

**SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL**
(hereinafter referred to as "the Council")

MAIN COLLECTIVE AGREEMENT

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

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION
(hereinafter referred to as "SALGA")

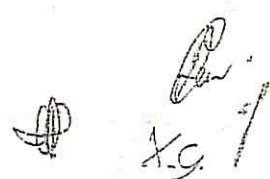
and

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION
(hereinafter referred to as "IMATU")

and

SOUTH AFRICAN MUNICIPAL WORKERS' UNION
(hereinafter referred to as "SAMWU")

(IMATU and SAMWU will together be referred to as the "Trade Unions")

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PART A. APPLICATION

1. SCOPE OF APPLICATION

- 1.1 The terms of this Agreement shall be observed in the *Local Government Undertaking* in the Republic of South Africa by all *employers* and by all employees who fall within the scope of the *Council*.

2. EXCLUSION FROM THIS AGREEMENT

- 2.1 Municipal Managers and persons appointed as Managers directly accountable to Municipal Managers in terms of Section 57 of the Municipal Systems Act, 32 of 2000 shall be excluded from this agreement except for the following provisions:

- 2.1.1 Part C, Section 2;
- 2.1.2 Part C, Section 3, where applicable;
- 2.1.3 Part C, Section 5, where applicable;
- 2.1.4 Part C, Section 6;
- 2.1.5 Part D, Section 1;
- 2.1.6 Part D, Section 2, where applicable.

- 2.2 Clause 3.1 shall not apply to non-parties.

3. PERIOD OF OPERATION

- 3.1 Notwithstanding the date of signature hereof, this Agreement shall come into operation in respect of the *Parties* to the Agreement, on 1 May 2007 and shall remain in force until 30 June 2012. Thereafter the Agreement shall continue indefinitely in respect of the *Parties* to the Agreement;
- 3.2 This Agreement shall come into operation in respect of non-parties (which includes, but is not limited to municipal entities as defined in the Municipal Systems Act, 32 of 2000), on a date to be determined by the Minister of Labour and shall remain in force until 30 June 2012; and after 30 June 2012 or such further period as determined by the Minister of Labour as requested by the *Parties*.

4. OBJECTIVES

- 4.1 To establish common and uniform conditions of service for employees falling within the registered scope of the *Council*; and
- 4.2 to establish common and uniform procedures for *employer* and employees falling within the registered scope of the *Council*; and
- 4.3 all previous conditions of service relating to matters covered by this agreement are replaced by the conditions of service contained herein.

3.1.3 All leave accrued as at 31 December 2003 shall be dealt with as follows:

3.1.3.1 The value of such accrued leave shall be determined at the rate of pay as at 31 December 2003.

3.1.3.2 Employees shall either take or encash such leave within a period of two (2) years calculated from 1 January 2004.

3.1.3.3 Notwithstanding the provisions of clause 3.1.3.2 above, an employee is entitled to retain a maximum of forty-eight (48) days of accrued leave.

3.1.4 Leave accumulated subsequent to 1 January 2004 shall only be accumulated to a maximum of forty-eight (48) days inclusive of those days referred to in clause 3.1.3.3.

3.1.5 Any leave in excess of forty-eight (48) days may be encashed should the employee be unable to take such leave, despite applying and because the employer refused to grant him such leave, as a result of the employer's operational requirements. If, despite, being afforded an opportunity to take leave, an employee fails, refuses or neglects to take the remaining leave due to him during this period, such remaining leave shall fall away.

3.1.6 At the end of a leave cycle, an employee may not have more than 48 days annual leave to his credit.

3.1.7 In the event of the termination of service, an employee shall be paid his leave entitlement calculated in terms of the relevant provisions of the Basic Conditions of Employment Act 75 of 1997, provided that no employer shall be obliged to encash more than 48 days annual leave upon the termination of that employee's contract of employment.

3.2 Sick Leave

3.2.1 An employer shall grant an employee eighty (80) days sick leave in a three (3) year leave cycle.

3.2.2 The employee shall be required to submit a medical certificate from a registered medical practitioner if more than two (2) consecutive days are taken as sick leave.

3.2.3 The employer is not required to pay an employee if an employee is absent on more than two occasions during an eight-week period, and on request by the employer, does not produce a medical certificate stating that the employee was unable to work for the duration of the employee's absence on account of sickness or injury.

3.3 Maternity Leave

3.3.1 An employee, including an employee adopting a child under three (3) months, shall be entitled to receive three (3) months paid maternity leave, with no limit to the number of confinements or adoptions. This leave provision shall also apply to an employee whose child is still-born.

3.3.2 To qualify for paid maternity leave, an employee must have one (1) years' service with the employer.

SECTION 2. ORGANISATIONAL RIGHTS

2.1 THRESHOLD OF REPRESENTATIVENESS

- 2.1.1 The *Parties* to the Council establish, in respect of the rights referred to in Sections 12, 13 and 15 of the *Act*, a *threshold of representativeness* equivalent to the membership percentage established in clause 4.2.2 of the Constitution of the Council.
- 2.1.2 This *threshold of representativeness* will be applied equally to any registered *Trade Union* seeking any of the organisational rights referred to in Sections 12, 13 and 15 of the *Act*.
- 2.1.3 Any registered *Trade Union* with fewer members than the *threshold of representativeness* set out in clause 2.1.1 above will not qualify for any rights set out in Sections 12, 13 and 15 of the *Act*.

2.2 ACCESS TO THE WORKPLACE

- 2.2.1 *Office Bearers* and *officials* of SAMWU and IMATU shall be entitled to reasonable access to the *employer's* premises during working hours for the purpose of conducting *bona fide* union business, including recruitment and communication, provided that prior permission is obtained from the manager designated by the *employer* for this purpose, which permission shall not be unreasonably withheld.

2.3 STOP-ORDER FACILITIES

- 2.3.1 The *employer* shall deduct subscriptions or levies for IMATU and SAMWU from the salary or wages of the *trade unions'* members for whom it holds written authority in favour of the *trade union* concerned and shall not levy any charges for such deductions.
- 2.3.2 A *trade union* member may revoke an authorisation referred to in clause 2.3.1 by written notice to his or her *trade union* and the *trade union* shall inform the *employer* thereof by written notice.
- 2.3.3 The *trade union* shall advise its members and the *employer* of a change in the subscription rate or levy and the *employer* shall give effect thereto within 6 (six) weeks of being informed thereof.
- 2.3.4 Any subscription or levy authorisation, notice of revocation of *trade union* membership, or notice of change in subscriptions or levies must be received by the *employer* at least 6 (six) weeks in advance of the implementation date.
- 2.3.5 The aggregate amount collected at the end of each month shall be remitted monthly to the office or a bank account designated by the respective *trade union* by no later than the 7th day of the month following the date upon which each deduction was made.
- 2.3.6 Simultaneously with the remittance referred to in clause 2.3.5 the *employer* shall transfer to the *trade union's* designated offices in electronic format a subscriptions schedule reflecting:
 - 2.3.6.1 the names of members and the deduction of subscriptions and/or levies made from such members' wages;

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2.4.3.1.3 thereafter, one *shop steward* for every 75 members or part thereof up to 5 000 members;

2.4.3.1.4 thereafter, one *shop steward* for every 100 members or part thereof.

2.4.4 *Shop Steward* Constituencies

2.4.4.1 In evaluating any potential constituency, the following shall be considered:

2.4.4.1.1 *Geographic location.*

2.4.4.1.2 *Nature of work.*

2.4.4.1.3 *Line of authority.*

2.4.4.1.4 *Trade union* constitution.

2.4.4.1.5 *Operational requirements.*

2.4.4.2 The *trade union* concerned shall notify the *employer* concerned and the relevant division of the *Council* that it wishes to exercise its rights to define constituencies as set out in this agreement.

2.4.4.3 On receipt of such notification the *employer* shall convene a meeting with the *trade union* concerned within fifteen (15) days and reach agreement on the number of constituencies and *shop stewards* to be allocated.

2.4.4.4 The *Parties* shall reach an agreement on the delimitation and demarcation of constituencies within 30 (thirty) days of receipt of notification, failing which any party may refer the matter as a dispute to the relevant division of the *Council* for resolution.

2.4.5 Election of *Shop Stewards*

2.4.5.1 Once agreement has been reached on the delimitation and demarcation of constituencies, the *trade union* concerned shall be given access to the *employer's* premises to conduct *shop steward* elections.

2.4.5.2 Such access shall allow the *trade union* 3 (three) hours during working time, per constituency, to explain the role and duties of *shop stewards*, to receive nominations and to conduct elections. The 3 (three) hours need not be continuous but shall be held prior to lunch breaks or knocking-off time.

2.4.5.3 The *trade union* concerned shall inform the *employer* 7 (seven) days in advance, in writing, of the proposed venue, date and time of the election meetings.

2.4.5.4 The term of office of *shop stewards* will be in accordance with the constitution of the relevant *trade union*.

2.4.5.5 Within 7 (seven) days of the conclusion of an election, the *trade union* shall inform the *employer*, in writing, of the full names, departmental location and constituencies of the elected *shop stewards*.

2.4.5.6 A *shop steward* shall vacate his or her office in any one of the following circumstances:

2.4.7.2 The *shop stewards' committee* shall be entitled to hold four (4) general meetings with members per Year. Any such meeting shall be held during working hours for not more than 2 (two) hours during working time on a date to be approved by the *employer*, which approval shall not be unreasonably withheld. The meeting shall take place either before lunch break or knock-off time. The *shop stewards committee* may request additional meetings/time and such request shall not be unreasonably refused.

2.4.7.3 A *shop stewards' committee* shall be entitled to meet for a period not exceeding 2 (two) hours per month during working time.

2.4.7.4 Where possible, the *shop stewards* shall have access to an office equipped with suitable facilities in order to carry out their *shop steward* duties.

2.4.7.5 Access will be provided to *trade unions* to display notices on notice boards within each department or service unit, provided that a copy of such notice is handed to the *employer* prior to such notice being displayed.

2.4.8 Time Off for Trade Union Activities and Training

2.4.8.1 *Shop stewards* shall be entitled to 15 (fifteen) days per Year with full pay during working hours for *trade union* activities and training.

2.4.8.2 Six (6) days of each *shop steward's* annual entitlement of time off shall be pooled and re-allocated at the *trade union's* discretion to the *shop stewards* at the *employer* concerned, provided that no single *shop steward* may take more than 21 (twenty-one) days off per Year and that the total days in the pool are not exceeded.

2.4.8.3 Further requests for time off for *shop stewards* shall not be unreasonably refused.

2.5 FULL-TIME SHOP STEWARDS

2.5.1 Each *trade union* has the right to elect full-time *shop stewards* in terms of this agreement.

2.5.2 Number of Full-Time Shop Stewards

The ratio of full-time shop stewards to members will be the following:

2.5.2.1 At every *workplace* in which the *trade union* concerned has 1000 (one thousand) members, such *trade union* shall be entitled to one full-time *shop steward*, provided that for every additional 1000 (one thousand) members such *trade union* shall be entitled to one additional full-time *shop steward* and provided further that each *trade union* is entitled to a number not exceeding 6 (six) full-time *shop stewards* at any one *workplace*; or

2.5.2.2 where a *workplace* falls within the geographical boundary of a *District Council*, the total membership of the *trade union* concerned will be accumulated and full-time *shop stewards* shall *mutatis mutandis* be allocated based on the total membership, provided that the membership of those *workplaces* that qualify for full-time *shop stewards* in terms of clause 2.5.2.1 above shall be excluded from the total;

relevant *trade union* may give 60 (sixty) days' notice to the *employer* that it wishes to exercise its rights to a full-time *shop steward* or an additional full-time *shop steward* as the case may be.

2.5.5.7 Whenever a full-time *shop steward* ceases to hold office, a by-election shall be held to replace him or her.

2.5.6 Duties and Obligations

2.5.6.1 Full-time *shop stewards* shall represent the interests of their *trade union* and its members. This may entail improving employer/employee relations by building trust between employees and management.

2.5.6.2 A full-time *shop steward* shall be subject to the applicable conditions of service, rules and regulations of the *employer* where he or she is employed.

2.5.6.3 The execution of the duties linked to the position of the full-time *shop steward* will be performed in accordance with the existing procedures and practices of the *employer*.

2.5.6.4 The *trade unions* accept that a full-time *shop steward* shall:

2.5.6.4.1 be considered the same as any other employee in respect of the application of conditions of service;

2.5.6.4.2 be bound by his or her terms and conditions of service and by the policies, rules and regulations prevailing from time to time in his/her *employer* and constituency; and

2.5.6.4.3 carry out his or her duties, as laid down in this agreement and any other agreements entered into between the *Parties* without unreasonably and unnecessarily interfering with or disrupting the *employer's* functioning and interfering with the performance of the employee's duties.

2.5.7 Conditions of Service and Employment Security

2.5.7.1 Full-time *shop stewards* shall be remunerated on the basis of the post they held at the time of election and will receive all salary notches, general increases, and service condition improvements applicable to such post.

2.5.7.2 Full-time *shop stewards* shall not be prejudiced in their employment or promotional prospects and shall be deemed to retain the job that they held for their terms of office, or any further term of office.

2.5.7.3 When a full-time *shop steward* ceases to hold office he or she shall return to his or her previous position or a similar position.

2.5.7.4 The full-time *shop steward* will be permitted during his or her term of office or any extended term of office to attend such training and development programmes that relate to his or her substantive post.

2.5.7.5 Full-time *shop stewards* shall not be able to claim redundancy by virtue of:

following proportions: up to R200,000.00 (two hundred thousand rand) *per trade union* by the *Council* and the remainder, if any, from their respective *trade union*.

- 2.6.4 If the provisions of clause 2.6.3 are invoked, the salary or wages of the *Office Bearer* will continue to be administered by his or her *employer* subject to the condition that a determined portion of the subsidy will be paid directly to the *employer* by the *Council* together with any further portion covered by the respective *trade union* should this be the case on terms and conditions as agreed by the relevant *Municipality* and *Trade Union* concerned.
- 2.6.5 Should a *trade union* not exercise its option in terms of clause 2.6.3 in respect of 3 (three) *National Office Bearers*, such *National Officer Bearer* shall be entitled to 20 (twenty) days per annum on full pay during working hours to perform *trade union* activities.
- 2.6.6 In addition, up to 2 (two) further *National Office Bearers* from each *trade union* shall be entitled to 20 (twenty) days' leave per annum on full pay during working hours to perform *trade union* activities.
- 2.6.7 A *trade union* shall be entitled, if it has not fully utilised its R200,000.00 (two hundred thousand rand) subsidy, to utilise the remaining allocation to pay for any unpaid leave that the *National Office Bearers* may be required to take. Such additional leave may not be refused by the *employer* concerned.
- 2.6.8 The figure of R200,000.00 (two hundred thousand rand) referred to in clause 2.6.3 shall be renegotiated in the *Council* each Year.
- 2.6.9 Provincial (SAMWU) or Regional (IMATU) *Office Bearers* shall be entitled to 15 (fifteen) additional days, per annum on full pay.
- 2.6.10 Branch (SAMWU) or sub-region (IMATU) *Office Bearers* as set out in Annexures "B1" and "B2", shall be entitled to an additional 10 (ten) days on full pay.

2.7 REPRESENTATION ON STATUTORY AND OTHER BODIES

- 2.7.1 *Shop stewards, office bearers* and *trade union* members who participate in any of the following bodies and their structures shall be deemed to be on duty:
 - 2.7.1.1 South African Local Government Bargaining Council;
 - 2.7.1.2 a statutory board or Council, accredited medical scheme or retirement fund;
 - 2.7.1.3 the Local Government Sector Education and Training Authority or its successor in title; and
 - 2.7.1.4 the National Economic Development and Labour Council (NEDLAC).

2.8 LOCAL LABOUR FORUM

2.8.1 Composition

- 2.8.1.1 At every *employer* a *Local Labour Forum* shall be established with equal representation from the *trade unions* and the *employer*.

2.8.3 Meetings of Local Labour Forum

- 2.8.3.1 The position of chairperson and vice-chairperson of the meeting shall rotate annually between the *Parties*.
- 2.8.3.2 The chairperson and vice-chairperson shall be elected at the first meeting of the Year.
- 2.8.3.3 The *Parties* shall each have a delegation leader who shall ensure order within his or her delegation.
- 2.8.3.4 *Local Labour Forums* shall meet at least once a month unless by mutual agreement of the *Parties* it is agreed not to meet.
- 2.8.3.5 The agenda for any ordinary meeting shall be jointly compiled through consultation with all parties 7 (seven) days prior to the ordinary meeting date provided that new items may be raised in any meeting under adoption of agenda if they are of an urgent nature.
- 2.8.3.6 Any *Party*, for reasons of urgency, may call special meetings of the *Local Labour Forums* on 48 hours' notice.

2.8.4 Sub-Committees of Local Labour Forums

- 2.8.4.1 The composition of sub-committees of *Local Labour Forums* shall be in compliance with those provisions governing the *Local Labour Forum* provided that by mutual agreement, up to 2 (two) technical advisors per *Party* may be invited by the *Party* concerned where the topic is such as to warrant their presence.
- 2.8.4.2 A *Local Labour Forum* shall consider the establishment of the following sub-committees for purposes of preparatory consultation:
 - 2.8.4.2.1 Human Resources Development Committee, which shall be responsible for consultation and technical preparatory work on education and training, employment equity and all such other related human resources issues;
 - 2.8.4.2.2 *Workplace* and Services Restructuring Committee, which shall deal with all proposed changes relating to any service restructuring including the introduction of new technology, proposals for privatisation or alternative methods of service delivery or other *work* re-organisation proposals;
 - 2.8.4.2.3 Basic Conditions Committee, which shall deal with any other matters relating to working conditions, arrangement of working hours, health and safety proposals.
- 2.8.4.3 Should any *Local Labour Forum* decide that sub-committees are either unnecessary or that some additional sub-committees are required, they may so disestablish or establish such sub-committees as the case may be.
- 2.8.4.4 The number and nature of sub-committees shall be reported to the relevant division of the *Council* on a quarterly basis.

3.10 Membership of *Trade Unions*

- 3.10.1 It is specifically recorded that employees who are not members of the representative *Trade Unions* or *Trade Union* are not compelled to become members of the *Trade Union/s*.

SECTION 4. ESSENTIAL SERVICES

4.1 Procedure

- 4.1.1 The minimum level in the *designated essential services* shall be determined by collective agreement between the parties at municipal level in accordance with the undermentioned procedure:
- 4.1.1.1 *Minimum Service Collective Agreements*, in terms of the Council guidelines, shall be concluded in the *Local Labour Forum* in respect of each *employer* represented by the employer, which shall determine in respect of those services within each category at least the following:
- a) Whether the service in question is essential in its entirety or only partially so; and
 - b) whether the service in question is essential only at a reduced level and if so, precisely what such reduced level is, having regard *inter alia* to manning levels, times of provision, geographic areas of provision and the like;
- 4.1.1.2 In the event that the *Parties* have failed within the specified period to reach agreement, the matter shall be dealt with in terms of the applicable dispute procedure as per the *Act*.
- 4.1.1.3 The Council shall set guidelines for the conclusion of *Minimum Service Collective Agreements*, from time to time, which guidelines must be taken into account by the *Parties* when concluding the *Minimum Service Collective Agreements*. Such guidelines shall include a procedure for resolution of disputes in respect of the *Minimum Service Collective Agreements*.
- 4.1.2 In the event that, during the course of a strike affecting the operations of any employer, a *Party* (which for the purpose of this clause shall be the individual local authority) asserts that a service or services not designated as essential has/have become an *essential service* due to circumstances, the *Parties* shall meet within 24 hours of written notice by any of them to the others calling for such a meeting in an attempt to reach agreement on whether the service(s) in question is indeed essential and if so what minimum level of services is required.
- 4.1.3 The duration of any such agreement shall be for the period of the strike.
- 4.1.4 In the event that no agreement is reached at the meeting (whether due to absence of any *Party*, or otherwise) the matter may be dealt with in terms of Section 73 of the *Act*.

5.3 Step Two: Head of Department

- 5.3.1 If a *grievance* has not been resolved to the satisfaction of the aggrieved employee or group of employees, the immediate superior shall refer the matter in writing within five (5) days to the Head of Department or his nominee.
- 5.3.2 The Head of Department or his nominee shall arrange a meeting to consult and hold discussions with the affected parties in an attempt to achieve a resolution. The employee may be assisted by a fellow employee, shop steward or union official at such a meeting and the immediate superior may also be required to attend.
- 5.3.3 The Head of Department or his nominee shall endeavour to resolve the *grievance* within five (5) days of the *grievance* being referred and shall inform the employee of the outcome in writing.

5.4 Step Three: Municipal Manager

- 5.4.1 If the *grievance* has not been resolved to the satisfaction of the aggrieved employee or group of employees, the Head of Department or his nominee shall refer it to the Municipal Manager or his nominee within five (5) days in writing who shall hold an enquiry into the grievance, attended by the employee, his representative, if required, and any other persons who, in the opinion of the Municipal Manager or his nominee should attend.
- 5.4.2 The Municipal Manager or his nominee shall hear details of the *grievance* including proposals to resolve the issue and shall endeavour to reach a decision within five (5) days.
- 5.4.3 The Municipal Manager or his nominee shall inform the employee in writing of the outcome of the hearing as envisaged in clause 5.4.2 above, and such decision shall be final in terms of this procedure.
- 5.4.4 If the *grievance* is against a Municipal Manager, the aggrieved employee shall refer the *grievance* to the Office of the Speaker, which may either resolve the *grievance* itself or engage the services of an appropriate Senior Manager of another *Municipality* to resolve the *grievance*.
- 5.4.5 If the *grievance* has not been resolved to the satisfaction of the aggrieved party, that party may refer the grievance to the *Council* for adjudication, provided that a dispute has been declared.

SECTION 6. BARGAINING COUNCIL LEVY

- 6.1 Every employer shall, on each pay day, or if an employee is weekly paid, on the last day of the month, deduct from the wages of each of its employees an amount of R3.20. The amount of R3.20 shall increase annually on 1 July at the same rate as the salary and wage increase for employees falling under the scope of the *Council*.
- 6.2 To the total of the amount deducted in terms of clause 6.1, the employer shall add an equal amount and forward the total amount to the *Council*, not later than the 7th day of the following month.
- 6.3 The employer shall remit to the *Council*, on the prescribed remittance form, the total number of all employees in the *Municipality* together with the proof of payment.

- 7.2.4 The applicant scheme shall have a board of trustees duly elected as provided for in the MSA.
- 7.2.5 The applicant scheme shall not unfairly discriminate directly or indirectly against any person on any ground including race, gender, marital status, ethnic or social origin, sexual orientation, disability, age or state of health.
- 7.2.6 The *non-health expenditure costs* of the applicant scheme for the previous financial Year shall be disclosed to the *Council* by an accredited scheme within three (3) months of the conclusion of the annual audit of such scheme and these costs may be published by the *Council*.
- 7.2.7 Audited Year-end financial statements and statutory returns for the last Year must be submitted by an applicant scheme before accreditation, which financial statements and statutory returns may be published by the *Council*.
- 7.2.8 Prior to accreditation, the applicant scheme must demonstrate capacity to provide effective member communication channels, e.g. regular newsletter and an updated website.
- 7.2.9 Service levels have to be clearly specified on such matters as, e.g. turnaround time, claims processing and payment of accounts and may be published by the *Council*.
- 7.2.10 An applicant scheme should support its application for accreditation with any other supporting documentation, including but not limited to, actuarial evaluation, credit rating and statistical returns.
- 7.2.11 An applicant scheme is required to waive any waiting period for any illness condition for scheme members who choose to transfer to an applicant scheme and who are current members of an existing accredited medical scheme.
- 7.2.12 An applicant scheme shall provide a deposit of R50 000,00, which may be used by the *Council* for costs relating to the verification of information provided by the applicant scheme or any dispute resolution costs related to this agreement.
- 7.2.13 The *Council* may publish any other reasonable requirements that applicant schemes shall be obliged to meet at any stage during the duration of this agreement.

7.3 Selection Process

- 7.3.1 The *Council* will undertake the implementation of the above agreed to criteria as follows:-
 - 7.3.1.1 Medical schemes presently accredited shall be notified in writing, inviting them to apply for accreditation and shall be advised of the terms of application and of any other rules applicable;
 - 7.3.1.2 Medical schemes will be given until 15 August of each Year to submit their applications for accreditation, in compliance with the *Council* criteria above. The failure to comply with the submission deadlines without substantive motivation shall result in the disqualification of that scheme. Applicant schemes must submit four (4) original sets of

7.4.4 Employers are to endeavour to inform all employees in their employ and pensioner members who belong to *accredited medical schemes* operating at their workplace.

7.5 Implementation

The *Executive Committee* is charged with the duty to implement and attend to any matter arising from Part C, Section 7 of this agreement.

7.6 Code of Conduct

7.6.1 An *accredited medical scheme* shall at all times present its own scheme and its benefits in a fair and reasonable manner.

7.6.2 An *accredited medical scheme* shall not misrepresent or discredit another *accredited medical scheme* or its benefits in any way.

7.6.3 All presentations to members and prospective members shall be based on the benefit structure and contribution levels of that *accredited medical scheme* that will apply as at 1 January in the following Year.

7.6.4 *Accredited medical schemes* may only present medical schemes benefits as contained in their approved rules. Scheme representatives may not engage in the sale of any other non-medical scheme product whilst conducting marketing as contemplated in this agreement.

7.7 Breach of Code of Conduct

7.7.1 Any alleged breach of the Code of Conduct or any of the terms of this agreement may be reported by completing the prescribed form Annexure "A" to the General Secretary of the Council.

7.7.2 The General Secretary shall submit the complaint to an ombudsperson selected from the Council's National Panel of Arbitrators.

7.7.3 The tribunal (ombudsperson) shall have the powers to:

7.7.3.1 Determine whether the complaint can be adjudicated on paper, whether a hearing of oral evidence is necessary or any other appropriate manner to deal with such a complaint;

7.7.3.2 reverse a selection of medical scheme by an employee;

7.7.3.3 order the re-opening of the *freedom of association* exercise for a specified time period for an employee or specified group of employees;

7.7.3.4 issue a fine against an offending medical scheme; and/or

7.7.3.5 any other suitable order.

7.7.4 Decisions of the tribunal shall be final.

7.7.5 Costs are to borne by the unsuccessful party to the complaint. In the event of an award going against an *accredited medical scheme*, the Council shall be entitled to recover the costs from the deposit referred to in clause 7.2.12 above in the first

PART D. RULES OF THE COUNCIL

SECTION 1. DATA BANK - MUNICIPAL DATA

- 1.1 SALGA and/or the individual Municipalities will furnish to the *Council* the information as contained in Annexure "D" hereto.
- 1.2 All *employers* bound by this agreement shall furnish the *Council* updated information in regard to the data specified in clause 1.1 above, three times a Year, for the following months of each Year:-
 - 1.2.1 Data for the month of April to reach the *Council* not later than the 31st May.
 - 1.2.2 Data for the month of August to reach the *Council* not later than the 30th September.
 - 1.2.3 Data for the month of December to reach the *Council* not later than the 31st January.
- 1.3 Such information shall be furnished in electronic format.
- 1.4 The *Council* agrees that the information released in terms of this agreement shall be treated on a confidential basis and shall not be released to any persons other than the *Parties* to the *Council* acting through the structures of the *Council*.

SECTION 2. CONDUCT OF CONCILIATION AND ARBITRATION PROCEEDINGS BEFORE THE COUNCIL

SERVING AND FILING

2.1 Council Contact Details

- (1) The addresses, telephone and telefax numbers of the offices of the *Council* are listed in Annexure "E1".
- (2) Documents may only be filed with the *Council* at the addresses or telefax numbers listed in Annexure "E1".

2.2 Council Office Hours

- (1) The head office and the provincial offices of the *Council* will be open every day from Monday to Friday excluding public holidays and the annual shut down period, between Christmas and New Year, between the hours of 08:00 and 16:30, or as determined by the *Council*.
- (2) Documents may only be filed with the *Council* during the hours referred to in subrule (1).
- (3) Notwithstanding subrule (2), documents may be faxed at any time to the *Council* within the time frames approved by the *Council* for the filing of documents, as per the specific prescribed time frames for conciliation, con-arb, arbitration and applications.

(2) A document may also be served:-

- (a) on a company or other body corporate by handing a copy of the document to a responsible employee of the company or body at its registered office, its principal place of business within the magisterial district in which the dispute first arose;
- (b) on an *employer* by handing a copy of the document to a responsible employee of the *employer* at the *workplace* where the employees involved in the dispute ordinarily work or worked;
- (c) on a *Trade Union* or employer's organization by handing a copy of the document to a responsible employee or official at the main office of the union or employer's organization or its office in the magisterial district in which dispute arose;
- (d) on a partnership, firm or association by handing a copy of the document to a responsible employee or official at the place of business of the partnership, firm or association or, if it has no place of business, by serving a copy of the document on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of the association, as the case may be;
- (e) on a *Municipality*, by serving a copy of the document on the municipal manager or any person acting on behalf of that person;
- (f) on a statutory body, by handing a copy to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body;
- (g) on the State or province, a state department or a provincial department, a minister, premier or a member of the executive committee of a province by handing a copy to a responsible employee at the head office of the party or to a responsible employee at any office of the State Attorney.

(3) If no person identified in subrule (2) is willing to accept service, service may be effected by affixing a copy of the document to-

- (a) the main door of the premises concerned; or
- (b) if this is not accessible, a post box or other place to which the public has access.

(4) The *Council* or an arbitrator may order service in a manner other than prescribed in this rule.

2.6 Proof of Service

2.6.1 A party must prove to the *Council* or an arbitrator that a document was served in terms of these rules, by providing the *Council* or an arbitrator:

- (a) with a copy of proof of mailing the document by registered post to the other party;

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2.8 Documents and notices sent by registered post

Any document or notice sent by registered post by a party or the *Council* is presumed, until the contrary is proved, to have been received by the person to whom it was sent seven days after it was posted.

2.9 Condonation for documents delivered late

- (1) This rule applies to any referral document or application delivered outside of the applicable time period prescribed in the *Act* or these rules or the Constitution of the *Council*.
- (2) A party must apply for condonation, when delivering the document to the *Council*.
 - (a) An application for condonation in the prescribed *Council* Form Annexure "E2" must set out the grounds for seeking condonation and must include details of the following:
 - (i) the degree of lateness;
 - (ii) the reasons for the lateness;
 - (iii) the referring parties prospects of succeeding with the referral and obtaining the relief sought against the other party;
 - (iv) any prejudice to the other party; and
 - (v) any other relevant factors.

CONCILIATION OF DISPUTES

2.10 Referral of a dispute to the Council for conciliation

- (1) A party must refer a dispute to the *Council* for conciliation by delivering a completed *Council* form Annexure "E3" - "The Request for Conciliation".
- (2) The referring party must-
 - (a) sign the referral document in accordance with rule 2.4;
 - (b) attach to the referral document written proof, in accordance with rule 2.6, that the referral document was served on the other parties to the dispute;
 - (c) attach an application for condonation in accordance with rule 2.9, if the referral document is filed out of time.
- (3) The *Council* must refuse to accept a referral document until subrule (2) has been complied with.

2.11 Notice of a conciliation

The *Council* must give the parties at least twenty (20) days notice in writing of a conciliation hearing, unless the parties agree to a shorter period of notice.

 
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2.16 Disclosure of conciliation proceedings

- (1) Conciliation proceedings are private and confidential and are conducted on a without prejudice basis. No person may refer to anything said at conciliation proceedings during any subsequent proceedings, unless the parties agree in writing.
- (2) No person, including an arbitrator or an employee of the *Council*, may be called as a witness during any subsequent proceedings, unless all the parties agree in writing.

CON-ARB IN TERMS OF SECTION 191 (5A) OF THE ACT

2.17 Conduct of con-arb in terms of Section 191 (5A) of the Act

- (1) The *Council* must give the parties at least twenty (20) days notice in writing that a matter has been scheduled for con-arb in terms of Section 191 (5A) of the *Act*.
- (2) A party that intends to object to a dispute being dealt with in terms of Section 191 (5A) of the *Act*, must deliver a written notice to the *Council* and the other party, at least five (5) days prior to the scheduled date in terms of subrule (1).
- (3) Subrule (2) does not apply to a dispute concerning the dismissal of an employee for any reason related to probation or an unfair labour practice relating to probation.
- (4) If a party fails to appear or be represented at a hearing scheduled in terms of subrule (1), the arbitrator must conduct the conciliation on the date specified in the notice issued in subrule (1).
- (5) Subrule (4) applies irrespective of whether a party has lodged a notice of objection in terms of subrule (2).
- (6) In con-arb proceedings a party to the dispute may appear in person or be represented only by-
 - (a) subject to subrule (7), a legal practitioner;
 - (b) a director or employee of that party; or
 - (c) any member, office bearer or official of that party's registered *Trade Union* or registered employers' organization².
- (7) If the dispute concerns an unfair dismissal and the party has alleged that the reason for the dismissal relates to the employee's conduct or capacity, a party may only be represented by a legal practitioner in the circumstances contemplated in Section 140 (1)³ of the *Act*.
- (8) The provisions of the *Act* and these rules that are applicable to conciliation and arbitration respectively, apply, with the changes required by the context, to con-arb proceedings.

² Subrules (6) and (7) apply item 27 (1) (c) of Schedule 7 to the Act

³ The text of Section 140 (1) is reproduced in Rule 2.25



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(2) In a pre-arbitration conference, the parties must attempt to reach consensus on the following:

- (a) any means by which the dispute may be settled;
- (b) facts that are agreed between the parties;
- (c) facts that are in dispute;
- (d) the issues that the arbitrator is required to decide;
- (e) the precise relief claimed and if compensation is claimed the amount of the compensation and how it is calculated;
- (f) the sharing and exchange of relevant documents, and the preparation of a bundle of documents in chronological order with each page numbered;
- (g) the manner in which documentary evidence is to be dealt with; including any agreement on the status of documents and whether documents, or parts of documents, will serve as evidence of what they appear to be;
- (h) whether evidence on affidavit will be admitted with or without the right of any party to cross-examine;
- (i) which party must begin;
- (j) the necessity for any on-the-spot inspection;
- (k) securing the presence at the arbitration of any witness;
- (l) the resolution of any preliminary points that are intended to be taken;
- (m) the exchange of witness statements;
- (n) expert evidence;
- (o) any other means by which the proceedings may be shortened;
- (p) an estimate of the time required for the hearing;
- (q) the right of representation; and
- (r) whether an interpreter is required and, if so, for how long and for which languages.

(3) Unless a dispute is settled, the parties must draw up and sign a minute setting out the facts on which the parties agree or disagree.

(4) A minute in terms of subrule (3) may also deal with any other matter listed in subrule (2).

2.25 Objections to a representative appearing before the Council

- (1) In the conciliation proceedings a party to the dispute may appear in person or be represented only by-
 - (a) a director or employee of that party; or
 - (b) any member, office bearer or official of the party's registered *Trade Union* or registered employers' organization.
- (2) In any arbitration proceedings-
 - (a) A party to the dispute may appear in person or be represented only by-
 - (i) a legal practitioner;
 - (ii) a director or employee of the party; or
 - (iii) any member, office-bearer or official of that party's registered *Trade Union* or a registered employers' organization.
 - (b) If the dispute being arbitrated is about the fairness of a dismissal and a party has alleged that the reason for the dismissal relates to the employee's conduct or capacity, the parties, despite Section 138 (4) of the *Act*, are not entitled to be represented by a legal practitioner in the proceedings unless-
 - (i) the commissioner and all the other parties consent thereto;
 - (ii) the commissioner concludes that it is unreasonable to expect a party to deal with the dispute without legal representation, after considering-
 1. the nature of the questions of law raised by the dispute;
 2. the complexity of the dispute;
 3. the public interest; and
 4. the comparative ability of the opposing parties or their representatives to deal with the dispute.
 - (c) A person that acted as a conciliator at a conciliation hearing shall not be entitled to represent that person or party in that same dispute in the subsequent arbitration proceedings.
- (3) If a party to the dispute objects to the representation of another party to the dispute or the arbitrator suspects that the representative of a party does not qualify in terms of the *Act*, the arbitrator must determine this issue.
- (4) The arbitrator may call upon the representative to establish why the representative should be permitted to appear in terms of the *Act*.

2.29 Disclosure of documents

- (1) The parties may agree on the disclosure of documents.
- (2) Either party may request an arbitrator to make an order as to the disclosure of relevant documents.

2.30 Failure to attend proceedings before the Council

- (1) If a party to the dispute fails to attend or be represented at any proceedings before the *Council*, and that party-
 - (a) had referred the dispute to the *Council*, an arbitrator may dismiss the matter by issuing a written ruling; or
 - (b) had not referred the matter to the *Council*, the arbitrator may-
 - (i) continue with the proceedings in the absence of that party; or
 - (ii) adjourn the proceedings to a later date.
- (2) An arbitrator must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subrule (1).
- (3) If a matter is dismissed, the *Council* must send a copy of the ruling to the parties.

APPLICATIONS

2.31 Applications

- (1) This rule applies to any-
 - (a) application for condonation, joinder, substitution, variation or rescission;
 - (b) application in a jurisdictional dispute;
 - (c) other preliminary, in limine or interlocutory application.
- (2) An application must be brought on notice to all persons who have an interest in the application within ten (10) working days of a notice of conciliation issued by the *Council* or within ten (10) working days of a notice of arbitration issued by the *Council*.
- (3) The party bringing the application must sign the notice of application in accordance with rule 4 and must state-
 - (a) the title of the matter;
 - (b) the case number assigned to the matter by the *Council*;
 - (c) the relief sought;

- (7) (a) The *Council* must allocate a date for the hearing of the application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.
- (b) The *Council* must notify the parties of the date, time and place of the hearing of the application.
- (c) Applications may be heard on a motion roll.
- (8) Despite this rule, the *Council* or an arbitrator may determine an application in any manner it deems fit.

2.32 Variation or rescission of arbitration awards or rulings

- (1) An application for the variation or rescission of an arbitration award or ruling must be made within ten (10) days of the date on which the applicant became aware of-
 - (a) the arbitration award or ruling; and
 - (b) a mistake common to the parties to the proceedings.
- (2) A ruling made by an arbitrator which has the effect of a final order, will be regarded as a ruling for the purposes of this rule.

2.33 Referral of a dismissal dispute to the Labour Court

- (1) An application in terms of Section 191 (6) of the *Act* to refer a matter to the Labour Court, must be delivered-
 - (a) within ninety (90) calendar days of a certificate that the dispute has not been resolved being issued; or
 - (b) by a party that has not requested arbitration, within ten (10) days of the referral for arbitration being filed.
- (2) Despite subrule (1), a party that requests arbitration may not thereafter make an application in terms of Section 191 (6) of the *Act*.
- (3) The application must state the grounds on which a party relies in requesting that the dispute be referred to the Labour Court.
- (4) If any party to the dispute objects to the matter being referred to the Labour Court, that party must state the grounds for the objection within five (5) days of receipt of the application.
- (5) The *Council* must notify the parties of its decision in terms of Section 191 (8) of the *Act* within ten (10) days of receiving the objection.

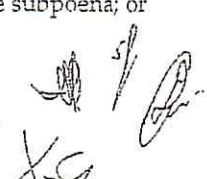
- (5) The transcript of a record certified as correct in terms of subrule (4) is presumed to be correct, unless the Labour Court decides otherwise.

2.37 Subpoena

- (1) Any party who requires the *Council* or an arbitrator to subpoena a person in terms of Section 142 (1) of the *Act*, must file a completed LRA Form 7.16 together with a written motivation setting out why the evidence of the person to be subpoenaed is necessary.
- (2) A party requesting the *Council* to waive the requirement for the party to pay witness fees in terms of Section 142(7)(c) of the *Act* must set out the reasons for the request in writing at the time of requesting the *Council* to issue a subpoena in respect of that witness.
- (3) An application in terms of subrule (1) must be filed with the *Council* at least ten (10) days before the arbitration hearing, or as directed by the arbitrator hearing the arbitration.
- (4) An arbitrator may refuse to issue a subpoena if-
- (a) the party does not establish why the evidence of the person is necessary;
 - (b) the party subpoenaed does not have a reasonable period in which to comply with the subpoena;
 - (c) the arbitrator is not satisfied that the party has made arrangements to pay the witness fees and the reasonable travel costs of the person subpoenaed.
- (5) A subpoena must be served on the witness subpoenaed-
- (a) by the person who has requested the issue of the subpoena or the Sheriff, at least five days before the scheduled date of the arbitration; and
 - (b) if so directed by the *Council*, accompanied by payment of the prescribed witness fees for one day in accordance with the tariff of allowances published by notice in the Government Gazette in terms of Section 142 (7) of the *Act* and the witnesses' reasonable travel costs.
- (6) Subrules 4 (c) and 5 (b) do not apply if the *Council* in terms of Section 142 (7) (c) of the *Act*, has waived the requirement to pay witness fees.

2.38 Payment of witness fees

- (1) A witness subpoenaed in any proceedings must be paid a witness fee in accordance with the tariff of allowances published by notice in the Government Gazette in terms of Section 142 (7) of the *Act*.
- (2) The witness fee must be paid by-
- (a) the party who requested an arbitrator to issue the subpoena; or


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- (3) For the purposes of subrule (2), an arbitration award includes an award of costs in terms of Section 138 (10) of the *Act*, a taxed bill of costs in respect of an award of costs and an arbitration fee charged in terms of Section 140 (2) of the *Act*.

2.41 Conciliation and Arbitration Fees

- (1) Any party or parties that fails or fail to request for a postponement timeously, as stipulated in rule 2.23 above, shall be liable for the fees of the arbitration, including any other incidental costs arising from the convening of the arbitration.
- (2) The arbitrator is required to rule on frivolous or vexatious postponements.
- (3) The *Council* shall pay for a maximum of three (3) days of arbitration only. If the same arbitration exceeds three (3) days, the disputing parties shall be jointly and equally responsible for the arbitration fees in excess of three (3) days, unless the arbitrator determines otherwise.
- (4) Any party to a conciliation or arbitration proceeding, who does not comply with any rule in Part D, shall bear the costs of the *Council*, due to any postponement or delay of the conciliation or arbitration hearing.

Exemption Committee. Such an appeal must be lodged by not later than fifteen (15) days after the aggrieved party has received the written ruling of the National Exemption Committee referred to in clause 2.1 above. The appeal shall consist of a notice of appeal and the grounds of appeal. The notice and grounds of appeal must also be submitted to the other *Parties* to the exemption application as well as the General Secretary of the *Council*. The respondent(s) in the appeal shall have a further fifteen (15) days to respond to the notice and grounds of appeal. The respondent must submit the response to the appellant and the General Secretary of the *Council*. The appellant in turn shall have a further ten (10) days to reply to the response of the respondent and the reply must be submitted to the other *Parties* to the appeal as well as the General Secretary of the *Council*.

- 2.3 Having made a decision to grant or refuse an exemption application, the National Exemption Committee shall advise the applicant, respondents and the *Council* within fifteen (15) days of its decision, giving full reasons for the decision.
- 2.4 The National Exemption Committee shall consist of three (3) *SALGA* representatives, two (2) *SAMWU* representatives and one (1) *IMATU* representative.
- 2.5 The National Exemption Committee shall consider exemption applications in a manner that is fair and transparent and applications shall be determined as expeditiously as possible, which may include the hearing of evidence and arguments.
- 2.6 The National Exemption Committee shall be constituted on an ad hoc basis and shall be appointed by the *Council* from time to time. *Parties* to the *Council* shall appoint their own representatives to the National Exemptions Committee.

3. Independent Exemptions Board

- 3.1 The appeal referred to in clause 2.2 above as well as those matters that could not be determined due to a lack of consensus, shall be heard by an Independent Exemptions Board consisting of an arbitrator appointed from the national panel of arbitrators of the *Council*.
- 3.2 The decision of the arbitrator, referred to in clause 3.1 above, shall be final and binding.
- 3.3 The *Council* may apply to the Independent Exemption Body to withdraw a certificate of exemption granted to a party or non-party to this agreement.
- 3.4 When considering an application for exemption or an application for the withdrawal of a certificate of exemption by the *Council*, the National Exemption Committee shall take into account the following (the order not indicating any form of priority):
 - 3.4.1 any written and/or verbal substantiation provided by the applicant;
 - 3.4.2 fairness to the employer, its employees and other employers and the employees in the industry;
 - 3.4.3 whether an exemption, if granted would undermine this agreement or the collective bargaining process;
 - 3.4.4 unexpected economic hardship occurring during the currency of this agreement and job creation and/or loss thereof;
 - 3.4.5 whether a budgetary provision was made for implementation of the obligation arising out of the collective agreement;

PART F. ENFORCEMENT OF THIS COLLECTIVE AGREEMENT

1. Despite any other provision in the *Act*, the *Council* shall monitor and enforce compliance of this collective agreement in terms of Section 33A of the *Act*.
2. The General Secretary or his appointed designated agent may in keeping with the *Council* Constitution, issue a compliance order which will stipulate the alleged breach and shall clearly indicate that such breach be rectified within ten (10) days of receipt of such compliance order.
3. The *Council* may refer any unresolved dispute concerning compliance with any provision of this collective agreement to arbitration by an arbitrator appointed by the *Council*.
4. If a party to an arbitration in terms of Section 33A of the *Act* is not a *Party* to the *Council*, and objects to the appointment of an arbitrator in terms of clause 3, the *Commission*, on request by the *Council*, must appoint an arbitrator.
5. If an arbitrator is appointed in terms of clause 4 above-
 - 5.1 the *Council* remains liable for the payment of the arbitrator's fee; and
 - 5.2 the arbitration is not conducted under the auspices of the *Commission*.
6. An arbitrator conducting an arbitration in terms of Section 33A of the *Act* has the powers of a commissioner in terms of Section 142 of the *Act*, read with the changes required by the context.
7. Section 138 of the *Act*, read with the changes required by the context, applies to any arbitration conducted in terms of Section 33A of the *Act*.
8. An arbitrator acting in terms of Section 33A of the *Act* may determine any dispute concerning the interpretation or application of a collective agreement.
9. An arbitrator conducting an arbitration in terms of Section 33A of the *Act* may make an appropriate award, including-
 - 9.1 ordering any person to pay any amount owing in terms of a collective agreement;
 - 9.2 imposing a fine for a failure to comply with a collective agreement;
 - 9.3 charging a party an arbitration fee;
 - 9.4 ordering a party to pay the costs of the arbitration;
 - 9.5 confirming, varying or setting aside a compliance order issued by the General Secretary; or his appointed designated agent in accordance with clause 2;
 - 9.6 any award contemplated in Section 139 (9) of the *Act*.
10. Interest on any amount that a person is obliged to pay in terms of this collective agreement accrues from the date on which the amount was due and payable at the rate prescribed in terms of Section 1 of the Prescribed Rate of Interest, Act 55 of 1975, unless the arbitration award provides otherwise.

PART G. DISPUTES ABOUT THE APPLICATION OR INTERPRETATION OF THIS AGREEMENT

1. Any person or *Party* may refer a dispute about the application or interpretation of this collective agreement, to the General Secretary of the *Council*.
2. The General Secretary in the event of a dispute not being resolved-
 - 2.1 must appoint a conciliator from the national panel of conciliators, (doing so as far as possible on a rotational basis) or if the dispute remains unresolved;
 - 2.2 refer the dispute to arbitration in terms of the Constitution of the *Council*.
3. If a conciliator is appointed, the General Secretary shall decide the date, time and venue of the conciliation meeting and shall serve notices of these particulars on the parties to the dispute.
4. If the dispute is referred to arbitration, the General Secretary shall appoint an arbitrator from the national panel of arbitrators, doing so as far as possible on a rotational basis.
5. The General Secretary, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing.
6. The arbitrator shall -
 - 6.1 endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated; and
 - 6.2 if the dispute remains unresolved, resolve the dispute through arbitration.
7. The arbitrator may make any appropriate arbitration award in terms of the *Act* that gives effect to the collective agreement.


V.C.

PART I. REPEAL OF EXISTING AGREEMENTS

1. This Agreement replaces the following agreements:
 - 1.1 Bargaining Levels Collective Agreement dated 5 November 2003;
 - 1.2 Data Bank Collective Agreement dated 5 November 2003;
 - 1.3 Collective Agreement on Conditions of Service dated 29 December 2003;
 - 1.4 Collective Agreement on Rules for the Conduct of Proceedings before the *Council* dated 3 February 2004;
 - 1.5 Levies Collective Agreement dated 11 February 2003;
 - 1.6 Grievance Procedure Collective Agreement dated 5 November 2003;
 - 1.7 Agency Shop Agreement dated 11 February 2003.

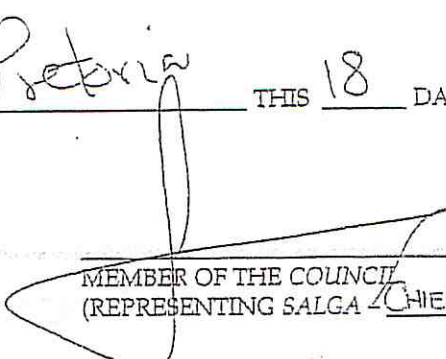
essential services in Government Gazette 18761 of 27 March 1998 and which may be found within the local government undertaking:


- 11.8.1 emergency health services and the provision of emergency health facilities to the community or part thereof;
- 11.8.2 nursing; and
- 11.8.3 medical and paramedical services.

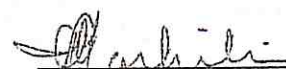
12. "District Council" means a district Municipality as defined in the Municipal Structures Act, 117 of 1998;
13. "Division of the Council" shall be the following regional structures of the Council:
- 13.1 Cape Metropolitan;
 - 13.2 Eastern Cape;
 - 13.3 eThekweni Metropolitan;
 - 13.4 Free State;
 - 13.5 Gauteng;
 - 13.6 Johannesburg Metropolitan;
 - 13.7 KwaZulu-Natal;
 - 13.8 Limpopo;
 - 13.9 Mpumalanga;
 - 13.10 Northern Cape;
 - 13.11 North-West;
 - 13.12 Tshwane Metropolitan;
 - 13.13 Western Cape
14. "Emergency Personnel" shall be Fire, Police, Traffic Officers and Ambulance staff only;
15. "Employer or Employers" refers to employers within the registered scope of the Council;
16. "Essential service" shall be a service, the interruption of which endangers the life, personal safety or health of the whole or any part of the population;
17. "Executive Committee" means the Executive Committee of the Central Council of the Council;
18. "Exemption Appeal" means an appeal arising from an application for exemption from any provision of this agreement;
19. "Freedom of Association" means the opportunity of an employee to exercise the right to join an accredited scheme of his choice;
20. "Grievance" means a complaint by an employee or group of employees against another employee and/or any Act or omission of the employer which adversely affects an employee in the employment relationship excluding an unfair dismissal, a written allegation of misconduct, or any other dispute which is regulated by a separate procedure in this agreement;
21. "Geographic Location" shall refer to the geographical boundary of the employer (Municipality) for the purpose of defining the shop steward constituency;

33. "Representative trade union" means the Trade Union parties to this agreement, IMATU and SAMWU;
34. "SALGA" means the South African Local Government Association;
35. "SAMWU" means the South African Municipal Workers' Union;
36. "Seasonal Employee" means an employee who is employed to work a full season, of not less than a continuous period of six months and who should qualify for all benefits in terms of these conditions, except housing and pension benefits; (eg. pool attendant, grass cutters.)
37. "Senior Management" shall be those employees employed as a municipal manager, deputy municipal manager, executive director, head of department, deputy head of department and director or such post as determined by the relevant Division of the Council;
38. "Shop steward" means a Trade Union representative as defined in the Act;
39. "Shop stewards' committee" means all the shop stewards of either SAMWU or IMATU at a workplace;
40. "Temporary Employee" means an employee appointed full-time or part-time for a maximum period of twelve (12) months to undertake and complete a specified task;
41. "Threshold of Representativeness" means a Trade Union that has a membership equivalent to not less than 15% of the total number of employees within the registered scope of the Council;
42. "Trade union" means either IMATU or SAMWU and Trade Unions means IMATU and/or SAMWU;
43. "Workplace" means an employer;
44. "Year" means the period 1 January to 31 December unless indicated otherwise by the context.

SIGNED BY THE PARTIES AT Pretoria THIS 18 DAY OF June 2007.


MEMBER OF THE COUNCIL
(REPRESENTING SALGA - CHIEF EXECUTIVE OFFICER)


MEMBER OF THE COUNCIL
(REPRESENTING IMATU - PRESIDENT)


MEMBER OF COUNCIL
(REPRESENTING SAMWU - President)


GENERAL SECRETARY OF THE
COUNCIL - S GOVENDER

	Promotion of benefits options not approved by the Registrar of Medical Schemes.		Accepting incentives from medical schemes.								
	Unfair and inaccurate presentation of medical scheme benefits to new members.		Payment of medical aid subsidy.								
	Provision of incentives to local government employees to expedite application forms.		Other								
Other: Please specify the exact detail of the complaint (attach separate sheet if necessary):											
D) DATE COMPLAINT AROSE											
The complaint arose: <table border="1" style="display: inline-table;"><tr><td>Y</td><td>T</td><td>Y</td><td>Y</td><td>M</td><td>M</td><td>D</td><td>D</td></tr></table>				Y	T	Y	Y	M	M	D	D
Y	T	Y	Y	M	M	D	D				
The dispute arose where: (Give the City/Town/Municipality)											
E) NATURE OF RELIEF SOUGHT											
Please specify the nature of relief sought from the Council appointed ombudsperson:											

Undertaking:

I/We, The undersigned, hereby undertake to pay the Council, the costs of the hearing of the ombudsperson and any other related costs of the hearing provided that the application is unsuccessful.

NB: The recovery of costs from the accredited schemes will be recovered from the deposit, and as per their undertaking in the application for accreditation.

SIGNED BY COMPLAINANT AT _____ THIS _____

DAY _____ OF 20____.

(Signature)

[Handwritten signatures and initials]
X.G.

ANNEXURE "B2"

IMATU SUB-REGIONS

PROVINCE	SUB-REGIONS	TOTAL
EASTERN CAPE	1. Port Elizabeth 2. DC 12, DC 15 3. DC 13, DC 14 4. DC 10	4
FREE STATE	1. DC 16, DC 17 2. DC 18, DC 20 3. DC19	3
GAUTENG	1. Johannesburg 2. Pretoria 3. East Rand 4. DC 41 5. DC 42 6. CBD C2b	6
KWAZULU-NATAL	1. Durban 2. DC 22, DC 23, DC 24, DC 25 3. CBDC5, DC 21 4. DC 26, DC 27, DC 28, DC 29	4
MPUMALANGA	1. DC 30 2. DC 31, CBDC 3b 3. DC 32	3
NORTH WEST	1. DC 37 2. DC 38, DC 39 3. DC 40	3
NORTHERN CAPE	1. DC 6 2. DC 7, DC 9 3. DC 8	3
LIMPOPO	1. DC 33, CBDC 3a, CBDC 4a 2. DC34, DC 35 3. DC 36	3
WESTERN CAPE	1. Cape Metro 2. DC 1, DC 2 3. DC 3 4. DC 4 5. DC 5	5
TOTAL SUB-REGIONS *		34

* The sub-regions herein are those that are described in Government Gazette 20764 of 24 December 1999, Notice 2989 of 1999.

ANNEXURE "C" (GRIEVANCE PROCEDURE)

Fit Letterhead of Municipality

GRIEVANCE FORM

NAME OF DEPARTMENT:

PERSONAL DETAILS

Name of Employee (Print):

Employee No.:

Nature of Grievance:

Desired Solution:

Signature of Employee:

Date:

C

C

Y

Y

M

M

D

D

SHEET 1

Name (Print):

Date Received:

Results of Discussions with Employee:

Signature of Immediate Superior:

Date:

C

C

Y

Y

M

M

D

D

Comments of Employee:

Signature of Employee:

Date:

C

C

Y

Y

M

M

D

D

Cut / Tear Along Dotted Line

CONTINUATION OF SHEET OF GRIEVANCE FORM

Name (Print):

Service No.:

Name of Immediate Superior:

Signature:

Date:

C

C

Y

Y

M

M

D

D

ANNEXURE "D" (DATA BANK - MUNICIPAL DATA)

Schedule A
DATA SPECIFICATION FOR EXTRACTION OF SALARY INFORMATION

The following is a data specification for the extraction of digital information for the establishment of the labour relations database for the Council.

Item No.	Field Name	Data Type	Field Size	Format	Description
1	LGCode	String	20	XXXXXXXXXXXXXXXXXXXXX X	The code of the Municipality employing the employee (assigned by Municipal Demarcation Board)
2	EmployeeNumber	String	10	XXXXXXXXXX	Payroll reference number of employee.
3	IDNumber	String	13	XXXXXXXXXXXXXXX	Employees ID number
4	Date_Birth	Date	10	DD/MM/YYYY	Date of Birth
5	PopGrp	String	1	X	Population group of employee where : A = African C = Coloured I = Indian W = White O = Other
6	MaritalStatus	String	1	X	Marital Status of employee where : M = Married S = Single D = Divorced X = Unknown W = Widow/Widower
7	Gender	String	1	X	Gender of employee where : F = Female M = Male X = Unknown
8	Dependants	Number	2	99	Number of dependants of employee
9	Date_Entry_Service	Date/Time	10	DD/MM/YYYY	Date of entry of employee into municipal service
10	Condition_of_Service	String	30	XXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX	Applicable condition of service for the employee.
11	Division	String	30	XXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX	The primary division in which the employee works. Eg. Water, Electricity, Corporate Services, Fire, Traffic etc
12	Current_Department	String	30	XXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX	The department within a division that employs the individual. Eg. Information Technology, Human Resources, Public Relations, Valuations etc.
13	Designation	String	30	XXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX	The position/job title of the employee, eg. Manager, Clerk, Cashier, Fire Chief etc.
14	Position_Level	String	5	XXXXX	Position Level/ Grade of the employee.
15	TradeUnionName	String	30	XXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX	Name of Trade Union that employee belongs to
16	Employee_Status	String	1	X	Status of the employee where : P = Permanent T = Temporary C = Contractor U = Unknown
17	Work_Time	String	1	X	Daily work time of employee where : P = Part day F = Full day U = Unknown
18	Pay_Frequency	String	1	X	Frequency of payment of employee where : M = Monthly W = Weekly F = Fortnightly U = Unknown
19	Weekly_working_hours	Number	5	99.99	Total working hours of employee per week. Format hours and decimals of hours. e.g. 38.70.
20	Leave_Day_Type	String	1	X	Specifies how annual and sick leave days are interpreted. Where C = Calendar days 5 = Days (iro a 5 day work week) 6 = Days (iro a 6 day work week)
21	Annual_Leave	Number	2	99	Number of leave days per Year that the employee is entitled to per annum.
22	Accumulated_Days	Number	6	999.99	The number of leave days accumulated leave to date.

Schedule B
DATA SPECIFICATION FOR UNION/LEVY INFORMATION

Item No	Field Name	Data Type	Field Size	Format	Description
1	LGCode	String	20	XXXXXXXXXXXXXXXXXXXXX	The code of the <i>Municipality</i> employing the employee (assigned by Municipal Demarcation Board)
2	EmployeeNumber	String	10	XXXXXXXXXX	Payroll reference number of employee.
3	IDNumber	String	13	XXXXXXXXXXXXX	Employees ID number
4	EmployeeName	String	30	XXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXX	Name of Employee
5	SAMWUContribution	Number	6	999.99	Contribution deducted from monthly pay and paid to <i>SAMWU</i>
6	IMATUContribution	Number	6	999.99	Contribution deducted from monthly pay and paid to <i>IMATU</i>
7	OTHERContribution	Number	6	999.99	Contribution deducted from monthly pay and paid to <i>OTHER</i> unions
8	CouncilLevy	Number	6	999.99	Contribution for <i>Council</i> Levies
9	AgencyFees	Number	6	999.99	Contribution for Agency fees to <i>Council</i>

Schedule C
SALARY STRUCTURE

a)	State Title/Position of the Manager/Head of Department?	
b)	Indicate the Total Cost to the Employer (annual) in terms of:	
	Base Salary	
	Annual Bonus	
	Pension Fund contribution by Employer	
	Medical Aid contribution by Employer	
	Car Allowance	
	Housing Subsidy/Allowances	
	Performance Bonus	
c)	Enter the number of annual leave days allowed.	
d)	Provide the formula for the calculation of the Performance Bonus.	



SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

National/Division: Case Number

Applicant /Employee

Respondent/Employer

AFFIDAVIT IN RESPECT OF APPLICATION FOR CONDONATION

I, the undersigned,
(Full name of Applicant / Respondent) *(delete where applicable)*
do hereby make oath and say:

1. Background

1.1. Unfair Labour Practice

1.1.1. Applicant became aware of the Act or omission on:

1.1.2. Respondent refused to correct the Act or omission on:

1.2. Unfair Dismissal

1.2.1. Internal proceedings were exhausted on

1.2.2. Internal procedures not yet exhausted as at

2. The Degree of Lateness (How late is the referral)

2.1. The dispute should have been referred on:

2.2. The referral is days late.

3. Reasons for Lateness

Reason for late referral by applicant:

.....

.....

.....

Please Turn Over ...

X-S - 71

Signed before me at
On the day of 200.....
by the deponent who acknowledges that he/she knows and understands the contents of the affidavit, has no objection to
taking the oath / affirmation and considers it binding on his / her conscience.

Commissioner of Oaths
Name
Address:
Capacity:

Please Turn Over ...

4. The importance of the matter.

If the matter is important from a general policy viewpoint, such as potential unrest, it must be stated.

5. Any other information that is important

You can give any other relevant information that you think supports your application. Please attach any documents that support your application.

THE RESPONDENT

Should you wish to respond to the applicant's affidavit, it must reach the offices of the *Council* within 10 days of receiving the application. It should deal with the issues raised in the application and must also be in the form of a sworn affidavit. Proof of service must be attached.

The applicant then has 5 days to respond to the respondent's affidavit.

The *Council* may request additional information or it may call the parties to a hearing if there is insufficient information or if it will assist in making an appropriate order.

X-9

READ THIS FIRST



Tick the correct box ☒

The name of the employee or an employer that is referring the dispute must be filled in (a).

If there is more than one employee to the dispute and the referring party is not a *Trade Union*, then each employee must supply their personal details and signature on a separate page, which must be attached to this form.

These alternate contact details should be of a union official or representative, a relative or a friend.

The name of the *Trade Union* or employers organisation that is referring the dispute or assisting a member to refer a dispute must be filled in (b).

OTHER PARTIES

If more than one party is referring the dispute or if the dispute is referred against more than one party, write down the additional names and particulars on a separate page and attach to this form.

Tick the correct box ☒

1. DETAILS OF PARTY REFERRING THE DISPUTE

As the referring party, are you:

☐

An employee or member of a union

☐

A Trade Union

☐

IMATU

☐

SAMWU

☐

An employer

☐

An employer's organization

(a) Name of the party if the referring party is an employee or employer

Name:

ID Number:

Postal Address:

Postal Code:

Tel: Cell:

Fax: Email:

(b) Alternate contact details of employee:

Name:

Postal Address:

Postal Code:

Tel: Cell:

Fax: Email:

(c) Name of the referring party, if the referring party is an employer's organisation or trade union, or if the trade union employer's organisation is assisting a member to the dispute:

Name:

Postal Address:

Postal Code:

Tel: Cell:

Fax: Email:

2. DETAILS OF THE OTHER PARTY (PARTY WITH WHOM YOU ARE IN DISPUTE)

The other party/s is:

a First Respondent

☐

An employee or member of a union

☐

A Trade Union

☐

IMATU

☐

SAMWU

☐

An employer

☐

An employer's organisation

Name:

Designation:

Postal Address:

Tel: Fax:

Cell: Email:

Please Turn Over ...

X.C. 77

6. RESULT OF CONCILIATION

What outcome do you require

7. INTERPRETATION SERVICES

Do you require an interpreter at the conciliation/con-arb?

☐ YES ☐ NO

If yes, please indicate for what language:

☐ Afrikaans

☐ Sesotho

☐ Setswana

☐ Sepedi

☐ Xitsonga

☐ isiXhosa

☐ Tshivenda

☐ isiZulu

☐ siSwati

☐ isiNdebele

☐ Other (Please indicate.....)

8. SPECIAL FEATURES / ADDITIONAL INFORMATION

Briefly outline any special features / additional information the *Council* needs to note:

9. DISPUTE ABOUT UNILATERAL CHANGE TO TERMS AND CONDITIONS OF EMPLOYMENT [Section 64(4)]

I/we require that the *employer* party not implement unilaterally the proposed changes that led to this dispute for 30 days, or that it restore the terms and conditions of employment that applied before the change.

Signed: (Employee party referring the dispute)

10. CONFIRMATION OF ABOVE DETAILS

Signature of party referring the dispute:

Signed at.....on this
(place) (date)

Please turn over ...

CONTACT DETAILS OF DIVISIONS OF THE COUNCIL

Head Office

Tel: (031) 267-2227
Fax: (031) 267-0929
E-mail: info@salgbc.org.za

Gauteng Regional Office

Gauteng Division
Tel: (011) 333-5467
Fax: (011) 333-8091
E-mail: info.g@salgbc.org.za

Johannesburg Division
Tel: (011) 333-5467
Fax: (011) 333-8091
E-mail: info.g@salgbc.org.za

Tshwane Division
Tel: (011) 333-5467
Fax: (011) 333-8091
E-mail: info.g@salgbc.org.za

Eastern Cape Regional Office

Eastern Cape Division
Tel: (041) 585-3074
Fax: (041) 585-0646
E-mail: info.ec@salgbc.org.za

KwaZulu-Natal Regional Office

eThekweni Metropolitan Division
Tel: (031) 267-2221
Fax: (031) 267-0930
E-mail: info.kzn@salgbc.org.za

KwaZulu-Natal Division
Tel: (031) 267-2221
Fax: (031) 267-0930
E-mail: info.kzn@salgbc.org.za

Western Cape Regional Office

Western Cape Division
Tel: (021) 930-9241
Fax: (021) 930-9244
E-mail: info.wc@salgbc.org.za

Cape Metropolitan Division
Tel: (021) 930-9241
Fax: (021) 930-9244
E-mail: info.wc@salgbc.org.za

North West/Mpumalanga/Limpopo Regional Office

Mpumalanga Division
Tel: (012) 322-4583
Fax: (012) 320-4136
E-mail: info.nw@salgbc.org.za

North-West Division
Tel: (012) 322-4583
Fax: (012) 320-4136
E-mail: info.nw@salgbc.org.za

Limpopo Division
Tel: (012) 322-4583
Fax: (012) 320-4136
E-mail: info.nw@salgbc.org.za

Northern Cape/Free State Regional Office

Northern Cape Division
Tel: (053) 832-1216
Fax: (053) 832-1215
E-mail: info.fs@salgbc.org.za

Free State Division
Tel: (053) 832-1216
Fax: (053) 832-1215
E-mail: info.fs@salgbc.org.za

X-G

OTHER INSTRUCTIONS

A copy of this form must be served on the other party.

Proof that a copy of this form has been served on the other party must be supplied by attaching:

- A copy of a registered slip from the Post Office;
- A copy of a signed receipt if hand delivered;
- A signed statement confirming service by the person delivering the form;
- A copy of a fax confirmation slip; or
- Any other satisfactory proof of service.

The certificate confirming that the dispute was unresolved through conciliation must also be attached to this form

CHECK!!

Have you sent a copy of this completed form to the other party?

Have you included proof (that you have sent a copy to the other party) with this form?

Have you attached the certificate confirming that the dispute was unresolved through conciliation?

The applicant party to this arbitration must fill in this section and identify all other persons or parties that may be affected by the outcome of this dispute. (Proof of Service of Referral on other interested parties must be attached)

The employer party in non-appointment and promotion disputes must join the successful candidates/appointees or any other interested party affected by this dispute.

3. WHAT DECISION WOULD YOU LIKE THE ARBITRATOR TO MAKE?

.....
.....
.....
.....
.....
.....

(The arbitrator may require a more detailed statement of case later.

4. CONFIRMATION OF ABOVE DETAILS:

Form submitted by:
(Name)

Signature:

Designation:

Date:

Place:

This form must be signed by the referring party, or a person entitled to represent the party in the arbitration proceedings

5. DETAILS OF OTHER PARTY

(a) First Respondent

Name :

Designation:

Postal Address:

.....

.....

Tel: Fax:

Cell: Email:

(b) Second Respondent

Name :

Designation:

Postal Address:

.....

.....

Tel: Fax:

Cell: Email:

X-G. L. P.

CONTACT DETAILS OF DIVISIONS OF THE COUNCIL

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E-mail: info.g@salgbc.org.za

Tshwane Division
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Fax: (011) 333-8091
E-mail: info.g@salgbc.org.za

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Eastern Cape Division
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Fax: (041) 585-0646
E-mail: info.ec@salgbc.org.za

KwaZulu-Natal Regional Office

eThekweni Metropolitan Division
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Fax: (031) 267-0930
E-mail: info.kzn@salgbc.org.za

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North West/Mpumalanga/Limpopo Regional Office

Mpumalanga Division
Tel: (012) 322-4583
Fax: (012) 320-4136
E-mail: info.nw@salgbc.org.za


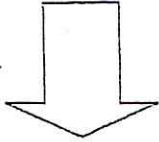
North-West Division
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E-mail: info.nw@salgbc.org.za

Limpopo Division
Tel: (012) 322-4583
Fax: (012) 320-4136
E-mail: info.nw@salgbc.org.za


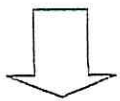
Northern Cape/Free State Regional Office

Northern Cape Division
Tel: (053) 832-1216
Fax: (053) 832-1215
E-mail: info.fs@salgbc.org.za

Free State Division
Tel: (053) 832-1216
Fax: (053) 832-1215
E-mail: info.fs@salgbc.org.za

<p>LRA Form 7.14 Section 136(3) Labour Relations Act, 1995</p>	<p>SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL</p> <p>NOTICE OF OBJECTION TO ARBITRATION BY SAME ARBITRATOR</p>		
<p>Read This First</p>  <p>WHAT IS THE PURPOSE OF THIS FORM?</p> <p>This form notifies the Council that a party objects to an arbitrator who is the same arbitrator who led the conciliation process.</p> <p>WHO FILLS IN THIS FORM?</p> <p>Objecting party.</p> <p>WHERE DOES THIS FORM GO?</p> <p>The Regional Secretary, South African Local Government Bargaining Council (Council).</p> <p>OTHER INSTRUCTIONS</p> <p>A copy of this form must be served on the other party.</p> <p>Proof that a copy of this form has been served on the other party must be supplied by attaching:</p> <ul style="list-style-type: none"> o A copy of the registered slip from the Post Office; o A copy of the signed receipt if hand delivered; o A signed statement confirming service by the person delivering the form; 	<p>1. PARTY DETAILS</p> <p>Name:</p> <p>Postal Address:</p> <p>Tel: Fax:</p> <p>Cell: Email:</p> <p>Person dealing with application:</p> <p>2. DETAILS OF THE OTHER PARTY</p> <p>Name:</p> <p>Postal Address:</p> <p>Tel: Fax:</p> <p>Cell: Email:</p> <p>Contact Person:</p> <p>3. OBJECTION DETAILS</p> <p>I/We (name)</p> <p>object to the arbitrator (name)</p> <p>who conciliated the matter (name of dispute / matter)</p> <p>arbitrating the same dispute. Therefore we request the Council to appoint a different arbitrator.</p> <p style="text-align: right;">Please turn over...</p>		

ANNEXURE "E7"

<p>LRA Form 7.15 Section 137 Labour Relations Act, 1995</p>	<p>SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL</p> <p>APPLICATION TO APPOINT SENIOR ARBITRATOR TO ARBITRATE</p>	
<p>Read This First</p>  <p>WHAT IS THE PURPOSE OF THIS FORM?</p> <p>This form is an application by a party to appoint a Senior Arbitrator to arbitrate.</p> <p>WHO FILLS IN THIS FORM?</p> <p>A party to the dispute.</p> <p>WHERE DOES THIS FORM GO?</p> <p>The Regional Secretary, South African Local Government Bargaining Council (Council), in the case of divisional disputes and the General Secretary in the case of national disputes.</p> <p>OTHER INSTRUCTIONS</p> <p>Two documents must be attached to this form:</p> <p>(a) A motivation; (b) Proof that a copy of this form has been served on the other party must be supplied by attaching:</p> <ul style="list-style-type: none"> ▪ A copy of the registered slip from the Post Office; ▪ A copy of the signed receipt if hand delivered; ▪ A signed statement confirming service by the person delivering the form; ▪ A copy of a fax confirmation slip; or ▪ Any other satisfactory proof of service. <p>CHECK!</p> <p>Have you sent a copy of this completed form to the other party? Have you included proof (that you have sent a copy to the other party) with this form? Have you attached your motivation? (see Section 137 of the Act)</p>	<p>1. APPLICATION</p> <p>I / We apply to the <i>Council</i> to appoint a Senior Arbitrator to resolve the dispute which has the following reference number:</p> <p>2. MOTIVATION</p> <p>Prepare a motivation which deals with the issues raised in Section 137 of the Act. Some of these issues are:</p> <ul style="list-style-type: none"> • the complexity of the dispute; • whether there are conflicting arbitration awards that are relevant to the dispute; • the public interest; • the nature of the question of law raised by the dispute. <p>3. CONFIRMATION OF ABOVE DETAILS</p> <p>Form submitted by (name):</p> <p>Position :</p> <p>Signed :</p> <p>Date :</p> <p>Council Case Number:</p>	

**APPLICATION IN TERMS OF SECTION 142A
OF THE LABOUR RELATIONS ACT**

CASE NO. : _____

Applicant(s) _____

AND

Respondent(s) _____



AFFIDAVIT

I, the undersigned, _____
(full name of Applicant)

do hereby make oath and say:

1. BACKGROUND

- 1.1 The settlement agreement annexed hereto and marked "A" was concluded between the parties on _____ (date).
- 1.2 The settlement agreement is in respect of a dispute that a party has the right to refer to arbitration or to the Labour Court, excluding a dispute that a party has the right to refer to arbitration in terms of Section 74 (4) or 75 (5) of the Labour Relations Act.
- 1.3 The dispute in respect of which the settlement agreement was concluded was referred for conciliation on _____ (date) under case number _____.
- 1.4 The parties have not agreed to the settlement agreement being made an arbitration award.

<p>LRA Form 7.19 Section 188A Labour Relations Act, 1995</p>	<p>SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL</p> <p>REQUEST FOR PRE-DISMISSAL ARBITRATION</p>	
<p>Read This First</p>  <p>WHO FILLS IN THIS FORM? An <i>employer</i> requesting a pre-dismissal arbitration</p> <p>WHERE DOES THIS FORM GO? To the Regional Secretary of the <i>Council</i> in the division where the dispute arose. (See details attached)</p> <p>If the dispute is a national dispute, to the General Secretary of the <i>Council</i>. (See details attached)</p>	<p>1. DETAILS OF EMPLOYER REQUESTING PRE-DISMISSAL ARBITRATION</p> <p>Name :</p> <p>Postal Address:</p> <p>.....</p> <p>Contact Person:</p> <p>Tel:..... Fax:.....</p> <p>Cell:.....Email:.....</p> <p>2. REQUEST DETAILS</p> <p>The conduct of a pre-dismissal arbitration against</p> <p>..... (Name of Employee)</p> <p>for misconduct / incapacity.</p> <p>Full name of employee:</p> <p>.....</p> <p>Postal address:</p> <p>.....</p> <p>Tel:..... Fax:.....</p> <p>Cell:.....Email:.....</p> <p>3. ALLEGATIONS ABOUT CONDUCT OR <u>CAPACITY</u></p> <p>Attach a copy of the charges to this form.</p> <p style="text-align: right;">Please turn over</p>	

Please note that further costs are recoverable in the event that the arbitration exceeds one day.

(b) Other

Briefly outline any special features / additional information the Council needs to note:

.....
.....
.....

8. CONFIRMATION OF ABOVE DETAILS

Form submitted by (name):

Signature:

Position:

Date:

Place:

Please turn over ...

X G 

SETTLEMENT AGREEMENT

In the dispute between

Case No.: _____

Applicant/s _____

And

Respondent/s _____

THE UNDERSIGNED PARTIES RECORD THE SETTLEMENT OF THEIR DISPUTE, IN FULL AND FINAL SETTLEMENT, IN THE FOLLOWING TERMS:

1. ☐ The employer agrees to reinstate/re-employ the employee with effect from _____ on same terms and conditions of employment as existed prior to the dismissal.
2. ☐ The employer agrees to pay the employee the sum of R_____ as follows:

☐ In full payment on or before ____/____/____ (date)

☐ In installments payable as follows:

R_____ on ____/____/____ R_____ on ____/____/____

R_____ on ____/____/____ R_____ on ____/____/____

R_____ on ____/____/____ R_____ on ____/____/____

☐ Method of payment: ☐ Cash/Cheque to be collected by employee at employer's premises.

☐ Payment will be deposited into the employee's bank account.

3. ☐ Other: _____

4. The parties agree that this is in full and final settlement of the said dispute and that no variation of this agreement will be legally binding unless reduced to writing.
5. In the event of the employer failing to comply with its obligations in terms of this agreement, the employer, in terms of Section 142 A (1) of the LRA, consents to this agreement being made an arbitration award.

THIS DONE AND SIGNED AT _____ ON _____ DAY OF _____, 20____

 APPLICANT

 RESPONDENT

 WITNESSES:

NB: The format of this settlement agreement is a guideline only. The parties to the settlement agreement must ensure that the terms and conditions of their settlement are properly recorded.

READ THIS FIRST



Tick the correct box



1. DETAILS OF THE APPLICANT

As the applicant party/s, are you:

☐ An employee or member of a union

☐ A Trade Union

☐ IMATU

☐ An employer

☐ An employer's organisation

☐ SAMWU

☐ Non-party

a) Name of the applicant if the applicant is an employee or employer

Name:

ID Number:

Postal Address:

..... Postal Code:

Tel: Cell:

Fax: Email:

b) Alternate contact details of employee:

Name:

Postal Address:

..... Postal Code:

Tel: Cell:

Fax: Email:

c) Name of the applicant, if the applicant is an employer's organisation or trade union, or if the trade union/employer's organisation is assisting a member to the exemption application:

Name:

Postal Address:

..... Postal Code:

Tel: Cell:

Fax: Email:

3. DETAILS OF THE OTHER PARTY/IES AFFECTED BY THE EXEMPTION APPLICATION

The other party/s is:

a) First Respondent

☐ An employee or member of a union

☐ A Trade Union

☐ IMATU

☐ An employer

☐ An employer's organisation

☐ SAMWU

Name:

Postal Address:

..... Postal Code:

Tel: Cell:

Fax: Email:

Please Turn Over ...

XC. [Handwritten signatures and initials]

6. CONFIRMATION OF ABOVE DETAILS

Signature of applicant:

Signed at.....on this
(place) (date)

For Council Use

Date exemption received:	
Did the applicant serve the application on all other parties?	Yes No
Is the application complete?	Yes No

MANTSOPA MUNICIPALITY

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS
(MUNICIPAL SYSTEMS ACT, 32 OF 2000)

SCHEDULE 2

10

CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS

Definitions

1. In this Schedule "partner" means a person who permanently lives with another person in a manner as if married.

General conduct

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2. A staff member of a municipality must at all times—
- (a) loyally execute the lawful policies of the municipal council;
 - (b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;
 - (c) act in such a way that the spirit, purport and objects of section 50 are promoted;
 - (d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
 - (e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

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Commitment to serving the public interest

3. A staff member of a municipality is a public servant in a developmental local system, and must accordingly—
- (a) implement the provisions of section 50(2);
 - (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;
 - (c) promote and seek to implement the basic values and principles of public administration described in section 195 (1) of the Constitution;
 - (d) obtain copies of, or information about the municipality's integrated development plan, and as far as possible within the ambit of the staff member's job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;
 - (e) participate in the overall performance management system for the municipality, as well as the staff member's individual performance appraisal and reward system, if such exists, in order to maximise the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

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Personal gain

4. (1) A staff member of a municipality may not—
- (a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or
 - (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest.

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Council property

9. A staff member of a municipality may not use, take, acquire, or benefit from any property or asset owned, controlled or managed by the municipality to which that staff member has no right.

5

Payment of arrears

10. A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period.

Participation in elections

11. A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right.

10

Sexual harassment

12. A staff member of a municipality may not embark on any action amounting to sexual harassment.

15

Reporting duty of staff members

13. Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

Breaches of Code

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14. Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of this Act.

WET OP PLAASLIKE REGERING:
MUNISIPALE STELSLS. 2000

Wet No. 32. 2000

(2) Behalwe met die vooraf toestemming van die raad van 'n munisipaliteit, mag 'n personeellid van die munisipaliteit nie—

- (a) 'n party wees by 'n kontrak vir—
 - (i) die verskaffing van goedere of dienste aan die munisipaliteit; of
 - (ii) die verrigting van enige werk vir die munisipaliteit buiten as 'n personeellid nie;
- (b) 'n finansiële belang in enige sake-onderneming van die munisipaliteit verkry nie; of
- (c) betrokke wees in enige sake-onderneming, bedryf of beroep buiten die werk van die munisipaliteit nie.

Openbaarmaking van voordele

5. (1) 'n Personeellid van 'n munisipaliteit wat, of wie se gade, genoot, sakegenoot of nabye familielid, enige regstreekse voordeel uit 'n kontrak wat met die munisipaliteit aangegaan is, verkry het of gaan verkry, moet skriftelik volle besonderhede van die voordeel aan die raad openbaar maak.

(2) Hierdie item is nie van toepassing op 'n voordeel wat 'n personeellid, of 'n gade, genoot, sakegenoot of nabye familielid, gemeenskaplik met ander inwoners van die munisipaliteit het of verkry nie.

Ongemagtigde openbaarmaking van inligting

6. (1) 'n Personeellid van 'n munisipaliteit mag nie sonder verlof enige geprivilegieerde of vertroulike inligting wat as personeellid van die munisipaliteit verkry is, aan 'n ongemagtigde persoon openbaar maak nie.

(2) Vir doeleindes van hierdie item sluit "geprivilegieerde of vertroulike inligting", enige inligting in —

- (a) wat deur die munisipale raad of enige struktuur of funksionaris van die munisipaliteit as geprivilegieerd of vertroulik bepaal word;
- (b) wat in 'n geslote sitting deur die raad of 'n komitee van die raad bespreek is;
- (c) waarvan die openbaarmaking 'n persoon se reg op privaatheid sou skend; of
- (d) wat ingevolge enige wet as geprivilegieerd, vertroulik of geheim verklaar is.

(3) Hierdie item doen nie afbreuk aan 'n persoon se reg tot toegang tot inligting ingevolge nasionale wetgewing nie.

Onbehoorlike beïnvloeding

7. 'n Personeellid van 'n munisipaliteit mag nie—

- (a) die raad van die munisipaliteit, of 'n struktuur of funksionaris van die raad, of 'n raadslid beïnvloed of probeer beïnvloed met die oog op die verkryging van enige aanstelling, bevordering, voorreg, gewin of voordeel nie, of vir 'n gesinslid, vriend of sakegenoot nie;
- (b) die raad, of 'n struktuur of funksionaris van die raad mislei of probeer mislei, nie in sy oorweging van enige aangeleentheid; of
- (c) betrokke wees by 'n sake-onderneming met 'n raadslid sonder die vooraf geskrewe toestemming van die raad van die munisipaliteit nie.

Belonings, geskenke en gunste

8. (1) 'n Personeellid van 'n munisipaliteit mag geen beloning, geskenk of guns versoek, werf of aanneem nie vir—

- (a) die oorrëding van die raad van die munisipaliteit, of enige struktuur of funksionaris van die raad, met betrekking tot die uitoefening van enige bevoegdheid of die verrigting van enige plig;
- (b) die maak van 'n voorlegging aan die raad, of enige struktuur of funksionaris van die raad;
- (c) die openbaarmaking van enige geprivilegieerde of vertroulike inligting; of
- (d) die doen of nalaat van enigiets binne daardie personeellid se bevoegdhede of pligte.

(2) 'n Personeellid moet onverwyld enige aanbod aan 'n meerdere amptenaar of aan die speaker van die raad rapporteer wat, indien deur die personeellid aanvaar, 'n skending van subitem (1) sou uitmaak.

LANGUAGE POLICY FOR MANTSOPA MUNICIPALITY

1. INTRODUCTION AND BACKGROUND

Municipality may, in terms of the constitution determine its own language policy. In terms of the Standing Rules and Orders (Chapter 3), the council must take specific factors into account when it determines a language policy and it must follow a prescribed procedure.

2. LANGUAGE USED IN THE MUNICIPALITY

There are three languages that are popularly used throughout the municipality, namely; Sesotho, Afrikaans and English.

3. AREA OF RELEVANCE AND APPLICABILITY

Council must adopt a clear policy regarding the following:

- (a) Council agendas and minutes;
- (b) Language use in Council meetings, and committees;
- (c) Correspondence between officials and councillors;
- (d) News letters and service accounts; and
- (e) Correspondence between officials and the public;
- (f) Public meetings of voters, constituency meetings and public hearings;
- (g) Public announcements and courtesy and official notices of the municipality;
- (h) Promulgation of by-laws;
- (i) Compilation of municipal code;
- (j) Public notice of meetings of municipal councils
- (k) Forms used or issued by the municipalities

(a) Council agendas and minutes

It is proposed that Council agendas and minutes be written in English. The use of more languages will necessitate the appointment of more staff member to do translations. This could prove to be uneconomical for Council and could also result into a bloated administration.

(b) Language use in Council meetings, and committees

If the Council agendas are written in English, it is advisable that the meetings be conducted in English.

However, councillors must be allowed to ask questions, ask for clarity or comment in a language of their choice. In the above instances, officials present or the chairperson of the meeting will do the necessary translations, if requested to do so.

As far as possible, leaflets and flyers will be in a language used in a specific community in which it is distributed. However, if the contents is relevant to all the communities, they will contain Sesotho, Afrikaans and English.

(iv) Letters to churches and schools

The same as in paragraph (g)(iii) above.

(h) Promulgation of bylaws

That all bylaws be promulgated in English only.

(i) Compilation of the municipal code

Section 15 of the Municipal Systems Act, 2000 (Act 52 of 2000) stipulates that a municipality must compile and maintain in bound or loose-leaf form, and when feasible also in electronic format, a compilation of all its by-laws, including any provisions incorporated by reference as by-laws of the municipality. This compilation will be known as the municipal code.

Seen in the light that the above includes all the laws presently applicable to the municipality which are all written in English and Afrikaans only, it is suggested that they be kept as they are, but that all new by-laws be kept in English only.

However, if all existing by-laws have to be translated to cover Sesotho and if all new by-laws must be written in English, Afrikaans and Sesotho, Council will have to consider appointing a full time expert in languages.

(j) Public notice of meetings of municipal councils

Section 19 of the Municipal Systems Act stipulates that the Municipal Manager of a municipality must give notice to the public, in a manner determined by the municipal council, of the time, date and venue of ordinary meeting of the council and of special or urgent meeting of the council, except when time constraints make this impossible.

Section 10(1) of the Standing Rules and Orders stipulates that the notice must be in writing.

It is suggested that this notice be in Sesotho, Afrikaans and English.

(k) Forms used or issued by Municipalities

That after exhausting all forms presently in stock, all new forms used or issued by Municipality be in Sesotho, Afrikaans and English.

NOTICE 1367 OF 1998**NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL****LABOUR RELATIONS ACT, 1995****NOTICE OF CODE OF GOOD PRACTICE ON THE HANDLING OF SEXUAL HARASSMENT CASES**

Notice is hereby given in terms of section 203 (2) of the Labour Relations Act, 1995 (Act No. 66 of 1995), that the National Economic Development and Labour Council has issued under section 203 (1) of that Act a code of good practice on the handling of sexual harassment cases as set out in the Schedule.

SCHEDULE**CODE OF GOOD PRACTICE ON THE HANDLING OF SEXUAL HARASSMENT CASES****Introduction**

- (1) The object of this code is to eliminate sexual harassment in the workplace.
- (2) This code provides appropriate procedures to deal with the problem and prevent its recurrence.
- (3) This code encourages and promotes the development and implementation of policies and procedures that will lead to creation of workplaces that are free of sexual harassment where employers and their employees respect one another's dignity, privacy and right to equity in the workplace.

Application of the code

- (1) Although this code is intended to guide employers and their employees, the perpetrators and victims of sexual harassment may include:

- (1) Owners.

- (2) Employers.

- (3) Managers.

- (4) Supervisors.

- (5) Employees.

- (6) Job applicants.

- (7) Clients.

- (8) Suppliers.

- (9) Contractors.

- (10) Others having dealings with the business.

- (2) Nothing in (1) above grants employers the authority to take disciplinary action in respect of non-employees.

- (3) A non-employee who is a victim of sexual harassment may lodge a grievance with the employer of the harasser where harassment has taken place in the workplace or in the course of the harasser's employment.

Definition of sexual harassment

- (1) Sexual harassment is unwanted conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual.

- (2) Sexual attention becomes sexual harassment if—

- (a) the behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and/or
 - (b) the recipient has made it clear that the behaviour is considered offensive; and/or
 - (c) the perpetrator should have known that the behaviour is regarded as unacceptable.

(1) Advice and assistance

Sexual harassment is a sensitive issue and a victim may feel unable to approach the perpetrator, lodge a formal grievance or turn to colleagues for support. As far as is practicable, employers should designate a person outside of line management who victims may approach for confidential advice. Such a person—

- (a) could be a person employed by the company to perform that function among other things, a trade union representative or co-employee or an outside professional;
- (b) should have the appropriate skills and experience or be properly trained and given adequate resources;
- (c) could be required to have counselling and relevant labour relations skills and be able to provide support and advice on a confidential basis.

(2) Options in resolving a problem

- (a) Employees should be advised that there are two options in resolving a problem relating to sexual harassment. Either an attempt can be made to resolve the problem in an informal way or a formal procedure can be embarked upon.
- (b) The employee should be under no duress to accept one or the other option.

(3) Informal procedure

- (a) It may be sufficient for the employee concerned to have an opportunity to explain to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.
- (b) If the informal approach does not resolve the matter satisfactorily, if the case is severe or if the conduct continues, it may be more appropriate to embark upon a formal procedure. Severe cases may include: Sexual assault, rape, a strip search and quid pro quo harassment.

(4) Formal procedure

Where a formal procedure has been chosen by the aggrieved, such a procedure for resolving the grievance should be available and should—

- (a) specify with whom the employee should lodge the grievance;
- (b) make reference to time frames which allow the grievance to be dealt with expeditiously;
- (c) provide that if the case is not resolved satisfactorily, the matter can be dealt with in terms of the dispute procedures contained in item 7(7) of this code.

(5) Investigation and disciplinary action

- (a) Care should be taken during any investigation of a sexual harassment grievance that the aggrieved person is not disadvantaged, and that the position of other parties is not prejudiced if the grievance is found to be groundless.
- (b) The Code of Good Practice regulating Dismissal contained in Schedule 8 to the Labour Relations Act, 1995 (Act No. 66 of 1995) ("the Act"), reinforces the provisions of Chapter VIII of the Act and provides that an employee may be dismissed for serious misconduct or repeated offences. Serious incidents of sexual harassment or continued harassment after warnings are dismissable offences.
- (c) In cases of persistent harassment or single incidents of serious misconduct, employers ought to follow the procedures set out in the Code of Good Practice contained in Schedule 8 to the Act.
- (d) The range of disciplinary sanctions to which employees will be liable should be clearly stated, and it should also be made clear that it will be a disciplinary offence to victimise or retaliate against an employee who in good faith lodges a grievance of sexual harassment.

(6) Criminal and civil charges

A victim of sexual assault has the right to press separate criminal and/or civil charges against an alleged perpetrator, and the legal rights of the victim are in no way limited by this code.

(7) Dispute resolution

Should a complaint of alleged sexual harassment not be satisfactorily resolved by the internal procedures set out above, either party may within 30 days of the dispute having arisen, refer the matter to the CCMA for conciliation in accordance with the provisions of section 135 of the Act. Should the dispute remain unresolved, either party may refer the dispute to the Labour Court within 30 days of receipt of the certificate issued by the commissioner in terms of section 135 (5).

Confidentiality

- 1) Employers and employees must ensure that grievances about sexual harassment are investigated and handled in a way that ensures that the identities of the persons involved are kept confidential.
- 2) In cases of sexual harassment, management, employees and the parties concerned must endeavour to ensure confidentiality at the disciplinary inquiry. Only appropriate members of management, and the aggrieved person, his or her representative, the alleged perpetrator, witnesses and an interpreter, if required, should be present at the disciplinary inquiry.

2) Seksuele aandag word seksuele teistering indien—

- (a) daar met die gedrag volgehou word, alhoewel 'n enkele voorval van teistering seksuele teistering kan uitmaak; en/of
- (b) die ontvanger dit duidelik gemaak het dat die gedrag aanstootlik geag word; en/of
- (c) die oortreder moes gewest het dat die gedrag as onaanvaarbaar beskou word.

Forme van seksuele teistering

1) Seksuele teistering kan onwelkome fisieke, verbale of nie-verbale optrede insluit, maar is nie beperk tot die volgende tipes nie:

- (a) Fisieke optrede van 'n seksuele aard omvat alle ongewenste fisieke kontak, wat strek van aanraking tot seksuele aanranding en verkragting, en omvat ontkleedursoeking deur of in die teenwoordigheid van die teenoorgestelde geslag.
- (b) Verbale vorme van seksuele teistering omvat onwelkome sinspelings, voorstelle en skimpe, seksuele toenaderings, opmerkings met seksuele ondertone, seksverwante grappe of beledigings of onwelkome grafiese aanmerkings oor 'n persoon se liggaam gemaak in hul teenwoordigheid of teenoor hulle, onwelkome en onbehoorlike navrae oor 'n persoon se sekslewe, en onwelkome fluitery vir 'n persoon of 'n groep persone.
- (c) Nie-verbale vorme van seksuele teistering omvat onwelkome gebare, onbehoorlike ontbloting, en die onwelkome vertoon van seksueel eksplisiete prente en voorwerpe.
- (d) Teenprestasie-teistering kom voor waar 'n eienaar, werkgewer, toesighouer, bestuurslid of mede-werknemer onderneem om in ruil vir seksuele gunste die proses van indiensneming, bevordering, opleiding, dissipline, ontslag, salarisverhogings of ander voordele van 'n werknemer of werkaansoeker te beïnvloed of probeer om dit te beïnvloed of dit inderdaad beïnvloed.

2) Seksuele begunstiging vind plaas indien 'n persoon wat in 'n gesagsposisie is, slegs diene beloon wat gestelling in sy of haar seksuele toenaderings toon, terwyl ander verdienstelike werknemers wat nie aan seksuele teisterings toegee nie, bevorderings, merietebeoordeling of salarisverhogings ontsê word.

riglyne

1) Werkgewers moet 'n werkomgewing skep en handhaaf waarin die waardigheid van werknemers gerespekteer word. Werkplek moet daar ook 'n klimaat geskep en gehandhaaf word waarin slagoffers van seksuele teistering nie sal voel dat hulle geïgnoreer of as nistig afgemaak word nie, en waar hulle nie bang sal wees vir weerwraak nie. Die implementering van die volgende riglyne kan help om gemelde oogmerke te bereik:

- (a) Van werkgewers/bestuur en werknemers word verwag om hulle daarvan te weerhou om dade van seksuele teistering te pleeg.
- (b) Alle werkgewers/bestuur en werknemers het 'n rol te speel by die skepping en handhawing van 'n werkomgewing waarin seksuele teistering onaanvaarbaar is. Hulle moet verseker dat hulle gedrag nie aanstoot gee nie en hulle moet onaanvaarbare gedrag van ander afkeur.
- (c) Werkgewers/bestuur moet probeer om te verseker dat persone soos klante, verskaffers, werkaansoekers en ander wat met die onderneming sake doen, nie aan seksuele teistering deur die werkgewer of sy werknemers onderwerp word nie.
- (d) Van werkgewers/bestuur word gepaste optrede in ooreenstemming met hierdie kode verwag wanneer gevalle van seksuele teistering wat in die werkplek voorkom, onder hul aandag gebring word.

2) Hierdie kode erken die voorrang van kollektiewe ooreenkomste wat die hantering van gevalle van seksuele teistering in die kode is nie 'n plaasvervanger vir dissiplinêre kodes en prosedures wat maatreëls bevat wat die produk van ooreenkomste is of die resultaat is van gesamentlike besluitneming deur 'n werkgewer en 'n werkplekforum nie. Ooreenkomste en beleidsverklarings moet egter van hierdie kode kennis neem en deur die voorskrifte daarvan geleid word.

Beleidsverklarings

As 'n eerste stap in die uitdrukking van besorgdheid oor en verbintenis tot die hantering van die probleem van seksuele teistering, moet werkgewers 'n beleidsverklaring uitreik wat die volgende voorwaardes stel:

- (a) Alle werkgewers, werkaansoekers en ander persone wat met die onderneming sake doen, het die reg om met waardigheid behandel te word.
- (b) Seksuele teistering in die werkplek sal nie toegelaat of oorgesien word nie.
- (c) Persone wat in die werkplek aan seksuele teistering onderwerp is of word, het die reg om 'n grief daarvoor aanhangig te maak en gepaste stappe sal deur die werkgewer gedoen word.

Bestuur het die definitiewe plig om die beleid te implementeer en dissiplinêr op te tree teen werknemers wat die beleid oortree.

3) 'n Beleid oor seksuele teistering moet ook die prosedure verduidelik wat gevolg moet word deur werknemers wat geteister word deur seksuele teistering is. Die beleid moet ook die volgende meld:

- (a) Beweringe van seksuele teistering sal met erns, flinkheid, sensitiwiteit en vertroulikheid hanteer word.

(7) Geskilbeslegting

Indien 'n klag van beweerde seksuele teistering nie bevredigend besleg word deur die interne prosedures soos hierbo uiteengesit nie, kan enigeen van die partye binne 30 dae na die geskil ontstaan het, die aangeleentheid na die KVBA verwys vir bemiddeling coreenkomstig artikel 135 van die Wet. Indien die geskil onbesleg bly, kan enigeen van die partye die geskil na die Arbeidshof verwys binne 30 dae na ontvangs van die sertifikaat wat deur die kommissaris ingevolge artikel 135 (5) uitgereik is.

8. Vertroulikheid

(1) Werkgewers en werknemers moet sorg dra dat griewe oor seksuele teistering ondersoek en hanteer word op 'n wyse wat verseker dat die identiteite van die betrokke persone vertroulik bly.

(2) In gevalle van seksuele teistering moet bestuur, werknemers en die betrokke partye poog om vertroulikheid te verseker by die dissiplinêre verhoor. Slegs die betrokke lede van die bestuur, en die veronregte persoon, sy of haar verteenwoordiger, die beweerde oortreder, getuies en 'n tolk, indien verlang, moet by die dissiplinêre verhoor teenwoordig wees.

(3) Van werkgewers word vereis om aan enigeen van die partye of hul verteenwoordigers sodanige inligting bekend te maak as wat redelikerwys nodig kan wees om die partye in staat te stel om voor te berei vir enige verrigtinge ingevolge hierdie kode.

(4) Die tersaaklike bepalings van artikel 16 van die Wet is van toepassing op die bekendmaking van inligting ingevolge hierdie kode.

9. Bykomende siekteverlof

Waar 'n werknemer se bestaande siekteverlofgeregtigdheid uitgeput is, behoort die werkgever behoorlike oorweging te skenk aan die toestaan van bykomende siekteverlof in gevalle van ernstige seksuele teistering waar die werknemer, op mediese advies, troumaberading nodig het.

10. Inligting en opvoeding

(1) Die Departement van Arbeid moet verseker dat afskrifte van hierdie kode toeganklik en beskikbaar is.

(2) Werkgewers en werkgeversorganisasies behoort die kwessie van seksuele teistering in te sluit in hul oriënterings-, opvoedings- en opleidingsprogramme vir werknemers.

(3) Vakbonde behoort die kwessie van seksuele teistering in te sluit in hul opvoedings- en opleidingsprogramme vir vakbondverteenwoordigers en werknemers.

(4) KVBA-kommissarisse behoort gespesialiseerde opleiding te ontvang om gevalle van seksuele teistering te hanteer.

17 July 1998)/(17 Julie 1998)

MANTSOPA ANTI-CORRUPTION STRATEGY

INTRODUCTION

1. This anti-corruption strategy has been developed for Mantsopa Municipality in order to give effect to the expressed commitment of Council to fight corruption.
2. Mantsopa Municipality requires a tailor made strategy that addresses issues of corruption in an integrated manner. This strategy is however sensitive and complimentary to national, provincial and international requirements.

STATUS REPORT

3. Compared to other municipalities elements of a good anti-corruption strategy exist in Mantsopa Municipality. In addition to strong political commitment, Mantsopa Municipality has a solid legislative, regulatory and institutional framework, as well as access to statutes largely put in place since 1994.

Mantsopa Municipality utilises good management practices, including a code of conduct, modern employment practices, financial disclosures, fair procurement and a progressive disciplinary system for the ensuring of economic utilisation of all its resources.

DIMENSIONS OF CORRUPTION

4. In order to develop Mantsopa Municipality Anti-corruption strategy it is important to understand the various forms in which corruption manifests itself in the municipality and elsewhere in society. The following examples illustrate the various manifestations:

(a) **Bribery:** Bribery involves the promise, offering or giving of a benefit that improperly affects the actions or decisions of a municipal employee. This benefit may accrue to the municipal employee, another person or an entity. A variation of this manifestation occurs where a political party or municipal councillor or employee is offered, promised or given a benefit that improperly affects the actions or decisions of the political party or municipal councillor or employee. In its most extreme manifestation this is referred to as State Capture, or the sale of Parliamentary votes, Presidential decrees, criminal court decisions and commercial decisions. *Example:* A traffic officer accepts a cash payment in order not to issue a speed fine.

(b) **Embezzlement:** This involves theft of resources by persons entrusted with the authority and control of such resources. *Example:* Clinic staff that steals medicines and in turn sells these to private pharmacists.

(c) **Fraud:** This involves actions or behaviours by a municipal employee, other person or entity that fool others into providing a benefit that would not normally accrue to the municipal employee, other persons or entity. *Example:* A municipal employee that registers a fictitious employee in order to collect the salary of that fictitious employee.

intensity vary from the occasional acceptance of bribes to systemic corruption where bribery is the accepted way of "doing business" and large-scale looting of a country's resources take place. Thus corruption also manifests as personal and political corruption. Corruption increases if left unattended and once this has culminated in systemic corruption creates a bigger challenge to address.

6. Socio-economic conditions, the political-institutional infrastructure, cultural heritage and other factors influence the way in which corruption is perceived and addressed. Whilst corruption seems easily identifiable, the varying perspectives makes it particularly difficult to define corruption and develop appropriate remedies. Such perspectives vary from the Moralistic-Normative perspective (corruption is inherently bad), the Functionalist perspective (corruption is ever-present in society and not always unwanted), the Public Office-Legalist perspective (legal institutions independent from government are required to combat corruption), the Public Interest-Institutionalist perspective (institutions shape individual corrupt behaviour), the Interest-maximizing perspective (a market-centred perspective that accuses officials of converting political resources into goods needed to initiate and maintain corrupt relations) and the Political Economy perspective (State is the mechanism for the accumulation of wealth, especially where indigenous people lack independent access to the economy outside of the State).
7. Understanding the dimensions of corruption entails also understanding what is not corruption. Corruption is often described interchangeably with mal-administration, incapacity and inefficiency, especially because public resources are being used. The deficiency of approaching corruption in this manner is that corruption becomes undefinable and thus impossible to address. Though corruption seems easily identifiable, it is of paramount importance to establish a workable legal definition of corruption, in order to maximize preventative and combating efforts, including the proper arrangement of responsibilities between institutions.

IMPACT AND COSTS OF CORRUPTION

8. Whilst it is undisputed that corruption has become global in scope, it has particular damaging effects on the domestic environment of countries. In generalised terms four types of costs can be identified:
 - (a) *Macro-fiscal*: This includes lost revenues from tax and customs levies, licensing fees, traffic fines, etc. and excessively high expenditure as a result of corruption loadings and fronting on state and municipal contracts.
 - (b) *Reduction in productive investment and growth*: The costs of corruption are particularly high for countries in great need of inflows of productive foreign capital. Widespread corruption provides a poor environment that does not attract foreign investment and those investors likely to make long-term contributions to development. Corruption however attracts those investors seeking to make quick profits through dubious ventures. Similarly corruption in aid programmes reduces benefits for recipients and hampers continued funding. Abuse of regulatory powers and mis-procurement imposes further costs. International evidence indicates that countries with a higher incidence of corruption systematically have lower investment and growth rates and that public safety can be compromised by unsafe

prohibition must be established by:

- (a) Excluding an employee and owners and directors of businesses found guilty of corruption from employment or contract with the Mantsopa Municipality for a maximum period of 5 years. It will be established how this can be implemented legally.
- (b) Recording the prohibition of such persons on employment systems.
- (c) Publication of sanctions and names of businesses, owners and directors. It will be established how this can be implemented legally.
- (d) Requiring contractors to declare previous criminal convictions related to corrupt practices.

Strategic Consideration 3: Improved Management Policies and Practices

- 18. Management must be held accountable for preventing corruption and this must be so stipulated in their service agreements. Good management is the first line of attack on corruption. This consideration entails six elements that relate to procurement, employment, managing discipline, risk management and management information systems.
- 19. *Procurement:* The Mantsopa Municipality procurement system must be revised. Revised systems must:
 - (a) Carry sufficient controls to eliminate risks.
 - (b) Require declaration of financial interests of employees involved in procurement as well as employees responsible for negotiating with service providers/contractors.
 - (c) Ensure minimum standards of conduct through contractual binding of contractors.
 - (d) Require positive security clearances of all procurement personnel.
 - (e) Establish clear guidelines for dealing with prohibited individuals and businesses.
 - (f) Enforce screening of individuals and businesses to which contracts are awarded.
 - (g) Enforce declaration of conflict of interest and adjudication on declared conflict by a competent authority.
 - (h) Align all municipal procurement systems with the Government's guidelines on Value for Money, Open and Effective Competition, Ethics and Fair Dealing, Accountability and Reporting and Equity.
 - (i) Enforce minimum training requirements needed by all procurement officials, the rotation of personnel and spread of accountability.
- 20. *Employment:* In order to strengthen the management capacity and level of integrity in the Mantsopa Municipality:

23. *Management Information System:* An integrated information management system, that links with existing human resource and financial management systems, must be developed and implemented. This system will improve management through timeous information and systemic controls. The system must ensure generic recording and classification of acts of corruption.
24. *Financial management:* Meticulous application of the requirements of the Public Finance Management Act, 1999 and the contents of the Municipal Finance Management Act (once passed by Parliament) must be enforced.

Strategic Consideration 4: Managing Professional Ethics

25. Coherent processes and mechanisms to manage professional ethics are key to the fight against corruption. Noting the complexities of this matter, the following must be established:
- (a) Promotion of the concept and practice of ethics management.
 - (b) Development of extensive training material and training opportunities on ethics management.
 - (c) Establishment of a generic professional ethics statement for the municipality.
 - (d) Development of mandatory sector-specific codes of conduct and professional ethics.
 - (e) The inclusion of (i) conflict of interest and (ii) a system of declaration of assets/financial interest in the codes of conduct.
 - (f) Regular ethics audits that must be reported on in annual reports.
 - (g) Professional ethics must be promoted through explanatory manuals, continuous training and education and establishing partnership with professional associations.
 - (h) The Senior Management Service (this has already started with the signing of employment contract) must be developed to espouse professional ethics and to provide leadership to other employees.

Strategic Consideration 5: Partnerships with stakeholders

26. Partnering has been identified as a cornerstone of a national anti-corruption strategy. To promote partnership the following must be established:
- (a) The Mantsopa Municipality must promote its interests in the National Anti-corruption Forum and in particular must utilise the Forum to strengthen preventative measures.
 - (b) Partnerships with organised stakeholders in the Business and Civil Society Sectors, to curb corrupting practices by members of these Sectors must be established.

- (c) Encouragement of employees to blow the whistle on corruption within their work environments.
 - (d) Responsibility of employees to evaluate and report risks to the internal auditor.
 - (e) Integration of anti-corruption issues into the wider campaign to promote the Batho Pele principles, with particular links to the "I am proud to be a Mantsopa Municipality employee."
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1. SCOPE OF APPLICATION OF AGREEMENT

1.1 The terms of this Agreement shall be observed in the Local Government Undertaking in the Republic of South Africa by all employers and employees who fall within the registered scope of the Council.

1.2 Clauses 3.1 clause 7.4 shall not apply to non-parties.

2. DEFINITIONS

2.1 All expressions used in this agreement, which are defined in the Labour Relations Act, 1995, shall bear the same meanings as in the Act and unless the contrary intention appears, words importing the masculine gender shall include the feminine, and *vice versa*.

2.2 All references to days shall be a reference to working days.

3. PERIOD OF OPERATION

3.1 This Agreement shall come into operation in respect of the parties to the Agreement on 1 February 2004 and shall remain in force until 31 January 2007. Any action that commenced prior to the effective date shall be regulated by the terms of the then existing code.

3.2 This Agreement shall come into operation in respect of non-parties, on a date to be determined by the Minister of Labour and shall remain in force until 31 January 2007.

4. INTENT

4.1 The purpose of this code is to establish a common and uniform procedure for the management of employee discipline and to replace all existing procedures and regulations.

4.2 The code is a product of collective bargaining and the application thereof is peremptory and is deemed to be a condition of service.

5. DISCIPLINARY POLICY

5.1 Discipline is to be effected fairly, consistently, progressively and promptly.

5.2 The maintenance of discipline is the responsibility of management and falls within the control function of any supervisory position.

5.3 The principles of natural justice and fair procedure must be adhered to notwithstanding any criminal and/or civil action having been instituted.

5.4 Subject to the requirements of substantive and procedural fairness, the tribunal has the right to determine the sanction to be applied, having regard to the seriousness of the offence and provided that the sanction is consistent with the provisions set out herein.

5.5 This procedure must be published and issued to all employees so that they are made aware, explicitly, of the standard of conduct at the workplace.

5.6 This procedure, as amended from time to time, will define the disciplinary process and the rights and obligations of management and employees.

6. DISCIPLINE PROCEDURE

6.1 An accusation of misconduct against an employee shall be brought in writing before the Municipal Manager or his authorised representative for investigation. If the Municipal Manager or his representative is satisfied that there is *prima facie* cause to believe an act of misconduct has been committed, he may institute disciplinary proceedings. The employer shall proceed forthwith or as soon as reasonably possible with a disciplinary enquiry.

6.2 Depending on the seriousness of the misconduct, the Municipal Manager or his representative may refer the matter before either a departmental enquiry or disciplinary tribunal. A departmental enquiry proceeding shall be reserved only for matters where the competent sanction is a verbal or final written warning. In proceedings before a departmental enquiry the employee shall enjoy the same rights as he would have had before a disciplinary tribunal.

7.5.7 invite and hear any plea in mitigation, aggravation or extenuation prior to deciding on the sanction to impose; and

7.5.8 impose, inter alia, any of the following sanctions:

7.5.8.1 written warning;

7.5.8.2 final written warning;

7.5.8.3 transfer to another position either with or without financial loss;

7.5.8.4 suspension without pay for a maximum of ten (10) days as is furthermore referred to in clause 2.5.3 of "Annexure A" hereto;

7.5.8.5 the withholding of any salary increment for a period not exceeding twelve months;

7.5.8.6 demotion to another post with or without financial loss; or

7.5.8.7 dismissal.

7.6 The presiding officer shall within ten (10) days of the last day of the hearing confirm in writing the findings of fact, sanction imposed and the reasons in support thereof and provide a copy of the determination to the Municipal Manager or his representative and to the employee or his representative.

SUMMARY PROCEDURE

7.7 If the employer and the employee so agree in writing, the summary procedure as set out hereunder may apply to the proceedings. The presiding officer shall, at such meeting(s) with the parties, as he/she deems necessary—

7.7.1 confirm that the matter is ready for adjudication;

7.7.2 ascertain and record in writing, signed by himself/herself and the parties, the facts on which the parties agree and those on which they disagree herein called the "issues";

7.7.3 receive from the parties such documents or copies thereof as they consider relevant to the determination of the issues;

7.7.4 receive evidence or submissions, orally or in writing, sworn or un-sworn at joint meetings with the parties or, if the parties so agree, by the interchange of written statements or submissions, between the parties with copies to the presiding officer provided that each party shall be given reasonable opportunities of presenting evidence or submissions and of responding to those of the other;

7.7.5 deliver a determination, in writing, within ten (10) days of the last day of the hearing or submission of the last document to the presiding officer, if there was no hearing.

8. RIGHT OF RESIGNATION

8.1 An employee who receives a notice of misconduct shall be entitled to resign from employment or to retire, if eligible, in terms of the retirement fund rules, provided that—

8.1.1 the employee does so prior to the handing down of a determination;

8.1.2 employee consents in writing to the deductions of all and any amounts owing by him to the employer from any monies payable to him by the employer (including but not limited to retirement fund monies) arising out of or in connection with his resignation or retirement. In such an event the disciplinary enquiry shall not proceed.

9. DISCIPLINARY TRIBUNAL

9.1 In general a person appointed to serve as the presiding officer should be a senior employee in the employ of the employer. However, if this is not possible or desirable, any other suitably qualified person may be appointed.

9.2 During the conduct of the enquiry the employee may make application on good cause shown for the recusal of the presiding officer.

9.3 The presiding officer shall not consult, confer or have casual contact with any of the parties or their representatives while handling a matter without the presence or consent of the other party.

9.4 The determination of the disciplinary tribunal shall be final and binding on the employer save that the employee may lodge an appeal thereto.

9.5 In general a person appointed to serve as prosecutor should be a person in the employ of the employer. However, if this is not possible or desirable, any suitably qualified person may be appointed.

10. RECORDING

10.1 The proceedings of the disciplinary tribunal shall be recorded by means of a mechanical device.

10.2 The record of the proceedings shall be kept in safe custody by the employer and upon request a copy thereof provided to the employee or his representative.

11. NON-ATTENDANCE

In the event of the failure by the employee, or a duly appointed representative, to attend an enquiry or appeal without good cause and after proper service of the Notice of Misconduct was affected, the enquiry may be conducted *in absentia* and discipline effected.

16.3 The General Secretary or Regional Secretary as the case may be, shall investigate the dispute or cause the dispute to be investigated and attempt to resolve the dispute by issuing a directive, and in the event of a dispute not being resolved; shall—

16.3.1 appoint a conciliator from the appropriate panel of conciliators, doing so as far as possible on a rotational basis and

16.3.2 if the dispute remains unresolved; refer the dispute to arbitration.

16.4 If a conciliator is appointed, the General Secretary or Regional Secretary concerned shall decide the date, time and venue of the conciliation meeting and shall serve notices of these particulars on the parties to the dispute.

16.5 If the dispute is referred to arbitration, the General Secretary or Regional Secretary concerned shall appoint an arbitrator from the appropriate panel or arbitrators, doing so as far as possible on a rotational basis.

16.6 The General Secretary or Regional Secretary concerned, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing.

16.7 The arbitrator shall—

16.7.1 endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated; and

16.7.2 if the dispute remains unresolved, resolve the dispute through arbitration.

16.8 The arbitrator may make any appropriate arbitration award in terms of the Act that gives effect to this Collective Agreement.

17. EXEMPTIONS

17.1 Any person or Party bound by this Agreement shall be entitled to apply for exemption from this Agreement.

17.2 All applications for exemption from any provisions of this Agreement shall be in writing and lodged with the General Secretary. Such applications shall set out—

17.2.1 all material details of the applicant;

17.2.2 the specific provisions of this Collective Agreement from which the applicant seeks exemption;

17.2.3 detailed grounds on which such exemption is sought, taking into consideration the criteria contained in clause 17.7 below.

17.3 The Executive Committee shall consider all applications made by a party/non-party to this Agreement (which shall include the members of such party), and may, subject to clause 17.7, and on giving its reasons therefor, grant an exemption on any conditions and for any period it considers appropriate.

17.4 A party aggrieved by a decision of the Executive Committee may appeal to the Council who shall consider the Application subject to clause 17.7 and, on giving its reasons therefor, may grant an exemption on any conditions and for any period it considers appropriate. The decision of the Council shall be final.

17.5 All applications for an appeal from non-parties shall be referred to the Independent Exemptions Body established by Council in terms of clause 17.11 hereunder.

17.6 The Independent Exemptions Body shall consider all such applications in a manner it considers appropriate to determine the applications fairly and quickly, which may include the hearing of evidence and arguments.

17.7 When considering an application for exemption, an appeal against an Executive Committee decision or an application for the withdrawal of a certificate of exemption, the Council or the Independent Exemptions Body, as the case may be, shall take into account the following (the order not indicating any form of priority):—

(a) Any written and/or verbal substantiation provided by the applicant;

(b) fairness to the employer, its employees and other employers and the employees in the Industry;

(c) whether an exemption, if granted, would undermine this agreement or the collective bargaining process;

(d) unexpected economic hardship occurring during the currency of this Agreement, and job creation and/or losses;

(e) the infringement of basic conditions of employment;

(f) the fact that a competitive advantage might be created by the exemption;

(g) comparable benefits or provisions where applicable;

(h) the applicant's compliance with other statutory requirements such as the Compensation for Occupational Injuries and Diseases Act, 1993, the Basic Conditions of Employment Act, 1997, the Employment Equity Act 55.1998, the Skills Development Act 97 1998, the Skills Development Act 9 1999, or the Unemployment Insurance Act 63 2001; or

(i) any other factor which is considered appropriate.

17.8 Having made a decision to grant or refuse an exemption application, the Independent Exemptions Body shall advise the applicants and the Council within ten (10) days of its decision, giving full reasons. The decision of the Independent Exemptions Body shall be final.

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- 2.2 The imposition of discipline is progressive in that sanctions are to be applied with increasing severity with the repetition of the offence. Sanctions will generally be applied by first issuing a written warning and then a final written warning, except in cases of misconduct which would constitute grounds for immediate dismissal or suspension without pay or the immediate imposition of a final written warning.
- 2.3 All written warnings and suspensions are to be recorded in the employee's personal file.
- 2.4 A written warning will remain valid and on the record of the employee for a period of six (6) months from the date of imposition.
- 2.5 The employer may impose as a sanction a suspension without pay having regard either to the serious nature of the misconduct or the fact that there has been a previous warning or warnings for the same behaviour in which event—
- 2.5.1 the maximum period will be ten (10) days;
 - 2.5.2 the period of suspension will run consecutively;
 - 2.5.3 in the event of a suspension in excess of five (5) days, the suspension without pay shall be spread over three (3) monthly pay periods;
- 2.6 a suspension without pay shall be regarded as a sanction more serious than a final written warning.
- 2.7 As a guideline, an employee may be dismissed on the first occasion for, *inter alia*:—
- 2.7.1 intimidation, fighting and/or assault;
 - 2.7.2 theft, unauthorised possession of or malicious damage to the employer's property;
 - 2.7.3 being under the influence of alcohol or intoxicating drugs whilst on duty such that performance is seriously impaired or diminished;
 - 2.7.4 the consumption of alcohol or intoxicating drugs whilst on duty if the nature of work to be performed is such that intoxication endangers the safety of the employee or that of others;
 - 2.7.5 any act of gross dishonesty;
 - 2.7.6 any act of gross negligence;
 - 2.7.7 gross insubordination;
 - 2.7.8 wrongful disclosure of privileged information;
 - 2.7.9 any act of bribery or corruption; and
 - 2.7.10 any other act of misconduct which would constitute just cause for dismissal.
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