

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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TABLE OF CONTENTS

SECTION A APPLICATION

- Clause 1 Scope of Application
- Clause 2 Exclusion from Collective Agreement
- Clause 3 Period of Operation
- Clause 4 Objectives

SECTION B SUBSTANTIVE MATTERS

- Clause 5 Home Owner's Allowance
- Clause 6 Severance Pay
- Clause 7 Hours of Work
- Clause 8 Leave
 - 8.1 Annual Leave
 - 8.2 Sick Leave
 - 8.3 Maternity Leave
 - 8.4 Family Responsibility Leave
- Clause 9 Employee Benefit
 - 9.1 Medical Aid

SECTION C PROCEDURAL MATTERS

- Clause 10 Levels of Bargaining
- Clause 11 Organisational Rights
- Clause 12 Essential Services
- Clause 13 Grievance Procedure
- Clause 14 Bargaining Council Levy
- Clause 15 Medical Scheme Selection Procedures

SECTION D RULES OF THE COUNCIL

- Clause 16 Data Bank of Municipal Data
- Clause 17 Conduct of Proceedings before the Council

SECTION E EXEMPTIONS FROM COLLECTIVE AGREEMENTS OF THE COUNCIL

SECTION F ENFORCEMENT OF THIS AGREEMENT

SECTION G DISPUTE ABOUT APPLICATION AND INTERPRETATION OF THIS AGREEMENT

SECTION H AMENDMENT OF THIS AGREEMENT



SECTION I REPEAL OF EXISTING AGREEMENT

SECTION J DEFINITIONS

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LIST OF ANNEXURES

ANNEXURE	DESCRIPTION OF ANNEXURE	RELEVANT PROVISIONS OF THIS AGREEMENT
Annexure 1	Declaration by Full-time Shop Steward in terms of Organisational Rights	Section C, Sub-Clause 11.5.9.4
Annexure 2	SAMWU Regions in terms of Organisational Rights	Section C, Sub-Clause 11.6.10
Annexure 3	IMATU Branches in terms of Organisational Rights	Section C, Sub-Clause 11.6.10
Annexure 4	Essential Services Guidelines	Section C, Sub-Clause 12.1.3
Annexure 5	Grievance Form in terms of the Grievance Procedure	Section C, Sub-Clause 13.2.1
Annexure 6	Medical Aid Complaint Form	Section C, Sub-Clause 15.7.1
Annexure 7	Data Specification for Extraction of Salary Information in terms of the Data Bank	Section D, Sub-Clause 16.1
Annexure 8	Conduct of Proceedings before the <i>Council</i>	Section D, Sub-Clause 17.2
Annexure 9.1	Request for Conciliation in terms of the Conduct of Proceedings before the <i>Council</i>	Annexure 8, Rule 10
Annexure 9.2	Certificate of Outcome	Annexure 8, Rule 15
Annexure 9.3	Request for Arbitration in terms of the Conduct of Proceedings before the <i>Council</i>	Annexure 8, Rule 18
Annexure 9.4	Notice of Objection to Arbitration by Same Arbitrator	
Annexure 9.5	Application to Appoint Senior Arbitrator to Arbitrate	
Annexure 9.6	Application to make a Settlement Agreement an Arbitration Award	
Annexure 9.7	Request for Pre-dismissal Arbitration	
Annexure 9.8	Guideline Settlement Agreement	
Annexure 10	Exemption Application	Section E, Sub-Clause 18.2
Annexure 11	List of Council Offices	

SECTION 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 COLLECTIVE AGREEMENT

- 2.1 Municipal Managers and persons appointed as Managers directly accountable to Municipal Managers in terms of Section 56 and Section 57 of the Municipal Systems Act, 32 of 2000 shall, subject to any provisions of the Municipal Systems Act, 32 of 2000 as amended and its regulations, be excluded from this agreement except for the following provisions :

- 2.1.1 Section C, Clause 11;
- 2.1.2 Section C, Clause 14;
- 2.1.3 Section D, Clause 16; and
- 2.1.4 Section D, Clause 17, where applicable.

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 July 2015 and shall remain in force until 30 June 2020. 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 2020; and after 30 June 2020 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 covered by this agreement;
- 4.2 To establish common and uniform procedures for employer and employees covered by this agreement;
- 4.3 To endeavour to ensure effective and efficient employment relations that will enhance service delivery;
- 4.4 To promote fair treatment of employees;
- 4.5 To promote and maintain industrial peace; and
- 4.6 To replace all previous conditions of service relating to matters covered by this agreement and the conditions of service contained herein.

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SECTION B: SUBSTANTIVE MATTERS

5. HOME OWNER'S ALLOWANCE

- 5.1 The Home Owners' Allowance shall be extended to all employees, subject to the requirements of the scheme, which provides for a subsidy in respect of a mortgage bond to a maximum amount, as agreed to by the parties from time to time during wage negotiations.

6. SEVERANCE PAY

- 6.1 An employee who is dismissed as a result of the *employer's* operational requirements will be entitled to a severance package of three (3) weeks remuneration for each completed year of service, capped to the equivalent of nine (9) months' pay, thereafter one week's pay for every completed year of service.

7. HOURS OF WORK

- 7.1 Employees, excluding temporary employees and those referred to in clauses 7.2 and 7.3 are required to work a 40 – hour working week.
- 7.2 The determination of hours of work for Senior *Management*, safety and security personnel, *emergency personnel*, and those employees working less than 24 hours per month, is delegated to be dealt with and finalized in the divisions of the *Council*.
- 7.3 The working hours of employees employed to work a part of a full day for example "5/8" shall remain unaffected by this agreement.
- 7.4 The working hours of *temporary* employees shall be as per their specific contracts of employment.

8. LEAVE

8.1 ANNUAL LEAVE

- 8.1.1 An employer shall grant an employee the following annual leave:

8.1.1.1 Twenty-four (24) working days for a five- (5) day worker, provided that the leave for an employee that works less than a 5 day week shall be calculated on a pro rata basis ; and

8.1.1.2 Twenty-seven (27) working days for a six- (6) day worker.

- 8.1.2 An employer must grant annual leave not later than six months after the end of the annual leave cycle.

- 8.1.3 An employee is required to take annual leave as follows:

8.1.3.1 A five- (5) day worker shall take a minimum of sixteen (16) working days leave; and

8.1.3.2 A six- (6) day worker shall take a minimum of nineteen (19) working days leave.

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- 8.1.4 An employee must take annual leave not later than six months after the end of the annual leave cycle.
- 8.1.5 Annual leave shall only be accumulated to a maximum of forty-eight (48) working days.
- 8.1.6 Any leave in excess of forty-eight (48) working 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.
- 8.1.7 Within six months of the end of a leave cycle, an employee may not have more than 48 days annual leave to his credit.
- 8.1.8 In the event of the termination of service, an employee shall be paid his leave entitlement in terms of this agreement, calculated in terms of the relevant provisions of the Basic Conditions of Employment Act 75 of 1997, as amended.

8.2 SICK LEAVE

- 8.2.1 With effect from the new sick leave cycle, an *employer* shall grant an employee eighty 80 days sick leave in a three (3) year leave cycle, provided that in respect of new appointments an employee may not take more than 30 days sick leave in the first year of employment.
- 8.2.2 The employee shall be required to submit a medical certificate from a registered medical practitioner or any other person who is certified to diagnose and treat patients and who is registered with a professions council established by an Act of Parliament, if more than two (2) consecutive days are taken as sick leave, provided that the employer may request a sick leave certificate for every day of sick leave where there is evidence of abuse of sick leave.
- 8.2.3 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.

8.3 MATERNITY AND ADOPTION LEAVE

- 8.3.1 An employee, including an employee adopting a child under three (3) months, shall be entitled to receive three (3) months paid maternity or adoption 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.
- 8.3.2 Maternity leave may commence four (4) weeks before confinement.
- 8.3.3 To qualify for paid maternity leave, an employee must have one (1) year's continuous service with the *employer*.

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8.4 FAMILY RESPONSIBILITY LEAVE

- 8.4.1 Family responsibility leave applies to an employee who has been in employment with an *employer* for longer than four (4) months.
- 8.4.2 An *employer*, upon receipt of reasonable proof, shall grant an employee during each annual leave cycle at the request of an employee, a total of five (5) working days paid leave, which the employee is entitled to take, either when:
 - 8.4.2.1 The employee's child is born;
 - 8.4.2.2 The employee's child is sick;
 - 8.4.2.3 The employee's spouse or life partner is sick;
 - 8.4.2.4 In the event of death of:
 - 8.4.2.4.1 The employee's spouse or life partner; or
 - 8.4.2.4.2 The employee's parent, adoptive parent, parents-in-law, grandparent, child, adopted child, grandchild or sibling.

9. EMPLOYEE BENEFIT

9.1 MEDICAL AID

9.1.1 Membership to the Medical Schemes

- 9.1.1.1 The *Council* shall annually accredit medical schemes which qualify for *employer* contributions in terms of 9.1.2 below, and in terms of the criteria for accreditation, as determined by the *Executive Committee*, from time to time.
- 9.1.1.2 The *employer* shall, on behalf of the employee, make contributions to *accredited medical schemes*.
- 9.1.1.3 Employees shall not be permitted to separate family membership and register dependants on different schemes.
- 9.1.1.4 Scheme members will be afforded a choice on an annual basis before 1 January to move to a *Council accredited medical scheme*.
- 9.1.1.5 In the event of an *accredited medical scheme* being in breach of the primary membership threshold criteria, that scheme shall lose its accreditation status, and the affected members shall be entitled to exercise a new election.
- 9.1.1.6 An employee must belong to one of the *accredited medical schemes* in 9.1.1.1 above or any duly amended list of accredited schemes, as shall be furnished by the General Secretary of the *Council* from time to time, to qualify for the medical aid subsidy in 9.1.2 below.
- 9.1.1.7 An employee who elects not to belong to an *accredited medical scheme* will not be entitled to the medical aid subsidy.

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9.1.2 Contributions

- 9.1.2.1 The contribution rate towards *accredited medical schemes* will be regulated as follows:-
- 9.1.2.1.1 The maximum *employer* contribution to an *accredited medical scheme* for an individual employee shall be as agreed to by the parties from time to time during wage negotiations;
 - 9.1.2.1.2 The *employer* shall contribute 60% of the monthly membership contribution to a maximum of the amount mentioned in paragraph 9.1.2.1.1 above while the employee will contribute 40% of the monthly contribution;
 - 9.1.2.1.3 The amount referred to in 9.1.2.1.1 above shall escalate at the same rate as the annual percentage increase in salaries and wages, or otherwise agreed to from time to time by the *Parties* to the *Council*, subject to 9.1.2.1.2 above;
 - 9.1.2.1.4 Any agreed escalation of the amount referred to in 9.1.2.1.1 above shall occur annually on 1 July, unless otherwise agreed by the parties.
- 9.1.2.2 The *employer* contributions shall be in respect of the member and any number of dependants provided that the *employer* contributions shall not exceed the amount referred to in clause 9.1.2.1.1 above.

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SECTION C: PROCEDURAL MATTERS

10. LEVELS OF BARGAINING

- 10.1 Collective bargaining may be conducted at either the national or divisional level and the appropriate forum shall be determined by having regard to the matter that is the subject of collective bargaining.
- 10.2 The following matters shall be the subject of collective bargaining at a national level only:
 - 10.2.1 Wages and salaries;
 - 10.2.2 Medical aid;
 - 10.2.3 Retrenchment policy and severance pay;
 - 10.2.4 Retirement funds;
 - 10.2.5 Home owners' allowance;
 - 10.2.6 Annual leave;
 - 10.2.7 Maternity leave;
 - 10.2.8 Sick leave;
 - 10.2.9 Hours of work; and
 - 10.2.10 Family responsibility leave.
- 10.3 In furtherance of the intent to establish uniform conditions of service, the following matters shall be the subject of collective bargaining at a divisional level only:
 - 10.3.1 Special leave;
 - 10.3.2 Acting allowance;
 - 10.3.3 Night work allowance;
 - 10.3.4 Standby allowance;
 - 10.3.5 Shift allowance;
 - 10.3.6 Long service bonus;
 - 10.3.7 Emergency work;
 - 10.3.8 Legal indemnification;
 - 10.3.9 Additional paid sick leave;
 - 10.3.10 Administrative measures for the taking of sick leave; and
 - 10.3.11 Measures to manage the taking and accrual of sick leave.

11. ORGANISATIONAL RIGHTS

11.1 THRESHOLD OF REPRESENTATIVENESS

- 11.1.1 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.
- 11.1.2 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*.
- 11.1.3 Any registered *Trade Union* with fewer members than the *threshold of representativeness* set out in clause 11.1.1 above will not qualify for any rights set out in Sections 12, 13 and 15 of the *Act*.

11.2 ACCESS TO THE WORKPLACE

- 11.2.1 *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.*

11.3 STOP-ORDER FACILITIES

- 11.3.1 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.
- 11.3.2 The *trade union* member may revoke an authorisation referred to in clause 11.3.1 by written notice to his or her trade union and the *trade union* shall inform the *employer* thereof by written notice.
- 11.3.3 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.
- 11.3.4 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.
- 11.3.5 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.
- 11.3.6 Simultaneously with the remittance referred to in clause 11.3.5 the *employer* shall transfer to the *trade union's* designated offices in electronic format a subscriptions schedule reflecting:
- 11.3.6.1 The names of members and the deduction of subscriptions and/or levies made from such members' wages;
- 11.3.6.2 The names of employees who have joined the union, members who have left the employ of the *employer* for any reason, or have resigned from the union; and
- 11.3.6.3 The aggregate amount collected and the date of deposit.
- 11.3.7 Should any *employer* be unable to provide the information electronically, it shall apply for an exemption to the relevant division of the *Council* to transfer the information in hard copy format. A decision by the division shall be final and binding.

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- 11.3.8 An *employer* shall make deductions from the *trade union's* members' salaries or wages in respect of any *trade union* initiated scheme of the *trade union* and make payment to the relevant party or its nominee in terms of the scheme.

11.4 SHOP STEWARDS

- 11.4.1 *SAMWU* and *IMATU* shall be entitled to have shop stewards, who shall be entitled to perform their duties as set out in section 14 of the Act as amended from time to time or any additional functions as may be contained herein or agreed by the *parties* from time to time.

11.4.2 Employees Not Entitled to Become *Shop Stewards*

The following employees are not entitled to become shop stewards:

- 11.4.2.1 The Municipal Manager and persons appointed as Managers directly accountable to Municipal Managers in terms of Section 57 of the Municipal Systems Act, 32 of 2000, Deputy Municipal Manager, Executive Director, Director, Deputy Director, Head of Department, Deputy Head of Department or such post of equivalent management status, whatever the title, as it may differ from *Municipality* to *Municipality*, as determined by the relevant division of the *Council*;
- 11.4.2.2 Employees appointed to represent the *employer* in its dealings at the *Local Labour Forum*;
- 11.4.2.3 Human Resource Managers, Industrial Relations Managers and Industrial Relations Officers or equivalent designations;
- 11.4.2.4 Managers above a certain grade, which grade is to be determined by the parties to the relevant division of the *Council*; and
- 11.4.2.5 Those employees who have not completed their probationary periods.

11.4.3 Ratio of *Shop Stewards* to Members

- 11.4.3.1 Each *trade union* shall be entitled to a number of *shop stewards* based on its members employed by an *employer* as follows:
- 11.4.3.1.1 One *shop steward* for every 50 members or part thereof up to 500 members provided the *trade union* has at least 10 members;
- 11.4.3.1.2 Thereafter, one *shop steward* for every 60 members or part thereof up to 1000 members;
- 11.4.3.1.3 Thereafter, one *shop steward* for every 75 members or part thereof up to 5000 members;
- 11.4.3.1.4 Thereafter, one *shop steward* for every 100 members or part thereof.

11.4.4 **Shop Steward Constituencies**

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

11.4.4.1.1 Geographic location.

11.4.4.1.2 Nature of work.

11.4.4.1.3 Line of authority.

11.4.4.1.4 Trade *union* constitution.

11.4.4.1.5 Operational requirements.

11.4.4.2 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.

11.4.4.3 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 the number of shop stewards to be allocated to such constituencies.

11.4.4.4 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.

11.4.5 **Election of Shop Stewards**

11.4.5.1 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*.

11.4.5.2 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.

11.4.5.3 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.

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

11.4.5.5 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*.

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

- 11.4.5.6.1 On the expiry of the period for which the *shop steward* was elected, provided that new elections shall take place not earlier than 3 (three) months before, and not later than 3 (three) months after the date on which elections are due, failing which, the *employer* will not thereafter recognise the *shop steward*. The *shop steward* may, however, make himself or herself available for re-election;
- 11.4.5.6.2 On the termination of his or her employment with the employer in terms of his or her conditions of service;
- 11.4.5.6.3 On ceasing to be a member of the *trade union*;
- 11.4.5.6.4 On resigning as a *shop steward*;
- 11.4.5.6.5 On receipt of a written advice from the *shop steward's trade union* that his or her status has been withdrawn or suspended;
- 11.4.5.6.6 On leaving his or her constituency due to appointment or promotion in terms of applicable conditions of service and with the consent of the *shop steward* concerned; and
- 11.4.5.6.7 On leaving his or her constituency due to transfer in terms of applicable conditions of service and with the consent of the *shop steward* concerned, which consent shall not be unreasonably withheld.
- 11.4.5.7 Whenever a *shop steward* ceases to hold office for any of the reasons listed above, a by-election shall take place in terms of the relevant clauses referred to above, read with the necessary changes required by the context.

11.4.6 **Shop Stewards' Functions**

- 11.4.6.1 *Shop stewards* shall do everything reasonably necessary to ensure adherence to agreements, procedures, terms and conditions of employment, regulations and safety rules applicable to the *employer*.
- 11.4.6.2 Should a *shop steward* (other than a full-time *shop steward*) be required to leave his or her *workplace* in order to carry out any duties as set out in Section 14 of the Act as amended from time to time as a *shop steward*, the *shop steward* shall first obtain the permission of his or her superior/supervisor, which permission shall not be unreasonably withheld.
- 11.4.6.3 Except as otherwise provided for in this agreement, or any other agreement between the *Parties*, the *shop stewards* will be subject to the same rules, regulations, policies and other conditions of employment as other employees of the *employer*;

provided that such rules, regulations, policies and other conditions of employment are consistent with this Agreement.

11.4.7 Meetings and Facilities

- 11.4.7.1 The *shop stewards* shall be entitled to meet with members in their respective constituencies for a period of 2 (two) hours per month.
- 11.4.7.2 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.
- 11.4.7.3 A *shop stewards' committee* shall be entitled to meet for a period not exceeding 2 (two) hours per month during working time.
- 11.4.7.4 Where possible, the *shop stewards* shall have access to an office equipped with suitable facilities in order to carry out their *shop steward* duties.
- 11.4.7.5 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.

11.4.8 Time Off for Trade Union Activities and Training

- 11.4.8.1 *Shop stewards* shall be entitled to 15 (fifteen) days per *Year* with full pay during working hours for *trade union* activities and training.
- 11.4.8.2 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.
- 11.4.8.3 Further requests for time off for *shop stewards* shall not be unreasonably refused.

11.5 FULL-TIME SHOP STEWARDS

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

11.5.2 Number of Full-Time Shop Stewards

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

- 11.5.2.1 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
 - 11.5.2.2 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 11.5.2.1 above shall be excluded from the total;
 - 11.5.2.3 Should the total membership of the *trade union* concerned referred to in clause 11.5.2.1 above be less than 1000 (one thousand) members, the relevant division of the *Council* may decide on other boundaries within its areas of jurisdiction to determine the number of full-time *shop stewards* for that particular area.
- 11.5.3 The total remuneration package of the full-time *shop steward* elected in terms of clauses 11.5.2.2 and 11.5.2.3 shall be shared proportionally by those workplaces within the boundaries as determined in the relevant clause.

11.5.4 Constituency

The constituency of a full-time *shop steward* shall be the *workplace* where he or she is employed except for those full-time *shop stewards* appointed in terms of clause 11.5.2.2 where it shall be the *workplaces* that fall within the boundaries as determined.

11.5.5 Election of Full-Time Shop Stewards

- 11.5.5.1 The election and term of office of a full-time *shop steward* shall be in accordance with the constitution and policy of the *trade union* concerned.
- 11.5.5.2 The full-time status of a *shop steward* may be withdrawn for any of the following reasons:
 - 11.5.5.2.1 On termination of employment in terms of his or her conditions of service;

11.5.5.2.2 On ceasing to be a member of the *trade union*;

11.5.5.2.3 On resigning as a full-time *shop steward*;

11.5.5.2.4 On receipt of a written advice from the relevant *trade union* that his or her status has been withdrawn;

11.5.5.2.5 On the expiry of his or her term of office, but he or she may make himself or herself available for re-election.

11.5.5.3 The *employer* will notify the *trade union* of any non-compliance of the terms of this agreement by the full-time *shop steward*. The *trade union* is obliged to initiate disciplinary procedures within 30 (thirty) days from the date of notification.

11.5.5.4 If the *trade union* fails to take the necessary steps contemplated in clause 11.5.5.3 then the *employer* reserves the right not to recognise the full-time *shop steward*.

11.5.5.5 If the membership of the *trade union* concerned declines to less than 1000 (one thousand) members, the *employer* shall give the *trade union* notice to that effect, calling on the *trade union* to improve its membership within sixty (60) days from the date of receipt of notice, failing which the *employer* shall thereafter suspend the right to a full-time *shop steward*.

11.5.5.6 Should a *trade union's* membership reach 1000 (one thousand) or an additional 1000 (one thousand) as contemplated in clause 11.5.2.1, then the 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.

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

11.5.6 Duties and Obligations

11.5.6.1 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.

11.5.6.2 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.

11.5.6.3 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*.

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The number "15".
The text "P-S. m".

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

11.5.6.4.1 Be considered the same as any other employee in respect of the application of conditions of service;

11.5.6.4.2 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

11.5.6.4.3 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.

11.5.7 Conditions of Service and Employment Security

11.5.7.1 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.

11.5.7.2 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.

11.5.7.3 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.

11.5.7.4 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.

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

11.5.7.5.1 Nomination;

11.5.7.5.2 Re-nomination as a result of the expiry of his or her term of office; or

11.5.7.5.3 Resignation from the *trade union*.

11.5.7.6 All applications for leave will be dealt with in accordance with the applicable conditions of service, including all administrative requirements for leave, and will be authorised by the relevant *trade union* subject to the provision that the person designated in terms of clause 11.5.9.1 is duly informed.

11.5.8 Access and Facilities

- 11.5.8.1 An office and furniture shall be made available, on request, to the full-time *shop stewards* for the purpose of interviewing members, meeting *shop stewards* and for storing documents.
- 11.5.8.2 The full-time *shop steward* shall also be provided, on request, with reasonable telephone, fax, filing and copying facilities, provided that the cost shall be borne by the employer(s) and relevant *Trade Union Parties* on the basis of a jointly agreed upon budget. Thereafter, any excess amount shall be borne by the *trade union* concerned.

11.5.9 Reporting and Accountability

- 11.5.9.1 Full-time *shop stewards* must report to a designated member of the employer for administrative purposes.
- 11.5.9.2 The full-time *shop steward* shall report and be accountable to the *trade union* structures or members in accordance with the respective constitutions and policies of the *trade unions*.
- 11.5.9.3 Each *trade union* shall be accountable for the satisfactory performance of its full-time *shop stewards* and shall ensure that they carry out their duties efficiently and effectively.
- 11.5.9.4 Each full-time *shop steward* shall accept the conditions of this agreement by signing the attached declaration, Annexure 1.
- 11.5.9.5 Full-time *shop stewards* may form part of the consultation and negotiation structures of *Local Labour Forums*, including serving on the *Council* and its Divisions and their committees and working groups.

11.6 TRADE UNION OFFICE BEARERS

- 11.6.1 *Office Bearers* of the *trade unions* shall be entitled to additional time off during working hours on full pay to perform those functions referred to in Section 15 of the Act in addition to time off referred to in 11.4.8.1 and 11.4.8.2.
- 11.6.2 Each *trade union* shall have its President granted full-time status, paid for by his or her *employer*.
- 11.6.3 Each *trade union* may exercise the option of a maximum of another 3 (three) *National Office Bearers* with full time status. Such persons shall be paid in the 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*.
- 11.6.4 If the provisions of clause 11.6.3 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.

- 11.6.5 Should a *trade union* not exercise its option in terms of clause 11.6.3 in respect of 3 (three) National *Office Bearers*, such National *Office Bearer* shall be entitled to 20 (twenty) days per annum on full pay during working hours to perform *trade union* activities.
- 11.6.6 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.
- 11.6.7 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.
- 11.6.8 The figure of R200,000.00 (two hundred thousand rand) referred to in clause 11.6.3 shall be renegotiated in the *Council* each *Year*.
- 11.6.9 Provincial (SAMWU) or Regional (IMATU) *Office Bearers* shall be entitled to 15 (fifteen) additional days, per annum on full pay.
- 11.6.10 Regions (SAMWU) or sub-region (IMATU) *Office Bearers* as set out in Annexure A2 and Annexure A3, shall be entitled to an additional 10 (ten) days on fully pay.

11.7 REPRESENTATION ON STATUTORY AND OTHER BODIES

- 11.7.1 *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:
 - 11.7.1.1 South African Local Government Bargaining Council;
 - 11.7.1.2 A statutory board or Council, accredited medical scheme or retirement fund;
 - 11.7.1.3 The Local Government Sector Education and Training Authority or its successor in title; and
 - 11.7.1.4 The National Economic Development and Labour Council (NEDLAC).

11.8 LOCAL LABOUR FORUM

11.8.1 Composition

- 11.8.1.1 At every *employer* a *Local Labour Forum* shall be established with equal representation from the *trade unions* and the employer.
- 11.8.1.2 The *trade unions'* representation shall be divided in proportion to their respective membership in that employer.
- 11.8.1.3 *Employer* representatives shall consist of at least 2 (two) Councillors and of Management (as set out in clause 11.8.1.6.) except where the Local Labour Forum is seventy five (75) members; (three-a-side), councillors shall be at least one third of the delegation.
- 11.8.1.4 Up to 2 (two) *trade union officials* or *office bearers* may attend such meetings with prior notice to the *employer* and up to 2 (two) *SALGA* representatives may attend with prior notice to the *trade unions*.
- 11.8.1.5 In metropolitan areas the metropolitan division of the *Council* shall not serve as the *Local Labour Forum* and shall establish *Local Labour Forums* at a departmental or other suitable level as may be decided by that *division of the Council*.
- 11.8.1.6 The representatives on each side in each *employer* shall be constituted locally in a Local Labour Forum on the following basis by combining the membership of the *trade unions*:
 - 11.8.1.6.1 up to 75 members: 3-a-side;
 - 11.8.1.6.2 from 76 to 250 members: 5- a-side;
 - 11.8.1.6.3 from 251 to 500 members: 8- a-side;
 - 11.8.1.6.4 from 501 to 1000 members: 10-a-side; and
 - 11.8.1.6.5 more than 1000 members: 12-a-side.

11.8.2 Powers and Functions

- 11.8.2.1 The *Local Labour Forum* shall have the powers and functions of negotiating and/or consulting:
 - 11.8.2.1.1 On matters of mutual concern pertaining to the workplace and which do not form the subject matter of negotiations at the *Council* or its Divisions;
 - 11.8.2.1.2 On such matters as may from time to time be referred to such forum by the *Council* or its Divisions;

11.8.2.1.3 Provided that it may not negotiate on any matter, which has been reserved for exclusive bargaining in the *Council* or the Divisions;

11.8.2.1.4 Concluding of *Minimum Service Agreements*.

11.8.2.2 Disputes over what is negotiable, what are the matters that are for consultation and over whether a specific process constitutes sufficient consultation are to be resolved through the dispute resolution mechanism of the *Council*.

11.8.3 Meetings of Local Labour Forum

11.8.3.1 Parties to the Local Labour Forum may agree to convene a pre-local labour forum meeting to narrow the issue, finalise agendas and deal with technical matters.

11.8.3.2 The position of chairperson and vice-chairperson of the meeting shall rotate annually between the *Parties*.

11.8.3.3 The chairperson and vice-chairperson shall be elected at the first meeting of the *Year*.

11.8.3.4 The Parties shall each have a delegation leader who shall ensure order within his or her delegation.

11.8.3.5 *Local Labour Forums* shall meet at least once a month unless by mutual agreement of the *Parties* it is agreed not to meet.

11.8.3.6 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.

11.8.3.7 Any *Party*, for reasons of urgency, may request a special meeting of the *Local Labour Forums* on 48 hours' notice.

11.8.4 Sub-Committees of Local Labour Forums

11.8.4.1 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.

11.8.4.2 A *Local Labour Forum* shall consider the establishment of the following sub-committees for purposes of preparatory consultation:

- 11.8.4.2.1 Human Resource 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;
- 11.8.4.2.2 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;
- 11.8.4.2.3 Basic Conditions Committee, which shall deal with any other matters relating to working conditions, arrangement of working hours, health and safety proposals.
- 11.8.4.3 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.
- 11.8.4.4 The number and nature of sub-committees shall be reported to the relevant division of the *Council* on a quarterly basis.
- 11.8.4.5 The locus of the negotiation of agreements and legally required consultation on all matters is the *Local Labour Forum* and it may not divest or delegate such power to a sub-committee.

12. ESSENTIAL SERVICES

12.1 Procedure

- 12.1.1 The Minimum Level of Services in the designated essential services shall be determined by collective agreement in terms of the provisions of the Act.
- 12.1.2 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.
- 12.1.3 The Council shall set guidelines Annexure 4 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*.
- 12.1.4 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 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. The duration of any such agreement shall be for the period of the strike.

12.1.5 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*.

12.1.6 The question of *essential services* during the course of a disaster declared in terms of the Disaster Management Act 57 of 2002 shall be dealt with in accordance with that Act.

12.2 Replacement Labour

12.2.1 The *employers* hereby waive and abandon the right to take on replacement labour in order to provide a service in addition to the minimum service levels agreed in respect of any service determined to be an *essential service* pursuant to 12.1.4 above.

12.2.2 The waiver above will not affect the right of the *employer* to take on replacement labour or additional labour in respect of those services not classified as *essential services* in the context of 12.1.4 above.

12.2.3 Notwithstanding the afore-going, in the event of employees failing to abide by the terms of any collective agreement on *essential services*, then the waiver and abandonment referred to in 12.2.1 above shall be of no force and effect.

13. GRIEVANCE PROCEDURE

13.1 Preamble

13.1.1 This procedure shall be deemed to be a condition of service.

13.1.2 The objective of this grievance procedure is to ensure substantive and procedural fairness to resolve problems as quickly and as close to their source as possible and to deal with conflict through procedural and consensual means.

13.1.3 No employee shall suffer victimisation or occupational prejudice directly or indirectly as a result of lodging a grievance.

13.1.4 The parties shall disclose relevant documents which may assist to resolve a grievance to one another save that no party will be required to disclose information:

13.1.4.1 That is legally privileged;

13.1.4.2 That the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of any court;

13.1.4.3 That is confidential and, if disclosed, may cause substantial harm to an *employee* or the employer; or

13.1.1.4 That is private personal information relating to an *employee*, unless that *employee* consents to the disclosure of that information.

13.1.5 Nothing in this grievance procedure shall prevent a union from pursuing a dispute in its own capacity in terms of any agreed or other disputes procedure provided it has the right in law to pursue such dispute.

13.1.6 The parties shall take steps to ensure that employees and managers are informed about this procedure and are trained to implement this procedure effectively.

13.2 Step One: Immediate Superior

13.2.1 An aggrieved employee or group of employees must lodge a grievance in writing with his or her immediate superior on the prescribed form in Annexure 5 setting out the complaint and the desired result.

13.2.2 Should the grievance concern the conduct of the employee's immediate superior, the employee may proceed directly to step two (2) below, provided that he or she submits the grievance on the prescribed form.

13.2.3 Should the grievance concern the conduct of the head of department the employee may proceed directly to step three (3) provided he or she submits the grievance on the prescribed form.

13.2.4 The immediate superior shall wherever practically possible endeavour, in consultation with the affected employee or employees, to resolve the grievance within ten (10) days of the grievance having been referred to him or her and shall inform the employee of the outcome in writing. An employee may, if he or she so wishes be assisted by a shop steward, fellow employee or union official.

13.3 Step Two: Head of Department

13.3.1 If a grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees within ten (10) days of lodging in terms of clause 13.2.1 above, the employee or employees may refer the matter in writing within ten (10) days to the Head of Department or his or her nominee.

13.3.2 The Head of Department or his or her nominee shall arrange a meeting to consult and hold discussions with the affected parties in an attempt to achieve a resolution. The employee or employees 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.

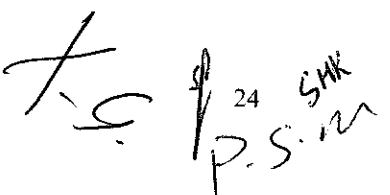
13.3.3 The Head of Department or his or her nominee shall endeavour to resolve the grievance within ten (10) days of the grievance being referred and shall inform the employee of the outcome in writing.

13.4 Step Three: Municipal Manager

- 13.4.1 If the grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees within ten (10) days of the referral in terms of clause 13.3.3 above, the employee or employees may refer it in writing to the Municipal Manager or his or her nominee within ten (10) days. The Municipal Manager shall hold a meeting, attended by the employee or employees and their representative, if required, and any other persons who, in the opinion of the Municipal Manager or his or her nominee should attend.
- 13.4.2 The Municipal Manager or his or her nominee shall hear details of the grievance including proposals to resolve the issue and shall endeavour to reach an agreed outcome within ten (10) days of the referral in terms of clause 13.4.1 above.
- 13.4.3 The Municipal Manager or his or her nominee shall inform the employee or employees in writing of the outcome of the hearing as envisaged in clause 13.4.2 above, and such outcome shall be final in terms of this procedure.
- 13.4.4 If a grievance is against a Municipal Manager, the aggrieved employee may refer the grievance to the Mayor or Executive Mayor, who may either seek to resolve the grievance himself or herself or engage the assistance of an appropriate Senior Manager of another Municipality to help resolve the grievance.
- 13.4.5 If a 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 and the party is entitled in law to declare such a dispute.

14. BARGAINING COUNCIL LEVY

- 14.1 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 as agreed to by the parties from time to time.
- 14.2 To the total of the amount deducted in terms of clause 14.1, 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.
- 14.3 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.
- 14.4 Where an employee is on leave of any nature excluding a period where an employee is on unpaid leave for an entire month, his own and the employer's contribution shall be continued.
- 14.5 Should any amount due in terms of clauses 14.1 and 14.2 not be received by the *Council* on the due date, the *employer* shall pay interest on such overdue amount at a rate of interest determined by the *Council* from time to time, subject to the Prescribed Rate of Interest Act, 1975.

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- 14.6 Interest in terms of clause 14.5 shall be charged from the date on which the payment becomes due until the date upon which payment is actually received by the *Council*. The *Council* shall, in its absolute discretion, be entitled to waive interest or part thereof.
- 14.7 In the event of the *employer* failing to submit the amount payable in terms of clause 14.2, the *Council* shall, for the purpose of enforcing this collective agreement, be entitled to calculate all outstanding levies payable based on the last amount submitted by the employer, without prejudice to its right to recover levies actually due which are over and above this amount.
- 14.8 In the event that the *Council* institutes civil proceedings against an *employer* for failing to pay amounts due in terms of this agreement, such *employer* shall be liable for all legal costs and disbursements incurred by the *Council* as between attorney and client, including collection charges.

15. MEDICAL SCHEME SELECTION PROCEDURES

15.1 Membership Threshold for Accredited Medical Schemes

An applicant scheme must comply with the following membership thresholds:

- 15.1.1 By 30 March, of each year, or at the time when an application for accreditation is submitted, the applicant scheme shall have a minimum of 15,000 principal members within the local government sector or the minimum numbers as determined by the *Executive Committee*. Principal members include pensioner members previously employed by local government; and
- 15.1.2 The threshold requirement, referred to in 15.1.1 above, may be reviewed by the *Council* from time to time on terms and conditions, to be determined by the *Executive Committee*. Such terms and conditions must be met by the applicant scheme.

15.2 Criteria for Recognition of Medical Schemes

- 15.2.1 The medical scheme applying for admission to the *Council* (hereinafter referred to as "applicant scheme") must be registered in terms of Section 24 (1) of the Medical Schemes Act (*MSA*).
- 15.2.2 The applicant scheme must meet all the legal requirements as prescribed in the *MSA* and regulations issued in terms of the *MSA* and determinations of the Registrar from time to time.
- 15.2.3 The applicant scheme must meet any additional requirements which may be laid down by the Registrar of Medical Schemes from time to time. Furthermore, the applicant scheme must meet the solvency levels prescribed in Regulation 29 of the regulations made in terms of the *MSA*. Alternatively, a plan to ensure compliance therewith must have been lodged with the Registrar in terms of Regulation 29 (4), and accepted by him.

- 15.2.4 The applicant scheme shall have a board of trustees duly elected as provided for in the *MSA*.
- 15.2.5 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.
- 15.2.6 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*.
- 15.2.7 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*.
- 15.2.8 Prior to accreditation, the applicant scheme must demonstrate capacity to provide effective member communication channels, e.g. regular newsletter and an updated website.
- 15.2.9 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*.
- 15.2.10 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.
- 15.2.11 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.
- 15.2.12 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.
- 15.2.13 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.

15.3 Selection Process

- 15.3.1 The *Council* will undertake the implementation of the above agreed to criteria as follows:
- 15.3.1.1 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;

- 15.3.1.2 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 their applications and these applications shall be compiled in accordance with the *Council* submission guidelines;
- 15.3.1.3 The *Executive Committee* will be responsible for overseeing the process and finalizing the accreditation by 30 September and inform medical schemes of the outcome of the accreditation process as soon as possible thereafter;
- 15.3.1.4 The *Executive Committee*, in its discretion, may require additional information from applicant schemes in order to substantiate the application in instances where the submitted information is insufficient and/or unclear. In these circumstances applicant schemes shall be granted two weeks from date of receipt of such notice to provide the required information, for which the applicant scheme shall bear the costs;
- 15.3.1.5 Notification of a decision of the *Executive Committee* regarding accreditation shall be in writing and shall be forwarded at least one month in advance of any *freedom of association* campaign.
- 15.3.2 *Accredited medical schemes* may market their schemes annually between October and November, the frequency of which will be determined by the *Executive Committee*.
- 15.3.3 Those scheme members who wish to transfer between *accredited medical schemes* must give their existing medical scheme the required notice period of termination of membership in terms of the rules of that medical scheme.
- 15.3.4 Scheme members may make an election regarding movement from one *accredited medical scheme* to another *accredited medical scheme* on an annual basis before 1 January.
- 15.3.5 Members who have elected to transfer from one *accredited medical scheme* to another *accredited medical scheme* will be able to do so with effect from 1 January of each *Year*.
- 15.3.6 The *employer* shall only make contributions to *accredited medical schemes* on behalf of employees.
- 15.3.7 Employees shall not be permitted to separate family membership and register dependants on different schemes.

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- 15.3.8 In the event of a medical scheme being in breach of the criteria set out in clause 15.2 above, that scheme shall lose its accredited status and the affected members shall be entitled to exercise a new election in terms of this clause 15.3.

15.4 Notification

- 15.4.1 The *Council* shall inform all employers and *accredited medical schemes* of this agreement.
- 15.4.2 The *Parties* are to use their best endeavours to inform their members of this agreement.
- 15.4.3 The *accredited medical schemes* are to inform their members of this agreement.
- 15.4.4 Employers are to endeavour to inform all employees in their employ and pensioner members who belong to *accredited medical schemes* operating at their *workplace*.

15.5 Implementation

The *Executive Committee* is charged with the duty to implement and attend to any matter arising from Part C, Section 15 of this agreement.

15.6 Code of Conduct

- 15.6.1 An *accredited medical scheme* shall at all times present its own scheme and its benefits in a fair and reasonable manner.
- 15.6.2 An *accredited medical scheme* shall not misrepresent or discredit another *accredited medical scheme* or its benefits in any way.
- 15.6.3 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*.
- 15.6.4 *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.

15.7 Breach of Code of Conduct

- 15.7.1 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 6 to the General Secretary of the *Council*.
- 15.7.2 The General Secretary shall submit the complaint to an ombudsperson selected from the *Council's* National Panel of Arbitrators.
- 15.7.3 The tribunal (ombudsperson) shall have the powers to:

15.7.3.1 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;

15.7.3.2 Reverse a selection of medical scheme by an employee;

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

15.7.3.4 Issue a fine against an offending medical scheme; and/or

15.7.3.5 Any other suitable order.

15.7.4 Decisions of the tribunal shall be final.

15.7.5 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 15.2.12 above in the first instance. If the deposit referred to in clause 15.2.12 is insufficient, the *accredited medical scheme* shall pay the outstanding amount within ten (10) days after being advised thereof by the General Secretary.

15.8 Post-Retirement Medical Aid Funding

The *Parties* will engage on post-retirement medical aid funding for current employees of the sector.

SECTION D: RULES OF THE COUNCIL

16. DATA BANK OF MUNICIPAL DATA

- 16.1 *SALGA* and/or the individual Municipalities will furnish to the *Council* the information as contained in Annexure 7 hereto.
- 16.2 All *employers* bound by this agreement shall furnish the *Council* updated information as at 1 July of each year in regard to the data specified in clause 16.1 above, annually on 31 August:
- 16.3 Such information shall be furnished in electronic format.
- 16.4 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*.

17. CONDUCT OF CONCILIATION AND ARBITRATION PROCEEDINGS BEFORE THE COUNCIL

- 17.1 All proceedings before the Council shall be conducted in accordance with the Rules of the CCMA, as per Annexure 8 determined from time to time by the CCMA.
- 17.2 Any party or person lodging a dispute shall use the Council's prescribed forms.

SECTION E: EXEMPTION FROM COLLECTIVE AGREEMENTS OF THE COUNCIL

18. EXEMPTIONS

- 18.1 Any Party or person bound by a collective agreement concluded under the auspices of the Council or which binds the Parties to the Council shall be entitled to apply for exemption from any provision of the said collective agreement.
- 18.2 All applications for exemption shall be made in writing on the prescribed form Annexure 10, obtained from the *Council*, setting out relevant information, including:
- 18.2.1 The provisions of the *agreement* in respect of which exemption is sought;
 - 18.2.2 The number of persons in respect of whom the exemption is sought;
 - 18.2.3 The reasons why the exemption is sought;
 - 18.2.4 The nature and size of the business in respect of which the exemption is sought;
 - 18.2.5 The duration and timeframe for which the exemption sought;
 - 18.2.6 The business strategy and plan of the applicant seeking the exemption;
 - 18.2.7 The applicant's past record (if applicable) of compliance with the provisions of the Collective Agreement, its amendments and exemptions certificate;
 - 18.2.8 Confirmation that the trade union or workforce itself were advised of the exemption application at local level; and
 - 18.2.9 Any other relevant supporting data and financial information the *Council* may prescribe from time to time.
- 18.3 An application for exemption from any provision of the collective agreement shall be lodged in writing on the prescribed form with the General Secretary of the *Council* and the applicant shall serve a copy of the application as follows:
- 18.3.1 In the case of a Trade Union or employee applying for exemption from collective agreement, submit a copy of the exemption application to SALGA and the relevant municipality affected by the application.
 - 18.3.2 In the case of SALGA and/or a Municipality applying for exemption from a collective agreement, forward the exemption application to the national and local offices of IMATU and SAMWU.
- 18.4 The Parties referred to in clauses 18.3.1 and 18.3.2, as the case may be, shall be afforded ten (10) days to submit a response to the application for exemption to the General Secretary of the Council. The Party shall also be obliged to submit the response to the applicant for exemption.

- 18.5 The application for exemption shall be considered by the National Exemption Committee.
- 18.6 All applications considered by the National Exemption Committee shall, unless determined otherwise by the Senior Panellist, only be based on the written application and arguments in respect of the application, if any by the applicant and any party or person opposing the application. The Panellist 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.
- 18.7 In the event of applications being made that are frivolous and vexatious, such applications may be dismissed with costs.
- 18.8 Where a municipality applies for exemption it shall not implement any changes to existing provisions until the exemption is finalised, unless the National Exemption Committee decides otherwise.
- 18.9 The National Exemptions Committee must consider and make its decision within 30 days of the Council having received the exemption application.
- 18.10 The onus to prove the case for the granting of an exemption lies with the applicant.
- 18.11 Parties undertake to make every reasonable effort to assist their members to discharge such onus in a full and proper manner.
- 18.12 **National Exemption Committee**
- 18.12.1 The Executive Committee of the SALGBC shall establish dedicated exemptions panel of arbitrators from the National Panel of conciliators and arbitrators of the Council.
- 18.12.2 The General Secretary of the SALGBC shall appoint a Senior Panellist from the dedicated exemptions panel of arbitrators to hear and determine the application for exemption.
- 18.12.3 The General Secretary of the Council or his nominee shall provide secretarial services to the National Exemption Committee.
- 18.12.4 The National Exemption Committee shall undertake its duties in a fair and transparent manner and shall have the powers and functions to:-
- 18.12.4.1 Grant or reject an application for exemption; and
- 18.12.4.2 Approve interim adjustments in circumstances where this will not affect the final outcome.
- 18.12.5 The National Exemption Committee shall grant or reject an exemption application within 30 (thirty) days after a referral to the General Secretary.
- 18.12.6 The Senior Panellist shall have the power to condone any failure to comply with the time periods provided for in terms of this procedure based on good cause shown.

- 18.12.7 The decisions of the National Exemption Committee shall be final and binding subject to the applicant's right of appeal. In the event that the National Exemption Committee declines to grant an exemption, the applicant shall be notified that its application has been unsuccessful and that it has the right of appeal to the Exemption Appeal Tribunal. The National Exemptions Committee shall provide brief written reasons for its decision.
- 18.12.8 An exemption certificate which contains the following information shall be signed by the Senior Panellist of the National Exemption Committee and the General Secretary of the *Council*:
- 18.12.8.1 The full name of the applicant employer;
 - 18.12.8.2 The date of issue;
 - 18.12.8.3 The details of the agreement for which exemption is granted;
 - 18.12.8.4 The period for which exemption shall operate;
 - 18.12.8.5 The terms and conditions, or remedial requirements of the exemption;
 - 18.12.8.6 Any other matter the arbitrator deems relevant; and
 - 18.12.8.7 The exemption certificate shall be sent directly to the applicant and to the relevant Regional Secretary, who shall inform the parties to the division of the final terms and conditions within five (5) working days after receipt of such certificate.
- 18.13 **Criteria and Other Factors to be Considered by Exemptions Committees and Exemptions Appeal Tribunal**
- 18.13.1 When considering an application for exemption, including an appeal or an application for the withdrawal of a certificate of exemption by the *Council*, the following criteria shall be taken into account (the order not indicating any form of priority):
- 18.13.1.1 Any written and/or verbal substantiation provided by the applicant or a party to the Council;
 - 18.13.1.2 Fairness to the employer, its employees and other employers and the employees in the industry;
 - 18.13.1.3 Whether an exemption, if granted would undermine this agreement or the collective bargaining process;
 - 18.13.1.4 The employer is unable to afford the costs of the whole or part of this agreement or;
 - 18.13.1.5 The employer has short-term cash flow problems necessitating a limited exemption.

- 18.13.1.6 Unexpected economic hardship occurring during the currency of this agreement and job creation and/or loss thereof;
- 18.13.1.7 Whether a budgetary provision was made for implementation of the obligation arising out of the collective agreement;
- 18.13.1.8 The infringement of basic conditions of employment rights;
- 18.13.1.9 The fact that a competitive advantage might be created by exemption;
- 18.13.1.10 Comparable benefits or provisions where applicable;
- 18.13.1.11 The applicant's compliance with other statutory requirements such as the Compensation for Occupational Injuries and Diseases Act 130 of 1993, Basic Conditions of Employment Act 75 of 1997, Employment Equity Act 55 of 1998, Skills Development Act 97 of 1998, Skills Development Levies Act 9 of 1999, or Unemployment Insurance Act 63 of 2001; or
- 18.13.1.12 The applicant's past record of compliance with collective agreements;
- 18.13.1.13 The precedents for exemptions set since the introduction of this procedure and the effects of its proposal as a precedent in its own divisions or other divisions;
- 18.13.1.14 Any process or directives as may be agreed to by the Executive Committee from time to time; or
- 18.13.1.15 Any other factor which is considered appropriate.

18.14 Exemptions Appeal Tribunal (The Tribunal)

- 18.14.1 An appeal shall be considered by an external panellist other than the arbitrators from the national panel of conciliators and arbitrators. The external panellists shall be drawn from either the CCMA or any other suitable or equivalent agency.
- 18.14.2 The applicant wishing to appeal shall forward their appeal to the General Secretary within five (5) days of receipts of the Council decision rejecting the exemption application.
- 18.14.3 The General Secretary shall convene a meeting of the Exemptions Appeal Tribunal not later than fourteen (14) days from having received the appeal. The Tribunal must finalize its decision within 30 days of the date of the appeal being lodged with the Council.
- 18.14.4 The Exemptions Appeal Tribunal:

- 18.14.4.1 Shall consider the appeal fairly and quickly.
- 18.14.4.2 May condone a late appeal.
- 18.14.4.3 Decide whether the appeal is to be dealt with on the papers and/or by means of oral submissions.
- 18.14.4.4 Deliver its determination to the General Secretary of the Council within the 30 day period as stated in 18.14.3 above, who will then in turn notify the appellant and the other parties copying same to the relevant Regional Secretary.

18.15 For the purposes of this section only, "Day" shall mean calendar day.

SECTION F: ENFORCEMENT OF THIS AGREEMENT

19. ENFORCEMENT

- 19.1 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*.
- 19.2 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.
- 19.3 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*.
- 19.4 If a party to 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 19.3, the *Commission*, on request by the *Council*, must appoint an arbitrator.
- 19.5 If an arbitrator is appointed in terms of clause 19.3 above:
- 19.5.1 The *Council* remains liable for the payment of the arbitrator's fee; and
- 19.5.2 The arbitration is not conducted under the auspices of the *Commission*.
- 19.6 An arbitrator conducting 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.
- 19.7 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*.
- 19.8 An arbitrator acting in terms of Section 33A of the *Act* may determine any dispute concerning the interpretation or application of a collective agreement.
- 19.9 An arbitrator conducting an arbitration in terms of Section 33A of the *Act* may make an appropriate award, including:
- 19.9.1 Ordering any person to pay any amount owing in terms of a collective agreement;
- 19.9.2 Imposing a fine for a failure to comply with a collective agreement;
- 19.9.3 Charging a party an arbitration fee;
- 19.9.4 Ordering a party to pay the costs of the arbitration;

- 19.9.5 Confirming, varying or setting aside a compliance order issued by the General Secretary; or his appointed designated agent in accordance with clause 19.2;
- 19.9.6 Any award contemplated in Section 138 (9) of the Act.
- 19.10 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.
- 19.11 An arbitration award in an arbitration conducted in terms of Section 33A of the Act is final and binding and may be enforced in terms of Section 143 of the Act.
- 19.12 If an *employer* upon whom a fine has been imposed in terms of this clause files an application to review and set aside an award made in terms of clause 19.9, any obligation to pay a fine is suspended pending the outcome of the application.

SECTION G: DISPUTES ABOUT THE APPLICATION OR INTERPRETATION OF THIS AGREEMENT


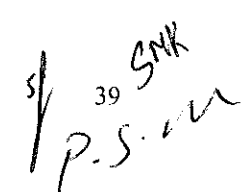
20. DISPUTE PROCEDURES

- 20.1 Any person or *Party* may refer a dispute about the application or interpretation of this collective agreement, to the General Secretary of the *Council*.
- 20.2 The General Secretary in the event of a dispute not being resolved:
 - 20.2.1 Must appoint a conciliator from either the national or divisional panel of conciliators, (doing so as far as possible on a rotational basis) or if the dispute remains unresolved;
 - 20.2.2 Refer the dispute to arbitration in terms of the constitution of the *Council*.
- 20.3 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.
- 20.4 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.
- 20.5 The General Secretary, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing.
- 20.6 The arbitrator shall:
 - 20.6.1 Endeavour to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated; and
 - 20.6.2 If the dispute remains unresolved, resolve the dispute through arbitration.
- 20.7 The arbitrator may make any appropriate arbitration award in terms of the *Act* that gives effect to the collective agreement.

SECTION H: AMENDMENT OF THIS AGREEMENT

21. AMENDMENTS

- 21.1 Any *Party* to this Agreement seeking a substantive amendment to this Agreement must submit the proposed amendment, in writing, at least twelve (12) months prior to the Agreement expiring, to the General Secretary of the *Council*.
- 21.2 The General Secretary shall table the proposed amendment to the Executive Committee of the *Council* which shall decide the appropriate forum for the proposed amendment to be negotiated. The other *Parties* shall submit in writing their acceptance or counter proposal to the proposed amendment.
- 21.3 Any failure to reach agreement on the proposed amendment shall entitle any *Party* to declare a dispute, in which event the disputing *Party* shall declare a dispute and follow the procedure in terms of the *Act* or read with the relevant provisions of the Constitution of the *Council*.
- 21.4 If the *Parties* are unable to conclude the negotiations in respect of the amendment proposed as per clause 21.1 above, this Agreement will continue to be in force and effect until such time the *Parties* have concluded and signed off a new agreement read with the relevant provisions of the Constitution of the *Council*.

SECTION I: REPEAL AND/OR AMENDMENT OF EXISTING AGREEMENT

22. REPEAL AND/OR AMENDMENTS

- 22.1 This Agreement together with its annexures replaces the Main Collective Agreement dated 18 June 2007.

SECTION J

23. DEFINITIONS


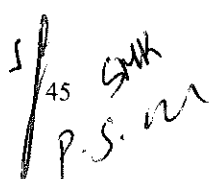
- 23.1 All expressions used in this agreement which are defined in the Labour Relations Act, 1995, shall bear the same meaning as in the Act and, unless a contrary intention appears, words importing the masculine gender shall include the feminine, and vice versa.
- 23.2 Unless the contrary intention is stated or it is obvious from the context words or expressions defined in the "Act" that are used in this agreement will have the same meaning as in the Act.
- 23.3 "Accredited medical scheme" means a medical scheme approved by the Council;
- 23.4 "Act" means the Labour Relations Act, No. 66 of 1995, as amended;
- 23.5 "Annual leave cycle" means the period of twelve (12) months employment with the same employer immediately following an employee's commencement of employment or following the completion of that employee's existing leave cycle;
- 23.6 "Commission" means the Commission for Conciliation, Mediation and Arbitration;
- 23.7 "Council" means the South African Local Government Bargaining Council;
- 23.8 "Central Council" means the Council excluding the divisions;
- 23.9 "Day" means Monday to Friday, excluding public holidays, unless indicated otherwise by the context;
- 23.10 "Designated Essential Services" shall mean those categories of services designated as essential services from time to time by the Essential Services Committee;

- 23.11 *"District Council"* means a district *Municipality* as defined in the Municipal Structures Act, 117 of 1998;
- 23.12 *"Division of the Council"* shall be the following regional structures of the *Council*:
- 23.12.1 Cape Metropolitan;
 - 23.12.2 Eastern Cape;
 - 23.12.3 eThekweni Metropolitan;
 - 23.12.4 Free State;
 - 23.12.5 Gauteng;
 - 23.12.6 Johannesburg Metropolitan;
 - 23.12.7 KwaZulu-Natal;
 - 23.12.8 Limpopo;
 - 23.12.9 Mpumalanga;
 - 23.12.10 Northern Cape;
 - 23.12.11 North-West;
 - 23.12.12 Tshwane Metropolitan;
 - 23.12.13 Western Cape.
- 23.13 *"Emergency Personnel"* shall be those emergency services such as, inter alia, Fire, Disaster and Risk Management, Police, Traffic Officers and Ambulance staff only;
- 23.14 *"Employee"* means any person, excluding an independent contractor who works for another person or for the State and who receives, or is entitled to receive, any remuneration;
- 23.15 *"Employer or Employers"* refers to employers within the registered scope of the *Council*;
- 23.16 *"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;
- 23.17 *"Executive Committee"* means the Executive Committee of the Central *Council* of the SALGBC;
- 23.18 *"Exemption Appeal"* means an appeal arising from an application for exemption from any provision of this agreement;
- 23.19 *"Freedom of Association"* means the opportunity of an employee to exercise the right to join an accredited scheme of his choice;

- 23.20 "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;
- 23.21 "Geographic Location" shall refer to the geographical boundary of the *employer (Municipality)* for the purpose of defining the shop steward constituency;
- 23.22 "Local Government Undertaking" means the undertaking in which the employer and employees are associated for the institution, continuance or finalisation of any act, scheme or activity undertaken by a *Municipality* and by municipal entities as established in terms of the Local Government Municipal Systems Act (32 of 2000);
- 23.23 "Non-health Expenditure Costs" are the costs incurred in the administration of a medical scheme and consist of amongst other things of the following:
- 23.23.1 Fees and disbursements paid to trustees;
 - 23.23.2 Fees and disbursements paid to a third party medical scheme administrator for the administration of the medical scheme;
 - 23.23.3 Administration and consulting contracts with advisors to the members, which advisors are not the contracted medical scheme administrator;
 - 23.23.4 Marketing and advertising costs;
 - 23.23.5 Staff remuneration;
 - 23.23.6 Actuarial services;
 - 23.23.7 Legal fees;
 - 23.23.8 Consultancy fees;
 - 23.23.9 Fees and disbursements to the auditors;
 - 23.23.10 Principal Officer fees;
 - 23.23.11 Management care: Management services;
 - 23.23.12 Broker fees;
 - 23.23.13 Reinsurance surplus/deficit;
 - 23.23.14 Impaired receivables recovered;
 - 23.23.15 Impaired receivables written off;
 - 23.23.16 Provision for impaired receivables.

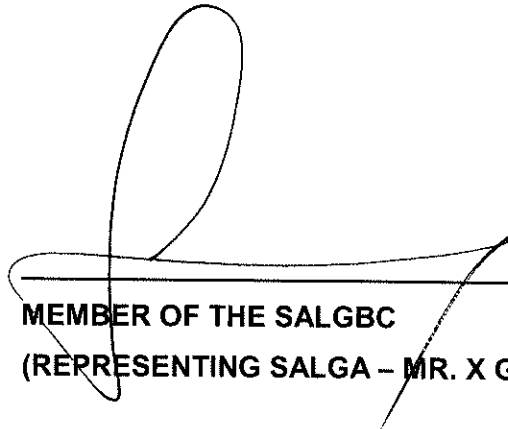
23.24	"IMATU"	means the Independent Municipal and Allied Trade Union;
23.25	"Local Labour Forum"	means a forum or forums established to deal with matters at the <i>workplace</i> level;
23.26	"Medical practitioners"	means all practitioners as defined by the Health Professions Council of South Africa (Medical and Dental Practitioners);
23.27	"MSA"	means the Medical Schemes Act, 131 of 1998, as amended;
23.28	"Minimum Service Agreements"	means those agreements concluded in terms of the Act that provide for a fixed number of staff to provide <i>essential services</i> while the remaining staff within that service are entitled to engage in industrial action;
23.29	"Office Bearer"	means the elected president, deputy president, vice-president, chairperson, vice-chairperson, treasurer or secretary of the <i>Trade Unions</i> ;
23.30	"Official"	means a full-time employee of IMATU, SAMWU or SALGA;
23.31	"Party or Parties"	means IMATU, SALGA and SAMWU;
23.32	"Representative trade union"	means the <i>Trade Unions</i> parties to this agreement, IMATU and SAMWU;
23.33	"SALGA"	means the South African Local Government Association;
23.34	"SAMWU"	means the South African Municipal Workers' Union;
23.35	"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)
23.36	"Senior Management"	shall be those employees employed as head of department, deputy head of department and director or such post as determined by the relevant Division of the Council; and excludes Section 56 and Section 57 Managers;
23.37	"Shop Steward"	means a <i>Trade Union</i> representative as defined in the Act;

- | | | |
|-------|--|---|
| 23.38 | <i>"Shop Stewards' Committee"</i> | means all the shop stewards of either <i>SAMWU</i> or <i>IMATU</i> at a <i>workplace</i> ; |
| 23.39 | <i>"Temporary Employee"</i> | means an employee appointed for a specified period of time or to complete a specified task in terms of his contract of employment and which includes a casual employee; |
| 23.40 | <i>"Threshold of Representativeness"</i> | means a <i>Trade Union</i> that has a membership equivalent to not less than 15% of the total number of employees within the registered scope of the <i>Council</i> ; |
| 23.41 | <i>"Trade union"</i> | means either <i>IMATU</i> or <i>SAMWU</i> and <i>Trade Unions</i> means <i>IMATU</i> and/or <i>SAMWU</i> ; |
| 23.42 | <i>"Workplace"</i> | means the employer; |
| 23.43 | <i>"Year"</i> | means the period 1 January to 31 December unless indicated otherwise by the context. |





THIS AGREEMENT WAS CONSIDERED, ADOPTED AND APPROVED BY THE BARGAINING COMMITTEE OF THE CENTRAL COUNCIL IN TERMS OF CLAUSE 17.3 OF THE CONSTITUTION, ON 25 AUGUST 2015.


SIGNED BY THE PARTIES AT DURBAN ON THIS THE 9th DAY OF SEPTEMBER 2015.



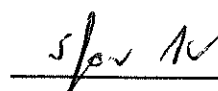
MEMBER OF THE SALGBC
(REPRESENTING SALGA – MR. X GEORGE)



MEMBER OF THE SALGBC
(REPRESENTING IMATU – MR.S KHOZA)



MEMBER OF THE SALGBC
(REPRESENTING SAMWU – MR. P. S
MOLALENYANE)



GENERAL SECRETARY OF THE SALGBC
MR SS GOVENDER

ANNEXURE 1

**DECLARATION BY FULL-TIME
SHOP STEWARD**

As agreed between and

As *Parties* to the agreement which brought me to office, I

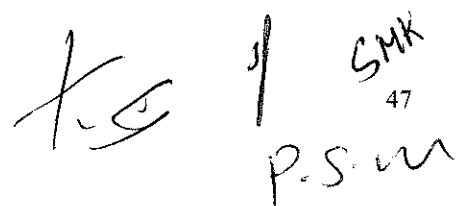
(full name) (pay number) duly elected full-time Shop Steward, hereby agree and undertake to carry out my duties as full-time Shop Steward in conformity with the provisions of all agreements between the two *Parties* in Annexure "B" of the Organizational Rights Agreement.

Dated atthis..... day of

FULL-TIME SHOP STEWARD

WITNESS (*TRADE UNION*)

WITNESS (*MANAGEMENT*)

Handwritten signatures and initials, including 'K.S.', '1', 'SMK', '47', and 'P.S.M.'.

ANNEXURE 2

SAMWU REGIONS

PROVINCE	REGION	TOTAL
EASTERN CAPE	1. Nelson Mandela Metro 2. O.R. Tambo 3. Pinky Ntsangani 4. Chris Hani 5. Amatola 6. Buffalo City Metro	5
GAUTENG	1. Ekurhuleni 2. Tshwane Metro 3. Greater Vaal 4. JHB Metro 5. West Rand	5
LIMPOPO	1. Northern 2. Far North 3. Southern	3
WESTERN CAPE	1. Cape Metro 2. Boland 3. Garden Route/Karoo 4. North West	4
KWAZULU-NATAL	1. South Coast 2. North Coast 3. Midlands 4. Ethekewini Metro 5. Pietermaritzburg	5
NORTHERN CAPE	1. Upnam 2. Decarna 3. Kimkuru	3
FREE STATE	1. S.M. Pule 2. Thabo Mafutsanyana 3. Lejweleputsa 4. Mongwame	4
MPUMALANGA	1. Highveld Ridge 2. Highveld 3. South East Highveld 4. Lowveld	4
NORTH WEST	1. Southern 2. Mafikeng 3. Northern	3
TOTAL REGIONS		36

ANNEXURE 3

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.

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P.S. 121

ANNEXURE 4

MINIMUM SERVICE AGREEMENT FOR

NAME OF MUNICIPALITY: _____

Whereas, the Parties to the SALGBC entered into a Main Collective Agreement regulating conditions of service in the sector.

Whereas the Main Collective Agreement defines the designated essential services and requires that the Parties conclude Minimum Service Collective Agreements in the Local Labour Forum.

Whereas the Main Collective Agreement further provides for the SALGBC to set guidelines for the conclusion of Minimum Service Level Agreements which guidelines must be taken into account by the Parties when concluding the Minimum Service Level Agreements.

Whereas the Parties are conscious that the local government undertaking as a whole is not *per se* an essential service, but that in the absence of a Minimum Service Level Agreement, all employees in the designated essential services are prohibited in law from striking or participating in a strike and,

Now therefore the Parties hereunder have entered into a Minimum Service Level Agreement which regulates the occupations and numbers of employees within the designated essential services who are required to maintain the minimum service levels and those occupations and numbers of employees who are permitted to participate in a strike.

1. The parties hereunder enter into this agreement in terms of Part C, Clause 12 of the SALGBC Main Collective Agreement and the SALGBC Guidelines regarding essential services and minimum service agreements.
2. This Minimum Service Level Agreement is a subsidiary agreement of Clause 12 of the Main Collective Agreement and all the terms, definitions and provisions of that agreement apply to this agreement and its interpretation.
3. In the event of a strike, the employer shall in the first instance have regard for the number of workers who have declined to participate in the strike to determine whether or not the agreed minimum service level as set out in this agreement has been met.
4. In the event that the number of workers who decline to strike does not reach the agreed minimum service level and does not permit the agreed minimum service level to be met, the employer shall inform the unions of the occupations and numbers of employees that are required to report for duty to ensure that the situation is addressed.
5. The parties shall monitor the occupations and numbers of employees in the designated essential services during the course of the strike and in the event that the agreed minimum service level as stipulated in Annexure C is not complied with, the employer shall inform the unions who shall ensure that the situation is addressed.
6. This Agreement has been entered into with effect from and shall be for an indefinite period but subject to review biennially to consider the following:

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P.S. 12

- 6.1 To ascertain whether or not there has been any change in the nature or extent of the designated essential service provided and whether or not such changes require a change to the staffing levels indicated;
- 6.2 To give effect to any revision of the current Essential Service designations by the Essential Service Committee; and
- 6.3 The effect of vacancies on the approved organogram in the designated essential service.
7. In the event of any amendments, the amended Minimum Service Agreement shall be returned to the relevant division of the SALGBC which shall in turn refer copies to the SALGBC Head Office and to the Essential Service Committee for ratification in terms of Section 72 of the Act.

FOR THE MUNICIPALITY

NAME: _____
(Print)

SIGNATURE: _____

DATE: _____

FOR THE TRADE UNIONS

IMATU

NAME: _____
(Print)

SIGNATURE: _____

DATE: _____

SAMWU

NAME: _____
(Print)

SIGNATURE: _____

DATE: _____

X-S 1 51 SMK
P-S-m

ANNEXURE 4.1

MINIMUM SERVICES AGREEMENT FOR

NAME OF MUNICIPALITY: _____

Designated Essential Service (as per Government Gazette)	Number of Employees on the staff structure (organogram) of the Employer that perform Essential Services (per designated service)	Post designations of Employees that perform Essential Services	Number of Employees employed in the designated essential service (per post designation)

ANNEXURE 4.2

MINIMUM SERVICES AGREEMENT FOR

NAME OF MUNICIPALITY: _____

Designated essential services in terms of the Government Gazette	Department/Section that the employee performing essential services is employed in	Post designations of employees performing the essential service in the department/section	Number of employees, per post designation, who perform essential services	Number of employees that have to be at work as part of the minimum service in the event of a strike	Number of employees in the designated essential service who may participate in the strike

ANNEXURE 4.3

MINIMUM SERVICES AGREEMENT FOR

NAME OF MUNICIPALITY: _____

Designated Essential Service in terms of Government Gazette	Post designations / categories of employees performing Essential Services	Motivation (The parties are required to motivate the agreed to minimum services, per category of employee, to the satisfaction of the Essential Services Committee). Parties have to clearly demonstrate that despite this agreement and in the event of a protected strike, there shall be no endangerment to the life, personal safety or health of any person affected by the service.

ANNEXURE 4.4

FORMAT FOR RECORDING MINIMUM SERVICE AGREEMENTS

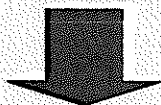
As a result of the amendments to the Act, this matter will be dealt with by the Council who will provide guidance to municipalities.

X-G. 9/ SMK⁵⁵
P.S.M

ANNEXURE 4.5
REQUEST FOR RATIFICATION OF
COLLECTIVE AGREEMENT PROVIDING
FOR MAINTENANCE OF MINIMUM
SERVICES



READ THIS FIRST



WHAT IS THE PURPOSE OF THIS FORM?

This form is a request to the essential services committee to ratify any collective agreement that provides for the maintenance of minimum services in a service designated as an essential service.

WHO FILLS IN THIS FORM?

Representatives of the parties to the collective agreement.

WHERE DOES THIS FORM GO?

Essential Services Committee
C/O CCMA
28 Harrison Street
Johannesburg 2001
Private Bag X 94
Marshalltown, 2107
Tel: (011) 377 6650
Fax: (011) 834 7351
E-mail: ho@CCMA.org.za

OTHER INSTRUCTIONS

A copy of the collective agreement must accompany this form.

1. DETAILS OF THE PARTIES TO THE AGREEMENT

Employer Parties

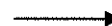
Name
Postal Address
.....
Contact person
Reference number:
.....
..... (Use additional paper if needed)
Tel: Fax:
Cell: E-mail:

Trade Union Parties

Name
Postal Address
.....
Contact person
Reference number:
.....
..... (Use additional paper if needed)
Tel: Fax:
Cell: E-mail:

CCMA REF. No.

Please turn over



K-S. 56
P.S.M.

The description of the designated essential service in paragraph 3 must reflect the service as designated in the Government Gazette.

7) CLAUSE(S) OF THE AGREEMENT PROVIDING FOR MINIMUM SERVICES?

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

8) DETAILS OF THE DESIGNATED ESSENTIAL SERVICE

Describe the designated essential service:

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

9) DETAILS OF THE EMPLOYEES WHO ARE BOUND BY THE COLLECTIVE AGREEMENT

- a How many employees fall within the designated essential service?
- b How many employees fall within the minimum service?
- c Describe the nature of the work performed by the employees who fall within the minimum service.

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Please turn over



T.S. 57
SP
SMK
P.S.M

The motivation for ratification in paragraph 5 must demonstrate that the application of the agreement does not endanger the life, personal safety or health of people.

- 2) Describe the nature of the work performed by the employees who fall within the designated essential service, but who do not fall within the minimum service.

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MOTIVATION FOR RATIFICATION

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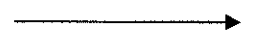
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Please turn over



X-S. sp SMK 58
P.S.m

IS THIS REQUEST URGENT?

Yes

☐

No

☐

If yes, explain why it is urgent.

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SIGNATORIES

Employer Parties

Name:

Signature:

Position:

Date:

Tel:

Fax:

E-mail:

(Use additional paper if necessary)

Trade Union Parties

Name:

Signature:

Position:

Date:

Tel:

Fax:

E-mail:

CHECK

Have you attached a copy of
the collective agreement

Handwritten signatures and initials:
T.S. | SMK 59
P.S.M.

ANNEXURE 5 (GRIEVANCE PROCEDURE)

Fit Letterhead of Municipality

GRIEVANCE FORM

NAME OF DEPARTMENT:

PERSONAL DETAILS		
To be completed by employee/s (If more than one employee, attach separate sheet)	Name of Employee (Print):	
	Employee No.:	
	Designation	
	Place of Work	
	Nature of Grievance:	
Desired Solution:		
Signature of Employee:		Date:
STEP 1		
To be completed by immediate superior within 10 days of receipt of grievance	Name (Print):	
	Date Received:	
	Results of Discussions with Employee:	
Signature of Immediate Superior:		Date:
Comments of Employee:		
Signature of Employee:		Date:

Cut / Tear Along Dotted Line

CONFIRMATION OF RECEIPT OF GRIEVANCE FORM		
To be completed by Immediate Superior and handed to Aggrieved Employee	Name (Print):	
	Service No.:	
	Name of Immediate Superior:	
	Signature:	Date:

X-G. SP SMK 60
P.S. m

STEP 2		
To be completed by the Head of Department or Nominee Within 10 days of receipt	Name (Print):	
	Date Received:	
	Results of Grievance Investigation and Decision of Head of Department or Nominee:	
	Signature of Head of Department or Nominee:	Date:
	Comments of Employee:	
	Signature of Employee:	Date:
	Name of Shop Steward or Union Official:	
	Signature of Shop Steward or Union Official:	Date:
STEP 3		
To be completed by Municipal Manager or Nominee within 10 days of receipt	Name (Print):	
	Date Received:	
	Results of Grievance Investigation and Decision of Municipal Manager or Nominee:	
	Signature of Municipal Manager or Nominee:	Date:
	Name of Shop Steward or Union Official:	
Signature of Shop Steward or Union Official:	Date:	

T.S. / SMK⁶¹
P.S.M

ANNEXURE 6 (MEDICAL AID)



**SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL**

**COMPLAINT FORM
BREACH OF MEDICAL SCHEME
CODE OF CONDUCT**

TICK THE CORRECT BOX ☒

Where does this form go?

To the General Secretary of the
Council.

What will happen to the complaint?

The General Secretary of the *Council* shall refer the complaint to an ombudsperson, who shall hear the complaint.

A) CONTACT DETAILS OF COMPLAINANT

Name: _____

Postal Address:

Tel:

Fax:

e-mail:

Cell:

As the complainant are you?

Employer

A Member of a Medical Scheme

An Accredited
Medical Scheme

A Trade Union

A Pensioner Member of Medical Scheme

B) CONTACT DETAILS OF RESPONDENT

Name:

Postal Address:

Tel:

Fax:

e-mail:

Cell:

The respondent is:

Employer

A Member of a Medical Scheme

An Accredited
Medical Scheme

A Trade Union

A Pensioner Member of Medical Scheme

C) NATURE OF THE COMPLAINT

The complaint is about: (tick the appropriate box)

Unfair conduct by the medical scheme

Unfair conduct by the
employer or Trade Union

Not acting in the best interest of the medical scheme member.

Influencing or promoting the choice of accredited scheme.

Commitments not fulfilled
by the medical scheme.

Preferential treatment to a single scheme/s	
---	--

Discrediting another accredited scheme.

Preventing employees from exercising the freedom to choose an accredited scheme.
--

	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:		<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
The dispute arose where: (Give the City/Town/Municipality)		
E) NATURE OF RELIEF SOUGHT		
Please specify the nature of relief sought from the <i>Council</i> 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)

ANNEXURE 7 (DATA BANK OF MUNICIPAL DATA)

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*.

Section A

Item No	Field Name	Data Type	Field Size	Format	Description
1	LG Code	String	20	XXXXXXXXXXXXXXXXXX XXX	The code of the <i>Municipality</i> employing the employee (assigned by Municipal Demarcation Board)
2	Employee Number	String	10	XXXXXXXXXX	Payroll reference number of employee.
3	ID Number	String	13	XXXXXXXXXXXXXX	Employees ID number
4	Date of _Birth	Date	10	DD/MM/YYYY	Date of Birth
5	Pop Grp	String	1	X	Population group of employee where : A = African C = Coloured I = Indian W = White O = Other
6	Marital Status	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	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX	Applicable condition of service for the employee.
11	Division	String	30	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX	The primary division in which the employee works. Eg. Water, Electricity, Corporate Services, Fire, Traffic etc
12	Current_Department	String	30	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX	The department within a division that employs the individual. Eg. Information Technology, Human Resources, Public Relations, Valuations etc.
13	Designation	String	30	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX	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	Trade Union Name	String	30	XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX	Name of <i>Trade Union</i> 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.

Item No	Field Name	Data Type	Field Size	Format	Description
					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.
23	Pension_Fund_Name	String	6	XXXXXX	Name of the Pension, Provident or Retirement Fund to which the member belongs (see Attached List)
24	Med_Aid_Name	String	30	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX	Name of the medical aid to which the employee belongs.
25	Med_Aid_Option	String	30	XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX	Medical Aid Option to which the member belongs.
26	Annual_Base_Pay	Number	6	999999	Annualised base pay of employee.
27	Annual_Pensionable_Pay	Number	6	999999	Annualised pensionable emolument/pay.
28	Annual_Bonus	Number	5	99999	Annual bonus payable to the employee
29	TradeUnion Contribution	Number	6	999.99	Contribution deducted from monthly pay and paid to the union
30	Pen_Employer_Contribution	Number	7	9999.99	Employer contribution to the Pension, Provident or Retirement Fund to which the employee belongs
31	Pen_Employee_Contribution	Number	7	9999.99	Employee contribution to the Pension, Provident or Retirement Fund to which the employee belongs
32	Life_Employer_Contribution	Number	7	9999.99	Employer contribution to a Separate Group Life Assurance arrangement (i.e. not part of the Retirement Fund)
33	Life_Employee_Contribution	Number	7	9999.99	Employee contribution to a Separate Group Life Assurance arrangement (i.e. not part of the Retirement Fund)
34	MedAid_Employer_Contrib	Number	7	9999.99	Total employer contributions to medical aid (including any contributions towards free medical aid).
35	MedAid_Employee_Contrib	Number	7	9999.99	Employee contribution to medical aid (excluding free medical aid contribution).
36	Executive_Car_Scheme	Number	8	99999.99	Car allowance for those who have "executive cars". They receive permanent allowances and are expected to use their car for business purposes
37	Housing_Subsidy_Allowance	Number	7	9999.99	Monthly housing subsidy or allowance paid by the employer
38	Acting_Allowance	Number	7	9999.99	Acting allowance paid in the last month
39	Shift_Allowance	Number	7	9999.99	Regular shift allowance paid in the last month.
40	Stand_by_Allowance	Number	7	9999.99	Regular stand-by allowance paid in the last month.
41	Overtime	Number	7	9999.99	Amount paid last month as overtime
42	Fire_Allowance	Number	7	9999.99	Fire & Rescue Services monthly operational allowance (iro operational or non-

Item No	Field Name	Data Type	Field Size	Format	Description
					operational, see FRONo).
43	Other_Allowances	Number	7	9999.99	Any other allowances paid to the employee in the last month.
44	FRONo	String	1	X	O = Operational Fire & Rescue Services N = Non-operational Fire & Rescue Services blank = n/a.

DATA SPECIFICATION FOR UNION/LEVY INFORMATION

Section B

Item No	FieldName	Data Type	Field Size	Format	Description
45	SAMWUContribution	Number	6	999.99	Contribution deducted from monthly pay and paid to SAMWU
46	IMATUContribution	Number	6	999.99	Contribution deducted from monthly pay and paid to IMATU
47	OTHERContribution	Number	6	999.99	Contribution deducted from monthly pay and paid to OTHER unions
48	CouncilLevy	Number	6	999.99	Contribution for Council Levies
49	AgencyFees	Number	6	999.99	Contribution for Agency fees to Council

Section C

SALARY STRUCTURE

50	State Title/Position of the Manager/Head of Department?	
51	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	
52	Enter the number of annual leave days allowed.	
53	Provide the formula for the calculation of the Performance Bonus.	

ANNEXURE 8

CONDUCT OF PROCEEDINGS BEFORE THE COUNCIL

PART ONE SERVING AND FILING DOCUMENTS

1 How to contact the Council

- 1) The addresses, telephone and telefax numbers of the offices of the Council are listed in Annexure 11 to these Rules.
- 2) Documents may only be filed with the Council at the addresses, telefax numbers and e-mail addresses listed in Annexure 11.

2 When are the offices of the Council Open

- 1) The head office and the regional offices of the Council will be open every day from Monday to Friday, excluding public holidays, and the annual shutdown period in December /January, between the hours of 08h30 and 16h30, or as determined by the Council.
- 2) Documents may be filed with the Council during the hours referred to in sub-rule (1).
- 3) Notwithstanding sub-rule (2), documents may be faxed and e-mailed at any time to the Council.

3 How to calculate time periods in these Rules

- 1) For the purpose of calculating any period of time in terms of these Rules -
 - a) Day means a calendar day; and
 - b) The first day is excluded and the last day is included, subject to sub-rule (2).
- 2) The last day of any period must be excluded if it falls on a Saturday, Sunday, public holiday or on a day during the period, between 16 December to 7 January.

4 Who must sign documents

- 1) A document that a party must sign in terms of the Act or these Rules may be signed by the party or by a person entitled in terms of the Act or these Rules to represent that party in the proceedings.
- 2) If proceedings are jointly instituted or opposed by more than one employee, documents may be signed by an employee who is mandated by the other employees to sign documents. A list in writing of the employees who have mandated the employee to sign on their behalf must be attached to the referral document.

5 How to serve documents on other parties

- 1) A party must serve a document on the other parties -

- a) By handing a copy of the document to -
 - i) The person concerned;
 - ii) A representative authorized in writing to accept service on behalf of the person;
 - iii) A person who appears to be at least 16 years old and in charge of the person's place of residence, business or place of employment premises at the time; or
 - iv) A person identified in sub-rule (2);
 - b) By leaving a copy of the document at -
 - i) An address chosen by the person to receive service; or
 - ii) Any premises in accordance with sub-rule (3);
 - c) By e-mailing, faxing or telexing a copy of the document to the person's e-mail, fax or telex number respectively, or an e-mail address, fax or telefax number chosen by that person to receive service;
 - d) By sending a copy of the document by registered post or telegram to the last known address of the party or an address chosen by the party to receive service.
- 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 Republic or its main 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 employers' organization by handing a copy of the document to a responsible employee or official at the main office of the union or employers' organization or its office in the magisterial district in which the 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; or
 - g) On the State or a 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 sub-rule (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 a commissioner may order service in a manner other than prescribed in this Rule.

5A Notice of proceedings before the Council

The Council may provide notice of a conciliation or arbitration hearing, or any other proceedings before it, by means of any of the methods prescribed in Rule 5 and may; in addition, give notice by means of short message service.

6 How to prove that a document was served in terms of the Rules

- 1) A party must prove to the Council or a commissioner that a document was served in terms of these Rules, by providing the Council or a commissioner:
 - a) With a copy of proof that the document has been mailed by registered post to the other party;
 - b) With a copy of the telegram or telex transmitting the document to the other party;
 - c) With a copy of the telefax transmission report indicating the successful transmission to the other party of the whole document;
 - d) If a document was served by hand -
 - i) With a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
 - ii) With a statement confirming service signed by the person who delivered a copy of the document to the other party or left it at any premises; and
 - e) If a document was served by e-mail, with a copy of the sent e-mail indicating the successful dispatch to the other party of the e-mail and any attachments concerned.
- 2) If proof of service in accordance with sub-rule (1) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the document. The relevant provisions of the Electronic Communications and Transactions Act 25 of 2002 are applicable in respect of any issue concerning service by e-mail.
- 3) The Council may accept proof of service in a manner other than prescribed in this Rule, as sufficient.

7 How to file documents with the Council

- 1) A party must file documents with the Council-
 - a) By handing the document to the relevant Council office at the address listed in Annexure 11;
 - b) By sending a copy of the document by registered post to the relevant Council office at the address listed in Annexure 11; or

- c) By faxing or e-mailing the document to the relevant Council office at a number or e-mail address listed in Annexure 11. Documents filed by means of e-mail must be transmitted in a format that is compatible with software used by the Council at the time of filing.
- 2) A document is filed with the Council when:
- a) The document is handed to relevant Council office listed in Annexure 11;
 - b) A document sent by registered post is received by the relevant Council office listed in Annexure 11;
 - c) The transmission of a fax is completed; or
 - e) The e-mail is received in the relevant Council office listed in Annexure 11, as provided for in the Electronics Communications and Transactions Act 25 of 2002.
- 3) A party must only file the original of a document, if requested to do so by the Council or a commissioner. A party must comply with a request to file an original document within seven (7) days of the request.

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 (7) days after it was posted.

9 How to seek 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.
- 2) A party must apply for condonation, in terms of Rule 31, when delivering the document to the Council.
- 3) An application for condonation must set out the grounds for seeking condonation and must include details of the following:
 - a) The degree of lateness;
 - b) The reasons for the lateness;
 - c) The referring parties' prospects of succeeding with the referral and obtaining the relief sought against the other party;
 - d) Any prejudice to the other party; and
 - e) Any other relevant factors.
- 4) The Council may assist a referring party to comply with this Rule.

PART TWO CONCILIATION OF DISPUTES

10 How to refer a dispute to the Council for conciliation

- 1) A party must refer a dispute to the Council for conciliation by delivering a completed LRA Form 7.11 ('the referral document').
- 2) The referring party must -
 - a) Sign the referral document in accordance with Rule 4;
 - b) Attach to the referral document written proof, in accordance with Rule 6, that the referral document was served on the other parties to the dispute;
 - c) If the referral document is filed out of time, attach an application for condonation in accordance with Rule 9(3) read with Rule 31.
- 3) The Council must accept, but may refuse to process a referral document until sub-rule (2) has been complied with.

11 When must the Council notify parties of a conciliation

The Council must notify the parties in writing of a conciliation hearing at least fourteen (14) days prior to the scheduled date, unless the parties agree to a shorter period or reasonable circumstances require a shorter period. The time period of fourteen (14) days runs from the date the notification is sent by the Council. If a notification is sent by registered mail an additional seven (7) days must be allowed.

12 Council may seek to resolve dispute before conciliation

The Council or a commissioner may contact the parties by telephone or other means, prior to the commencement of the conciliation, in order to seek to resolve the dispute.

13 What happens if a party fails to attend at conciliation

- 1) If a party on whose behalf a matter has been referred fails to attend the commissioner may -
 - a) Continue with the proceedings;
 - b) Adjourn the conciliation to a later date within the 30-day period; or
 - c) Conclude the proceedings by issuing a certificate that the dispute remains unresolved.
- 2) In exercising discretion in terms of sub-rule (1), a commissioner should take into account, amongst other things:
 - a) Whether the party has previously failed to attend a conciliation in respect of that dispute;
 - b) Any reason given for that party's failure to attend;
 - c) Whether conciliation can take place effectively in the absence of one or more of the parties;
 - d) The likely prejudice to the other party of the commissioner's ruling; and
 - e) Any other relevant factors.

14 How to determine whether a commissioner may conciliate a dispute

If it appears during conciliation proceedings that a jurisdictional issue has not been determined, the commissioner must require the referring party to prove that the Council has the jurisdiction to

conciliate the dispute through conciliation, provided that all jurisdictional issues requiring evidence may be deferred to arbitration.

15 Issuing of a certificate in terms of Section 135(5)

A certificate issued in terms of Section 135(5) that the dispute has or has not been resolved, must identify the nature of the dispute and the parties as described in the referral document or as identified by the Commissioner during the conciliation proceedings.

16 Conciliation proceedings may not be disclosed

- 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 or as ordered otherwise by a court of law.
- 2) No person, including a commissioner, may be called as a witness during any subsequent proceedings in the Council or in any court to give evidence about what transpired during conciliation unless as ordered by a court of law.

**PART THREE
CON-ARB IN TERMS OF SECTION 191(5A)**

17 Conduct of con-arb in terms of Section 191(5A)

- 1) The Council must notify the parties in writing of a con-arb hearing at least fourteen (14) days prior the scheduled date, unless the parties agree to a shorter period or reasonable circumstances require a shorter period. The time period of fourteen (14) days runs from the date the notification is sent by the Council unless sent by registered mail in which case an additional seven (7) days must be allowed.
- 2) A party that intends to object to a dispute being dealt with in terms of Section 191(5A), must deliver a written notice to the Council and the other party, at least seven (7) days prior to the scheduled date in terms of sub-rule (1).
- 3) Sub-rule (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 sub-rule (1), the commissioner must conduct the conciliation on the date specified in the notification issued in terms of sub-rule (1).
- 5) Sub-rule (4) applies irrespective of whether a party has lodged a notice of objection in terms of sub-rule (2).
- 6) The provisions of these Rules that are applicable to conciliation and arbitration respectively, including rules on representation, apply with the changes required by the context, to the conciliation and arbitration parts of con-arb proceedings, respectively.
- 7) If the arbitration does not proceed or is not concluded on the date specified in terms of the notice in sub-rule (1), the Council must schedule the matter for arbitration either in the presence of the parties or by notifying the parties in terms of Rule 21.

PART FOUR ARBITRATIONS

18 How to request arbitration

- 1) A party may request the Council to arbitrate a dispute by delivering a document in the form of Annexure 9.2 (LRA 7.13).
- 2) The referring party must -
 - a) Sign the referral document in accordance with Rule 4;
 - b) Attach to the referral document written proof that the referral document was served on the other parties to the dispute in accordance with Rule 6; and
 - c) If the referral document is served out of time, attach an application for condonation in accordance with Rule 9(3).
- 3) The Council must accept, but may refuse to process a referral document until sub-rule (2) has been complied with.
- 4) This Rule does not apply to con-arb proceedings held in terms of Section 191(5A).

19 When must the parties file statements

- 1) The Council or a commissioner may direct -
 - a) The referring party in an arbitration to deliver a statement of case; and
 - b) The other parties to deliver an answering statement.
- 2) A statement in terms of sub-rule (1) must -
 - a) Set out the material facts upon which the party relies and the legal issues that arise from the material facts; and
 - b) Be delivered within the time-period specified by the commissioner.
- 3) The commissioner has discretion to continue with the matter despite non-compliance with a commissioner's directive. However, any non-compliance may be taken into account when considering costs at the conclusion of the arbitration hearing.

20 When the parties must hold a pre-arbitration conference

- 1) The parties to an arbitration must hold a pre-arbitration conference dealing with the matters referred to in sub-rule (2), if directed to do so by the General Secretary or nominee in the case of national dispute or Regional Secretary in the case of a Divisional Dispute charge of a region, or the presiding commissioner.
- 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 Council 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 the person who made the affidavit;
 - i) Which party must begin;
 - j) The necessity for any on-the-spot inspection;
 - k) Securing the presence at the Council 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 sub-rule (3) may also deal with any other matter listed in sub-rule (2).
 - 5) The referring party must ensure that a copy of the pre-arbitration conference minute is delivered to the appointed commissioner within seven (7) days of the conclusion of the pre-arbitration conference.
 - 6) The commissioner may, after receiving a pre-arbitration minute:
 - a) Enroll the matter for arbitration;
 - b) Direct the parties to hold a further pre-arbitration conference; or
 - c) Issue any other directive to the parties concerning the conduct of the arbitration.
 - 7) The parties to an arbitration may agree to hold a pre-arbitration conference in terms of sub-rule (2).

21 When must the Council notify parties of an arbitration

The Council must notify the parties in writing of an arbitration hearing at least twenty-one (21) days prior to the scheduled date, unless the parties agree to a shorter period or reasonable circumstances require a shorter period. The time period of twenty-one (21) days runs from the date the notification is sent by the Council unless sent by registered mail in which case an additional seven (7) days must be allowed.

22 How to determine whether a commissioner may arbitrate a dispute

If during the arbitration proceedings it appears that a jurisdictional issue has not been determined, the commissioner must require the referring party to prove that the Council has jurisdiction to arbitrate the dispute.

23 How to postpone an arbitration

- 1) An arbitration may be postponed -
 - a) By written agreement between the parties; or
 - b) By application and on notice to the other parties in terms of sub-rule (3).
- 2) The Council must postpone an arbitration without the parties appearing if:
 - a) All the parties to the dispute agree in writing to the postponement; and
 - b) The written agreement for the postponement is received by the Council at least seven (7) days prior to the scheduled date of the arbitration.
- 3) If the conditions of sub-rule (2) are not met, any party may apply in terms of Rule 31 to postpone an arbitration by delivering an application to the other parties to the dispute and filing a copy with the Council before the scheduled date of the arbitration.
- 4) After considering the written application, the Council may -
 - a) Without convening a hearing, postpone the matter; or
 - b) Convene a hearing to determine whether to postpone the matter.

PART FIVE

RULES THAT APPLY TO CONCILIATIONS AND ARBITRATIONS AND CON-ARBS

24 Where a conciliation or arbitration will take place

- 1) In the case of a Divisional dispute, the Regional Secretary of the Council within a Division or province determines the venue for conciliation or arbitration proceedings..
- 2) In the case of a National dispute, the General Secretary or his nominee of the Council determines the venue for conciliation or arbitration proceedings.

25 Representation before the Council

- 1) (a) In conciliation proceedings a party to the dispute may appear in person or be represented only by -
 - i) If the party is an employer, *a director or employee* of that party and, in addition, if it is a close corporation, a member of that close corporation;
 - ii) Any *office bearer, official* or member of that party's registered *trade union* or *registered employers' organization*;
 - iii) If the party is a registered *trade union*, any *office bearer, official* or member of that trade union authorized to represent that party; or
 - iv) If the party is a registered *employers' organization*, any *office bearer or official* of that party or *a director or employee* of an employer that is a member of that employers' organization authorized to represent that party.
- b) Subject to paragraph (c), in any arbitration proceedings a party to the *dispute* may appear in person or be represented only by -
 - i) A *legal practitioner*; or

- ii) An individual entitled to represent the party at conciliation proceedings in terms of sub-rule (1)(a).
 - c) 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, a party is not entitled to be represented by a *legal practitioner* in the proceedings unless -
 - i) The commissioner and all the other parties consent;
 - ii) The commissioner concludes that it is unreasonable to expect a party to deal with the *dispute* without legal representation, after considering -
 - a) The nature of the questions of law raised by the *dispute*;
 - b) The complexity of the *dispute*;
 - c) The public interest; and
 - d) The comparative ability of the opposing parties or their representatives to deal with the *dispute*.
 - d) No person representing a party in proceedings before the Council in a capacity contemplated in paragraph (a) or (b), other than a legal practitioner contemplated in paragraph (b) (i), may charge a fee or receive a financial benefit in consideration for agreeing to represent that party unless permitted to do so by the Council.
- (2) If the party to the dispute objects to the representation of another party to the dispute or the commissioner suspects that the representative of a party does not qualify in terms of this Rule, the commissioner must determine the issue.
 - (3) The commissioner may call upon the representative to establish why the representative should be permitted to appear in terms of this Rule.
 - (4) A representative must tender any documents requested by the commissioner for the purposes of sub-rule (2), including constitutions, pay slips, contracts of employment, documents and forms, recognition agreements and proof of membership of a trade union or employers' organization.
 - 5) Despite the provisions of sub-rule (1), a commissioner may exclude any person who is representing a party in any proceedings on the basis that they are a member of the same employers' organization as an employer party, or a member of an employers' organization that is a party to proceedings, if the commissioner, after enquiring into the matter and considering relevant representations, believes that:
 - a) The representative joined the employer's organization for the purpose of representing parties in the Council; or
 - b) The representative's participation in the dispute resolution process:
 - i) Would be contrary to the purpose of the rule which is to promote inexpensive and expeditious dispute resolution in a manner that is equitable to all parties; is not in keeping with the objectives of the Labour Relations Act 66 of 1995; or
 - ii) May have the consequence of unfairly disadvantaging another party to the dispute."

26 How to join or substitute parties to proceedings

- 1) The Council or a commissioner may, at any stage prior to the conclusion of an arbitration hearing, join any number of persons as parties in proceedings if their right to relief depends on substantially the same question of law or fact.

- 2) A commissioner may make an order joining any person as a party in the proceedings if the party to be joined has a substantial interest in the subject matter of the proceedings.
- 3) A commissioner may make an order in terms of sub-rule (2) -
 - a) Of its own accord;
 - b) On application by a party; or
 - c) If a person entitled to join the proceedings applies at any time during the proceedings to intervene as a party.
- 4) An application in terms of this Rule must be made in terms of Rule 31.
- 5) When making an order in terms of sub-rule (2), a commissioner may:
 - a) Give appropriate directions as to the further procedure in the proceedings; and
 - b) Make an order of costs in accordance with these Rules.
- 6) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to the proceedings may apply to the Council for an order substituting that party for an existing party, and a commissioner may make such order or give appropriate directions as to the further procedure in the proceedings.
- 7) An application to join any person as a party to proceedings or to be substituted for an existing party must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of the documents. The application may be made at any stage prior to the conclusion of an arbitration hearing.
- 8) Subject to any order made in terms of sub-rules (5) and (6), a joinder or substitution in terms of this Rule does not affect any steps already taken in the proceedings.

27 How to correct the citation of a party

If a party to any proceedings has been incorrectly or defectively cited, the Council may of its own accord, by consent of the parties or on application and on notice to the parties concerned, correct the error or defect.

28 When the Council may consolidate disputes

The Council or a commissioner may, of its own accord, by consent of the parties or on application, and on notice to the parties concerned, consolidate more than one dispute so that the disputes may be dealt with in the same proceedings.

29 Disclosure of documents

- 1) At any time after the request for arbitration, either party may request a commissioner to make an order as to the disclosure of relevant documents or other evidence.
- 2) The parties may agree on the disclosure of documents or other relevant evidence.

30 What happens if a party fails to attend arbitration proceedings before the Council

- 1) If a party to the dispute fails to attend or be represented at any arbitration proceedings before the Council, and that party-

- a) Had referred the dispute to the Council, a commissioner may dismiss the matter by issuing a written ruling; or
 - b) Had not referred the matter to the Council, the commissioner may -
 - i) Continue with the proceedings in the absence of that party; or
 - ii) Adjourn the proceedings to a later date.
- 2) A commissioner 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 sub-rule (1).
- 3) If a matter is dismissed, the Council must send a copy of the ruling to the parties within 14 days.

PART SIX APPLICATIONS

31 How to bring an application

- 1) This Rule applies to any -
 - a) Application for condonation, joinder, substitution, variation, rescission, or postponement;
 - b) Application in a jurisdictional dispute; and
 - c) Other preliminary or interlocutory application.
- 2) An application must be brought at least fourteen (14) days prior to the date of the hearing on notice to all persons who have an interest in the application.
- 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, if available;
 - c) The relief sought;
 - d) The address at which the party delivering the document will accept delivery of all documents in the proceedings;
 - e) That any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within five (5) days after the application has been delivered to it;
 - f) That the application may be heard in the absence of a party that does not comply with subparagraph (e); and
 - g) That a schedule is included listing the documents that are material and relevant to the application.
- 4) The application must be supported by an affidavit. The affidavit must clearly and concisely set out:
 - a) The names, description and addresses of the parties;
 - b) A statement of the material facts, in chronological order, on which the application is based, in sufficient detail to enable any person opposing the application to reply to the facts;
 - c) A statement of legal issues that arises from the material facts, in sufficient detail to enable any party to reply to the document;
 - d) If the application is filed outside the relevant time period, grounds for condonation in accordance with Rule 9; and

- e) If the application is brought urgently, the circumstances why the matter is urgent and the reasons why it cannot be dealt with in accordance with the time frames prescribed in these Rules.
- 5) a) Any party opposing the application may deliver a notice of opposition and an answering affidavit within five (5) days from the day on which the application was served on that party.
- b) A notice of opposition and an answering affidavit must contain, with the changes required by the context, the information required by sub-rules (3) and (4) respectively.
- 6) a) The party initiating the proceedings may deliver a replying affidavit within three (3) days from the day on which any notice of opposition and answering affidavit are served on it.
- b) The replying affidavit must address only issues raised in the answering affidavit and may not introduce new issues of fact or law.
- 7) A commissioner may permit the affidavits referred to in this Rule to be substituted by a written statement.
- 8) In an urgent application, the Council or a commissioner-
 - a) May dispense with the requirements of this Rule; and
 - b) May only grant an order against a party that has had reasonable notice of the application.
- 9) 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.
- 10) Despite this Rule, the Council or a commissioner may determine an application in any manner it deems fit, provided that the Council or the commissioner informs the parties of how the process will be conducted and gives the parties an opportunity to be heard.

32 How to apply to vary or rescind arbitration awards or rulings

An application for the variation or rescission of an arbitration award or ruling must be made within fourteen (14) days of the date on which the applicant became aware of the arbitration award or ruling.

33 How to apply to refer 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) days of a certificate that the dispute has not been resolved being issued; or
 - b) By a party that has not requested arbitration, within fourteen (14) days of the referral for arbitration being filed.
- 2) Despite sub-rule (1), a party that requests arbitration may not thereafter make an application in terms of Section 191(6).

- 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 seven (7) days of receipt of the application.
- 5) The Council must notify the parties of its decision in terms of Section 191(8) within fourteen (14) days of receiving the objection.

PART SEVEN 188A INQUIRY

34 How to request an inquiry in terms of Section 188A

- 1) An employer requesting the Council to conduct an inquiry must do so by delivering a completed LRA Form 7.19 to the Council.
- 2) The employee must sign the LRA Form 7.19 unless the employee has agreed in terms of 188A(4)(b)¹ to the inquiry in a contract of employment or the inquiry is held in accordance with a collective agreement, in which case a copy of the contract or the collective agreement must be attached to the Form.
- 3) When filing the LRA Form 7.19, the employer must pay the prescribed fee to the Council. Payment of the fee may only be made by -
 - a) Bank guaranteed cheque; or
 - b) Electronic transfer into the bank account of the Council.
- 4) Within seven (7) days of receiving a request in terms of sub-rule (1) and payment of the prescribed fee, the Council must notify the parties to the inquiry of when and where the inquiry will be held.
- 5) Unless the parties agree otherwise, the Council must give the parties at least seven (7) days notice of the commencement of the Inquiry.
- 6) The Council is only required to refund a fee paid in terms of sub-rule (3), if the Council is notified of the resolution of the matter prior to issuing a notice in terms of sub-rule (4).

PART EIGHT GENERAL

35 Condonation for failure to comply with the Rules and form

- 1) The Council or a commissioner may condone any failure to comply with any provision of these Rules, on good cause shown.
- 2) In exercising its powers and performing its functions the Council may act in such a manner as it deems expedient in the circumstances in order to achieve the objects of the Act. In doing so it shall have regard to substance rather than form, save where the Act provides otherwise.

¹ Only an employee whose earning exceed the amount determined by the Minister in terms of 6(3) of the Basic Conditions of Employment Act, (currently R205 433.30 per annum) my consent to an inquiry in a contract of employment

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36 Recordings of Council Proceedings

- 1) The Council must keep a record of -
 - a) All processes except conciliations, unless otherwise stated in these Rules;
 - b) Any arbitration award or ruling made by a Commissioner.
- 2) The record must be kept by means of a digital recording and, if practically possible, also by legible notes.
- 3) A party may request a copy of the record or a portion of a record kept in terms of sub-rule (2), on payment of the costs where applicable.

37 How to have a subpoena issued

- 1) Any party who requires the Council or a commissioner 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) 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. The Commissioner's decision must be made in writing and delivered when issuing the subpoena.
- 3) An application in terms of sub-rule (1) must be filed with the Council at least fourteen (14) days prior to the arbitration hearing, or as directed by the commissioner hearing the arbitration.
- 4) The Council 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 seven (7) days in which to comply with the subpoena;
 - c) Not satisfied that the party requesting the subpoena has paid the prescribed witness fees and, reasonable travel costs and subsistence expenses of the person subpoenaed.
- 5) A subpoena must be served on the witness subpoenaed -
 - a) By the person who has requested the issuing of the subpoena or by the Sheriff, at least seven (7) days prior to the scheduled date of the arbitration; and
 - b) Accompanied by proof of 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 142(7) of the Act and the witnesses' reasonable travel costs and subsistence expenses.
- 6) Sub-rules (4) (c) and (5) (b) do not apply if the Commission, in terms of 142(7) (c), has waived the requirement to pay witness fees.

37A Expert witnesses

A party intending to call an expert witness shall give seven (7) days, prior to the hearing, notice thereof to the Council and the other party to the dispute together with a summary of the proposed evidence of such witness, any document on which the witness will rely during evidence and the basis on which the witness is regarded to be an expert to enable the other party to consider the summary and obviate the need for any postponement.

38 Payment of witness fees

- 1) A witness subpoenaed in any proceedings in the Council 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 the Council to issue the subpoena; or
 - b) The Council, if the issuing of the subpoena was not requested by a party or if the Council waives the requirement to pay witness fees in terms of Section 142(7)(c).
- 3) Despite sub-rule (1), the commissioner may, in appropriate circumstances, order that a witness receives no fee or reasonable travel costs and subsistence expenses or only part of such fees or expenses.

39 Order of costs in an arbitration

- 1) In any arbitration proceedings, the commissioner may make an order for the payment of costs according to the requirements of law and fairness and when doing so should have regard to -
 - a) The measure of success that the parties achieved;
 - b) Considerations of fairness that weigh in favour of or against granting a cost order;
 - c) Any with prejudice offers that were made with a view to settling the dispute;
 - d) Whether a party or the person who represented that party in the arbitration proceedings acted in a frivolous and vexatious manner –
 - i) By proceeding with or defending the dispute in the arbitration proceedings, or
 - ii) In its conduct during the arbitration proceedings;
 - e) The effect that a cost order may have on a continued employment relationship;
 - f) Any agreement concluded between the parties to the arbitration concerning the basis on which costs should be awarded;
 - g) The importance of the issues raised during the arbitration to the parties as well as to the labour community at large;
 - h) Any other relevant factor.
- 2) A commissioner may make an award of costs in favour of a party who is represented in arbitration by a person contemplated by rule 25(1)(a) in respect of reasonable disbursements actually incurred in the conduct of its case in the arbitration. A commissioner who makes an award in terms of this provision must specify clearly the items and amounts in respect of which costs are ordered.

- 3) A commissioner may make an award of costs in respect of the legal fees of a party that is represented in an arbitration by a legal practitioner, only if the other parties to the arbitration were represented by a legal practitioner.
- 4) An award of costs for costs in terms of sub-rule (3) must be in the amounts applicable to the Council's fee structure, which is determined by the Executive Committee of the Central Council from time to time.
- 5) The Council may appoint taxing officers to determine any dispute that may arise from any award of costs in terms of this Rule.
- 6) Any dispute concerning an award of costs must be submitted on LRA Form 7.17 to which any relevant documentation must be annexed.

40 **Certification of arbitration awards**

- 1) An application to have an arbitration award certified must be made on -
 - a) LRA Form 7.18 in respect of an award by a commissioner;
 - b) LRA Form 7.18A in respect of an award in arbitration conducted under the auspices of a bargaining council.
- 2) Any arbitration award that has been certified in terms of Section 143 of the Act that -
 - a) Orders the payment of an amount of money may be enforced by execution against the property of the employer party by the Sheriff of the court in the magisterial district where the employer party resides, or conducts business;
 - b) Orders the performance of an act other than the payment of money may be enforced by way of contempt proceedings instituted in the Labour Court.
- 3) For the purposes of sub-rule (2), an arbitration award includes an award of costs in terms of Section 138(10), a taxed bill of costs in respect of an award of costs and an arbitration fee charged in terms of Section 140(2).

40A **Repeal and Savings**

Not applicable.

40B **Transition**

- 1) These rules become effective on 1 October 2015.
- 2) All referrals received before 1 October 2015 shall be dealt with in terms of the Rules contained in the Main Collective Agreement dated May 2007.
- 3) All referrals received on 1 October 2015 and thereafter shall be dealt with in terms of these Rules.

41 **What words mean in these Rules**

Any expression in these Rules that is defined in the Labour Relations Act, 1995 (Act 66 of 1995), has the same meaning as in that Act and -:

'Act' means the Labour Relations Act, 1995 (Act 66 of 1995), and includes any regulation made in terms of that Act;

'Association'	means any unincorporated body of persons;
'Commission'	means the Council for Conciliation, Mediation and Arbitration established by Section 112 of the Act;
'Commissioner'	means a Council Commissioner appointed in terms of the Council's Constitution;
'Con-arb'	means proceedings held in terms of Section 191(5A);
'Council'	means the South African Local Government Bargaining Council inclusive of its Divisions in Annexure 11.
'Deliver'	means serve on other parties and file with the Commission;
'Director'	means the Director of the Commission appointed in terms of Section 118 of the Act, and includes any person delegated by the Director to perform any of the functions of the Director;
'File'	means to lodge with the Council in terms of Rule 7;
'Labour Court'	means the Labour Court established by Section 151 of the Act and includes any judge of the Labour Court;
'Party'	means any party, including the SALGBC, to proceedings before the Council;
'Regional Secretary'	means the regional secretary of the Council appointed in terms of the Constitution of the Council;
'Public holiday'	means a public holiday referred to in Section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);
'Rules'	means these Rules and includes any footnote to a rule;
Senior Commissioner'	means a senior commissioner appointed by the Council;
Serve'	means to serve in accordance with Rule 5 and 'service' has a corresponding meaning;
'Taxing officer'	means any employee or commissioner of the Council appointed by the Council in terms of Rule 39

ANNEXURE 9(1)

**SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL**



REFERRING A DISPUTE TO THE COUNCIL

NATIONAL/DIVISION:

1. WHAT IS THE PURPOSE OF THIS FORM?

This form enables a person or organization to refer a dispute to the South African Local Government Bargaining Council ("Council") for conciliation.

2. WHO FILLS IN THIS FORM?

Any party to the dispute, such as an employer, employee, *Trade Union* or employer's organization.

3. WHERE DOES THIS FORM GO?

To the Regional Secretary of the *Council* in the Division where the dispute arose or if the dispute is a national dispute to the General Secretary of the *Council*.

4. WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

When you refer the dispute to the *Council*, the *Council* will try to resolve the dispute, through conciliation, within 30 days of the date of referral.

5. FURTHER 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 one of the following:

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

6. PLEASE NOTE

The following disputes must be forwarded directly to the CCMA and cannot be dealt with by a bargaining *Council* in terms of the Labour Relations Act, No 66 of 1995 (of the *Act*).

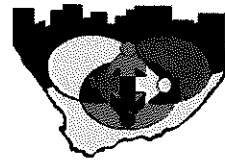
- Disclosure of information disputes (16 and 189 of the *Act*);
- Organisational rights disputes (Chapter 3 part A of the *Act*);
- Agency shop disputes (25 of the *Act*);
- Closed shop disputes (26 of the *Act*);
- Interpretation or application of collective bargaining provisions (63(1) of the *Act*)
- Picketing disputes (69 of the *Act*);
- Workplace forum disputes (86 and 94 of the *Act*).

Please turn over ...

READ THIS FIRST



**PART A
REFERRING A DISPUTE TO
THE
SOUTH AFRICAN LOCAL
GOVERNMENT
BARGAINING COUNCIL**



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.

The name of the trade union or employer's organisation that is referring the dispute or assisting a member to refer a dispute must be filled in (b). If there is more than one party, please provide all the details of each party on a separate page which must be attached to this form.

Tick the correct box ☒

1. DETAILS OF PARTY REFERRING DISPUTE

As the referring party, are you:

- ☐ An employee ☐ Trade union
☐ An employer ☐ An employers' organization

(a) If the referring party is an employee or employer

First Name(s).....Surname.....

Identity number.....

Occupation (if employee).....

Length of service

Salary Gross Salary Net

Gender (M/F) Age Nationality

Postal Address: Postal Code.....

Physical Address:

Tel:Cell:.....

Fax:Email:.....

(b) Name of the referring party who will represent the applicant (name of official) if the referring party is an employer's organization or trade union, or if the employer's organization is assisting a member to the dispute

Name: (party)..... (Official).....

Contact person (if organization):

Postal Address:

.....Postal Code

Physical Address:

Tel:Cell:.....

Fax:Email:.....

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

The other party is:

- ☐ An employer ☐ An employers' organization
☐ An employee ☐ an trade union

Name:

(if company or close corporation, the name of the company or close corporation):

Contact person:

Postal Address:

Postal CodePhysical Address:

Tel:.....Cell:.....

Fax:Email.....

Company or close corporation registration number:.....

Number of employees employed by employer:

SMK
K.S. 1 p.s.m

Unfair Labour Practice

If the dispute(s) concerns an unfair labour practice, the dispute must be referred within 90 days of the act or omission which gave rise to the unfair labour practice. If more than 90 days has elapsed you are required to apply for condonation.

If it is an unfair labour practice, state whether it relates to probation.

3.NATURE OF THE DISPUTE

What is the dispute about (tick only one box)?

- ☐ Dismissal
- ☐ Mutual Interest
- ☐ Unilateral change to terms & conditions of employment
- ☐ Disputes by Essential Services employees
- ☐ Interpretation or application of collective agreement concluded at
 - ☐ Central Council level
 - ☐ Divisional level
 - ☐ LLF or Municipal level
- ☐ Refusal to Bargain
- ☐ Severance Pay S41 BCEA
- ☐ Disputes about Freedom of Association
- ☐ Unfair labour practice (probation)
- ☐ Unfair labour practice (other) –
please give details

-
- ☐ S198 LRA
 - ☐ S198A(Labour Broker)
 - ☐ S198B(Fixed Term Contract)
 - ☐ S198C(Part-time Employment)
 - ☐ Other – please give details
-

If you have submitted another dispute which is similar or related to this dispute, please specify the SALGBC case number?

If it is unfair dismissal dispute, tick the relevant box

- | | |
|--|---|
| <input type="checkbox"/> Misconduct | <input type="checkbox"/> Incapacity |
| <input type="checkbox"/> Unknown Reasons | <input type="checkbox"/> Constructive Dismissal |
| <input type="checkbox"/> Poor work performance | <input type="checkbox"/> Dismissal relates to probation |
| <input type="checkbox"/> Operational Requirements (Retrenchments) | |
| <input type="checkbox"/> where I was the only employee dismissed | |
| <input type="checkbox"/> where the employer employs less than ten (10) employees | |
| <input type="checkbox"/> Other | |

4. SUMMARIZE THE FACTS OF THE DISPUTE (Use additional paper if necessary):

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

5.DATE AND WHERE DISPUTE AROSE:

The dispute arose on:

.....
(give the date, day, month and year)

The dispute arose where:

.....
(give the City/Town in which the dispute arose)

K-G.1 p.5 m

This must be completed!

→→→→→→→→

Parties may, at their own cost, bring interpreters for languages other than the official South African languages. Please indicate this under "other".

Special features might be a reason for the urgency of the matter, the large number of people involved, important legal or labour issues, etc.

6. DATE OF DISMISSAL (if applicable) _____

7. FAIRNESS/UNFAIRNESS OF DISMISSAL (if applicable)

(b) Procedural Issues

Was the dismissal procedurally unfair? ☐ Yes ☐ No

If yes, why?

.....

.....

(c) Substantive Issues

Was the reason for the dismissal unfair? ☐ Yes ☐ No

If yes, why?

.....

8. RESULT REQUIRED

.....

.....

9. OBJECTION TO CON-ARB PROCESS (Only complete this part if you object to the arbitration commencing immediately after conciliation)

I/we object to the arbitration commencing immediately after the conciliation in terms of 191(5A)(c).

Signature of person objecting to con-arb

10. INTERPRETER SERVICES

Is an interpreter required? Yes/No

☐ Afrikaans

☐ IsiNdebele

☐ IsiZulu

☐ IsiXhosa

☐ Sepedi

☐ SeSotho

☐ Setswana

☐ IsiSwati

☐ Xitsonga

☐ Sign Language

☐ Tshivenda

☐ Other

11. SPECIAL FEATURES / ADDITIONAL INFORMATION

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

.....

.....

.....

Handwritten signatures and initials: *KS*, *SP*, *SMK*, *P.S.M.*, and the number *88*.

**Dispute about unilateral change to terms and conditions of employment
s64(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 the employment that applied before the change.**

**Signed:(employee party referring the
dispute)**

**12.PLEASE INDICATE HOW MANY WITNESSES WILL BE
CALLED:**

Applicant

☐ 1 to 2 ☐ 2 to 4 ☐ 4 to 6 ☐ 6 or more

Respondent

☐ 1 to 2 ☐ 2 to 4 ☐ 4 to 6 ☐ 6 or more

13.CONFIRMATION OF ABOVE DETAILS

Form submitted by:

.....

(Please print name)

Signature:

.....

Position:

.....

Date:

Place:

READ THIS



PART B
TO BE COMPLETED FOR DISMISSAL DISPUTES ONLY
SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

**DISMISSAL
DISPUTES MUST BE
REFERRED WITHIN
30 DAYS OF
DISMISSAL. IF THE
DISMISSAL WAS
MORE THAN 30
DAYS AGO, YOU
ARE REQUIRED TO
APPLY FOR
CONDONATION
ON C OF THIS
FORM.**

Tick the correct box



Tick the correct box



1. COMMENCEMENT OF EMPLOYMENT

When did you start working at the company?

2. NOTICE OF DISMISSAL

When were you dismissed?

How were you informed of your dismissal?

☐

By letter

☐

Verbally

☐

At/After a disciplinary hearing

☐

Constructive (resigned)

☐

At/After a disciplinary appeal hearing

☐

Other (please describe)

(a) REASON FOR DISMISSAL

Why were you dismissed?

☐

Misconduct

☐

Incapacity

☐

Operational Requirements

☐

Unknown

(Retrenchment)

☐

Other (please describe)

4. FAIRNESS/UNFAIRNESS OF DISMISSAL

(a) Procedural Issues

Was the dismissal procedurally unfair?

☐

Yes

☐

No

If yes, why?

.....

(b) Substantive Issues

Was the dismissal substantively unfair?

☐

Yes

☐

No

If yes, why?

.....

PART C
CONDONATION APPLICATION –
TO BE COMPLETED IF YOUR REFERRAL IS OUT OF TIME
SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

ONLY FILL THIS OUT IF THE CASE HAS BEEN REFERRED LATE :

Case number (if already given):

.....

Applicant Name: **Occupation:**.....

Respondent Name:

..... **Position:**.....

AFFIDAVIT

I, the undersigned, (*full name of applicant*) do hereby make an oath and say:

1. BACKGROUND

1.1. I was dismissed on (*give date*)

1.2. The employer refused to reinstate me on (*give date*)

1.3. The dispute arose on (*give date*) after all attempts to negotiate or follow other internal procedure failed.

2. THE DEGREE OF LATENESS

2.1. The referral is days late.

2.2. I did the following to pursue my rights after my dismissal:

- (i) I went to my union / the department of Labour / Community advice centre / Legal advice centre (delete which is not applicable) on (*give date*)
- (ii) I telephoned (*give name*) on (*give date*)
- (iii) I signed the referral form (*give date*)

3. REASONS FOR LATENESS

The reason that I referred the matter late is

.....
.....

4. PROSPECTS OF SUCCESS

I believe that I have a good case because (*you must explain with good reasons why you will win your case*)

.....
.....

5. PREJUDICE

5.1. As the **employee party**, if condonation is not granted, I will be prejudiced because-

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

5.2. As the **employer party**, if condonation is granted, I will be prejudiced because -

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

6. GENERAL

Please give any other information that will support your application.

.....
.....

Signature of applicant:

Name of applicant:

Occupation of applicant:

Commissioner of oaths:

Signed before me on at 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.

Name:

Address:

Capacity:

NOTE: Please attach any documentary proof that supports your application. If there is insufficient space under any of the above questions, please attach additional pages of information.

GUIDELINES TO COMPLETING AND RESPONDING TO CONDONATION APPLICATIONS

The Labour Relations Act gives timeframes for the submission of referrals, applications and other documents. A condonation application needs to be completed where the timeframes for submissions are not met. The most common type of condonation application is for the late submission of the referral form (i.e. the referral is served more than 30 days after the date of dismissal or after 90 days after the alleged unfair labour practice).

If you refer your case outside of the timeframes which are indicated, you will need to complete C of this referral form and send it together with your referral form. These guidelines should assist you.

THE APPLICANT (REFERRING PARTY)

The application must be in the form of a sworn affidavit, and the application form is in this format to assist you.

The following issues must be dealt with in your application:

1 The degree of lateness and the reason(s) for the delay.

You must give reasons for the lateness that account for the full period that the referral was late. It is for example, not sufficient to say you were in hospital for a week if the referral is 6 weeks late. This would explain only the one weeks' lateness and not the other 5 weeks.

Proof is also required. For example, just stating you were in hospital without proof does not carry much weight. If proof cannot be supplied, give reason why not.

If the referral has been incorrectly made to the SALGBC or another bargaining council, the reason for the mistake must be given.

2 Prospects of success

You must state why there is a good chance of your case being successful should it eventually go for arbitration or to the Labour Court. Enough detail must be given to allow the employer to respond. For example, just stating that the chair of the disciplinary hearing was biased is not enough. Reason for and, if available, proof of the allegation must be given.

3 Prejudice

Personal circumstances and whether you have obtained other employment are important. Any other circumstances must also be mentioned.

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 information that you think supports your application. Please attach any document that supports your application.

THE RESPONDENT

Should you wish to respond to the applicant's affidavit, it must reach the offices of SALGBC **within 14 days** of receiving the application. It should deal with the issues raised in the application and must also be in the form of an affidavit. Proof of service must be attached.

The applicant then has **7 days** to respond to the respondent's affidavit.

NOTE: Any party experiencing difficulty with the process must obtain assistance from a knowledgeable person or organization. The council is not legally permitted to assist with the **substance** of your application. If you have any queries on the **process**, you may contact SALGBC.

CONTACT DETAILS OF OFFICES OR DIVISIONS OF THE COUNCIL

Head Office

Tel: (031) 201-8210
Fax: (031) 201-9788
E-mail: info@salgbc.org.za
Physical Address: 461 King Dinuzulu Road (South), Durban, 4062
Postal Address: Private Bag X16, Musgrave, 4062

Gauteng Regional Office

Gauteng Division
Tel: (011) 394-4240
Fax: (011) 394-6517
E-mail: info.g@salgbc.org.za
Physical Address: 114 Highveld Road, Kempton Park, Gauteng, 1620
Postal Address: P.O. Box 10227, Aston Manor, 1630

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Eastern Cape Regional Office

Eastern Cape Division
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Fax: (041) 581-3648
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Postal Address: P.O. Box 12627, Central, Port Elizabeth, 6006

KwaZulu-Natal Regional Office

eThekweni Metropolitan Division
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Western Cape Regional Office

Western Cape Division
Tel: (021) 917-1141 / 2 / 3
Fax: (021) 917-1145
E-mail: info.wc@salgbc.org.za
Physical Address: 7 De Villiers Street, Bellville, Cape Town, 7532
Postal Address: P.O. Box 19, SANLAMHOF, 7532

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North West/Mpumalanga/Limpopo Regional Office

Mpumalanga Division
Tel: (012) 342-3428 / (012) 342-8792
Fax: (012) 342-7015
E-mail: info.nw@salgbc.org.za
Physical Address: 256 Hill Street, Arcadia, Pretoria, 0083
Postal Address: P.O. Box 11046, Trashmed, 0126

North-West Division
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Northern Cape/Free State Regional Office

Northern Cape Division
Tel: (053) 832-1215/6
Fax: (053) 831-3608
E-mail: info.fs@salgbc.org.za
Physical Address: 10 Holland Road, New Park, Kimberley, 8300
Postal Address: P.O. Box 1401, Kimberley, 8300

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ANNEXURE 9(2)**SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL
(SALGBC)****CERTIFICATE OF OUTCOME OF DISPUTE REFERRED TO
CONCILIATION**

CASE NUMBER: _____

I certify that the dispute between:

_____ and _____


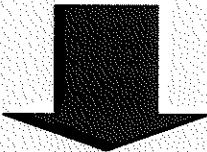
(referring party)_____
(other party/parties)

Referred to conciliation on:

(give date)**Concerning**☐ Unfair dismissal☐ Mutual Interest☐ Unilateral change to terms &
conditions of employment☐ Disputes by Essential Services
employees☐ Interpretation or application of
collective agreement☐ Refusal to Bargain☐ Severance Pay S41 BCEA☐ Disputes about Freedom of
Association☐ Unfair labour practice (probation)☐ Unfair labour practice (other)☐ S198 LRA☐ S198A(Labour Broker)☐ S198B(Fixed Term Contract)☐ S198C(Part-time Employment)☐ Other – *please give details*
.....☐ Was resolved on the _____ or ☐ Remains unresolved as at _____
(give date) (give date)**Condonation:****Granted****Not Applicable**If this dispute remains unresolved, the
dispute may be referred to:**Arbitration****Labour Court****Strike/Lockout****None***Official Stamp of the Council*_____
Name of Council Commissioner_____
Signature of Council Commissioner_____
Place_____
Date

* This certificate must be signed on the date of the conciliation hearing and served on the disputing parties or representatives.

Handwritten signature: *X-S*
Handwritten initials: *SMK*
Handwritten initials: *P.S.M.*
Handwritten number: *95*

<p>LRA Form 7.13 136 Labour Relations Act, 1995 24, 45, 61, 74, 191, 198, 198A-C</p>	<p>ANNEXURE 9(3)</p> <p>REQUEST FOR ARBITRATION</p>		
<p>Read This First</p>  <p>WHAT IS THE PURPOSE OF THIS FORM?</p> <p>If conciliation fails, a party may request that the SALGBC to resolve the dispute by arbitration, if the dispute is arbitrable.</p> <p>WHO FILLS IN THIS FORM?</p> <p>The party requesting the arbitration.</p>	<p>1.DETAILS OF PARTY REQUESTING ARBITRATION</p> <p>Name:</p> <p>Postal Address:</p> <p>.....Code:</p> <p>Occupation: (if employee).....</p> <p>Tel: Fax:</p> <p>Cell:.....Email:.....</p> <p>Contact Person:</p> <p>2.DISPUTE DETAILS</p> <p>Case Reference Number:</p> <p>The case between (referring party)</p> <p>and (other party)</p> <p>was referred for conciliation, but remains unresolved.</p> <p>The certificate of non-resolution is attached / 30 days have expired since referral (delete whichever is not applicable).</p> <p>The issues in dispute are</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(Give a brief description. The commissioner may require a more detailed statement of case later)</p> <table border="1" data-bbox="547 1776 1453 1910"> <tr> <td data-bbox="547 1776 1161 1910"> <p>SALGBC Case Number.....</p> </td><td data-bbox="1161 1776 1453 1910"> <p>Please turn over →</p> </td></tr> </table>	<p>SALGBC Case Number.....</p>	<p>Please turn over →</p>
<p>SALGBC Case Number.....</p>	<p>Please turn over →</p>		

LRA Form 7.13

Handwritten signatures and initials: *K-S. 1*, *SMK 96*, *P.S. m*

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

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

If a party does not want the commissioner who conducted the conciliation proceedings to arbitrate this dispute that party must fill in LRA form 7.14.

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?

3.DETAILS OF OTHER PARTY:

Name:

Designation/Title:

Company Name:

Physical Address:

.....Code:

Tel:Fax:

Cell:Email:

4.WHAT DECISION WOULD YOU LIKE THE COMMISSIONER TO MAKE:

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

The commissioner may require a more detailed statement of case later.

5.CONFIRMATION OF ABOVE DETAILS:

Form submitted by:

.....

(please print name)

Signature:

Position:

Date:

Place:

This Form must be signed by the requesting party or a person entitled to represent the party in the arbitration proceedings.



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Postal Address: P.O. Box 1401, Kimberley, 8300

MAIN COLLECTIVE AGREEMENT – 2015 TO 2020

K.S. ^{SP} ^{SMK} 99
P.S.M

<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>IMPORTANT:</p> <p>This form must be submitted to the Council within 7 days after the date of issue of the certificate of outcome.</p>	<p>4. CONFIRMATION OF ABOVE DETAILS</p> <p>Form submitted by (name):</p> <p>Position:</p> <p>Signed:</p> <p>Date:.....</p> <p>Council Ref. (Case Number):</p>
--	--

Council Case Number:

APPLICATION IN TERMS OF 142A OF THE LABOUR RELATIONS ACT

IN THE SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL (COUNCIL)

HELD AT CASE NO.

In the matter between:

Applicant(s)

AND

Respondent(s)

NOTICE OF APPLICATION IN TERMS OF 142 A OF THE LABOUR RELATIONS ACT

To: The Regional / General Secretary
Council

And to: (Respondent)

..... (Address)

..... (Address)

Take notice that the above-named applicant(s) will make application on a date to be determined by the *Council* for an order in the following terms:

- (i) that
the annexed settlement agreement entered into between the above mentioned parties
be made an arbitration award in terms of 142A of the Labour Relations Act.

Take further notice that the affidavit of the applicant, annexed hereto, will be used in support of this application.

Take further notice that if the respondent wishes to oppose the application, it must deliver an answering affidavit within 10 working days from the *day* on which this application was served on the respondent, failing which the matter may be heard in the respondent's absence.

Take further notice that the applicant has appointed the address below at which notices and service of all documents and proceedings will be accepted.

Dated at this day of 20.....

Applicant's Address:

Applicant's Signature

X-S. sp SMK
P.S.M

APPLICATION IN TERMS OF 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 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.

[illegible]

Signed before me on at 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.

Capacity :

<p>LRA Form 7.19 188A Labour Relations Act, 1995</p>	<p align="center">SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL REQUEST FOR INQUIRY BY ARBITRATOR</p> 
<p>Read This First</p> <p align="center"></p> <p align="center">WHO FILLS IN THIS FORM?</p> <p>An <i>employer</i> requesting a pre-dismissal arbitration</p> <p>WHERE DOES THIS FORM GO?</p> <p>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 INQUIRY BY ARBITRATOR</p> <p>Name:.....</p> <p>Postal Address:.....</p> <p>Contact Person:.....</p> <p>Tel:..... Fax:</p> <p>Cell: E-mail:.....</p> <p>2. REQUEST DETAILS</p> <p>The conduct of a pre-dismissal arbitration against (Name of Employee) for misconduct / incapacity.</p> <p>Full name of employee:</p> <p>Postal address:.....</p> <p>Tel:..... Fax:</p> <p>Cell: E-mail:.....</p> <p>3. ALLEGATIONS ABOUT CONDUCT OR CAPACITY</p> <p>Attach a copy of the charges to this form.</p> <p align="right">Please turn over</p>

CONSENT

A pre-dismissal arbitration may only be conducted with the consent of the employee, or where an employee earning more than R115, 572 per annum has consented to the holding of the pre-dismissal arbitration in a contract of employment.

FEES PAYABLE

Proof of payment of the prescribed fee must accompany this form.

Payment may only be made by:

- Bank guaranteed cheque;
- Direct electronic payment into the *Council* bank account.

OTHER INSTRUCTIONS

A copy of this form has been 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.

4. CONFIRMATION AND CONSENT TO PRE-DISMISSAL ARBITRATION

a) I

(Name of Employee)

confirm that I have been advised of the allegations against me; and

- a. I consent to the process; or
- (ii) I earn more than R115, 575 per annum and have consented to the process in my contract of employment. A copy of the contract of employment is attached hereto.

.....
EMPLOYEE'S SIGNATURE

.....
WITNESS

5. PAYMENT OF FEES

Proof of payment of the *Council* prescribed fee is attached.

6. PLACE OF HEARING

Please select where you would like the pre-dismissal arbitration hearing to take place:

- ☐ *Council* Office
- ☐ *Employer* Premises

If you select *employer* premises, please provide address of *employer* premises:

.....
.....

7. SERVICES

(a) Interpretation Services

Do you require an interpreter at the pre-dismissal arbitration?

- ☐ Yes
- ☐ No

If Yes, please indicate for what language:

- ☐ Afrikaans ☐ IsiNdebele ☐ IsiZulu ☐ isiXhosa
- ☐ Sepedi ☐ Sesotho ☐ Setswana ☐ siSwati
- ☐ Tshivanda ☐ Xitsonga ☐ Other (please indicate)

.....

Please turn over ...

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 ...

K.S. 107
SMK
P.S.M.

CONTACT DETAILS OF DIVISIONS OF THE COUNCIL

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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 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.

Handwritten signatures and initials: *SMK*, *109*, *P.S.M.*, and other illegible marks.

SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL EXEMPTION APPLICATION	
--	---

NATIONAL / DIVISION:

1. WHAT IS THE PURPOSE OF THIS FORM?

This form enables a person or party to apply for an exemption from a collective agreement concluded in the South African Local Government Bargaining Council ("*Council*").

2. WHO FILLS IN THIS FORM?

Any party or person applying for exemption from a collective agreement concluded at the Central *Council* or division of the *Council*.

3. WHERE DOES THIS FORM GO?

To the Regional Secretary of the *Council* in the division for divisional exemptions and to the General Secretary of the *Council* for a national exemption.

4. WHAT WILL HAPPEN WHEN THIS FORM IS SUBMITTED?

When you refer the exemption application to the *Council*, the *Council* will attempt to resolve the exemption application, within the prescribed periods.

5. FURTHER INSTRUCTIONS

A copy of this application must be served on the other party/ies.
Proof that a copy of this form has been served on the other party must be supplied by attaching one of the following:

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

Please turn over ...

K.S. / SMK
P.S.M

READ THIS FIRST

Tick the
correct box



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 organization

☐ 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 organization or trade union, or if the trade union/employer's organization is assisting a member to the exemption application:

Name:

Postal Address:

..... Postal Code:

Tel:..... Cell:

Fax:..... Email:

2.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 organization

☐ SAMWU

Name:

Postal Address:

..... Postal Code:

Tel:..... Cell:

Fax:..... Email:

Please Turn Over ...

READ THIS FIRST



Tick the correct box

☒

The National Exemption Committee, constituted of a senior panelist, shall consider all applications for exemption and may make a decision to grant or refuse an exemption application. The National Exemptions Committee shall advise the applicant, respondents and the *Council* on giving full reasons therefore, grant exemption on any conditions and for any period it considers appropriate. The ruling of the National Exemption Committee shall be reduced to writing and shall be signed by the senior panelist.

b) Second Respondent

☐

An employee or member of a union

☐

A Trade Union

☐

IMATU

☐

An employer

☐

An employer's organization

☐

SAMWU

Name:

Postal Address:

Postal Code:

Tel: Cell:

Fax: Email:

3. TYPE OF THE EXEMPTION APPLICATION

☐

National Collective Agreement

Specify:

☐

Divisional Collective Agreement

Specify:

☐

The provisions (clause/s) of the *agreement* in respect of which exemption is sought;

☐

The number of persons in respect of whom the exemption is sought;

☐

The reasons why the exemption is sought;

☐

The nature and size of the business in respect of which the exemption is sought;

☐

The duration and timeframe for which the exemption sought;

☐

The business strategy and plan of the applicant seeking the exemption;

☐

The applicant's past record (if applicable) of compliance with the provisions of the Collective Agreement, its amendments and exemptions certificate;

☐

Any other relevant supporting data and financial information the *Council* may prescribe from time to time.

X-S. SMK P.S.M

4. FACTORS OR CRITERIA FOR CONSIDERATION BY THE NATIONAL EXEMPTION COMMITTEE AND EXEMPTION BOARD

- ☐ The employer is unable to afford the costs of the whole or part of this agreement or;
- ☐ The employer has short-term cash flow problems necessitating a limited exemption.
- ☐ The applicant's past record of compliance with collective agreements;
- ☐ The precedents for exemptions set since the introduction of this procedure and the effects of its proposal as a precedent in its own divisions or other divisions;
- ☐ Any process or directives as may be agreed to by the Executive Committee from time to time; or
- ☐ Any other factor which is considered appropriate.
- ☐ Any written and/or verbal substantiation provided by the applicant.
- ☐ Fairness to the employer, its employees and other employers and the employees in the industry.
- ☐ Whether an exemption, if granted would undermine this agreement or the collective bargaining process.
- ☐ Unexpected economic hardship occurring during the currency of this agreement and job creation and/or loss thereof.
- ☐ Whether a budgetary provision was made for implementation of the obligation arising out of the collective agreement.
- ☐ The infringement of basic conditions of employment rights.
- ☐ The fact that a competitive advantage might be created by exemption.
- ☐ Comparable benefits or provisions where applicable.
- ☐ The applicant's compliance with other statutory requirements such as the compensation for the Occupational Injuries and Diseases Act, Basic Conditions of Employment Act 75 of 1997, Employment Equity Act 55 of 1998, Skills Development Act 97 of 1998, Skills Development Levies Act 9 of 1999, or Unemployment Insurance Act 63 of 2001.
- ☐ Any other factor which is considered appropriate.

NB: The proper and detailed motivation of each factor must be attached to this form.

5. SPECIAL FEATURES / ADDITIONAL INFORMATION

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

.....

.....

.....

X.S. *P.S.M.*

6. CONFIRMATION OF ABOVE DETAILS

I..... (name in full), hereby confirm that the trade unions or workforce itself were advised of the exemption application at local level.

Signature of applicant:

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

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Handwritten signatures and initials:
T.S. (with a large flourish), G.M.K., P.S.M.
116