

January 1, 2012 - December 31, 2013

Collective  
Labour Agreement



Saba Health Care Foundation

Sint Eustatius Health Care Foundation

Benevolent Foundation Saba

Auxiliary Home Sint Eustatius

English

TRANSLATED FROM DUTCH CLA SIGNED JULY 6, 2012

## **Collective Labour Agreement**

The undersigned:

Saba Health Care Foundation, domiciled in Saba,  
and  
Sint Eustatius Health Care Foundation, domiciled in St. Eustatius,  
and  
Benevolent Foundation Saba, domiciled in Saba,  
and  
Auxiliary Home Sint Eustatius, domiciled in St. Eustatius,

hereinafter referred to as the "**Employers**",  
on the one hand,

and

Windward Island Health Care Union Association (WIHCUA), domiciled in St. Maarten,  
hereinafter referred to as the "**Union**",  
on the other hand,

together referred to as the "**Parties to the CLA**",

considering that parties jointly strive for creating and maintaining good labour relations and efficient and fair terms and conditions of employment, declare that they have hereby entered into the following Collective Labour Agreement:

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## **I - Preamble**

### **Implementation and duration**

The CLA shall commence as per January 1, 2012 and shall have a duration of two years until January 1, 2014.

Adjustments to terms and conditions of employment compared to the prevailing regulations shall be implemented for each Employee after this CLA has actually been signed, with retroactive effect until January 1, 2012. In case signing takes place in June 2012, effort will be made to set off these changes in the payment month of June, based on the first months of 2012. Further arrangements can be made with the Union for the determination of issues that are hard to trace back in retrospect (for instance, unsocial hours allowance percentages and overtime).

In 2013, consultations shall be initiated in a timely fashion to update and, wherever necessary, adjust this CLA for a subsequent period as of January 1, 2014.

### **Salary Structure**

The salary structure as contained in the Execution rules salary (Article 20J and Appendix I: FWG Salary Structure BES 2012) shall commence on January 1, 2012 and shall be applied with retroactive effect to the salaries of current Employees.

### **Scope of the CLA**

The Collective Labour Agreement (CLA) is an agreement between the Employer and the Union. The CLA implies that the Employer, as referred to in the definitions hereinafter, must apply the terms and conditions of employment, as laid down in the CLA, to the Employees. The Employer and the Employee do need to conclude an individual labour agreement.

### **Systematic Social Policy**

The Employer shall give shape to the planning and implementation of a social policy. The Parties to the CLA shall make an effort to bring about social regulations in which the social policy is designed in more detail within a reasonable period after signing this CLA.

For this purpose, the Employer, after consulting with the Union, shall draw up a list of priorities each year, indicating which parts of that social policy shall be implemented in the next years, and explaining in outline the manner in which, and stating the period of time probably involved in the implementation.

The implementation of this plan shall at any rate be discussed during the Deliberations (Article 40), which shall be held between the Employer and the Union twice per year, and in which general affairs of the Employer are discussed.

If, in the opinion of the Employer, changes must be introduced for reasons that are of importance to the health care institution, or the implementation will take a period that is considerably longer than estimated, the Union shall be timely informed by the employer, stating the reasons, and allowing the Union to issue an advice.

### **Use of Language**

For "he", "him", "his" we shall also read in this CLA "she", "her".

## **I - Preamble - A. Definitions**

In this CLA the following terms shall mean:

### **a.) The Employer**

Saba Health Care Foundation, Sint Eustatius Health Care Foundation, Auxiliary Home Sint Eustatius, or Benevolent Foundation Saba, represented by the Board of Directors of this organization.

### **b.) The Employee**

The person who signed a labour agreement with the Employer referred to under sub a., and who carries out scheduled or non-scheduled work, unless the person concerned:

1. has reached the retirement age;
2. occasionally carries out work on call, Art. 1613ca Civil Code of the BES shall be decisive for what is and is not considered 'occasional';
3. only works at the Employer as a trainee;
4. is the Chairman of the Board of Directors in the institution of the Employer. For the purposes of this Agreement, Chairman of the Board of Directors shall mean the person who has been charged as such with the policy formulation, as well as the overall management of the Employer, and who is directly accountable to the Supervisory Board. The Employer, referred to under sub a., decides who shall act as Chairman of the Board of Directors according to this definition;
5. has been appointed a pharmacist, island physician, and/or medical specialist.

### **c.) Domestic Partner/Child/Family Members**

#### **1. Domestic Partner:**

The registered partner or the person with whom the Employee lives together without being married. There is question of living together without being married, if two unmarried persons run a joint household, except for blood relatives to the first or second degree, which shall be proven by a census excerpt at the census office submitted by the Employee to the Employer in evidence thereof.

#### **2. Child:**

The minor person:

- a. who has been born of the female Employee, or who has been adopted by the female Employee in accordance with the Civil Code of the BES;
- b. who is born during the marriage of the male Employee;
- c. who has been acknowledged by the male Employee;
- d. in whose benefit letters of fatherhood have been issued with regard to the male Employee;
- e. who has been adopted by the male Employee;
- f. who has not been mentioned in aforementioned paragraphs, but who is considered a child of the male Employee in accordance with the Civil Code of the BES;
- g. who is considered a stepchild of the Employee;
- h. who is considered a foster child of an Employee. In this CLA, a foster child shall mean the child that is maintained and raised by the Employee as if it were his own child.

3. Family Members:

The spouse, the domestic partner, and/or the child who is/are supported by the Employee for more than 90%.

**d.) Salary**

The gross monthly salary applicable to the Employee.

**e.) Daily Salary**

The monthly salary multiplied by 3 and divided by 65.

**f.) Hourly Wages**

Hourly wages shall mean 1/173.33 part of the salary based on full-time duties.

**g.) Occupational Disability**

Occupational disability as referred to in Art. 1615 h, paragraph 2, Civil Code of the BES.

**h.) Official Holidays**

The official days mentioned in the Labour Act 2000 BES in Article 23, paragraphs 1 to 4. If the Labour Act 2000 BES is amended as regards the official holidays during the term of the CLA, the amended provision shall apply.

**i.) Union**

Windward Island Health Care Union Association (WIHCUA).

**j.) Care Seeker**

When reference is made to care seeker, this shall be taken to mean patient and/or client.

**k.) Sickness Report Form**

The form and/or the procedure provided and/or prescribed to the Employee in case of sickness, whether or not also pursuant to the Health Insurance Act BES<sup>1</sup>.

**l.) Accident Report Form**

The form provided to the Employee in case of an industrial accident and falling under the rules of the Accident Insurance Act BES.

**m.) Calendar Year**

The period of January 1 through December 31.

**n.) Commitment**

The good will obligation of parties to do what is in their ability.

**o.) Parties**

The Employer and the Union.

**p.) Working Hours Regulations**

A work list as referred to in Article 28, Labour Act 2000, stating for each Employee: the daily working hours, the daily rest hours, and the total number of working hours per week.

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<sup>1</sup> This Act provides for the rights and obligations to pay sick pay.



**q.) Superior**

The Employee who is deemed to supervise a group of Employees, a department, and/or part of the organization. The Employer shall decide who is or is not to be considered a superior, while the job description shall be decisive, in principle.

**r.) Shifted Duty**

There is question of a shifted duty, if a number of consecutive hours, during which the Employee should work according to schedule, is shifted to any other time at which the Employee should not have to work according to schedule, in accordance with Article 16D Shifted Duties

**s.) Labour Act 2000 BES**

Formerly the State Ordinance of July 27, 2000 providing for the adoption of new rules concerning working time, working hours, and overtime.

**t.) Working Time**

The number of hours the Employee works per week or per day, not including overtime. The working time of an Employee working a full-time job amounts on average to 40 hours per week. The working time of a part-time Employee amounts on average to less than 40 hours per week.

**u.) Full-time Job**

There is question of a full-time job, if the working time of the Employee amounts on average to 40 hours per week.

**v.) Part-time Employee**

The Employee whose contractual working time amounts on average to less than 40 hours per week.

**w.) Working Period**

The periods within which the Employee carries out work.

**x.) Working Hours**

The hours at which the Employee begins and ends work.

**y.) Rest Periods**

The period during which it is prohibited to have work carried out, other than by way of overtime.

1. Rest Period of the Employee - Non-Scheduled Worker:
  - a) each day, the time between 07:00 am and the time after 08:00 pm;
  - b) the weekly rest day, for the purposes of this CLA being the Sunday;
  - c) weekly, at least twice the part of a day, other than the rest day referred to under sub b, preceding or following on 01:00 pm, for the purposes of this CLA being the Saturday;
  - d) official holidays.
  
2. Rest Period of the Employee - Scheduled Worker:
  - a) each day, the period before and after the working time of the Employee, on the understanding that his rest period shall be at least 11 consecutive hours within a consecutive period of 24 hours, albeit that the consecutive rest period may be reduced once to at least 8 hours within a consecutive period of seven times 24 hours, starting at the time of the day at which the Employee carries out work;

- b) the weekly rest day applicable to the Employee according to his work schedule;
- c) weekly, at least once the part of a day, other than the rest day referred to under sub b, preceding or following on 01:00 pm;
- d) the official holidays, provided the Employee does not carry out work during these official holidays according to his work schedule, on the understanding that the Employee shall be exempt from work at least 5 official holidays per calendar year.

**z.) Scheduled Work**

Work, not being overtime, carried out based on a periodic schedule at different times, so that the working period falls entirely or partly within the rest period of the non-scheduled worker.

- Employee - Scheduled Worker:  
The Employee who carries out scheduled work.
- Employee - Non-Scheduled Worker:  
The Employee who does not carry out scheduled work.

**aa.) Week**

A period of seven consecutive days.

**bb.) Rest Day**

The Sunday or the day replacing the Sunday of the Employee who carries out scheduled work on a Sunday according to his work schedule.

**cc.) On-Call Duty**

A time span between two consecutive shifts or during a break, during which the Employee is obligated to be available to carry out the work stipulated on call as soon as possible in case of unforeseen circumstances.

**I - Preamble - B. Scope of application**

This CLA shall apply to the Employer and Employee as described above.

If, by or pursuant to statutory provisions, including, without being limited to the Labour Act 2000 BES and the Civil Code BES, rules have been or could be stipulated, which may not be deviated from, this CLA shall only apply, provided it is not contrary to these statutory provisions.

The CLA shall be governed by Dutch law as it applies in Bonaire, Saba, and St. Eustatius (BES).<sup>2</sup>

Unless stipulated otherwise in the CLA, the Employer may not deviate from the provisions of the CLA or agree on terms and conditions of employment with the Employee, which are not provided for in this CLA.

The Dutch text of the CLA is binding.<sup>3</sup>

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<sup>2</sup> Articles of law to which reference is made in the text have been added as an appendix to the CLA. If, during the term of this CLA, the statutory regulations concerning subjects of this CLA are amended, the consequences thereof and the effect on the CLA provisions can be discussed with the Union, while the starting point shall be that the Employer shall apply mandatory provisions, while the CLA provision shall continue to apply to non-mandatory provisions, in principle.

<sup>3</sup> The text of the CLA, as well as of articles of law to which reference is made in this CLA shall be available for all Employees, both in Dutch and in an English translation.

## **II. Terms and Conditions of Employment**

### **Article 1. The labour agreement**

1. The labour agreement shall be entered into and/or modified in writing and be drawn up in duplicate. The future Employee shall receive two copies of the labour agreement signed by the Employer, as well as a copy of the CLA. The Employee shall submit a labour agreement co-signed by him to the Employer no later than before the effective date of the employment. At the time of entering the employment, the Employer is obligated to inform the Employee in writing of the classification of his position at the Employer. Each Employee who enters into an individual employment contract with the Employer shall be made aware that he is entitled to consult the Union.
2. The written contract shall state:
  - a) the name, place of domicile, and address of the Employer, as well as the position(s) of the person(s) representing the Employer for the purposes of the contract;
  - b) the name, given names, address, place of birth, and nationality of the Employee;
  - c) the effective starting date of the employment;
  - d) whether the labour agreement has been entered into an indefinite or definite period of time, and, in the last case, a clear indication of the nature and/or duration of the agreement;
  - e) the notice period, if it deviates from the statutory notice period;
  - f) the duration of the trial period, which has been set at 2 months in accordance with Article 1615n of the Civil Code BES, provided such a trial period has been agreed on;
  - g) a job description of the position to be held by the Employee;
  - h) the salary in accordance with the Salary Structure, if possible, stating the corresponding scale;
  - i) the working time;
  - j) the number of vacation days the Employee is entitled to during the current calendar year, provided the employment contract is not terminated in the course of that calendar year;
  - k) whether the Employee is made a member of a pension scheme by the Employer;
  - l) the provision that this CLA and the employment contract form one entirety with each other.

### **Article 2. Duration of the labour agreement**

The employment shall primarily be entered based on a contract for a definite period of time, unless otherwise agreed upon in writing. If the employment is continued, it shall be determined whether the Employee qualifies for an employment for an indefinite period of time (permanent employment), which can be based on criteria like the staff planning, the evaluation, and work attitude of the Employee.

### **Article 3. Medical and psychological examination and background screening**

1. The Employer shall determine whether a prospective Employee must submit a medical certificate showing his suitability for the position to be held before entering into an employment contract.
2. The physician, who may be designated by the Employer, may not be an Employee of the Employer and, preferably, may not be the general practitioner or a relative by blood or affinity (up to the fourth degree) of the applicant.

3. The physician shall remain responsible for the information resulting from this examination. The prospective Employee shall be entitled to inspect the advice of the physician, before the physician sends it to the Employer.
4. The costs associated with this examination shall be for the Employer's account.
5. If the appointment is preceded by a psychological examination, such examination shall be conducted by a registered psychologist.
6. The Employer may apply for (or arrange for third parties to apply for) a certificate of good conduct prior to the employment of the Employee. If the Employee is employed pending the results of the investigation, a negative result may lead to termination.

#### **Article 4. Medical examination**

1. As often as is reasonably deemed necessary, the Employer may oblige the Employee to undergo a medical examination and/or check-up if the purpose thereof is to create a preventive effect on the health situation within the Employer's organization or if there is question of long-term - more than 6 weeks - and/or repeated occupational disability.
2. The Employer is obligated to vaccinate the Employees who qualify for this in accordance with the guidelines of the Inspectorate of Public Health, the Environment, and Hygiene.

#### **Article 5. Mutual obligations of the employer and employee**

1. The Employee is obligated to carry out the work agreed on to the best of his ability and to behave in accordance with the instructions given by or on behalf of the Employer. Nevertheless, the Employee shall be entitled to refuse carrying out certain instructions on grounds of serious conscientious objections. In this case, the Board of Directors shall ensure measures are taken up within the department of the Employees concerned, so that this right is enforceable. The Board of Directors shall provide the correct information to all persons concerned within the department.
2. Within reasonable limits, and insofar as directly or indirectly ensuing from the interests of the job or the Employer, or if such special circumstances present themselves, the Employee is obligated to agree to:
  - a) a change in the activities belonging to his position for a short period not exceeding one month;
  - b) a change in his working hours schedule for a short period and not exceeding one month;
  - c) participating in additional training and refresher courses, if this is required for the performance of his/her duties;
  - d) granting his cooperation to make reintegration in case of occupational disability possible.
3. In all cases referred to in sub 2, the Employee shall be consulted in advance unless this is not reasonably possible, in which case he shall still be consulted as soon as possible.

#### **Article 6. Non-disclosure agreement**

1. The Employee is obligated to observe secrecy with regard to all information that comes to his attention in the performance of his duties, provided this obligation ensues from the nature of things or has been expressly imposed on him. Within this framework, the Employees shall sign a non-disclosure agreement. Violation of this agreement during the employment may constitute an urgent cause for dismissal. This obligation shall also apply after termination of the employment.

2. The obligation of secrecy shall not apply to those who share in the responsibility for a proper performance of the duties of the Employee, nor to those whose cooperation in this performance is to be considered necessary, if, and insofar as they are obligated or undertake to observe secrecy, and this with due observance of the statutory provisions concerning professional secrecy.
3. The Employer is obligated to observe secrecy with regard to all information that comes to its attention as regards the person of the Employee arising from his function, unless the Employee grants permission to provide information relating to his person.

#### **Article 7. Impediment**

If the Employee is impeded from carrying out his work, he is obligated to notify or arrange for third parties to notify the Employer thereof, stating the reasons, as soon as possible, preferably at least 1 hour before the beginning of this working time but not later than within 1 hour after the beginning of his working time, without prejudice to the provisions on occupational disability or any sickness absence rules.

#### **Article 8. Outside employment, Provision of services**

1. The Employee may not hold an ancillary position against payment or not, or carry outside activities against payment or not, which may be deemed in reason to be incompatible with his position or with the interests or the reputation of the institution.
2. In case of doubts about the (in)compatibility of any ancillary position(s), the Employee may be expected to consult with the Employer first.
3. The Employee shall inform the Employer of any side activities existing at the time of concluding this Agreement, falling under this Article, as soon as possible after conclusion, after which the Employer shall grant its permission for the existing side activities within the limits of reasonableness and fairness.

#### **Article 9. Gifts, rewards, inheritances**

1. The Employee may not:
  - a) participate directly or indirectly in any contracting, working and/or deliveries for the benefit of the Employer or act as an intermediary in any way;
  - b) claim and/or accept gifts, commission, or a reward from patients or the public and/or suppliers with whom the Employee has contact in the performance of his duties.
2. The Management Board may grant an exemption in writing on a case-by-case basis.

#### **Article 10. Company property**

1. The Employee is obligated to administer carefully the company goods - goods entrusted to his care by the Employer.
2. The Employee is obligated to compensate in whole or in part any loss suffered by the Employer with regard to these goods and/or the use thereof, provided this loss was caused by intent or wilful recklessness.
3. The Employee may not use company goods he has in his possession and/or in use for his own benefit or for any purpose other than for which they have been handed over by the Employer.
4. The Employee shall return to the Employer all goods in his possession, which belong to the Employer or to which the Employer is entitled for any other reason, on the Employer's first demand.

5. At the time of termination of the employment, the Employee is obligated to hand in aforementioned goods, also including the work clothing or uniform and badges issued to him. In case of loss or failure to hand in aforementioned goods, the Employee is obligated to pay reasonable compensation to be determined by the Employer. The Employer may set off the compensation against the final wage payment to the Employee.

#### **Article 11. Alcohol and drugs**

1. The Employee is obligated not to be in the possession of alcohol or drugs, use them, or be under the influence of alcohol or drugs during his working hours.
2. This obligation shall extend beyond his working hours, if, before or after his working hours, the Employee:
  - a) wears a uniform or other work clothing of the Employer;
  - b) whether or not as driver, makes use of a company car;
  - c) is on the premises of the Employer, or
  - d) has on-call duty.

#### **Article 12. Obligations of the employer**

1. The Employer is obligated to do and omit everything that a good Employer should do or omit under similar circumstances.
2. The Employer is obligated to publish the policy on care-ethical issues, provided this is necessary for the performance of the duties by the Employees.
3. The Employer shall provide the Employee with the personal, instrumental, and spatial facilities necessary.
4. If the necessity thereof is clear to them, parties shall verify together what the options are as regards to child care for the benefit of the Employees.

#### **Article 13. Damage liability for employee**

1. The Employer is obliged to have an insurance, which covers the personal civil-law liability of the Employee on account of death, bodily injury, and/or property damage caused to third parties in the performance of his duties, including damage caused to third parties by the person who is supervised by the Employee during work on the instructions of the Employer.
2. The Employer shall indemnify the Employee against forementioned liability and shall waive any possibility of taking recourse against the Employee, except for the cases in which the damage is due to intent, recklessness, or gross negligence of the Employee.

#### **Article 14. Material damage compensation**

1. Material damage caused to the Employee by a patient, which could not have been prevented in reason, shall be paid by the Employer based on the following.
2. For the purposes of this CLA, material damage shall only mean damage to goods of the Employee. The damage mentioned shall be paid up to a maximum of USD 3,000.00 per event.
3. To qualify for compensation, the Employee shall prove that:
  - a) a patient caused the damage;
  - b) he cannot be compensated in any other way;
  - c) the damage was caused in the performance of his duties.
4. By compensating the Employee pursuant to this Article, the Employer shall be subrogated to the rights the Employee could have vis-à-vis the person who caused the damage, up to a maximum of USD 3,000.00.

### **Article 15. Interest representation for employee**

Without prejudice to the Employee's power to plead personally for his interests before the Employer, the Employer shall give the representative(s) of the Employee the opportunity, after a request to this effect of the Employee or his representative(s), to plead orally or in writing for the interests of the Employee before the Employer. The Employee shall be entitled to be present at all times.

### **Article 16. Working Time and Working Hours**

The working time and working hours of the Employee shall be determined in accordance with the provisions of the Working Time and Working Hours Implementation Regulations.

### ***EXECUTION RULES WORKING TIME AND WORKING HOURS***

#### **16 A. Working Time**

1. The number of hours during which work is carried out shall amount to 40 hours per week in case of a full-time job.
2. The working hours shall be scheduled by the Employer in consultation with the Union.

#### **16 B. Working Hours**

1. A working hours schedule shall apply to each Employee.
2. The working hours provisions shall be applied with due observance of the Labour Act BES 2000.
3. The working hours of the Employee - non-scheduled worker, shall preferably be between 7:00 am and 6:00 pm, from Monday through Friday.
4. As regards the Employee - scheduled worker:
  - a) the working hours shall be determined based on a schedule;
  - b) the working hours may fall in whole or in part within the rest periods of the Employee - non-scheduled worker;
  - c) the working hours shall be laid down in a schedule for the duration of 1 month. The Employee shall be informed of this schedule at least 10 days in advance.
5. Shifts falling in whole or in part between 7:00 pm and 7:00 am may only be assigned to Employees 18 years and up.
6. The shifts shall be worked consecutively as much as possible. All this shall take place by mutual consent.

#### **16 C. Scheduled Days Off / Rest Day / Weekends Off**

1. If the working hours are per schedule, the Employee - scheduled worker shall be granted 1 rest day and 1 part of a day off, before or after 1:00 pm, per consecutive period of seven days, as referred to in Art. 9, sub 2, under c of the Labour Act 2000 BES. The Employee shall at any rate receive one weekend off per month and/or 12 weekends off per year, including vacations.
2. Only if the periods of being off duty referred to in the definitions cannot be granted in case of a change of shifts, this may be deviated from at most twice in a period of 28 days.
3. Changes in the normal schedule applicable to the Employee - not arising from force majeure - shall be communicated to the Employee at least 24 hours before these changes become effective.

#### **16 D. Shifted Duties**

1. If, due to circumstances of a very special and occasional nature, the interests of the service so require, the Employer, having heard the Employee, may:
  - a) deviate from 16B, sub 4;
  - b) deviate from 16C, sub 1;
  - c) introduce a change to a schedule that has already been established.
2. If the Employer applies the acts of sub 1 and, consequently, introduces a change to a schedule that has already been established, the Employee shall receive compensation, if he already incurred expenses within the framework of leisure activities.
3. If the Employer applies the acts of sub 1 and, consequently, a shift occurs in an established schedule within 24 hours after having notified the Employee, the Employee shall receive - without prejudice to the provisions of sub 2 of this Article - compensation as referred to in Article 21C of the Execution rules overtime in addition to the hourly wages in respect of the hours of this shifted duty.

#### **16 E. Transfer of duties**

Transfer of duties shall take place during the working hours.

#### **16 F. Compensation official holidays**

1. On official holidays, not falling on a Saturday or Sunday, the Employee shall have a day off on full pay, except for the Employee-scheduled worker who has to work according to this schedule.
2. The Employee-scheduled worker who works on an official holiday according to his schedule, shall receive a compensation of 150% of the hourly wages in addition to the normal hourly wages for the number of hours worked.

#### **16 G. Breaks**

1. During each daily working period, two coffee/tea breaks shall be given, provided the service so permits, viz.: once in the morning, afternoon, evening, or night.
2. Coffee and tea breaks taking less than fifteen minutes shall be considered working hours. The time of coffee/tea breaks, as well as the lunch break may not be taken as accumulated time off.

#### **Article 17. Job Evaluation**

1. All positions have been described and evaluated in accordance with the FWG job evaluation system.
2. With due observance of what is stated hereinafter, the Employer has classified the Employee's position into one of the salary scales in accordance with the applicable salary structure.
3. The classification referred to above has been laid down in a job description file.
4. For the purposes of this Article, the job description file shall also be deemed to belong to this Article.
5. The Employee shall be entitled to inspect the job description file.

#### **Article 18. Salary**

The salaries shall be paid in accordance with the provisions of the Salary Implementation Regulations of this CLA. Pursuant to Article 21B of this CLA, the Employer shall determine the salary scale corresponding to the position.



### **Article 19. No Salary**

In respect of the period during which the Employee fails to carry out his work contrary to his obligations, the Employer shall not owe him any salary, unless this CLA stipulates otherwise.

### **Article 20. Salary Payment**

1. Not later than the 25<sup>th</sup> day of each calendar month, the Employee shall have received his salary in respect of that month.
2. The allowances as described in articles 21-28 shall be paid no later than at the end of the calendar month following on the month in which the Employee has become entitled thereto.
3. The Employee shall always be informed in writing of changes in the gross salary.

## **EXECUTION RULES SALARY**

### **20 A. General**

The salary scales have been inserted in paragraph J of this Article and Appendix I to this CLA. The amounts stated in the salary scales shall apply to full-time Employees. Employees performing part-time duties shall receive a salary in proportion to the number of hours worked, based on a 40-hour workweek.

### **20 B. Salary Structure**

Based on the job classification pursuant to Article 17 of the CLA, the Employer shall decide which functional salary scale applies to the Employee. The amount of the salary scale corresponds to the total rating awarded of the job evaluation.

### **20 C. Application Salary Structure**

1. The Employee who falls under the functional scale shall be classified for the amount stated under 0 function years in this scale, or, if the Employer is of the opinion that the required experience gives reason to do so, for a higher increment in this scale.
2. When classifying the different positions into the functional salary scale, the work experience acquired elsewhere in aforementioned positions shall also be considered years of service.

### **20 D. Periodical Increments**

1. Once per calendar year, the permanently employed Employees shall be granted a salary increase within the functional scale, provided the evaluation gives reason to do so. The increment shall be granted for the first time as of January 1 following on the year in which the Employee was permanently employed.
2. The granting of the increment referred to in sub 1 shall be linked to a staff evaluation system established by the Employer. If the application of this system gives reason to do so in the opinion of the Employer, the Employer may decide not to grant a salary increase within the functional scale in any year.

### **20 E. Special Allowances**

1. The Employer may grant a gratification or a (temporary) allowance, for instance based on performance or the labour market situation.
2. The gratification and temporary allowances are not of a structural nature and shall not be included in the pensionable salary.

## **20 F. Promotion**

In case of promotion to a position that has been classified into a higher function group, the salary shall be derived from the functional scale of the new position, on the understanding that the salary received so far shall be increased by 1 increment, and that the new salary shall at least be equal to the minimum amount of the functional scale of the position the Employee was promoted to, but may not exceed the maximum amount of the scale belonging to this higher position.

## **20 G. Replacing**

1. The Employee who has been designated by the Employer to be temporarily responsible entirely or almost entirely for a higher classified position that has been classified into a higher function group held by another Employee during a period exceeding one consecutive month, shall receive a temporary replacing allowance.
2. If the Employee is temporarily responsible at least half the daily working hours, the pro-rata principle shall be applied to the allowance.
3. The amount of the replacing allowance shall be equal to the difference between his current salary and the same or next salary in the salary scale of the position for which he is temporarily responsible, increased by two increments.
4. The salary including the allowance may not exceed the maximum of the scale of the position for which he is temporarily responsible.
6. The replacing allowance is not of a structural nature and shall not be included in the pensionable salary.

## **20 H. Gratification**

The Employee shall be entitled to a nonrecurring anniversary bonus amounting to:

- 50% of the gross monthly salary in case of 15 years of service;
- 100% of the gross monthly salary in case of 25 years of service;
- 150% of the gross monthly salary in case of 35 years of service;
- 200% of the gross monthly salary in case of 40 years of service;
- 250% of the gross monthly salary in case of 45 years of service.

## **20 I. Christmas Bonus**

1. The Employee who has been employed by the Employer one full year on December 15 of the current year shall receive a Christmas bonus equal to USD 500.-.
2. If the Employee has not yet been employed one full year on December 15, the Christmas bonus shall be paid in proportion to the duration of the employment on that date.
3. The Employer shall make an effort to make the payment before or on the 10<sup>th</sup> of the month.

## **20 J. Salaries**

1. As of January 1, 2012, the current salary scales shall be adjusted in accordance with the scales and amounts as laid down in the CLA of Fundashon Mariadal of November 2011. The inflation adjustment has been incorporated for 2012. Therefore, the table below shall be introduced - with retroactive effect to January 1, 2012 - for the employees of Saba Health Care Foundation, Benevolent Foundation Saba, Sint Eustatius Health Care Foundation, and Auxiliary Home in Sint Eustatius.

	FG 5	FG10	FG15	FG 20	FG 25	FG 30	FG 35	FG 40	FG 45	FG 50	FG 55	FG 60	FG 65	FG 70	FG 75	FG 80
1	834	944	1047	1157	1322	1496	1719	1946	2207	2458	2765	3136	3629	4225	4907	5551
2	861	975	1078	1205	1376	1558	1786	2022	2293	2564	2895	3294	3815	4439	5156	5886
3	888	1006	1115	1252	1430	1619	1852	2099	2380	2671	3037	3453	4001	4654	5406	6222
4	916	1037	1153	1300	1483	1680	1919	2175	2467	2778	3155	3611	4187	4869	5656	6558
5	943	1068	1190	1348	1537	1742	1986	2251	2553	2884	3285	3769	4373	5083	5905	6893
6	970	1099	1227	1396	1591	1803	2052	2328	2640	2991	3415	3928	4560	5298	6155	7229
7	997	1130	1264	1444	1644	1865	2119	2404	2727	3098	3545	4086	4746	5513	6404	7564
8	1024	1161	1301	1492	1698	1926	2185	2480	2813	3204	3675	4245	4932	5727	6654	7900
9	1051	1192	1339	1539	1752	1988	2252	2557	2900	3311	3805	4403	5118	5942	6903	8235
10	1078	1223	1396	1587	1805	2049	2319	2633	2987	3418	3935	4562	5304	6157	7153	8571

See Appendix I

2. For the salaries in 2013, the following table shall apply to the incorporation of inflation as per January 1 of that year:

Inflation in Saba and/or St. Eustatius	Inflation adjustment
< 0%	No salary reduction
0% - 2%	No salary increase
2% - 5%	The salary shall be increased by 50% of the average consumer price index Dutch Caribbean regarding Saba and St. Eustatius, as determined and published by the Central Bureau of Statistics.
> 5%	Parties shall discuss the salary adjustment.

3. After adoption of this decision, the salary of the current Employees shall be adjusted based on the scale and step according to the table under sub 1. Changes in the period as of January 1, 2012 until the month of adoption of this decision shall be incorporated by the payroll administration as soon as possible after the adoption of this decision and be paid to the Employee.

### **Article 21. Overtime**

1. Overtime shall mean work carried out upon order of the Employer:
  - a) during the rest period of the Employee-(non-)scheduled worker;
  - b) and work that does not exceed the maximum working time permitted pursuant to this CLA, on average amounting to 40 hours per week, with regard to the Employee-(non-)scheduled worker.
2. If the Employer deems it necessary for an Employee to work overtime, an allowance shall be granted in accordance with the provisions of the Execution rules Overtime.

## **EXECUTION RULES OVERTIME**

### **21 A. Definitions**

1. Overtime shall mean work carried out during the rest period of the Employee-(non-)scheduled worker, as well as work that exceeds the maximum working time permitted per

week - on average 40 hours per week - pursuant to this CLA with regard to the Employee-(non-)scheduled worker, provided there is no question of a shifted duty.

2. If it concerns a part-time Employee, there is no question of overtime, unless the provisions of Article 21D apply.
3. Overtime allowance shall be paid, if the Employer has instructed to work overtime.

#### **21 B. Amount of overtime and exempt employee**

1. If overtime is worked during a period of fifteen minutes or less prior to or immediately following on the working hours laid down in the schedule, this period shall not qualify for allowance.
2. For the determination of the duration of overtime, minutes shall be rounded up to half an hour.
3. Overtime by the pregnant Employee after the third month of pregnancy shall be avoided as much as possible, unless the Employee agrees to work overtime.

#### **21 C. Full-time allowance**

1. For overtime worked, the Employee who holds a position of which the FWG classification has been set at scale 45 or lower, shall receive per hour - in addition to the normal hourly wages applicable to him - an overtime allowance of 60% of his normal hourly wages by way of compensation, unless it concerns a rest day, a scheduled day off, or an official holiday.
2. For overtime worked on the rest day, scheduled day off, or an official holiday applicable to the Employee, the Employee shall receive, in addition to the hourly wages applicable to him, an overtime allowance of 150% of the normal hourly wages by way of compensation.
3. Overtime shall be paid in accordance with the provisions of paragraphs 1 and 2. Only with the permission in writing of the Employer may the overtime allowance be paid in the form of time off, equal to the number of hours that would have been paid.
4. For overtime worked by an Employee who holds a position of which the FWG classification has been set at scale 50 or higher no overtime allowance shall be paid, unless arrangements have been made with the authorized person(s) on the duration and extent thereof in advance and in writing.
5. If overtime follows on an 8-hour shift, the Employee shall be entitled to a meal ticket amounting to USD 15.- after having worked overtime for 2 hours (to be spent at an establishment to be selected by the Employer).

#### **21 D. Part-time allowance**

The part-time Employee shall only be entitled to overtime allowance in accordance with Article 21 C, if, and insofar as he would have been entitled to overtime allowance, if he had worked full-time.

#### **21 E. Maximum overtime**

The number of overtime hours may not exceed 20 hours on average per week, to be measured per quarter.

#### **21 F. Compensation for overtime**

The time off referred to in Article 21C, sub 3, shall be granted after consulting with the Employee concerned and shall be taken no later than in the month following on the month in which the overtime was worked, unless the Employer and Employee expressly agreed on otherwise.

## **Article 22. Irregular hours**

If the Employer deems it necessary to assign work to an Employee-scheduled worker, which, according to the schedule, must be carried out at the times and/or on the days referred to in Article 22C sub 1, not being the working hours referred to in Article 16B, sub 2, the Employee shall be granted an allowance in accordance with the Execution rules irregular hours.

### **EXECUTION RULES IRREGULAR HOURS**

#### **22 A. Definitions**

1. Irregular hours shall be taken to mean work carried out based on a schedule during the hours and/or days mentioned in 22C.
2. Irregular hours shall also be taken to mean work carried out by a part-time Employee during the hours mentioned in 22C in excess of the number of hours agreed on in his employment contract, provided they do not exceed 40 hours.

#### **22 B. Scope of application**

1. Employees up to and including job scale FWG 45 who work irregular hours shall be entitled to an allowance.
2. After the fifth month of pregnancy, the pregnant Employee and Employees age 57 and up shall no longer be instructed to work between 11:00 pm and 6:00 am, unless the Employee does not object to this.

#### **22 C. Irregular hour allowance**

1. The Employee who carries out scheduled work from Monday through Friday, outside the periods between 6:00 am and 6:00 pm, shall be granted an irregular hours allowance of 30% of the hourly wages.
2. For scheduled hours on a Saturday, an irregular hours allowance of 35% of the hourly wages shall apply.
3. For scheduled hours on Sundays, an irregular hours allowance of 45% of the hourly wages shall apply.
4. The percentages mentioned in sub 1 through 3 shall be calculated in respect of the hourly wages of the Employee.
5. The allowance mentioned in sub 1 through 3 may at any rate not be less than USD 8,- per scheduled shift.

## **Article 23. On-Call Duty**

If the Employer deems it necessary for the Employee to perform on-call duties, the Employee shall be granted an allowance in accordance with the Execution rules on-call duty

### **EXECUTION RULES ON-CALL DUTY**

#### **23 A. Scope of Application**

The standards of the Labour Act 2000 BES concerning on-call duties (consignment) shall apply to all Employees, unless deviated from in this CLA.

#### **23 B. Weekends Off**

During each period of 28 consecutive days, the Employee may be on on-call duty at most 14 days, provided the Employee has at least 1 weekend from said duties off in aforementioned 28 days.

If the interests of the continuity of the care provision so require, the Management Board may deviate from the above. The Employer shall then try to agree on a reasonable and fair allowance regulation with aforementioned Employees.

### **23 C. Allowance during on-call duty**

1. If, during the duties referred to in Article 23A, work is performed, the Execution rules overtime shall apply, except for Article 21D. This shall imply that, contrary to what is stipulated in Article 21D, the part-time Employee does receive compensation when performing the work during the on-call duty, equal to the provision of Article 21C.
2. If the Employee is called during the on-call duty and complies with the call, a period of at least half an hour shall be proceeded on for the calculation of the allowance.

### **23 D. Priority labour**

During the duties referred to in Article 23A, only work that cannot be postponed may be carried out.

### **23 E. Minimal rest period after call**

If, during the duties referred to in Article 23A, more than 2 hours of work have been carried out during the hours between 00:00 am (midnight) and 6:00 am, or a call has been complied with more than twice, the Employee shall not be deployed for any duty during the next night, unless - immediately following on the last period in which he actually carried out work during aforementioned hours - he could have enjoyed at least 8 hours of rest. If the next duty begins within 12 hours after the last call, the Employee may leave in the cases referred to here, as soon as the service so permits.

### **23 F. On-call allowance**

1. The Employee shall receive an allowance equal to 1% of his salary per assigned day, up to a maximum of USD 32.- per day for any on-call duty imposed, irrespective of whether the Employee is called or carried out work in compliance with a call. The allowance shall also serve to cover some expenses.
2. If work is carried out during the on-call duty, the Employee shall also receive overtime allowance as stipulated in the Overtime Implementation Regulations and On-Call Duty Implementation Regulations, respectively.

### **23 G. Telephone allowance**

If possible, the Employer shall make available a cellular telephone or other means of communication to the Employee who is on-call duty. The Employee may not use it for other purposes. If it is not possible to make available a telephone or other means of communication, the Employer shall pay for the reasonable expenses incurred by the Employee for the purchase of a cellular telephone. In that case, the telephone shall belong to the Employer and be handed in when leaving the employment.

## **Article 24. Vacation Allowance**

The Employee shall be entitled to a vacation allowance in accordance with the Execution rules vacation allowance.

## **EXECUTION RULES VACATION ALLOWANCE**

### **24 A. Payment of the vacation allowance**

The vacation allowance shall be paid once per year in the month of June in respect of a period of 12 months, as of the month of July of the preceding calendar year. The Employer shall make an effort to make the payment before or on the 15<sup>th</sup> of the month.

### **24 B. Amount of the Vacation Allowance**

1. The vacation allowance for the Employee who has been employed full-time one full year on June 30 shall amount to 7.5% of the annual salary. For the purposes of this CLA, annual salary shall be taken to mean: twelve times the monthly salary applicable on June 1.
2. If the Employee has only been employed part of the period in respect of which vacation allowance is calculated or worked part-time during this period or part thereof, he shall be entitled to vacation allowance in proportion to the period and/or time worked.
3. If the Employee leaves the employment before the date of payment, the vacation allowance shall be paid in proportion to the number of months worked, based on the monthly salary applicable at the time of termination of the employment.
4. Notwithstanding paragraph 1, the Employee who received 80% of his monthly salary owing to occupational disability for more than 1 month in the period in respect of which vacation allowance is calculated shall be entitled to vacation allowance in respect of the payment of 80% instead of the salary.

## **Article 25. Child Allowance**

1. The Employee shall be entitled to child allowance in accordance with the Execution rules child allowance.
2. If, during the term of the CLA, the Employer starts to provide for childcare, whether or not by providing for childcare itself, the Employee may choose between receiving the child allowance or the equivalent thereof in the form of childcare as referred to here. The Employer may lay down further rules in connection herewith by regulations and state *inter alia* before which date this choice shall be made.

## **EXECUTION RULES CHILD ALLOWANCE**

### **25 A. Scope of Application**

The Employee shall qualify for child allowance per child.

### **25 B. Child allowance**

The child allowance shall amount to USD 31.- per child per month.

### **25 C. Children in education**

Notwithstanding Article 25A, if a child has already reached the age of 18 but is registered with an educational institute and attends courses, the Employee shall continue qualifying for child allowance during the period that the child is studying.

The Employee shall expressly request the Employer to apply this Article, on submission of documents showing that the child is studying. In such a case, the child allowance shall be granted for a period not exceeding 1 year. During the courses of study, the allowance may be extended by 1 year, each time on submission of relevant documentation, on the understanding that it shall be cancelled at the time of completing the study, and/or when the child has reached the age of 27.

This Article shall not apply, if there is question of a vocational training course, during which the child receives income.

### **Article 26. Travel expenses**

The Employee shall receive compensation for the travel and accommodation expenses incurred during business trips made upon order of the Employer, in accordance with the provisions of the Execution rules travel expenses.

## **EXECUTION RULES TRAVEL EXPENSES**

### **26 A. Definitions**

1. The Employee shall receive compensation for the travel and accommodation expenses incurred during a business trip.
2. A business trip shall be taken to mean an occasional trip and stay other than to escort a patient on the instructions of the Employer, within the framework of his work. In case of escorting a patient, the application allowance regulations of the Health Insurance (ZVK) shall apply.

### **26 B. Travel expenses and daily allowance**

1. Travel expenses shall be reimbursed based on:
  - a) the costs of voyage, including airport taxes, based on economy class tickets, and
  - b) the costs of the necessary regular transportation at the place of destination.
2. Accommodation expenses shall be reimbursed based on the necessary expenses incurred, as follows:
  - a) the Employer shall provide for a hotel in case of an overnight stay outside the Employee's own island (Saba or St. Eustatius);
  - b) the Employee shall receive a daily allowance of USD 95.-.
3. In consultation with the Employee, the Employer may provide for deviating regulations concerning the payment of an allowance for the travel and accommodation expenses to be incurred.

### **26 C. Conditions**

1. At the request of the Employer, the Employee shall submit the original invoices and/or receipts, based on which the amount of the allowance can be determined.
2. The Employer shall determine the allowance for costs incurred in reason.

### **Article 27. Moving compensation**

The Employee who takes up residence in Saba or St. Eustatius at the time of entering into the employment contract shall be granted a moving allowance in accordance with the provisions of the execution rules moving compensation.

## **EXECUTION RULES MOVING EXPENSES**

### **27 A. Compensation**

1. When hiring a new Employee from abroad, the Employer shall grant a nonrecurring allowance of 100% of an economy class ticket to Saba or St. Eustatius for the Employee and for his family members.
2. Furthermore, the Employer shall grant the Employee a nonrecurring allowance for the expenses of moving and taking up residence, as follows:



- a) in case of an employment up to one year, an amount of USD 750.-;
  - b) in case of an employment of at least one year, the choice between an allowance not exceeding USD 3,000.- for shipping household effects or a nonrecurring payment of an amount of USD 2,000.-;
  - c) in case of an employment of three years, shipping of the household effects up to USD 6,500.- with an advance arrangement and setoff (within six months) of the excess amount up to USD 8,500.-.
3. The Employer shall provide for the first accommodation for the Employee upon arrival from abroad for a period not exceeding two months. Consumption of power, water, etc. related to staying in this accommodation shall be paid by the Employee.
  4. If and insofar as the Employer has cars available, the Employee may dispose of a car upon arrival from abroad for a period not exceeding two months against payment of a fee. Gasoline consumption related to the use of the car shall be paid by the Employee.
  5. The Employer shall pay the allowance after the Employee has submitted copies of the documentation and receipts in question to the Employer.

#### **27 B. Reimbursement**

1. The Employee shall repay the Employer part of the amount the Employer has reimbursed based on these Implementation Regulations, if the employment ends earlier than intended when the employment contract was entered into, either at the Employee's request or for a reason compelling to the Employer. The amount to be repaid shall be fixed in such a manner that for every month the employment is shorter than the agreed period, the Employee shall repay the Employer the allowance in proportion.
2. The Employer may set off the amount to be repaid, insofar as not yet repaid, against the wages at the end of the employment, in accordance with Art. 1614r Civil Code BES.

#### **Article 28. Uniforms**

The Employee who is required to wear clothing prescribed by the Employer shall receive this clothing in accordance with the provisions of the Execution rules uniforms.

#### **EXECUTION RULES UNIFORMS**

##### **28 A. Scope of application, definition, and liability**

1. These regulations shall apply to the Employee who, given the nature of his position, is required by the Employer to wear the clothing prescribed.
2. For the purposes of this CLA, prescribed clothing shall be taken to mean, depending on the nature of the position of the Employee:
  - a) a uniform;
  - b) a work uniform;
  - c) specific clothing.
3. When the employment commences and each subsequent year, the Employer shall provide five uniforms and two pairs of shoes.
4. If the Employer provides the clothing, the Employee shall be responsible for the proper use of the prescribed clothing.

##### **28 B. Shoes and clothing**

When performing his duties, the Employee is obligated to be well-groomed and to wear clothing and shoes in accordance with the requirements of the position.

### **28 C. Regulations**

In consultation with the Union, the Employer shall lay down further rules in writing for prescribed clothing in regulations to be observed by the Employee.

### **28 D. Deviations**

In consultation with the Union, the Employer may draw up deviating regulations for the Employee(s) concerning the prescribed clothing. These regulations shall then replace the provisions of these Implementation Regulations. If no consensus has been reached, these Implementation Regulations shall continue to be applicable.

### **Article 29. Vacation**

Every year, the Employee shall be entitled to vacation in accordance with the Execution rules vacation.

## **EXECUTION RULES VACATION**

### **29 A. Vacation Days**

When the employment commences, the Employee shall be entitled to 23 vacation days per year with pay, if he has a full-time job.

### **29 B. Accrual of vacation hours**

1. For every calendar month in which the Employee is or will be employed, the vacation shall amount to 1/12 of the vacation determined per year. A month in which the employment has commenced before the 16<sup>th</sup> or has ended after the 15<sup>th</sup> shall be considered to be a full calendar month for determining the vacation.
2. For the Employee who did not carry out his work, on account of occupational disability, the accrual of his rights to vacation shall continue during this disability, but never longer than for a period of six months.
3. In deviation from the statutory provisions, the provision of paragraph 2 shall also apply to the Employee who is partially unfit for work.

### **29 C. Entitlements**

1. Vacation rights and cancellation of these rights shall be regulated by the provisions of the statutory vacation regulations, insofar as these are not deviated from in this Agreement.
2. The period in which vacation is used shall be determined in consultation between the Employee and Employer. When vacation is granted by the Employer, the Employee's interests shall be taken into account as much as possible.
3. Official holidays, Sundays, and Saturdays, or the days replacing same, shall not be considered to be workdays.

### **29 D. Taking of vacation days**

1. Vacation shall be taken in the calendar year in which the right has arisen. Any vacation not taken in this manner in the interest of the institution shall be granted in the next calendar year.
2. Vacation days can be transferred without prior written permission from the Employer and be taken in the calendar year following on the year in which the right has arisen, as long as the number of vacation days in one calendar year does not exceed a maximum of 33 (at most 10 days may be transferred to a following year). Exceptions are permitted with prior written permission from the Employer.

#### **29 E. Time frame of vacation days**

1. Unless the interests of the department or service where the Employee concerned is employed dictate otherwise, vacation shall be granted in accordance with the Employee's wishes, if desired uninterrupted. If vacation is granted with interruptions, at least 10 workdays shall be granted consecutively, if the Employee so requests, or at another time - to be determined by the Employer in consultation with the Employee - 15 workdays shall be granted consecutively. In any event, the Employee shall have the right to take a maximum of 6 days as odd days off, to be applied for at least 48 hours in advance with the direct supervisor.
2. Parties shall intend to have an orderly process of taking vacations, *inter alia* to be accomplished by drawing up vacation schedules for the entire calendar year in the month of January of every year. If this is not done, the Employee shall observe the vacation schedule issued by the management.
3. In case of pregnancy, the vacation days the Employee is entitled to shall preferably be taken after the maternity leave ends.

#### **29 F. Alterations**

The Employer may postpone or revoke a vacation the date of commencement of which has already been determined or which has already commenced, only in the interest of the business. In that case, the new period for vacation shall be determined in consultation by the Employee and the Employer. The same shall apply to loss, if any, of the Employee due to the change, which loss shall subsequently be compensated by the Employer.

#### **29 G. Disability during vacation**

1. For the purposes of these regulations, the days as of the day the Employee has notified the Employer of his disability in accordance with the sickness report regulations referred to in Article 36 of the CLA shall not be considered to be vacation days, if the Employee becomes unfit for work during his vacation.
2. In order to keep vacation days taken on account of occupational disability, the Employee shall observe the sickness absence rules and timely submit a statement of occupational disability issued by a physician to the Employer.

### **Article 30. Special leave**

The right to paid and unpaid leave of the Employee shall be determined in accordance with the Execution rules special leave.

## **EXECUTION RULES SPECIAL LEAVE**

#### **30 A. Definitions**

1. For the purposes of these regulations, paid leave shall be taken to mean the number of hours during which work is normally to be performed but during which no work has to be performed on account of leave, to be taken by the Employee. These hours shall count for determining the total working time.
2. For the purpose of these regulations, unpaid leave shall be taken to mean the right to be off duty or off on-call duty. The unpaid leave granted pursuant to these regulations shall not be taken into consideration when determining the total working time. No work is performed during the unpaid leave period, and therefore, *inter alia*, no wages shall be paid, no vacation days/rights shall be accrued, no health insurance premium, and/or other premiums shall be paid.

3. The children, living with the Employee's family and for whom an application for adoption has been filed, shall be deemed to be children of the Employee for the purposes of these implementation regulations.
4. For the purposes of these regulations, part-time employees shall be entitled to leave in proportion to the working time (hours), in principle.
5. Paid leave shall be granted to the Employee, if he can submit the evidence needed for same to the Employer in time. It can also only be granted, if the Employee personally attends the events and/or what is related thereto, or fulfils the necessary formalities. The leave cannot be granted at another time.

### **30 B. Special occasions<sup>4</sup>**

The Employer shall give the Employee paid leave for the following events, as follows.

- a) notice of intended marriage Employee: the day of the notice (1 day);
- b) marriage Employee: the day of the marriage and 2 preceding days (3 days);
- c) marriage of parents, children, brothers and sisters: the day of the marriage (1 day);
- d) marriage of brother-in-law and sister-in-law: the day of the marriage (1 day);
- e) Baptism, first Holy Communion and Holy Confirmation of the Employee's children: the day of the event (1 day);
- f) serious sickness of parents, spouse, or domestic partner and children, also abroad: a maximum of 10 days of care leave per calendar year, which must be related to and necessary for the care due to the sickness;
- g) death of spouse or domestic partner and children: the day of the funeral, the day of death, and 2 days after the day of death (4 days);
- h) death of (foster) parents or brothers/sisters of the Employee or spouse or domestic partner: the day of death and the day of the funeral (2 days);
- i) death of uncles/aunts, grandparents, or grandchildren, and other relatives to the second and third degree of the Employee, spouse, or domestic partner: the day of death (1 day);
- j) death as referred to above in paragraphs g, h, and i, in case of death outside the Employee's own island: one additional day off to travel;
- k) 15-year, 25-year, 35-year, and 45-year service anniversary and 12½-year, 25-year, and 35-year wedding anniversary of the Employee: the day of reaching the service anniversary or the day on which the 25-year or 35-year wedding anniversary is celebrated (1 day);
- l) 25-year, 40-year, and 50-year wedding anniversary of parents and grandparents: the day on which the 25-year 40 and 50-year wedding anniversary is celebrated (1 day);
- m) delivery by spouse or domestic partner: the day of the delivery and the next day (2 days);
- n) moving (a maximum of once per 12 consecutive months): the day of the moving and the next day (2 days);
- o) exercising the right to vote in accordance with prevailing legislation BES: on the day of the election - between 8 am and 7 pm - 4 consecutive working hours, unless the Employee has four consecutive hours off for any other reason during the hours that one can vote;
- p) if the Employee has been charged with escorting patient to a foreign country on the instructions of the Employer: the time needed;

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<sup>4</sup> also see Appendix III

- q) sickness of a child of the Employee up to the age of 12, which involves consulting a physician: a maximum of 3 days of care leave per calendar year. The Employee shall submit a doctor's statement to the Employer in this respect;
- r) other cases in which the Employer deems there are special circumstances: the time needed.

### **30 C. Shopsteward duties**

If the employment allows it, and this at the Employer's discretion, in consultation with the Union, special leave shall be granted to:

- a) board members of the Union (a maximum of 7 members) or representatives to attend union congresses and/or study days and for work for the Union, up to a maximum of 80 hours per year;
- b) one board member, except for the chairman, to hold consulting hours for the members of the Union, up to a maximum of 2 hours per week, according to a planning to be filed by the Union in advance every month.

### **30 D. Other**

The Employer may grant the Employee paid or unpaid leave.

### **30 E. Rejection**

If, from a perspective of the interest of the institution or care seekers, it cannot be required from the Employer in reason to allow absence or to grant leave at a certain time, a (partially) negative decision can be made by the Employer after having consulted with the Employee.

### **30 F. Escorting Care Seekers**

Unpaid leave not exceeding 5 days shall be possible for voluntarily escorting care seekers during transportation to a foreign country, provided the schedule allows it. The Employee shall request permission in advance. The travel and accommodation expenses shall be paid by the Employee.

## **Article 31. Occupational Disability**

1. In case of occupational disability, the Employee is obligated to comply with the sickness absence rules referred to hereinafter.
2. The Employer shall draw up sickness absence rules, at least stipulating:
  - a) when and how the Employee has to report sick to the Employer in case of occupational disability, also during vacation;
  - b) the regulations to be observed by the Employee during his occupational disability;
  - c) the control and guidance activities that can be carried out by the Employer.

## **Article 32. Re-examination committee**

1. If the Employer deems it desirable in the interest of the foundation, including, but not limited to the cases referred to in the medical examination regulations, the Employer shall have the right to appoint a physician to examine the Employee.
2. If the Employee is declared unfit for work, he shall have the right to appeal to a re-examination committee to be established for this purpose within 6 days.
3. This re-examination committee shall consist of 3 physicians, of whom one physician shall be appointed by the Employer and one by the Employee, and which physicians together shall appoint a third one.
4. The re-examination committee shall give a decision, stating reasons, within 20 days after the appeal has been filed by majority of votes.

5. The decision shall be binding on the Employer and the Employee.
6. The cost of the examination shall be paid by the Employer.
7. The Employee who has been declared unfit for work, and who meets the conditions set for occupational disability in the pension regulations shall be entitled to a financial benefit as stated in pension regulations. This shall not alter the fact that this benefit can be reduced pursuant to Art. 1614c, sub 2, Civil Code BES.

### **Article 33. Salary continuation during occupational disability**

1. As of the third day of occupational disability and during the first twenty-four months thereof, the Employee shall be entitled to wages amounting to 80% of the salary. Notwithstanding the preceding rule, a percentage of 100% shall be applied during a cumulative maximum of two months per calendar year.
2. During the period of occupational disability, the Employee shall continue to be entitled to a vacation allowance, based on the benefit then applicable.
3. The Employer shall not owe wages pursuant to sub 1, if cases occur, based on which, according to the statutory health and accident insurance, the benefits granted therein to the Employee do not exist or have been lost, such as in the following cases:
  - a) if the sickness or accident is owing to intent, gross negligence, misconduct, drug use, or drunkenness of the Employee;
  - b) if the Employee has acted contrary to the regulations applicable to him or omitted to act;
  - c) if, at the time of commencement of the employment, the Employee has provided incorrect or incomplete information about his state of health, insofar as it concerns the occupational disability in question.
4. If, during the period of occupational disability, the Employee is entitled to any financial compensation or benefit, as referred to in Art. 1614c, paragraph 2, Civil Code BES, the wages pursuant to sub 1 of this Article shall be reduced by the amount of this compensation or benefit. The Employee is obligated towards the Employer to cooperate in every respect in obtaining such compensation or benefit and to provide the Employer with all relevant information about such compensation and/or benefit.
5. If an independent agency, in consultation with the Union, is of the opinion that an Employee who is not 100% able-bodied is able to perform duties belonging to a position existing at the Employer, as if he were 100% able-bodied, the Employee who is not 100% able-bodied shall have preference in case of a vacancy.  
Payment shall then take place based on the CLA scale belonging to such position to be held. This provision shall at any rate be cancelled, as soon as an occupational disability insurance act or a general occupational disability act has become effective.

### **Article 34. End of labour agreement**

1. The employment contract shall end:
  - a) by mutual consent on the agreed date;
  - b) by operation of law, when reaching the pensionable age, as of the first day of the calendar month following on the month in which the Employee celebrates his birthday;
  - c) by operation of law, by expiration of the period, or by the discontinuation of the work for which the contract has been entered into;
  - d) in case of a contract for a definite or indefinite period of time, by giving notice with due observance of the provision of Article 35;

- e) by giving notice for an urgent cause, as referred to in Articles 1615 p and q, Civil Code BES;
  - f) by dissolution by the court pursuant to Article 1615w, Civil Code BES;
  - g) by giving immediate notice during the trial period as referred to in Art. 1615n, sub 1, Civil Code BES;
  - h) by operation of law, in case of the Employee's death;
  - i) if the Employee does not obtain a work and residence permit;
  - j) in case of two years of occupational disability, by giving notice with due observance of the provision of Article 35.
2. If the provision of sub 1b, applies, the contract shall end as of the first day of the calendar month following on the month in which the event referred to in this paragraph has taken place.

### **Article 35. Termination**

1. An employment contract for a definite period of time may only be terminated, if the possibility to give notice of premature termination has been agreed on.
2. The statutory notice periods shall apply when giving notice to terminate the employment contract, unless other notice periods have expressly been agreed on or ensue from this Article. If the employment of an Employee older than 45 is terminated, the Employer shall add one week per year of service to the statutory notice period up to a maximum of 13 weeks.
3. The notice of termination of the employment contract shall be given in writing.
4. If notice of termination of the employment contract is given on account of occupational disability, the Employer shall grant Cessentia in accordance with the statutory regulations.
5. If, after having given notice to terminate his employment, the Employee reconsiders and notifies the Employer thereof within 48 hours, his notice of termination shall thus be cancelled.
6. The dismissal shall become effective as of the first day of a calendar month, unless otherwise stipulated.
7. Notice of termination by the Employer on account of occupational disability may only be given, after the occupational disability has lasted two years.
8. If the permission referred to in Article 4 of the Employment Contract Termination Act BES, or the evaluation referred to in Article 5 of aforementioned Act has been given, the notice period to be observed by the Employer shall be reduced by the period mentioned in Article 4 or 5 of the Act, on the understanding that the remaining notice period shall be at least one week.

### **Article 36. Testimonial**

The Employer is obligated to issue a testimonial to the Employee at the end of the employment. It shall state the period of the employment and the last position held.

If the Employee so requests, the testimonial shall also contain an overview of the Employee's career and the manner in which the duties were performed.

### **Article 37. Pension**

1. If the Employee falls under the Employer's pension scheme, the rights and obligations of the Employer and the Employee with regard to the pension scheme shall be provided for in the policy conditions of the pension fund.
2. The provisions of the policy conditions have been laid down in the pension regulations. These regulations, if definitively adopted, shall be given to every Employee.

### **Article 38. Suspension**

1. The Employer may suspend the Employee for a period not exceeding 6 weeks, if, in the opinion of the Employer, the progress of the work - by whatever cause - is seriously impeded. After a valid notice period has become effective, the Employer may suspend the Employee for the remaining duration of this notice period, if important interests so require in the opinion of the Employer.
2. The period referred to in sub 1 may be extended by the Employer by a maximum of 3 weeks. With the permission of the Employee or his representative, another extension by a maximum of 3 weeks may be agreed on.
3. The Employer shall notify the Employee in writing of the decision to suspend, as well as the decision to extend same as soon as possible, stating the reasons for this measure.
4. Suspension shall always take place while retaining all other rights arising from the employment contract/CLA.
5. During the period of suspension, the Employer is obligated to promote that the Employee can resume work.
6. After expiration of the period of suspension, the Employee shall be entitled to resume work.
7. The suspension may not be used by way of sanction.
8. If, meanwhile, the Employer has filed an application for dismissal with our Minister, as referred to in the Employment Contract Termination Regulations BES, or the Employee or Employer has filed a request for dissolution of the employment contract with the court, the suspension may be extended up to the effective date of the dismissal or the termination of the employment contract, in which case sub 1, 2, 5, 6, and 7 of this Article shall not apply.

### **Article 39. Disciplinary Measures**

1. Without prejudice to the powers conferred to it by law, the Employer may take one of the disciplinary measures referred to in this Article against the Employee who has been guilty of disregard of the duties assigned to him, not following an instruction given by the Employer, or not complying with an obligation he is subject to pursuant to this CLA and/or his position, which disciplinary measures consist of:
  - a) verbal warning, followed by a written confirmation;
  - b) written warning;
  - c) suspension with or without pay;
  - d) dismissal.
2. The Employer may suspend the Employee without pay for a period not exceeding 5 workdays, which period may be extended once by a maximum of 3 workdays, if the Employer deems this necessary.

The Employee shall promptly be notified in writing of the suspension, stating the reasons. The last address indicated by the Employee shall be deemed to be his address.
3. Within four days after the date of the letter (not counting Saturdays, Sundays, and official holidays), the Employee shall be given the opportunity to account for his actions towards the Employer. On this occasion, he may have himself assisted by an attorney.
4. The Employer shall be authorized to deny the Employee access to the buildings and premises of the institution during the period of suspension.
5. If it turns out that the Employee was suspended manifestly wrongly by the Employer, the Employer shall rehabilitate the Employee in writing and pay him the provable loss, if the Employee so requests.
6. Notice of dismissal by way of disciplinary measure may only be given with due observance of the statutory provisions.



#### **Article 40. Deliberations**

Twice per year, the Employer and the Union shall hold a deliberation to discuss mutual interests and staff matters. Minutes shall be drawn up of these meetings. In urgent cases, both the Employer and the Union may request a special meeting, stating the matter to be discussed. If these meetings are held during the working hours of the representatives of the Union, the time spent on the meetings shall be considered working hours.

#### **Article 41. Disputes**

1. There shall be question of a dispute, if the Employer or Employee notifies the other in writing, stating the reasons, that there is question of a - clearly described – dispute.
2. Disputes on the interpretation and application of this CLA shall be submitted to an internal disputes committee, consisting of two members on the recommendation of the Union and two members on the recommendation of the Employer, which members shall jointly appoint a fifth member as chairman. The Employer and the Union shall draw up regulations for this committee.
3. Disputes relating to labour law shall be settled by the ordinary court.

#### **Article 42. Union membership fee**

By written authorization, the Employee can have his membership fee to the Union transferred by the Employer to the Union by withholding it from his salary. Notice of termination of the membership fee shall also be given in writing to the Employer and the Union.

At the written request of the Union, the Employer shall withhold the membership fee to the Union from the Employee's salary as long as his membership of the Union continues and shall pay it to the Union each month. If so requested, the Employer shall provide the Union with a statement of the membership fees withheld.

### **III. Translation**

This CLA has been translated from Dutch to English by:



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#### **IV. Appendixes to this CLA**

- Appendix I: FWG Salary Structure BES 2012
- Appendix II: Non-disclosure agreement
- Appendix III: Kinship chart
- Appendix IV: Legislation (*in accordance with text upon conclusion of this CLA*)
- Appendix V: WIHCUA Membership Form

These documents do not constitute part of the CLA. No rights and/or obligations can be derived from the contents of these appendixes. The Employer may unilaterally discontinue the use of one or more of these documents in whole or in part or modify and/or adjust the contents thereof.

**Appendix I. FWG Salary Structure BES 2012**

<b>FWG 5</b>		<b>FWG 10</b>		<b>FWG 15</b>		<b>FWG 20</b>		<b>FWG 25</b>		<b>FWG 30</b>	
1	834	1	944	1	1047	1	1157	1	1322	1	1496
2	861	2	975	2	1078	2	1205	2	1376	2	1558
3	888	3	1006	3	1115	3	1252	3	1430	3	1619
4	916	4	1037	4	1153	4	1300	4	1483	4	1680
5	943	5	1068	5	1190	5	1348	5	1537	5	1742
6	970	6	1099	6	1227	6	1396	6	1591	6	1803
7	997	7	1130	7	1264	7	1444	7	1644	7	1865
8	1024	8	1161	8	1301	8	1492	8	1698	8	1926
9	1051	9	1192	9	1339	9	1539	9	1752	9	1988
10	1078	10	1223	10	1396	10	1587	10	1805	10	2049

<b>FWG 35</b>		<b>FWG 40</b>		<b>FWG 45</b>		<b>FWG 50</b>		<b>FWG 55</b>		<b>FWG 60</b>	
1	1719	1	1946	1	2207	1	2458	1	2765	1	3136
2	1786	2	2022	2	2293	2	2564	2	2895	2	3294
3	1852	3	2099	3	2380	3	2671	3	3037	3	3453
4	1919	4	2175	4	2467	4	2778	4	3155	4	3611
5	1986	5	2251	5	2553	5	2884	5	3285	5	3769
6	2052	6	2328	6	2640	6	2991	6	3415	6	3928
7	2119	7	2404	7	2727	7	3098	7	3545	7	4086
8	2185	8	2480	8	2813	8	3204	8	3675	8	4245
9	2252	9	2557	9	2900	9	3311	9	3805	9	4403
10	2319	10	2633	10	2987	10	3418	10	3935	10	4562

<b>FWG 70</b>		<b>FWG 75</b>		<b>FWG 80</b>	
1	4225	1	4907	1	5551
2	4439	2	5156	2	5886
3	4654	3	5406	3	6222
4	4869	4	5656	4	6558
5	5083	5	5905	5	6893
6	5298	6	6155	6	7229
7	5513	7	6404	7	7564
8	5727	8	6654	8	7900
9	5942	9	6903	9	8235
10	6157	10	7153	10	8571

**Appendix II. Non-disclosure Agreement**

Every person working for or cooperating with Employer shall observe secrecy with regard to certain information that comes to his attention. To explain the contents of this obligation to observe secrecy in detail and to emphasize the importance thereof, you are requested to read the following and, subsequently, to declare that you will comply with the obligation to observe secrecy. If you do not understand the contents or purport of the obligation to observe secrecy, please inform us thereof, so that we can explain it to you in more detail.

The obligation to observe secrecy pertains to the business secret and the professional secret:

- the business secret concerns business-specific information and information that comes to one's attention in the performance of one's duties, and the confidential nature of which one knows or may reasonably suspect;
- the professional secret pertains to knowledge (facts, observations, findings, data) regarding a patient a care provider acquires in the performance of his duties. Physicians and registered nurses are directly bound by professional secrecy. Others within the Employer are indirectly bound by professional secrecy with regard to aforementioned knowledge of the patient.

The obligation to observe secrecy implies that information may not be disclosed any further than is strictly necessary for the performance of your duties for the Employer. All data (written documents, computes files, etc.) you have in your possession within the framework of the duties are also subject to the obligation to observe secrecy.

Public announcements and/or press releases may only take place with the prior permission in writing of the Employer.

After the termination of the employment, the obligation to observe secrecy shall continue. All data shall be made available to the Employer not later than at the time of termination of the employment in question.

The Employer sets a penalty to be established by it, at least amounting to US\$ 300.- up to a maximum of US\$ 3,000.-, for the violation of the obligations to observe secrecy. The penalty shall be immediately due and payable and shall not affect the obligation to compensate the loss resulting from the violation. As regards the employees of the Employer, the violation of the obligation to observe secrecy may constitute an urgent cause for summary dismissal, *inter alia* pursuant to Art. 1615p, paragraph 2, under 9, Civil Code BES.

The undersigned, hereby declares not to disclose in any way information and/or data obtained as a result of, or in the performance of my duties at, for, or with the Employer any further, except if I am obligated to disclose same pursuant to any statutory regulation or by virtue of a court order.

Name in print \_\_\_\_\_

Signature \_\_\_\_\_

Place \_\_\_\_\_

Date \_\_\_\_\_

### **Appendix III. Kinship chart**

Degree	Consanguinity	Affinity
1 <sup>st</sup> degree	- your (adoptive) parent(s);	- the (adoptive) parent(s) of your partner;
	- your (adopted) child(ren);	
	- the (adopted) child(ren) of your partner;	
	- the partner of your (adopted) children (son-in-law or daughter-in-law)	
2 <sup>nd</sup> degree	- your grandparent(s);	- the grandparent(s) of your partner;
	- your grandchild(ren);	
	- your brother(s) and sister(s);	
	- the grandchild(ren) of your partner;	
3 <sup>rd</sup> degree	- your great-grandparent(s);	- the great-grandparent(s) of your partner;
	- your great-grandchild(ren);	
	- your nephew and niece (the child(ren) of your brother(s) and sister(s));	
	- your uncle(s) and aunt(s) (the brother(s) and sister(s) of your parent(s));	
	- the great-grandchild(ren) of your partner;	
	- the nephew and niece of your partner (the child(ren) of the brother(s) and sister(s) of your partner);	
	- the uncle(s) and aunt(s) of your partner (the brother(s) and sister(s) of the parent(s) of your partner);	
4 <sup>th</sup> degree	- your great-great grandparent(s);	- the great-great grandparent(s) of your partner;
	- your great-nephew and great-niece (the grandchild(ren) of your brother(s) and sister(s));	
	- your cousin (the child(ren) of the brother(s) or sister(s) of your parent(s));	
	- your great-uncle(s) and great-aunt(s) (the uncle(s) and aunt(s) of your parent(s));	
	- the great-nephew and great-niece of your partner (the grandchild(ren) of the brother(s) and sister(s) of your partner);	
	- the cousin of your partner (the child(ren) of the brother(s) or sister(s) of the parent(s) of your partner);	
	- the great-uncle(s) and great-aunt(s) of your partner (the uncle(s) and aunt(s) of the parent(s) of your partner).	

## **Appendix IV. Legislation**

*in accordance with text upon conclusion of this CLA*

### **Civil Code BES**

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#### **Article 1613f**

1. A minor shall be capable of entering into employment contracts as a worker, if he has been authorized, either orally or in writing, by his legal representative for this purpose.
2. The only purpose of an oral authorization may be to enter into a specific employment contract. It shall be granted in the presence of the employer or the person acting on its behalf. It may not be granted conditionally.
3. If the authorization has been granted in writing, the minor is obligated to submit it to the employer, who shall provide the minor with a copy thereof and return the authorization to the minor or his successors in title at the end of the employment.
4. Insofar as this has not been explicitly excluded by inserting certain conditions in the authorization, the minor shall be equal to an adult in everything related to the employment contract, entered into by him pursuant to the authorization granted, except for the provision of the third paragraph of Article 1614f. However, he may not appear in court without the assistance of his legal representative, unless it has become manifest to the court that the legal representative is not able to express himself.

#### **Article 1613ca**

The person who performs work for the benefit of another person for payment by that other person during three consecutive months, each week for at least eight hours or for at least thirty-five hours per month [*part of the text is missing/transl.*].

#### **Article 1614c**

1. However, the worker does continue being entitled to the time-based wages for a relatively short period, if, on account of sickness or an accident, he was prevented from performing his work, unless the sickness or the accident was caused by his intent or indecency or is the result of a physical disorder about which he intentionally provided the employer with false information at the time of entering into the contract.
2. If, in such a case, he is entitled to any financial compensation or benefit pursuant to the sickness or accident regulations or pursuant to any insurance or from any fund the participation in which was stipulated by or arises from the employment contract, the wages shall be reduced by the amount of this compensation or benefit.

#### **Article 1614r**

1. Except in case of termination of the employment, set off by the employer of its debt to pay the wages shall only be permitted against the following claims on the worker:
  1. the damages he owes the employer;
  2. the penalties payable to the employer pursuant to Article 1613s, provided the employer issues written proof, stating the amount of each penalty, as well as the date on which and the reason why it has been imposed, stating the violated provision of the rules or the contract entered into in writing;
  3. the contribution to a fund or the deposit by the employer in accordance with Article 1613q, second paragraph, under 1 and 2, paid for the benefit of the worker;
  4. the rent of a house, a room, a parcel of land, or instruments or tools, used by the worker in his own company, which the employer has rented out to the worker by contract entered into in writing;
  5. the purchase price of ordinary and daily household requisites, not including alcoholic beverages, as well as of raw or auxiliary materials used by the worker in his own company, supplied by the employer to the worker, provided this supply is evidenced by a written statement issued by the employer to the worker, stating the cause and the amount of the debt, and provided the employer

- does not charge more than the cost price, and this price is not higher than the price for which the worker could buy these household requisites, raw or auxiliary materials elsewhere;
6. the advances on the wages paid by the employer to the worker in cash, provided this is evidenced by a statement as mentioned under the preceding letter;
  7. the amount of the wages paid in excess;
  8. the taxes paid/to be paid by the employer for the worker pursuant to statutory regulations.
2. As regards the amounts the employer could claim pursuant to numbers 2, 3, and 5, it may not set off more during each payment of the wages than one-fifth of the wages fixed in cash, which would have to be paid at that time, except for written permission of Our Minister concerned; as regards the total amount it could claim pursuant to the provisions of this Article, the setoff may not exceed two-fifths of the same amount, except for written permission of Our Minister concerned.
  3. Any stipulation by which the employer would be granted broader powers to set off shall be void.

#### **Article 1615h**

1. Notice of termination may be given on any day, unless another day was designated for this by written contract or regulations.
2. On pain of nullity, the employer may not give notice of termination during the time that the worker is unfit for work on account of sickness or an accident, unless he has been unfit at least one year. On pain of nullity, the employer also may not give notice of termination during the maternity leave referred to in Article 1614ca.

#### **Article 1615i**

1. The notice period to be observed by the employer shall be in case of an employment that on the day of giving notice of termination:
  - a. lasted less than five years: one month;
  - b. lasted five years or longer but shorter than ten years: two months;
  - c. lasted ten years or longer but shorter than fifteen years: three months;
  - d. lasted fifteen years or longer: four months.
2. The notice period to be observed by the worker shall be one month.

#### **Article 1615n**

1. A trial period, during which each of the parties shall be authorized to terminate the employment without notice or without observing the provisions applicable to giving notice of termination, may only be agreed on, on pain of nullity, by written contract. Each stipulation based on which the trial period is not equal for both parties or is set at a period exceeding two months, as well as each stipulation based on which, because of agreeing on of a new trial period, the combined trial periods exceed two months shall be void.

#### **Article 1615p (belonging to Art. 39.1e CLA)**

1. Urgent reasons for the employer within the meaning of the first paragraph of the preceding Article shall be considered to be such acts, qualities, or actions of the worker that lead to it that it cannot reasonably be required from the employer to have the employment continue.
2. Urgent reasons may be deemed to exist in *inter alia* the following cases:
  - a. if the worker misled the employer when entering into the contract, by showing false or forged certificates or intentionally provided it with false information about the manner in which his previous employment was terminated;
  - b. if it turns out that he seriously lacks the competence or suitability to perform the work that he has undertaken to perform;

[numbering is incorrect/transl.]

3. if, despite warning, he indulges in drunkenness or other dissolute behaviour;
4. if he is guilty of theft, misappropriation, fraud, or other offenses due to which he becomes unworthy of the employer's trust;
5. if he abuses, grossly offends, or seriously threatens the employer, its family members, or household members, or his co-workers;



6. if he seduces or tries to seduce the employer, its family members, or household members, or his co-workers to acts contrary to the law or public morals;
7. if he intentionally or, despite warning, recklessly damages the employer's property or exposes it to serious danger;
8. if he intentionally or, despite warning, recklessly exposes himself or others to serious danger;
9. if he discloses details concerning the employer's household or business, which he should have secret;
10. if he stubbornly refuses to comply with reasonable orders or instructions given to him by or on behalf of the employer;
11. if he grossly neglects in any other way the obligations imposed on him by the contract;
12. if, because of intent or recklessness, he becomes or remains incapable of performing the work agreed on.
13. Stipulations based on which the decision whether there is question of an urgent reason within the meaning of Article 1615o, first paragraph, is left up to the employer shall be void.

#### **Article 1615q**

1. Urgent reasons for the worker within the meaning of Article 1615o, first paragraph, shall be considered to be such circumstances that lead to it that it cannot reasonably be required from the worker to have the employment continue.
2. Urgent reasons may be deemed to exist in *inter alia* the following cases:
  1. if the employer abuses, grossly offends, or seriously threatens the worker, his family members, or household members, or tolerates that such acts are performed by one of its household members or subordinates;
  2. if it seduces or tries to seduce the worker, his family members, or household members to acts contrary to the law or public morals, or tolerates that one of its household members or subordinates proceeds to such seduction or attempt to seduce;
  3. if it does not pay the wages on the date stipulated;
  4. if, whenever bed and board has been stipulated, it does not properly provide for same;
  5. if it does not assign sufficient work to the worker whose wages have been made dependent on the result of the work to be performed;
  6. it does not or not properly give the worker whose wages have been made dependent on the result of the work to be performed the assistance stipulated;
  7. if it grossly neglects in any other way the obligations imposed on it by the contract;
  8. if, notwithstanding his refusal, it orders the worker to perform work in the company of another employer, whereas this does not arise from the nature of the employment;
  9. if the continuation of the employment for the worker would be associated with serious dangers to life, health, public morals, or good reputation, which were not evident at the time of entering into the contract;
  10. if, on account of sickness or other causes through no fault of his, the worker becomes incapable of performing the work agreed on.
3. Stipulations based on which the decision whether there is question of an urgent reason within the meaning of Article 1615o, first paragraph, is left up to the worker shall be void.

#### **Article 1615w**

1. Each of the parties shall be authorized at all times to apply to the court on account of serious reasons, with the written petition to declare the employment contract dissolved. Any stipulation excluding or limiting this authority shall be void.
2. Circumstances that would have constituted an urgent reason as referred to in Article 1615o, first paragraph, if the employment had promptly been terminated on that account, as well as changes in the circumstances that are of such a nature that the employment should terminate in fairness immediately or after a short period shall be considered to be serious reasons.
3. The court shall only grant the petition after hearing or properly summoning the other party.
4. If the court grants the petition, it shall determine the date on which the employment shall end.

5. If the court grants the petition on account of changes in circumstances, it may award, if it deems this fair given the circumstances of the case, compensation to one of the parties, payable by the other party; it may allow that the compensation is paid in instalments in the way to be determined by it.
6. Before pronouncing a dissolution to which compensation is attached, the court shall notify the parties of its intention, and it shall set a period within which the petitioner shall be authorized to withdraw his claim.
7. If the petitioner withdraws his claim, the court shall only make a decision on the legal costs.
8. No appeal whatsoever lies against a decision pursuant to this Article.

## **Employment Contract Termination Act BES**

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### **Article 4**

1. The employer is prohibited from terminating the employment contract by giving notice without the permission of Our Minister or contrary to a condition under which the permission has been given.
2. The prohibition referred to in the first paragraph shall not apply:
  - a. if the termination takes place for an urgent reason the employee was promptly notified of;
  - b. if the termination takes place by mutual consent;
  - c. if the termination takes place during the trial period;
  - d. if the notice of termination is given because of the bankruptcy of the employer;
  - e. if the termination is related to an employment contract for a definite period, continued or not, and this termination takes place on the final date inserted in that contract, unless it concerns an employment contract for a definite period as referred to in Article 1615e of the Civil Code BES.
3. Our Minister shall decide within two weeks after receipt of the advice of the committee, referred to in Article 3, but at any rate within eight weeks after receipt of the request for permission to terminate the employment contract. The period of eight weeks may be extended, if special circumstances make this necessary.
4. The request for permission to terminate the employment contract shall be addressed to Our Minister. The request shall be deemed not having been made, as long as the required information has not been provided, and the required supporting documents have not been submitted.

### **Article 5**

1. Without prejudice to the provisions of Article 4, as soon as an employer intends to dismiss twenty-five employees or more, or more than 25% of the number of employees in a branch of an enterprise, insofar as this percentage does not result in five employees or less, within a period of three months, it shall notify Our Minister of this intention at least two months before the termination of the employment contract.
2. Within eight days after the notification, the employer shall submit a redundancy plan to Our Minister.
3. Our Minister shall give a written opinion on the redundancy plan as soon as possible, but no later than within six weeks after receipt of this plan. Article 4, third paragraph, second sentence, shall be equally applicable.
4. The employer is prohibited from terminating an employment contract, as long as Our Minister has not given an opinion, with due observance of the third paragraph.

**Article 9**

1. A rest period shall be:
  - a. each day the time before 7:00 a.m. and the time after 8:00 p.m., on the understanding that, for the employee in an enterprise that has a prescribed closing time pursuant to any statutory regulation, this rest period shall be no later than half an hour after this closing time, while the time the work starts the next day shall be such that the employee has a consecutive rest period of at least 11 hours;
  - b. the weekly day of rest;
  - c. weekly at least twice the part of a day, other than the day of rest referred to under b, prior to or following 1:00 p.m.;
  - d. official holidays as referred to in Article 23.
2. In deviation from the first paragraph, the rest period for the employee who performs scheduled work shall be:
  - a. daily the time outside the times his working hours commence and end, on the understanding that his rest period in a consecutive 24-hour period shall be at least 11 consecutive hours, albeit that the consecutive rest period can be shortened to at least eight hours once in every consecutive period of seven times 24 hours, starting on the time of the day on which the employee performs work;
  - b. the weekly day of rest applying to the employee in accordance with his work schedule;
  - c. weekly at least once the part of a day, other than the day of rest referred to under b, prior to or following 1:00 p.m.;
  - d. official holidays as referred to in Article 23, insofar as the employee does not perform work in accordance with his work schedule on these official holidays, on the understanding that the employee is exempt from work on at least five official holidays per calendar year.
3. The employer shall organize the work in such a manner that the day of rest of the employee who performs scheduled work falls on a Sunday at least once every seven weeks, and this with due observance of Article 2, second paragraph, letter h, second sentence. The provision of the first sentence may be deviated from in a collective labour agreement.
4. It is prohibited to let the employee work during the rest period applicable to him, other than as overtime.

**Article 11**

1. For the purposes of this Act, consignment shall be taken to mean: a period of time between two consecutive shifts or during a break, in which the employee is obligated to be available in the event of unforeseen circumstances to perform the stipulated work as soon as possible on call.
2. It is prohibited to impose consignment on employees under the age of 18.
3. The employer shall organize the work in such a manner that:
  - a. the employee is not imposed consignment for at least 14 consecutive days per four weeks;
  - b. no consignment is imposed on the day or days on which the employee works the nightshift.
4. In deviation from Article 8, second and fourth paragraph, the duration of the work calculated in respect of a 13-week period shall not exceed 40 hours per week, if the consignment also covers the period between midnight and 6:00 a.m.
5. During consignment, working hours shall also be the actual time worked on account of a call, provided that the work on account of one call or several calls within half an hour shall be deemed to last at least half an hour. If, after the work on account of a call has ended, another call follows within half an hour, the time in between also counts as working hours.
6. The work arising from the consignment shall not count for the calculation of the total duration of the work referred to in Article 8.
7. Articles 9 and 10 shall not apply to the work arising from the consignment.
8. The work performed during consignment shall be overtime, the payment of which shall take place in accordance with Article 15.

9. Unless otherwise agreed on by written contract, the employer shall pay the employee who has been imposed consignment an additional payment of one percent of his gross monthly wages per day on which this consignment is imposed, without prejudice to the eighth paragraph, and irrespective of whether calls were actually made or work has been performed on account of a call.
10. Our Minister shall be authorized to prohibit imposing consignment duty on one or more employees in an enterprise or to attach further conditions to same or to set restrictions for same, if he deems it desirable considering the health or wellbeing of the employee or employees in question.

### **Article 23**

1. For the purposes of this Act and the provisions based thereon, an official holiday shall be taken to mean:
  - a. New Year's Day;
  - b. the day after the date of the Carnival Parade held individually in the public bodies of Bonaire, Sint Eustatius, and Saba for those public bodies;
  - c. Good Friday;
  - d. Easter Sunday and Easter Monday;
  - e. Ascension Day;
  - f. Pentecost Sunday;
  - g. Christmas Day and Boxing Day;
  - h. the day on which the Queen's birthday is officially celebrated;
  - i. Labour Day;
  - j. [repealed]
  - k. the date of September 6 for the public body of Bonaire, the date of November 16 for the public body of Sint Eustatius, and the date of the first Friday of December for the public body of Saba.
2. Labour Day shall be celebrated annually on May 1, unless this is a Sunday or the Queen's birthday is officially celebrated on that day, in which cases Labour Day shall be celebrated on the following workday.
3. The Executive Council of a public body shall be authorized to stipulate that the official holiday referred to in the first paragraph, letter b or k, is celebrated on a different date in the public body.
4. It may be determined by government decree that other days than the days referred to in the previous paragraphs are official holidays.

**Appendix V. WIHCUA Membership Form**

# MEMBERSHIP FORM

Name: .....

Date of birth: .....

Male/Female: .....

Marital Status: .....

Number of Children: .....

Nationality: .....

Work Place Address: .....

.....

Qualifications: .....

.....

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.....

*I agree by virtue of my signature to abide by any Democratic decision of the Board and pay any Union dues as they may fall due.*

*I also understand that my membership can be terminated in writing within thirty (30) days of notice. I furthermore authorize the Board to have my employer withhold my monthly dues from my salary. Monthly dues are in Antillean Guilders (ANG)*

.....

**Signature**

.....

**Date**

