.

Art. 15.2 Wage setting

1 Wages are agreed individually between employer and employee and set on a monthly (salaried) or hourly basis. The essential criteria applied when setting individual wages are the type of work, performance and degree of responsibility involved.

2 The determining elements used in setting wages should be comprehensible to all employees.

Art. 15.3 Wage adjustments

1 Negotiations are held between the appropriate employee representatives and the management of the company concerning general changes in wages, without being bound by the plant's minimum or average wages or agreed wage scales. The factors to be taken into account will include the company's competitiveness, the general economic situation, the situation on the labour market and the cost of living for employees.

2 The management provides the employee representatives with the information on the trend of business and the wage situation (payroll sums, wage systems, benefits, etc.) required for the negotiations.

3 If external wage surveys and expertise are used in wage negotiations, they must be presented and explained to the employee representatives.

4 If employee representatives and management are unable to agree in their negotiations, the procedure for dealing with differences of opinion provided for in Article 10.2 may be implemented.

5 In accordance with Article 6 par. 8, in companies with no employee representative body wage negotiations may be conducted by a majority of the employees concerned, who may appoint a delegation for this purpose.

Art. 15.4 Wages paid if employees are prevented from working

1 Where employees are prevented from working, their wages shall be calculated as follows:
- for salaried employees and employees paid by the hour, the wages they would have drawn if they had worked.
- for employees subject to performance-related wage systems, the average wages earned over an appropriate period before the employee was prevented from working.

2 Wages include supplements for shift work in the case of employees who work shifts on a permanent basis, but do not include allowances for hazardous or unpleasant work, e.g. for exposure to heat, noise, etc.

[3] Employees receiving payments in lieu of wages must not take home more pay while prevented from working than while working. In this context, differences between deductions made when employees are working and when they are prevented from working must be taken into account, particularly with regard to social security contributions, which are not payable while employees are prevented from working.

Art. 15.5 Procedures in the event of wage dumping

[1] The contracting parties agree that the abusive and repeated undercutting by ASM member companies of the customary company and industry wage levels to facilitate the employment of EU labour must be avoided.

[2] Abuses might include the following examples:
- An employer systematically replaces his workforce by recruiting cheaper labour from the EU, or systematically gives notices of dismissal with the option of remaining at a lower wage, where such action is not justified by objective reasons, such as financial difficulties.
- An employer pays newly recruited labour from the EU wages that are inappropriately lower than those of persons employed in comparable posts in the past, and thereby triggers or supports a chain reaction within the company or the industry.

[3] Together, the parties will form a Joint Commission composed of an equal number of representatives from each. They agree the following procedures for eliminating and correcting abuses:

a) Should one of the contracting parties suspect abuses within a company, or if a suspicion of abuse is brought to it or if it is approached by a tripartite commission in connection with abuses, it will inform the employee representatives at the company in question, as well as the Joint Commission.
Should the employee representatives make such an observation, they must inform the Joint Commission.
The Joint Commission will immediately inform the contracting parties. The next steps are determined by provisions b) and c).

b) The employee representatives will investigate the facts of the case with the management of the company, drawing on the available documentation, information and statistics on wages. The employee representatives may consult the contracting parties for advice.
Where there is no direct employee representation, the management or the employees may contact the Joint Commission directly.

c) The employee representatives and the management will endeavour to settle the matter swiftly and, where necessary, monitor the implementation of the corrective action that has been taken. They will brief the Joint Commission immediately on the success of their efforts.
d) If no agreement is reached, the management and/or employee representatives may approach the Joint Commission, which will promulgate a settlement proposal.
e) Should the employee representatives and/or the management reject the Joint Commission's settlement proposal, they may present the case before an arbitration tribunal as set out in Article 10.4 within fourteen days. If no appeal to an arbitration tribunal is made, the proposed settlement will apply.

4 The Joint Commission will ultimately monitor the implementation of the arbitration tribunal's decision or the settlement proposal.

5 Should the previous provision come into effect, the contracting parties will inform the tripartite commissions and propose their working together with the Joint Commission within this framework.
In important cases, the Joint Commission will inform the tripartite commission as necessary.

6 The composition and internal procedures of the Joint Commission will be governed by a separate agreement between the contracting parties.

7 If the Joint Commission establishes, on the basis of practice, that the procedures for eliminating and correcting abuses pursuant to Article 15.5 par. 3 and 4 are inadequate, it will require the contracting parties to take additional corrective action.

Art. 16 End-of-year bonus (13th monthly wage)

Art. 16.1 Amount of end-of-year bonus

Employees shall receive an end-of-year bonus equivalent to one month's wages, which will normally be paid in December. If they were not employed for the whole year, the bonus shall be paid in proportion to the amount of time worked, taking only full months into consideration.

Art. 16.2 Calculation of the end-of-year bonus

1 In divergence from Article 15.4, the wage for the end-of-year bonus shall be calculated as follows:
– For employees paid by the month: normal monthly wage without extras such as child allowances, overtime payments, etc. The monthly wage shall be the average of wage payments made for the preceding 12 months.

– For employees paid by the hour: normal average wage, without extras such as child allowances, overtime payments, etc. multiplied by 173.
– For employees on performance-related wages: calculated on the basis of average earnings over an appropriate preceding period.

2 In the event of absences, the end-of-year bonus may be reduced to the extent that the employer is released wholly or in part from payment of wages.

Art. 17 Child allowances

Art. 17.1 Principle

Companies shall pay child allowances to their employees (education, family allowances) pursuant to the relevant cantonal laws and relevant enforcement orders.

Art. 17.2 Amount

The monthly child allowance shall be CHF 200.– unless cantonal regulations specify higher amounts.

Art. 18 Sickness, accident and maternity

Art. 18.1 Compensation for sickness and/or accident

1 If employees are prevented, wholly or in part, from working through no fault of their own owing to sickness – including pregnancy and confinement – or owing to an accident, they shall receive their full wages in accordance with Article 15.4 for a limited period of time within the scope of the following provisions. Within 12 months from the onset of the absence, this limited period of time amounts to:

	months
during the 1st year of service	1
from 2nd year of service to end of 3rd year of service	2
from 4th year of service to end of 9th year of service	3
from 10th year of service to end of 14th year of service	4
from 15th year of service to end of 19th year of service	5
from 20th year of service	6

2 This period applies separately to all cases of sickness and all cases of accident.

3 Where an employee is absent from work for more than 12 months owing to the same case of sickness or accident, payment of his or her wages will only be resumed after the employee has returned to full-time work for a period of at least three months.

4 Female employees who have served in the company for less than 10 months shall be entitled to wage payments for a total period of two months in respect of absences due to pregnancy, confinement and sickness.

Art. 18.2 Maternity leave

1 After serving with a company for more than 10 months, female employees shall be entitled to special maternity leave on full pay pursuant to Article 15.4.

2 Maternity leave shall be of 16 weeks' duration and may – by mutual agreement between employer and employee – be claimed two weeks prior to confinement at the earliest.

3 If payment under the income compensation scheme is deferred, maternity leave as per this article is also deferred.

4 Overall, insurance-based solutions must provide at least equivalent benefits.

5 Subject to operating constraints, companies are recommended to grant unpaid paternity leave on request for a maximum period of four weeks from the time of birth.

Art. 18.3 Consultation of medical referees or company physicians

1 The contracting parties support consultation of medical referees or company physicians and shall try to ensure that employees are not overinsured.

2 Companies are at liberty to set up schemes to check on absences on grounds of sickness or accident.

Art. 18.4 Different company systems

1 Companies may fulfil their obligations in different ways: in cases of sickness, pursuant to either Article 18.5, Article 18.6 or Article 18.7; in cases of accident, pursuant to Article 18.8 or Article 18.9.

2 Companies are recommended to adopt an insurance-based solution for sickness benefits. In doing so, they should ensure that it is possible for employees to transfer to an individual insurance policy with the same level of benefits in the event of withdrawal from the collective insurance scheme. Premiums arising from individual insurance policies shall be borne by the employees.

3 If the company intends to change the existing rules on income maintenance (Articles 18.5, 18.6, 18.7), the employee representatives must be consulted and the employees must be informed of the changes.

Art. 18.5 Sick pay insurance

[1] Companies may take out insurance to cover sick pay. If they do so, they must inform their employees of the possibility of a subsequent transfer to individual insurance.

[2] Individual employees must be insured for sick pay equal to at least 80% of their wages. The insurance benefits must be provided for at least 720 days out of 900 consecutive days. In the event of partial incapacitation, sick pay shall be paid on a pro-rata basis provided that the employee is at least 50% incapacitated.

[3] The company shall make a contribution of 2% of the average wage towards the sick pay insurance. In addition, it must supplement the insurance benefits so that the individual employees receive their full wage for the period of time stipulated in Article 18.1. The company may take out insurance at its own expense to cover this additional benefit.

[4] If the benefit from the sick pay insurance is reduced, the additional benefit from the company shall also be reduced in the same proportion.

Art. 18.6 Direct wage payment during periods of sickness

Companies may pay wages directly during the limited period of time as specified in Article 18.1. In this case employees must take out additional sick pay insurance at their own expense to cover any period of sickness over and above the limited period covered by the company.

Art. 18.7 Other equivalent sickness benefit arrangements

Companies may make other, equivalent arrangements, such as those exclusively involving contributions to the sick pay insurance scheme.

Art. 18.8 Supplement to SUVA benefits in the event of accidents

[1] The company shall supplement benefits paid by SUVA (Swiss National Accident Insurance Fund) for loss of wages up to 100% of the wage for the limited period of time specified in Article 18.1. The company may also take out insurance at its own expense for this purpose.

[2] If SUVA benefits for work-related or non-work-related accidents are reduced or excluded, the supplementary benefit provided by the company shall also be proportionately reduced or excluded. The supplementary benefit provided by the company is only of a subsidiary nature with respect to benefits paid by SUVA and other insurances or third parties liable for payments.

Art. 18.9 Other equivalent arrangements in the event of accidents

Companies may retain other equivalent arrangements.

Art. 19 Compensation during military service

Art. 19.1 Recruit training school

[1] During recruit training school, including basic training for single-term conscripts, compensation amounts are as follows:

– For unmarried recruits without dependants	65% of wages
– For married and unmarried recruits with dependants	80% of wages

[2] In the event of early transfer from recruit training school to another type of military service, Article 19.2 comes into effect.

[3] On completion of their basic training, single-term conscripts become subject to the provisions of Article 19.3.

Art. 19.2 Other military service

During other military service within one year:

– for one month	100% of wages
– for service exceeding one month:	
– for unmarried persons without dependants	50% of wages
– for married and single persons with dependants	80% of wages

Art. 19.3 Single-term conscripts and civilian service

On completion of basic single term conscript training or a period of civilian service corresponding to recruit school, compensation will amount to 80% of wages.

Art. 19.4 Longer military service

Companies may make compensation for service lasting longer than one month per year depend on an undertaking by the employee to continue employment for at least 6 months after military service.

Art. 19.5 Compensation for loss of earnings

The statutory compensation for loss of earnings is included in these rates. If the compensation for loss of earnings is greater than the rates specified in Article 19.1 and 19.2, the compensation rates shall be paid.

Art. 19.6 Scope of application

[1] These provisions cover all service in the army (including women's armed forces), civil defence and alternative civilian service, for which compensation for loss of earnings (EO) is paid and which is not explicitly termed voluntary.

[2] The above regulation applies to peacetime service. Any active service shall be subject to other agreements yet to be concluded.

Art. 20 Payments for other absences

[1] Employees subject to the Agreement shall be paid for the following absences:

	Duration
a) Wedding	2 days
b) Attendance at child's wedding	1 day
c) Birth of a child	1 day
d) Death of a spouse, child or parent	up to 3 days
Death of grandparent, parent-in-law, daughter-in-law or son-in-law, sister or brother, provided they lived in the same household as the employee	up to 3 days
Other	up to 1 day
e) School placement of own children by single parents with parental custody	½ day per year
f) Recruitment	up to 3 days
g) Setting-up or moving own home, provided no change of employer is involved	1 day
h) For care of sick family members living in same household, provided care cannot be organized elsewhere	up to 3 days

[2] Wages shall be paid for the above absences for the actual working hours lost, provided the employee suffers loss of earnings. Should a day of absence with respect to a) and c) fall on a work-free day or holiday, a day may be taken in lieu at a later date.

Art. 21 Public office and consultation as specialists

[1] It is recommended that companies facilitate the performance of official duties by employees holding public office. The potential time frame is to be established on a case-by-case basis by employer and employees.

[2] The company and the employee shall come to an agreement in each case on the payment of wages by the employer whenever the employee performs an official duty.

3 Experts commissioned by a canton or professional association to act as examiners in qualification procedures for mechanical and electrical engineering industries' occupations or examinations of the joint examination organizations pursuant to Article 53 shall be entitled to up to 7 days paid leave per year for this duty. They are also entitled to paid training leave of up to 3 days per year if they attend specialist courses organized by the federal or cantonal government or by a joint examination organization.

Art. 22 Further training

1 As a means of reinforcing competitiveness on the labour market, further training is the responsibility of employers and employees alike and is in the interest of both. Such training should therefore be encouraged in companies.
Further training is to be encouraged irrespective of age, sex, nationality and type of work.

2 Companies can promote further training by implementing the following, among other measures:
- annual personal development interviews and career advice, to jointly determine the further training required by the individual in question
- further training programmes and own courses
- participation in external institutions offering further training
- granting leave to employees prepared to undertake further training
- paying course costs in full or in part
- encouraging return to work.

3 Employees are called upon to develop their technical and personal skills, also through private initiative.

4 At regular intervals, management shall inform the employee representatives of further training activities within the company, both planned and implemented.

5 Employers and employees are called upon to take advantage of the further training offered by joint training institutions and by the contracting parties.

Art. 23 Leave for further vocational training and payment of costs

1 Employees are entitled to paid leave for further vocational training inside and outside the company provided that:

a) such further training relates to their current or future technical field, to languages which are useful in their work, or to improvements in their personal working techniques, performance, operational or social skills.
b) such further training serves to prepare the employees for new activities within the company.

c) such further training serves to prepare the employees for new activities outside the company, in cases where they are forced to relinquish the function previously held and no replacement can be offered within the company.
d) the employee is prepared to make her or his contribution in terms of money, free time, holidays or other benefits.
e) the further training is also useful to the employer.

2 Employees may also apply for a contribution towards the fees of such courses if such further training takes place exclusively in their free time.

3 It is recommended that companies allow at least three days per full-time equivalent position per year, or a corresponding financial provision, for further training.

4 The number of training days and/or financial resources provided shall be negotiated annually in talks between management and employee representatives.

5 Management and employee representatives shall appoint a joint committee which shall adjudicate in the event of disputes on the allocation of the overall amount of leave or financial resources available.

6 Management and employee representatives shall inform employees about the further training opportunities available.

7 If the further training undertaken is extensive, it is recommended that a written agreement be concluded between employer and employee stipulating the respective individual contributions required to enable the training to take place.

Art. 24 Leave for association activities

1 Employees have a right to paid leave for association activities in the bodies of the contracting parties if:

a) a statutory association event for the industry is being held, e.g. an industry committee, a sectoral conference, etc.
b) the employee is an elected member of the relevant association body
c) the employer has been informed in good time
d) the association pays no compensation for loss of wages or comparable per diem expenses.

2 Entitlement comprises a maximum of three days per year and cannot be transferred to a deputy or to following years.

3 Further entitlements for executive functions in associations may be agreed within companies.

Art. 25 Equal opportunities

1 Companies should encourage women in their careers.

2 Companies are recommended to observe the joint instructions of the contracting parties, and in particular:
- to make basic traineeships in the mechanical and electrical engineering industries more easily accessible to women
- to promote the continuing professional development of women
- to improve women's promotion prospects
- to encourage women to return to their previous occupation or take up a new occupation via appropriate working time models and special in-company facilities, e.g. crèches, children's lunch tables in the canteens, recreation rooms, etc.

3 For this purpose, individual support shall be given for career planning and training.

Art. 26 Taking account of family obligations

1 It is recommended that, subject to operating constraints, companies give particular consideration to the needs of employees with family obligations when establishing working structures and hours.

2 At the request of the employee and as far as permitted by company operations, companies are recommended to grant unpaid parental leave.

3 At company level, arrangements on the start and end of holidays, insurance questions and activities assigned to those returning to work should be settled between the company and the employee concerned on an individual basis.

Art. 27 Health protection and safety at work

1 Employers and employees shall cooperate in the implementation of all measures necessary to safeguard health and prevent accidents and occupational disease in plants.

2 Employees and employee representatives are to be informed and consulted on matters relating to health protection and the problems and risks involved in new products and procedures affecting them.

3 In organizing the work environment, special attention shall be paid to health protection and ensuring safety at work.

Art. 28 Safeguarding personal integrity

1 The personal integrity of employees shall be protected. Any conduct, acts, language or pictures offensive to the dignity of the individual shall be pro-

hibited and eliminated. Management, middle management and employee representatives shall cooperate in creating, through open communication within the company, an atmosphere of personal respect and mutual confidence such as to prevent abuses, encroachments, sexual harassment and general harassment («mobbing»).

2 The integration of foreign employees shall be supported, in particular by encouraging their language skills, and everything done to prevent an atmosphere inimical to foreigners.

Art. 29 Personnel information and monitoring systems

1 Employee representatives have the right to be informed at an early stage of any systems to be used to register and process personal data by electronic means and about the rules regulating access to such data.

2 Monitoring and control systems which are intended solely for checking employees' conduct at their workplace are prohibited.

3 If supervisory and control systems of this kind are used for other reasons, they must be designed and arranged in such a way that employees' personal integrity and freedom of movement are not excessively restricted.

Art. 30 The role of companies in state and society

1 Employers and employees accept that an enterprise in a social market economy can only be successful if it acts responsibly towards its employees, society and the environment both within an outside Switzerland.

2 Corporate management and employee representatives shall discuss how this responsibility can be discharged inside and outside the company.

3 Their corporate culture shall contribute towards creating a society in which both employers and employees have optimum opportunities for development and participation.

Art. 31 Staff pension provision

Pension funds are recommended to:

- make provision in their regulations for the possibility of flexible retirement and to cooperate with management and employee representatives in examining the introduction of part-time working models for older employees and similar arrangements.
- to ensure that their regulations take account of the special needs of employees with reduced workloads, in particular by calculating the amount of the coordination deduction accordingly.

Art. 32 Holiday pay

Full wages shall be paid for holidays taken during short-time working.

Art. 33 Company contribution during paid absences

Art. 33.1 Principle

1 For absences owing to sickness, accident, military service, public holidays and other paid days off work and for other paid absences, in addition to the reduced wages the company shall pay a contribution to those employees who – if they were working – would have drawn compensation for short-time working.

2 For loss of work not taken into account before and after works holidays or public holidays, the company shall pay a contribution, provided no benefits are paid by unemployment insurance.

3 If notice is given during continued short-time working, the company shall pay contributions once unemployment insurance benefits cease. An exception is notice of dismissal by the company on disciplinary grounds.

Art. 33.2 Amount

1 The company contribution is equivalent to the compensation that would have been paid for short-time working, subject to the following conditions.

2 The company contribution is reduced by amounts paid in the form of insurance benefits or remuneration wholly or partially compensating, or intended to compensate, the loss of wages (reduction of insurance benefits).

3 If there is sick pay insurance cover, the company contribution may be fully or partly substituted, specifically by continuing the insurance on the basis of the unreduced wage and with unchanged premium participation, provided this does not result in any overinsurance pursuant to statutory regulations.

Art. 33.3 Duration

The company contribution shall cease if the employer has no obligation to pay wages other than in the case of short-time working, e.g. owing to unpaid public holidays, prolonged sickness or accident, etc.

Art. 33.4 Reductions

In cases where only part of the wage is due to be paid, e.g. during military service, the company contribution shall be reduced proportionately.

Art. 33.5 Cross-border commuters

The company contribution for cross-border commuters who receive foreign unemployment insurance benefits during short-time working shall not be higher than if they were insured in Switzerland.

Art. 34 Exclusion of company contribution

[1] If other grounds exist which rule out any claim to compensation for short-time working, e.g. when the number of hours lost is negligible, etc., or if the claim is reduced through the fault of the employee, the company shall not pay any compensation.

[2] However, employees shall be entitled to a company contribution if the working hours lost during a period of short-time working only temporarily fall under the legally stipulated minimum limit.

Art. 35 Calculation of end-of-year bonus during short-time working

[1] The end-of-year bonus shall be calculated on the basis of the average wages paid during the preceding 12 months, excluding extras such as child allowance, overtime pay, etc. and excluding compensation for short-time working.

[2] For employees paid by the hour, the conversion factor of 173 for determining monthly pay shall be adjusted accordingly.

Art. 36 Objectives of participation

1 Employee participation at plant level is intended to achieve the following objectives:
- personal development of employees, job satisfaction
- strengthening employees' rights of participation and their responsibilities at plant level
- the promotion of a good working atmosphere
- the encouragement of interest in the work and efficiency of the company.

2 The contracting parties are prepared to encourage employee participation in plants:
- at the personal work level
- through employee representatives
- through the formation of ad hoc committees.

Art. 37 Employee participation at the personal work level

1 The contracting parties are of the opinion that the objectives of participation should first be encouraged at the personal work level. They believe that informed, thinking employees who participate in innovative processes will be best able to contribute their knowledge and skills, thereby boosting the innovative capacity of the company.

2 They believe that, in order to achieve this objective, management methods must be used which assign employees clearly defined tasks and a range of powers and responsibilities to match these tasks. Tasks are to be assigned in such a way that employees' knowledge and skills are fully utilized and that they are encouraged to participate in laying the ground for decisions and in the decision-making process. Employees are to be informed and encouraged through counselling, which may take place individually or in groups.

3 The contracting parties recognize that the application of such management principles must be based on the enthusiasm and continuous personal commitment of all concerned and therefore cannot be imposed by decree and organized on a blanket basis. The contracting parties support all measures which encourage such efforts.

Art. 38 Employee representative bodies

Art. 38.1 Establishing employee representative bodies

1 The contracting parties and management support and encourage the formation of employee representative bodies.

2 If no body representing employees exists at a plant or site, one tenth of the employees entitled to vote may request a ballot to establish whether there is a demand for representation in their area. If a majority of employees wish for such representation, management and employees shall hold a further ballot to elect representatives.

3 Where one or more employee representative bodies already exist, other representative bodies may be established if the following conditions are satisfied:
- The new area of representation must cover at least one third of all those entitled to vote at a plant or site, or fewer with the consent of management.
- The application must be submitted by one tenth of employees entitled to vote in the new area of representation and must be accepted by a majority of their number in a ballot.
- The new area of representation must make sense within the company's organization and must not be defined solely by personal qualities of the employees concerned.

4 Once new employee representative bodies have been established, they shall draw up statutes together with management and in accordance with the following provisions.

Art. 38.2 Changed areas of representation

If there is a wish to change the area of representation of an employees' representative body, the following shall apply:
- The employee representatives responsible for the new work sector must submit an application to management; management shall then invite other employee representatives affected to comment before the ballot takes place, and shall mediate if necessary.
- The change must make sense within the company's organization and must not be defined by the personal qualities of the employees concerned.
- The change must be approved by a majority of employees entitled to vote.

Art. 38.3 Election of employee representatives

1 All employees in the relevant area of representation covered by the Agreement shall be entitled to vote and stand for election. Trainees shall also be entitled to stand for election.

2 Eligibility to stand for election may be made subject to restrictions of up to 12 months with regard to length of service.

3 It shall be ensured that each part of the plant is adequately represented. If necessary, constituencies shall be formed.

4 If no member of a contracting party is elected, the union-member candidate with the highest number of votes may take a seat as a further representative if his or her association has at least 20% of all union members entitled to vote in the area of representation.

5 If association members have been elected, but from only one association, the company may co-opt a member of another association who gained the highest number of votes and whose association is sufficiently representative of the area of representation.

6 Electoral procedure shall be subject to further regulation by internal plant agreement between management and employees.

Art. 38.4 Status of employee representatives

1 The members of employee representative bodies perform an important function on behalf of the company and hold a special position of trust.

2 Management and superiors recognize the importance of the work of the employee representatives for the social partnership between the two sides of industry and will in particular prevent any discrimination in performance assessments and wage-setting.

3 Management and superiors will encourage the professional development of the members of the employee representative body and where necessary will grant them special assistance at the end of their term of office to help them become accustomed to new tasks.

Art. 38.5 Protection for employee representatives and members of boards of trustees

1 Employee representatives and members of boards of trustees managing company pension funds may neither be dismissed on grounds of acts performed in the course of their duties as employee representatives, nor suffer any other disadvantage (in respect of wages, professional development, etc).

2 If a company intends to dismiss an employee representative or a member of a board of trustees managing company pension funds, management must before doing so give him or her advance written notice of the grounds for dismissal. Dismissals on important grounds may be announced without prior notification.

3 Within five working days, the relevant employee representative or member of a board of trustees pursuant to par. 2 may request a meeting between management and the employee representatives concerning the proposed dismissal. This meeting must take place within three working days. At the request of one party, the ASM and the employee associations designated by the person concerned may subsequently also be called on to clarify and mediate.

4 Proceedings shall not take longer than one month; no notice of termination of employment shall become effective within less than one month, unless the person concerned has accepted it without objection. This period shall not commence until the notice period of 5 working days (see par. 3) has expired.

5 In the event of restructuring measures, only employee representatives enjoy additional protection, in that they must receive at least four months' notice for termination of employment unless the person concerned has accepted it without objection.

In addition, if it intends to make an employee representative redundant as part of a restructuring exercise, management must notify the employee representative body and call on the ASM and the employee association designated by the representative concerned to clarify and mediate, unless the representative concerned waives his or her right to such a procedure.

6 Any litigation relating to notice of termination shall be decided by a court of law.

Art. 38.6 Exercise of a mandate

1 Employee representatives shall be supported by management and superiors in the performance of their duties. Management shall brief direct superiors on the rights and responsibilities of employee representatives, their tasks and the time required to perform them. It is recommended that companies record these points in writing.

2 For the proper fulfilment of their task, employee representatives may, if necessary, perform their duties as representatives during working hours. The time needed to carry out such duties shall be regarded as working time. Where their duties are sufficiently demanding, individual members may arrange time off work on a regular basis or a part-time position, if necessary. The question of compensation shall be determined at company level.

3 In performing their duties, members of the employee representative body shall take account of operational procedures. They may leave work to attend to urgent business after informing their superior.

4 Management shall support the employee representatives in the performance of their duties and shall provide them with the necessary offices and resources. All expenses incurred in the course of exercising a mandate may be charged as necessary to a separate cost centre.

5 Management shall facilitate the dissemination of information by the employee representatives to employees.

6 Vis-à-vis non-company personnel other than persons charged with safeguarding the interests of the employees, the employee representatives are under obligation to maintain confidentiality regarding all company matters which come to their knowledge in their capacity as representatives. They are therefore entitled to discuss such matters with the representatives of the contracting parties who are obliged to maintain confidentiality.
By contrast, employers and employee representatives are under obligation to maintain confidentiality toward all persons regarding:

a) matters in relation to which either the employer or the employee representatives explicitly request confidentiality on legitimate grounds, due consideration being given to the employee representatives' right of participation
b) the personal affairs of individual employees.

7 Employee representatives and management shall discuss any public announcements to be made following their consultations.

Art. 38.7 Training leave for employee representatives

1 The company shall grant employee representatives 5 days of annual training leave (to be regarded as working days) for training to assist them in the performance of their duties. In special cases, in particular in the case of new representatives, training days may be carried over to a different year or additional days agreed upon.

2 The allocation and utilization of training days for employee representatives or their deputies is a matter to be decided by the employee representative body.

3 Employee representatives who are members of the boards of trustees of foundations managing company pension funds shall have the same entitlement to training days.

4 The employer should be given notice as early as possible of plans to attend courses or events for which training days are to be claimed, stating who the organizer is. The company's current work load must be taken into account.

Art. 38.8 General scope of duties

1 The employee representatives shall hear matters brought before them by employees and present them to management if further action appears necessary and provided they are not matters that should be dealt with through official channels. If a matter or complaint is taken further through official channels, support may be provided by the employee representative body or one of its members.

2 The employee representatives shall consider all matters submitted to them by management and give their views.

3 The employee representatives shall receive the information essential to their work from management and through contacts with the employees.

4 Management and employee representatives shall endeavour to maintain a good working atmosphere.

Art. 38.9 Cooperation between employee representatives and employees

1 Employee representatives shall base their views on information acquired through sufficient contact with the employees they represent.

2 They shall inform employees at regular intervals about their work and pass on information received from management, unless it has been explicitly declared confidential. On important matters requiring full information and immediate action, works meetings may be held during working hours by agreement between management and the employee representatives. Management shall have an opportunity to state its position at such meetings. The contracting parties on both sides can play an advisory role if necessary. In such cases, the company shall continue to pay the employees' wages.

3 If the employee representatives consider it necessary to put the matter to a vote, they must inform management in advance. Management shall assist in organizing and conducting the ballot if requested to do so by the employee representatives.

Art. 38.10 Cooperation between employee representatives and management

1 The employee representatives and management shall cooperate as partners. Management shall support the representatives in exercising their powers and performing their duties.

2 Management shall keep the employee representatives informed on the trend of business at regular intervals. The employee representatives must be informed at an early stage of any important company decisions which affect them, particularly where economic or technical structural change is involved.

3 The minutes of joint meetings must be signed by both parties and shall be made known to the employees in an appropriate form. Joint meetings shall be held during working hours. The company shall continue to pay the representatives' wages.

4 Wherever it appears necessary, the various employee representative bodies may be summoned by mutual agreement to a general meeting with management.

Art. 38.11 Participation rights

Participation rights are based on the following four levels:

a) **Information** means that company management shall keep the employee representative body informed of company affairs and offer it an opportunity to express its views.
b) **Consultation** means that specific company affairs shall be discussed with the employee representative body before a decision is taken by management. Employee representatives must be apprised of any decision taken by management and the decision must be justified if it is at variance with the employee representative body's position.
c) **Co-determination** means that in specific company affairs a decision may only be made with the consent of both the employee representatives and management. Co-determination involves both the provision of information sufficiently well in advance and the conduct of negotiations between management and the employee representatives on the subject at issue.
d) **Self-administration** means that certain tasks are entrusted to the employee representatives to be dealt with by them independently. The guidelines prepared for this purpose jointly by management and the employee representatives are binding.

Art. 38.12 Areas of participation

1 Management and employee representatives shall jointly lay down the scope of application of participation rights in a written agreement. The corresponding plant agreements shall remain in force for a maximum of five years unless the parties agree otherwise.

[2] All matters which the employee representatives need to know if they are to perform their tasks properly are to be placed on the level of information, in particular:
- trend of business, current developments and economic situation of the company (Article 38.10 par. 2)
- current organizational structure, number of employees, types of employment contract, employment developments
- decisions which may cause significant changes in work organization or employment contracts
- important developments affecting employees in the context of technical and organizational structural change (Article 8.10 par. 3)
- redundancies as a result of economic and structural problems (Article 44 para. 1)
- transfer of company ownership (Article 42 par. 1)
- further training activities (Article 22 par. 4)
- other matters specified in the plant agreement.

[3] The following areas are to be placed at least on the level of consultation:
- rules on shift work (Article 12.4 par. 3)
- fixing of public holidays (Article 14 par. 1)
- health protection and safety at work (Article 27)
- the role of companies in State and society (Article 30 par. 2)
- measures following company takeovers (Article 42 par. 2)
- large-scale redundancies (Article 46 par. 2)
- division of working hours
- determining breaks
- making up for time lost (laying down work-free days)
- introduction of short-time working
- holiday and annual leave plans
- performance-related pay systems
- workplace evaluation system
- personal evaluation system
- compliance with equal pay for women and men
- promotion of equal opportunities
- safeguarding personal integrity
- sick pay and accident insurance.

4 It is recommended that the following areas of participation be placed at least on the level of consultation:
- planning of longer periods of overtime
- suggestions-for-improvement scheme
- care and welfare
- data protection
- profit-sharing schemes
- staff canteen
- company magazine
- ecology and company environmental policy
- personnel information and monitoring systems (Article 29).

5 The following areas are to be assigned to the level of co-determination:
- implementation of standard annual working hours (Article 12.3 par. 1)
- granting leave for further vocational training (Article 23 par. 4)
- adjustments to working hours pursuant to Article 56
- divergences from the provisions relating to terms of employment pursuant to Article 57
- other matters in which plant agreements specify that decisions are only to be taken with the consent of both the employee representative body and management.

6 At the self-administration level, suitable areas of cooperation include:
- organization and activities of the employee representative body
- questions relating to leisure-time activities.

7 The following areas of participation are to be subject to arbitration:
- consequences of large-scale redundancies
- short-time working
- performance-related pay systems
- workplace evaluation systems
- personal evaluation systems.

Art. 38.13 Differences of opinion on participation issues

1 The determination of areas and rights of participation in companies pursuant to Article 38.12 and their specific application at plant level is not subject to the procedure set forth in Article 10 in the event of differences of opinion.

2 The provisions of the present Agreement are mandatory for the formulation of articles of association, election rules, participation programmes and other regulations. Regulations over and above these shall not be subject to the procedure to be followed in the event of differences of opinion pursuant to Article 10.

Art. 38.14 Contacts with employee representative bodies of other plants

[1] Where useful, companies are recommended to enable their employee representatives to have informative contacts with other employee representatives within the same group of companies in Switzerland.

[2] Where a European works council, or an equivalent information or consultation procedure, exists within an international group of companies, it is recommended that companies have Swiss employee representative bodies participate.

Art. 39 Ad hoc committees

[1] By mutual agreement between management and employee representatives, certain matters directly affecting employees and relating to their employment may be referred to special ad hoc committees (e. g. safety at the workplace, staff canteen, suggestions-for-improvement scheme, environmental protection in the company, questions of innovation etc.).

[2] The employee representative body is at liberty to choose whom to appoint to the employee delegation as it sees fit provided that it does not exceed the permitted number of delegates. Specifically, it may appoint particularly suitable employees to serve on the committee.

[3] The scope of such committees' appraisal and decision-making functions shall be decided on a case-by-case basis, as shall the permanent or temporary nature of its status.

Art. 40 Principles

1 The contracting parties regard the preservation and creation of jobs in Switzerland as a basic concern. They realize that this aim can only be achieved by companies that are innovative and globally competitive and that in an age of technical and economic change there is a constant need to replace old jobs by new ones.

2 The contracting parties agree that companies are to utilize all available possibilities for preserving and renewing jobs while maintaining the company's competitiveness.

3 The contracting parties acknowledge that technical and economic changes or changes in the market can make changes of plant ownership, redundancies and/or plant closures unavoidable.

4 The contracting parties agree that where companies decide to make employees redundant for economic reasons, suitable measures will be taken to avoid or alleviate personal and economic hardship for the workforce as far as possible.

Art. 41 Cooperation with the employee representative body when jobs are at risk

1 Companies are recommended to inform in good time the employee representative bodies of any foreseeable risk of layoffs as a result of necessary structural or organizational changes and to discuss with them possible measures for saving jobs.

2 Among other options, measures pursuant to Article 43 par. 3 and Article 57 should be examined.

Art. 42 Information and consultation in the event of a transfer of ownership of a company

1 Where the ownership of all or part of a company is transferred to a third party, the employee representative body, or, in the absence of such a body the employees, shall be informed by management both of the reason and of the legal, economic and social consequences of the transfer for the employees in good time before the transfer is effected.

2 Where a company takeover gives rise to plans for measures which will affect the employees, management shall, in good time, consult the employee representative body, or, in the absence of such a body the employees, on the measures before taking the decision.

Art. 43 Consultation with the employee representative body in the event of large-scale redundancies

1 If management intends to make a large number of employees redundant, it shall consult the employee representative body or, in the absence of such a body, the employees, in good time.

2 Management shall provide the employee representative body or the employees with all relevant information, inform them in writing of the reasons for the redundancies, the number of employees affected, the number of people normally employed and the period over which the redundancies are to be announced, and shall at least give them an opportunity to submit proposals on how the redundancies could be avoided or limited in number and on how their consequences could be alleviated (consultation).

3 The following measures, among others, might be taken to prevent or limit redundancies:
- redistribution of working hours
- switching to other jobs within the company or group of companies
- acquiring additional qualifications, retraining, further training
- outsourcing of work to affected employees
- application of Article 57 of the Agreement
- part-time work for older employees and early retirement packages.

4 An appropriate time frame shall be allowed for the consultation process with the employee representative body, taking account of the previous level of information and the scope of the intended measures (normally 12 working days).

5 Where management is planning a mass layoff pursuant to the Swiss Commercial Law, it shall inform the cantonal labour office and the contracting parties of its intentions, giving the reasons for the redundancies, the number of people normally employed, the number of planned redundancies and the implementation period. Dissemination of information can be made dependent upon addressee confidentiality declarations.

6 The employee representative body may seek advice from the employee associations; in this event, the latter shall treat the information disclosed as confidential. Dissemination of information can be made dependent upon addressee confidentiality declarations.

Art. 44 Information on redundancies

1 Where total or partial plant closures or drastic plant restructuring measures make it necessary to announce layoffs or where the relocation of operations means that employees are forced to give notice because the new site is too far away, the employee representative bodies, and subsequently the employees affected, shall be informed at as early a stage as possible.

2 Where a substantial number of employees are affected, the contracting parties shall also be informed at an early stage.

3 The information provided shall be as comprehensive as possible and shall include in particular the reasons for the redundancies, the number of employees involved, the number of people normally employed and the period over which the redundancies are to be announced. Information shall furthermore be provided on the measures due to be taken, their organization and the time frame of their implementation.

Art. 45 Measures to prevent or alleviate hardship in the event of redundancies

1 Where redundancies have to be announced pursuant to Article 44, employees' statutory and contractual entitlements shall be respected.

2 Where redundancies have to be announced pursuant to Article 44 par. 2 despite the implementation of measures as per Article 43 par. 3, other measures which might be taken mainly comprise the following:

- offer of other jobs with the same company or group of companies
- assistance from the employer in seeking employment (placement service, job centre, etc.)
- in-house or external retraining for a specific type of work
- preferential reinstatement in the event of positions becoming available
- support for affected employees in adjusting working conditions during transition to a new employer
- extension or, at the employee's request, shortening of periods of notice
- early retirement with additional benefits
- full transferability of company pension
- relocation assistance/reimbursement of commuting costs
- concessions with regard to company housing
- concessions with regard to existing loans
- concessions on the repayment of basic and further training expenses
- assistance in completing current basic and further training courses

- loyalty bonuses for employees who undertake to stay with the company beyond the period of notice
- early payment of bonuses for long-service anniversaries or company anniversaries due to occur within twelve months after termination of employment
- additional benefits in individual hardship cases
- establishment of a social compensation plan committee to monitor the implementation of the measures.

Art. 46 Negotiations relating to the consequences of redundancies

1 Individual employees who are affected are entitled to call on employee representatives to assist them and to mediate in reviewing these measures.

2 In cases of large-scale redundancies, employee representatives are entitled to request negotiations on the consequences of such decisions for the employees concerned. For these negotiations they may immediately request the presence of the contracting parties on both sides pursuant to Article 10.2.

3 The employee representative body may seek advice from the employee associations; in this event, the latter shall treat the information disclosed as confidential.

4 Where there are no employee representatives, this right may be exercised by majority resolution of the employees concerned, which may form a delegation for this purpose.

Art. 47 Principles

1 The contracting parties are convinced that a high standard of vocational basic and further training is of decisive importance for the companies' competitiveness and for employees' personal and professional development and long-term employment prospects.

2 They shall therefore support basic and further training in the companies, establish joint training and examining bodies, organize training courses and promote work on further training in the various associations.

Art. 48 Basic vocational training (apprenticeship training)

1 The contracting parties are committed to the Swiss system of vocational training and to fostering it and encouraging its further development.

2 The contracting parties shall assume special responsibility for maintaining and upgrading vocational traineeships. Suitable trainees shall be given the opportunity to attend senior vocational high schools (Berufsmittelschule) in order to obtain a diploma of graduation (Berufsmaturität). Trainees with corresponding needs shall be enabled to attend support courses and benefit from other personal development measures.

3 The contracting parties shall ensure that, in the course of their training, trainees are given information on the present Agreement by both contracting parties.

Art. 49 Further training

1 Employers and employees shall bear joint responsibility for the provision of continuous training and fulfil that responsibility in the context of Articles 22 and 23 of this Agreement.

2 The contracting parties shall provide support for further training in the form of joint training and examining bodies and joint campaigns and by promoting work on further training in the various associations.

3 Employers and employees shall be called upon to make use of the training opportunities offered by the joint training institutions and the contracting parties.

Art. 50 Joint committee on basic and further training

1 To coordinate their efforts in the field of basic and further training, the contracting parties shall form a permanent joint committee on basic and further training with tasks which will include the following:
- reciprocal provision of information and consultation on issues relating to basic and further training
- organization of joint campaigns to promote basic and further vocational training
- discussions on Switzerland's national policy on basic and further training.

2 The committee shall manage the further training fund under the terms of special agreements pursuant to Article 5 par. 5.

3 The committee shall be composed of one representative of each of the employees' associations and five representatives of the ASM.

4 The committee presidency shall alternate at regular intervals between the ASM and the employees' associations; the secretariat shall be run by the ASM.

Art. 51 The «sfb Training Centre» foundation

1 The contracting parties, together with other sponsoring agencies, shall run the «sfb Training Centre» foundation.

2 The purpose of the foundation is to promote basic and advanced training for specialists in the field of applied business management and allied fields and in the field of continuing technical vocational training and to provide such training itself.

3 The sfb courses are open to anyone who satisfies the admission requirements.

Art. 52 Joint training of employee representatives

1 The contracting parties shall run two joint working groups for training employee representatives from ASM member firms (AAA and AAB). The courses and events offered shall be open to all employee representatives who are entitled to training leave pursuant to Article 38.7 par. 1.

2 Employee representatives shall be trained for the functions they are to perform and taught subjects such as:
- principles of social partnership
- structure and application of the Agreement
- labour law and social security insurance
- economics and business management
- techniques for running meetings and negotiating skills
- company pension schemes
- practical committee work, etc.

3 To the extent that they are unable to cover their costs from their own revenues, the working groups shall receive grants from the solidarity contribution fund.

4 The working groups shall be run by joint boards; their offices shall be run by the ASM in return for a nominal lump-sum fee.

Art. 53 Joint examining bodies

For the purpose of examining industrial master tradesmen, specialist plant technicians and automation specialists, the contracting parties shall jointly run the following bodies which organize vocational examinations and higher specialized examinations pursuant to the law regulating vocational training (Berufsbildungsgesetz):
- the VIM, the association for higher examinations for industrial master tradesmen in the mechanical engineering industry
- the VBM, the association for vocational examinations for industrial technicians in the mechanical and electrical engineering industry and related industries
- the VAM, the association for vocational examinations for automation specialists in the mechanical engineering industry.

Art. 54 Principles of the present Agreement

The present Agreement continues the basic principles underlying the Agreement between the ASM and employee associations of 19 July 1937 and 15 December 1958, last jointly renewed on 1 July 1998, and extended from 1 July 2003 to 31 December 2005.

Art. 55 Regulations governing working hours

In the case of companies which made smaller reductions in working hours pursuant to Article 28 of the Agreement of 19 July 1983 or to Clause 1.9 of the Agreement on employment of 15 July 1983, the working hours applying on 30 June 1988 shall now be regarded as the basis for their standard normal working hours pursuant to Article 12.1 of the present Agreement.

Art. 56 Adjustment of working hours

In the case of companies with working weeks in excess of forty hours, which have been newly included within the scope of the present Agreement, management and employee representatives may reach agreement on gradually reducing the length of the working week to forty hours over a maximum period of five years.

Art. 57 Divergences from the provisions relating to terms of employment

Art. 57.1 Objectives and joint provisions

1 In order to preserve or create jobs in Switzerland, and in accordance with the following provisions, whole companies or specific parts of companies may, in exceptional situations, depart from the provisions relating to terms of employment contained in the present Agreement. Concurrent departures as per Articles 57.2 to 57.5 are excluded. Where the divergence affects only one part of a company, the procedures and conditions set out in the following provisions shall only apply to this part of the company.

2 All departures shall be considered within the framework of a comprehensive evaluation of the various measures which might contribute to the achievement of the relevant goal and the foregoing objectives. For divergences pursuant to Articles 57.3 and 57.4, particular consideration shall be given to the urgency/feasibility of the measures.

3 Type, duration, extent and terms of the divergence and possible compensations shall be fixed by management and employee representatives – and, in cases relating to Articles 57.3, 57.4 and 57.5, depending upon duration of the divergence, also by the contracting parties involved – in a written plant agreement. If there is no employee representative body, the agreement of the majority of the employees concerned is required. If no agreement is reached, the present Agreement shall apply.

4 Management shall submit a written proposal to the employee representative body which shall establish the necessity of the divergence on the basis of the required documentation. The employee representative body can in all cases discuss this proposal with representatives of the employee associations or – if there is no possibility of recourse to arbitration – demand immediate involvement of the contracting parties in accordance with Article 10.5. If there is no employee representative body, such involvement can be demanded via a majority of the employees concerned.

5 If the divergence concerns an increase in standard annual working hours, constant overtime in excess of the legal maximum may not be worked as well. Any overtime worked shall be paid with a supplement of 25%, including in compensation cases.

6 In the case of longer-term divergence, discussions should be scheduled at appropriate intervals between management and employee representatives regarding the progress and effects of the divergence. In the cases described in Articles 57.3, 57.4 and 57.5, and depending on the duration of the agreement, the contracting parties involved shall also be called in.

7 Divergences shall be announced in writing to the employees affected.

8 Contracting parties involved in these proceedings, either directly or in an advisory capacity, within the framework of these regulations are bound to maintain confidentiality.

9 The contracting parties shall observe the general development of divergences and hold a discussion in this regard at least once a year.

Art. 57.2 Divergences to adjust to specific capacity cycles

1 If the divergence concerns an increase in the number of hours which may be carried over as per Article 12.2 d), up to a maximum of 200 excess hours, or an extension of the period for the calculation of standard annual working hours as per Article 12.1 up to a maximum of 18 months, this shall be negotiated and agreed upon by management and the employee representative body.

2 The plant agreement shall be reported to the ASM immediately; the ASM then promptly informs all contracting parties.

3 The divergence shall be announced to the employees affected in writing.

Art. 57.3 Divergences to carry out special innovation projects

1 To carry out individual, special innovation projects (product/process innovation projects), exceptional and temporary divergence from the present Agreement's provisions relating to terms of employment (Articles 12.1, 12.5) is permitted for employees directly involved in these projects. If the divergence concerns an increase in standard annual working hours, constant overtime in excess of the legal maximum may not be worked as well. If a divergence agreement is followed by large-scale redundancies, the divergence becomes invalid and, where applicable, subject to renegotiation.

2 The divergence agreement can be concluded for a maximum period of 18 months at plant level. Should the agreement be concluded for a longer period or extended after 18 months, management immediately reports this to the ASM, which then promptly informs the contracting parties. The contracting parties declare their participation in the proceedings within seven days of receiving the written announcement. The plant agreement only comes into effect if not only management and the employee representative body but also the majority of the contracting parties involved in the proceedings give their consent.

3 If a contracting party detects improper application of Article 57.3, it can apply to the ASM to institute negotiations on the continuation of the divergence.

Art. 57.4 Divergences to overcome financial difficulties

1 To overcome financial difficulties, exceptional and temporary divergence from the present Agreement's provisions relating to terms of employment (Article 12.1, 12.5) is permitted. If a divergence agreement is followed by large-scale redundancies, the divergence becomes invalid and, where applicable, subject to renegotiation.

2 Management should inform the employee representative body of the financial difficulties and the possibility of an application of Article 57.4 in good time.

3 The divergence agreement can be concluded for a maximum period of 24 months at plant level. Should the agreement be concluded for a longer period or extended after 24 months, management immediately reports this to the ASM, which then promptly informs the contracting parties. The contracting parties declare their participation in the proceedings within seven days of receiving the written announcement. The plant agreement only comes into effect if not only management and the employee representative body but also the majority of the contracting parties involved in the proceedings give their consent.

4 The plant agreement shall be reported to the ASM immediately; the ASM then promptly informs all contracting parties.

Art. 57.5 Divergences to improve competitiveness

1 Insofar as necessary to improve the competitiveness of a company and its jobs, divergences from Article 12.1 are permitted and standard annual working hours may be increased up to a maximum of 2210 hours. While such an exception is in place, there shall be no regular overtime, no application of Article 57.2 and no additional wage reductions. If a divergence agreement is followed by large-scale redundancies, the divergence becomes invalid and, where applicable, subject to renegotiation.

2 The divergence agreement can be concluded for a maximum period of 30 months; after this period, any extension is subject to renegotiation.

3 If management proposes to increase annual working hours pursuant to Article 57.5, it shall report this to the ASM immediately; the ASM then promptly informs the contracting parties. The contracting parties declare their participation in the proceedings within seven days of receiving the written announcement. The plant agreement only comes into effect if not only management and the employee representative body but also the majority of the contracting parties involved in the proceedings give their consent.

Art. 58 Entry into force

The present Agreement shall come into force on 1 January 2006 and shall remain in force up to 31 December 2010.

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