



# SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

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29 September 2017

### The Parties:

SALGA	Mr. R Nolutshungu Mr. Z Ndlala	PER EMAIL
SAMWU	Mr. S Mathe	PER EMAIL
IMATU	Mr. J Koen	PER EMAIL

Sir,

### FACILITATORS PROPOSAL ON THE DISCIPLINARY PROCEDURE COLLECTIVE AGREEMENT

1. Kindly find attached the Facilitators Proposal on the Disciplinary Procedure Collective Agreement (enclosed 25 pages), dated 29 September 2017.
2. As agreed to by the parties, the return date for submissions on the facilitators proposal is Tuesday 7 November 2017.

Yours faithfully

  
\_\_\_\_\_  
SS GOVENDER  
GENERAL SECRETARY

**SOUTH AFRICAN LOCAL GOVERNMENT  
BARGAINING COUNCIL**

(Hereinafter referred to as the Council)

**THE FACILITATOR'S PROPOSAL ON THE DISCIPLINARY PROCEDURE  
COLLECTIVE AGREEMENT (AS AT 29 SEPTEMBER 2017)**

In accordance with the provisions of the Labour Relations Act, 66 of 1995 as amended ("the LRA") made and entered into by and between the: -

**SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION**  
(Hereinafter referred to as SALGA, the Employers Organisation)

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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## 1. SCOPE OF AGREEMENT

1.1 The terms of this Agreement shall be observed by all Employers and Employees who fall within the registered scope of the SALGBC.

## 2. EXCLUSIONS: MUNICIPAL MANAGERS AND EMPLOYEES EMPLOYED IN TERMS OF SECTIONS 56 AND 57 OF THE MUNICIPAL SYSTEMS ACT 32 OF 2000

Municipal Managers and those Employees appointed as managers directly accountable to Municipal Managers in terms of sections 56 and 57 of the Municipal Systems Act 32 of 2000, as amended, shall be excluded from all the terms of this Collective Agreement.

## 3. DEFINITIONS

3.1 All expressions used in this Agreement, which are defined in the Labour Relations Act, 66 of 1995 as amended ("the LRA") shall bear the same meaning as in the LRA unless the contrary intention appears, words importing the masculine gender shall include the feminine.

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

3.3 For the purposes of this Agreement "fellow Employee" shall mean an Employee from the same Municipality as the Employee being charged and excludes an Employee that is also a representative or office bearer of an unrecognised trade union.

## 4. PERIOD OF OPERATION

4.1 This Agreement shall come into operation in respect of the Parties to the Agreement on..... (the effective date) and shall remain in force and effect until.....

4.2 This Agreement shall come into operation in respect of non-parties (which includes, but 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 and effect until .....

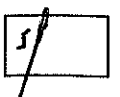
for such further period as determined by the Minister of Labour at the request of the Parties.

## **5. INTENT**

- 5.1 The purpose of this disciplinary procedure is to establish a fair, common and uniform procedure for the management of Employee discipline.
- 5.2 The procedure is a product of collective bargaining and the application thereof is peremptory.

## **6. DISCIPLINARY POLICY**

- 6.1 Disciplinary action is not a punitive measure but a corrective one.
- 6.2 Discipline is to be effected fairly, consistently, progressively and promptly.
- 6.3 The maintenance of discipline is the responsibility of management and falls within the control function of a supervisory position.
- 6.4 The principles of natural justice and fair procedure shall be adhered to notwithstanding any criminal and/or civil action having been instituted.
- 6.5 Subject to the requirements of substantive and procedural fairness, the Presiding Officer of the Disciplinary Hearing has the right to determine the sanction to be applied having regard to the seriousness of the offence, provided that it is consistent with the provisions set out herein.
- 6.6 This disciplinary procedure shall be published and issued to all Employees so that they are made aware, explicitly, of the standard of conduct in the workplace.
- 6.7 This disciplinary procedure, as amended from time to time, will define the disciplinary process and the rights and obligations of management and Employees.



## 7. DISCIPLINARY PROCEDURE

- 7.1 An allegation of misconduct against an Employee shall be brought before the Municipal Manager or his authorised representative for consideration and decision.
- 7.2 The Municipal Manager shall proceed forthwith without undue delay and with due regard to the necessity for disciplinary proceedings to commence promptly.
- 7.3 If the Municipal Manager or his authorised representative is satisfied that there is a prima facie cause to believe that an act of misconduct has been committed, he may institute disciplinary proceedings against the Employee concerned.
- 7.4 The Disciplinary Hearing shall commence as soon as reasonably possible but no later than three (3) months from the date of the Municipal Manager's or his authorised representative's decision to institute disciplinary action.
- 7.5 In the event of an act of misconduct by an Employee that appears less serious and warrants a sanction less than a final written warning, a formal hearing will not be required. The Employee will be given an opportunity to make either verbal or written representation prior to a determination being made. Proper records must be kept of the above proceedings.
- 7.6 In the event of misconduct by an Employee that appears sufficiently serious to warrant a sanction more serious than a written warning, the Municipal Manager or his authorised representative shall establish a Disciplinary Hearing to conduct the enquiry.
- 7.7 In the event of more serious misconduct, as referred to in clause 7.6 above:

- 7.7.1 The Municipal Manager or his authorised representative shall constitute a Disciplinary Hearing by appointing at the first instance a suitably qualified person from the Employer's employ, preferably a level or two above the Employee's position to serve as the Presiding Officer. A suitably qualified person shall mean someone competent to chair a hearing as indicated in clause 8.3 below.
- 7.7.2 The Municipal Manager or his authorised representative shall, where it is not possible to appoint a Presiding Officer from the employ of the Employer, be it due to lack of capacity, fear of intimidation and notwithstanding clause 7.7.1 above, appoint a suitably qualified person from outside its employ to chair the Employee's hearing.
- 7.7.3 The Municipal Manager or his authorised representative shall at the first instance appoint a suitably qualified person from within the Employer's employ to represent the Employer and presents its case.
- 7.7.4 The Municipal Manager or his authorised representative shall, where it is not possible to appoint a suitably qualified person from the employ of the Employer, be it due to lack of capacity, fear of intimidation and notwithstanding clause 7.7.3 above, appoint a suitably qualified person from outside its employ, excluding a legal practitioner, to represent the Employer's case.
- 7.7.5 In the event of any party requesting a legal practitioner as a representative unless both parties agree to such representation, such request shall be submitted in writing or be verbally presented to the presiding officer at a hearing, based on the following grounds:
- 7.7.5.1 The nature of the questions of law raised by the disciplinary hearing;



- 7.7.5.2 The complexity of the case;
  - 7.7.5.2 The public interest; and
  - 7.7.5.4 The comparative ability of the opposing parties or their representatives to deal with the disciplinary hearing.
- 7.7.6 The Presiding Officer shall make his determination based on the grounds in 7.7.5 above.
- 7.8 The Employer Representative shall, within (5) days of his appointment, formulate and serve the charges to be brought against the Employee.
- 7.9 The charges are to be set out in a Notice of Disciplinary Hearing detailing:
- 7.9.1 The time, date and venue at which the enquiry will be conducted;
  - 7.9.2 The Notice of the Disciplinary Hearing shall set out sufficient particulars/details of the alleged offence(s) to allow the Employee(s) a reasonable and fair opportunity to prepare a response to the charges;
  - 7.9.3 The name of the Presiding Officer and the address at which notices and relevant correspondence may be submitted;
  - 7.9.4 The Employee may appoint a suitably qualified representative of choice, whom shall be a fellow Employee, shop steward or a trade union official from a recognised trade union;
  - 7.9.5 If the Employee or his representative fails to attend the enquiry without good cause and after proper service of the notice of the Disciplinary Hearing was effected, the hearing may be conducted in his absence.
- 7.10 The Employer shall have the duty to prove that the Employee was





served with the Notice of a Disciplinary Hearing. The notice shall be deemed to have been served either by registered mail, facsimile, email, personal service or witnessed delivery. Where a notice of a disciplinary hearing was served by e-mail, a copy of the sent e-mail indicating the successful dispatch to the other party and any attachments concerned shall serve as proof of service.

- 7.11 The Disciplinary Hearing should commence within a reasonable time from the date of service of the Notice of Disciplinary Hearing and shall take place not earlier than seven (7) days and not later than fifteen (15) days from the date of service.
- 7.12 The time period referred to in clause 7.11 above may be amended by mutual agreement of the Employer/Employee representatives failing which a new date for the Disciplinary Hearing shall be determined by the Presiding Officer, after consideration of submissions by the parties.

## **8. CONDUCT OF THE DISCIPLINARY HEARING**

- 8.1 The Employer has the following rights and obligations at the hearing:
- 8.1.1 The duty to begin as well as the burden to prove each and every allegation of misconduct as set out in the Notice of Misconduct, on a balance of probabilities;
  - 8.1.2 The right to call any witnesses and lead any evidence, which may include books, documents or any other relevant materials;
  - 8.1.3 The right to cross-examine any witness called to testify on behalf of the Employee and have access to any books, documents or relevant materials produced;
  - 8.1.4 The right to re-examine any of its own witnesses;
  - 8.1.5 The right to present argument based on the evidence in

support of any submission.

8.2 The Employee has the following rights and obligations at the hearing:

8.2.1 The right to be heard in person or through a representative and to call any witnesses and lead any evidence which may include books, documents or any other relevant materials;

8.2.2 The right to cross-examine any witness called to testify on behalf of the Employer and have access to any books, documents or relevant materials produced;

8.2.3 The right to re-examine any of his witnesses;

8.2.4 The right to present argument based on the evidence in support of any submission;

8.2.5 The right to make application, on good cause shown, for the recusal of the Presiding Officer.

8.3 The Presiding Officer shall:

8.3.1 Determine the procedure to be followed that he deems appropriate but conduct the enquiry fairly and quickly and with the minimum of legal formalities provided that it shall not be to the prejudice of any party;

8.3.2 Observe the rules of natural justice in the conduct of the proceedings;

8.3.3 Unless otherwise agreed to by the parties, conduct the hearing in an adversarial manner;

8.3.4 Discharge his duties with care, diligence and impartiality;



- 8.3.5 Refrain from consulting, conferring or having casual contact with any of the parties or their representatives regarding the case while handling the matter without the presence or consent of the other party concerned;
- 8.3.6 Be entitled to put questions of clarity to the parties or their witnesses on any relevant issue, provided that it shall not amount to cross-examination;
- 8.3.7 Make such interim determinations or rulings of law as he deems necessary;
- 8.3.8 Be entitled to ratify and approve any settlement reached by the parties in disposal of the whole or a portion of the issues;
- 8.3.9 Make a finding of fact after having considered and analysed the evidence;
- 8.3.10 Invite and hear any evidence or plea in mitigation, aggravation or extenuation prior to deciding on the sanction to impose, with due regard to the rule of law.
- 8.3.11 Impose, amongst others, any one of the following sanctions:
- 8.3.11.1 A written warning;
  - 8.3.11.2 A final written warning;
  - 8.3.11.3 Suspension without pay for a maximum of ten (10) days as referred to in clause 2.5 of Annexure A;
  - 8.3.11.4 The withholding of any salary increment for a period not exceeding twelve months;



8.3.11.5 Demotion to, with or without financial loss, a post one level below that which the Employee occupied before the finding of guilt; or

8.3.11.6 Dismissal.

8.4 The Presiding Officer shall within ten (10) days of the last day of the Disciplinary Hearing confirm, in writing, the findings of fact, sanction imposed in the event that the Employee was found guilty and the reasons in support thereof. The Presiding Officer shall provide a copy of the determination to the Municipal Manager or his authorised representative and to the Employee or his representative.

8.5 The determination of the Presiding Officer cannot be altered by the Municipal Manager or any other governing structure of a municipality and shall be final and binding on the Employer and Employee, subject to remedies permitted in law and this procedure.

8.6 An Employee may not be re-charged at a subsequent Disciplinary Hearing for the same alleged misconduct, unless for circumstances permitted in law.

## **9. AN OPTIONAL SUMMARY PROCEDURE**

9.1 If the Employer and Employee agree in writing, the Summary Procedure as set out hereinafter may apply to the proceedings. The Presiding Officer shall, at such meeting(s) with the parties, as he deems necessary:

9.1.1 Confirm whether or not the matter is ready for adjudication;

9.1.2 Ascertain and record in writing, signed by himself and the parties, the facts on which the parties agree and those on which they disagree (hereinafter referred to as the issues);

9.1.3 Receive from the parties such documents or copies thereof as



they consider relevant to the determination of the issues;

- 9.1.4 Receive evidence or submissions, orally or in writing, sworn or un-sworn at joint meetings with the parties or, if the parties so agree, by the interchange of written statements or submissions, between the parties with copies to the Presiding Officer provided that each party shall be given reasonable opportunities of presenting evidence or submissions and of responding to those of the other; and
- 9.1.5 Deliver a determination, in writing, within ten (10) days of the last day of the hearing or submission of the last document to the Presiding Officer, if there was no hearing.

## **10. PLEA AGREEMENTS**

- 10.1 If the Employee wishes to plead guilty to the charge or charges, the parties may enter into a plea agreement on a sanction to be imposed.
- 10.2 The plea agreement shall be in writing and signed by the Employer Representative and the Employee or his/her representative and is subject to approval by the Presiding Officer.
- 10.3 The Presiding Officer must consider and approve a plea agreement. If the plea agreement is approved by the Presiding Officer, a sanction shall be imposed in accordance with the plea agreement. In the absence of such approval, the disciplinary hearing shall proceed as if the Employee has pleaded not guilty.

## **11. RIGHT TO TERMINATE SERVICE**

- 11.1 An Employee who receives a Notice of a Disciplinary Hearing shall be entitled to resign, retire or terminate his employment on any other ground that is permitted in his contract of employment with immediate effect, provided that:



11.1.1 The Employee does so prior to the handing down of a determination;

11.1.2 The Employee consents in writing to the deductions of amounts owing by him to the Employer from any monies payable to him by the Employer including but not limited to retirement fund monies arising out of or in connection with his termination of service.

11.2 In such an event (as referred to in sub-clause 11.1 above), the Disciplinary Hearing shall not proceed.

## **12. DEALING WITH ABSCONDMENT**

12.1 In the event that the Employee has absented himself for a period of more than ten (10) days without notification to the Employer, such an Employee shall be deemed to have absconded from duty.

12.2 The Employer shall attempt to establish where the Employee is and shall issue a letter to the Employee informing the Employee of his alleged abscondment. In the event that an Employee cannot be located or has not responded to communication, the Employer shall proceed with the Disciplinary Hearing in his absence.

12.3 If the Employee reports for duty after the steps referred to in clauses 12.1 and 12.2 above have been taken, the Employee or his representative shall be afforded the opportunity to make verbal or written representations to the Municipal Manager or his authorised representative on why he should be reinstated.

12.4 The Employer may, after considering the Employee's representations, either reinstate him or confirm his dismissal. The decision to reinstate or confirm the dismissal must be in writing and communicated to the Employee within five (5) days after it has been made.

12.5 The Employee may, after being informed of the decision to confirm his dismissal, make use of the appeal process as outlined in clause 17 below.

### **13. RECORDING OF PROCEEDINGS**

13.1 The proceedings of the Disciplinary Hearing shall be recorded by means of an electronic device.

13.2 The electronic recording of the proceedings shall be kept in safe custody by the Employer.

13.3 Upon request, the Employer shall provide a copy of the electronic recording, free of charge, to the Employee or his representative.

### **14. NON-ATTENDANCE**

14.1 In the event of the failure by the Employee, after a period of forty five (45) minutes has elapsed, to attend a Disciplinary Hearing or an Appeal Hearing without good cause and after it has been established that proper service of the Notice of Disciplinary Hearing or Appeal Hearing may be conducted in his absence and discipline effected or the appeal determined, as the case may be.

14.2 Should the Employer Representative not be able to attend the hearing, the Employer Representative shall notify the Employee, prior to the hearing, of the change in circumstances.

### **15. RIGHT OF REPRESENTATION**

15.1 The Employee shall be entitled to representation at any enquiry by a fellow Employee, a shop steward or a trade union official from a recognised trade union.



## 16. PRE-CAUTIONARY SUSPENSION PENDING A DISCIPLINARY HEARING

16.1 An employer may suspend the Employee or utilise him temporarily in another capacity pending an investigation into alleged misconduct if the Municipal Manager or his authorised representative has reasonable cause to believe that the Employee at the workplace may-

16.1.1 jeopardise any investigation into the alleged misconduct;

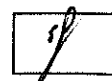
16.1.2 interfere with potential witnesses; or

16.1.3 commit further acts of misconduct.

16.2 If the Municipal Manager, or his authorised representative, intends to suspend an Employee, he shall give written notice of such intention and afford the Employee 48 hours to make representations as to why he should not be suspended. The Municipal Manager or his authorised representative shall make a determination, within (five) 5 days as to whether the Employee concerned shall be suspended or not, after having considered the representations.

16.3 Notwithstanding clauses 16.1 and 16.2 above, should the Municipal Manager, or his authorised representative, have reasonable cause to believe that the Employee's continued presence at the workplace poses a danger to the well-being or safety of any person or municipal property; or be detrimental to stability in the municipality; or demonstrates the potential to damage or tamper with the evidence; the Municipal Manager, or his authorised representative, may, in the notice of intention to suspend the Employee, also require the Employee to vacate the premises with immediate effect and invite the Employee to make representations within 48 hours as to why he should not be suspended. The Municipal Manager or his authorised representative shall make a determination, within five (5) days as to whether the Employee concerned shall be suspended or not, after having considered the representations.

16.4 The suspension or utilisation of the Employee in another capacity shall be for a fixed and pre-determined period and shall not exceed a period of





three (3) months from the date that the Municipal Manager or his authorised representative is satisfied that there is a prima facie case that an act of misconduct has been committed. However, where circumstances prohibit the conclusion of the Disciplinary proceedings within the afore-stated timeframes, such suspension or utilisation in another capacity can be extended for a further three (3) months.

16.5 Any suspension shall be on full remuneration.

16.6 Prior to such suspension the Municipal Manager or his authorised representative shall consider the written submission by the Employee or his representative and make a final determination regarding the suspension of the Employee.

## **17. APPEAL**

17.1 The Employee has the right to appeal against any disciplinary finding and/or sanction, which has been given at a Disciplinary Hearing. The Employee may waive his right to an appeal and the Employee may proceed directly to refer a dispute as provided for in the LRA.

17.2 Subject to clause 17.1 above, an appeal shall be lodged on the prescribed form within seven (7) days of receipt of written notification of the findings and sanction of the Disciplinary Hearing.

17.3 The grounds of appeal shall be clearly set out in the Employee's Notice of Appeal, provided that the failure by an Employee to raise a ground of appeal shall not preclude him from subsequently raising it before the Disciplinary Appeal Hearing.

17.4 The Presiding Officer of the Disciplinary Appeal Hearing shall fix the time and date of the hearing. The Disciplinary Appeal Hearing shall commence within reasonable time from the date of service of Notice of Appeal but shall take place not earlier than five (5) days and not later than ten (10) days from the date that the Notice of Appeal was lodged.



- 17.5 The time period referred to in clause 17.4 above may be amended by mutual agreement between the parties in consultation with the Presiding Officer of the Disciplinary Appeal Hearing. Failing agreement between the parties, either party may apply to the Presiding Officer of the Disciplinary Appeal Hearing for an extension of the time period. A new date for the Disciplinary Appeal Hearing shall in this instance be determined by the Presiding Officer of the Disciplinary Appeal Hearing to a mutually convenient time, date and place for the Disciplinary Appeal Hearing to take place.
- 17.6 In the case where the sanction imposed was to a maximum of final written warning, an appeal shall be heard by a management level above that of the Presiding Officer of the Disciplinary Hearing. In the case where the sanction imposed as a dismissal or a suspension without pay, an appeal shall be heard by a higher level of management who does not exercise direct management control over the affected Employee.
- 17.7 By agreement between the parties, an appeal may be heard by an arbitrator appointed by the parties to the appeal from the panel of arbitrators existing in the relevant division of the SALGBC.
- 17.8 The appeal shall be heard on the grounds of an appeal submitted by the Employee and any amendment thereto, by having regard to the record of the Disciplinary Hearing proceedings and the submissions and arguments of the parties based thereon.
- 17.9 The appeal shall not entail the rehearing of the matter afresh.
- 17.10 The Presiding Officer of the Disciplinary Appeal Hearing shall have the power to confirm or set aside any decision, determination or finding and to confirm, set aside or reduce any sanction imposed by the Presiding Officer of the Disciplinary Hearing.

- 17.11 A party shall deliver to the opposing party and to the Presiding Officer a brief statement of case at least two (2) days prior to the date of the Disciplinary Appeal Hearing. No further pleading shall be exchanged unless otherwise agreed.
- 17.12 The statement of case shall concisely set out the facts upon which a party relies, the conclusions of law upon which a party relies and the relief that a party seeks.
- 17.13 The Disciplinary Appeal Hearing shall be conducted in whatsoever manner and procedure that is deemed necessary, including the Summary Procedure as set out in clause 9 above, which produces the most expeditious conclusion of the matter and provided that the rules of natural justice are adhered to.
- 17.14 The Disciplinary Appeal Hearing shall consider whether the finding and/or sanction imposed by the Disciplinary Hearing or procedure was fair and correct. The Presiding Officer of the Disciplinary Appeal Hearing shall be entitled to make an order in line with sub-clause 17.10 above.
- 17.15 The determination of the Presiding Officer of the Disciplinary Appeal Hearing cannot be altered by the Municipal Manager or any governing structure and shall be final and binding on the Employer subject to any remedies permitted by law.

## **18. COLLECTIVE MISCONDUCT**

- 18.1 Where Employees embarked on an unprotected strike the Employer shall inform the trade union and allow them a period of 48 hours to try and get their members back to work.

### **18.2 Ultimatum**

- 18.2.1 If the trade union cannot succeed with getting their



members back to work, the trade union shall be requested to indicate within a period of 48 hours why an ultimatum should not be issued to Employees to return to work or be dismissed.

18.2.2 The Employer shall consider the written submissions from the trade union and if not persuaded the Employer shall again indicate its intention to issue the ultimatum.

18.2.3 The Municipal Manager or his authorised representative shall issue the ultimatum. The ultimatum must be clear and allow the Employees a reasonable time to comply.

18.2.4 Those Employees who fail to return to work after the time stipulated in the ultimatum shall, together with their trade union/s be informed in writing of the charges against them and shall be given the opportunity to make any written submission (either personally or through their representatives) to the Municipal Manager or his authorised representative within ten (10) days from receiving the charges.

18.2.5 The Municipal Manager or his authorised representative shall appoint an independent Presiding Officer to consider the submissions by Employees and come to a finding on the charges by taking into consideration the length and duration of the unprotected strike, the reasons thereof, aggravating or mitigating circumstances and compliance (where applicable) with any ultimatum, and may further decide whether, having regard to all of the afore-going, different sanctions should be applied to any of the Employees involved.



18.2.6 The finding of the Presiding Officer shall be issued to the Employees within ten (10) days of receipt of the submissions by Employees.

18.2.7 The Employees or their representatives shall be invited to submit any written mitigating circumstances within ten (10) days of receiving the finding from the Presiding Officer.

18.2.8 The Presiding Officer shall consider the written mitigating circumstances submitted by the Employees or their representatives and shall issue his sanction determination within (ten) 10 days from receiving the submissions on mitigating circumstances from Employees.

## **19. INQUIRY BY ARBITRATOR**

19.1 An employer may, with the consent of the Employee, request the Council to conduct an arbitration into allegations about the conduct or capacity of an Employee as provided for under section 188A of the LRA.

19.2 Despite clause 19.1 above, if the Employee alleges in good faith that the holding of a Disciplinary Hearing contravenes the Protected Disclosure Act No. 26 of 2000, that Employee or the Employer may require that an inquiry by arbitrator be conducted into allegations by the Employer into the conduct or capacity of the Employee.

19.3 The request for an inquiry by arbitrator shall be filed by the Employer as set out in clause 34 of Annexure 8 of the Main Collective Agreement.

19.4 The provisions of sections 138 and 142 of the LRA, read with the changes required by the context, will apply to any inquiry by arbitrator.



## **20. DISPUTE ABOUT IMPLEMENTATION AND APPLICATION OF THIS AGREEMENT**

This shall be dealt with in terms of the relevant provision of the Main Collective Agreement.

## **21. EXEMPTIONS**

Applications for exemption from this Agreement shall be dealt with in terms of the relevant provisions of the Main Collective Agreement.

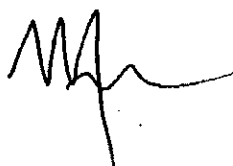
## **22. TRANSITIONAL PROVISIONS**

22.1 Any disciplinary process instituted prior to the commencement of this Disciplinary Procedure shall:

22.1.1 Be finalised in terms of the Disciplinary Procedures which were applicable at the time when the proceedings were instituted; or

22.1.2 By mutual written agreement between the Employee and the Municipality, be finalised in terms of this Disciplinary Procedure.

**SIGNED AT JOHANNESBURG ON 29 SEPTEMBER 2017.**



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**MS MAPALO TSATSIMPE**

**THE FACILITATOR**

**ANNEXURE A****CONDUCT AND SANCTIONS****1. STANDARD OF CONDUCT**

- 1.1 Employees are expected to comply in every respect with the conditions of employment and collective agreements and any related regulation, policy and practice and to refrain from any conduct which would give just cause for discipline.
- 1.2 In particular, Employees should:
- 1.2.1 Attend work regularly and punctually;
  - 1.2.2 Conform to the reasonable dress and uniform requirements of the Employer;
  - 1.2.3 Perform their tasks and job responsibilities diligently, carefully and to the best of their ability;
  - 1.2.4 Obey all lawful and reasonable instructions given by a person having the authority to do so;
  - 1.2.5 Conduct themselves with honesty and integrity;
  - 1.2.6 Request permission in advance for any leave of absence whenever possible;
  - 1.2.7 Refrain from being absent from duty without leave or permission, except on good cause;
  - 1.2.8 Refrain from accepting any other employment outside of normal working hours without the prior permission of the Department Head or Municipal Manager or his authorised representative, which permission shall not be unreasonably withheld;



- 1.2.9 Refrain from any rude, abusive, insolent, provocative, intimidatory or aggressive behaviour to a fellow Employee or member of the public;
- 1.2.10 Refrain from wilful or negligent behaviour, which may result in the damage of property;
- 1.2.11 Refrain from participating, either individually or with others, in any form of action, which will have the effect of disrupting the operations of the Employer, other than actions contemplated by the LRA;
- 1.2.12 Refrain from wrongfully disclosing privileged information; subject to the provisions of the Protected Disclosures Act 26 of 2000; and
- 1.2.13 Refrain from consuming alcohol or using intoxicating drugs whilst on duty.

## **2. SANCTIONS FOR MISCONDUCT**

- 2.1 In accordance with the Disciplinary Policy, any sanction that is imposed for misconduct is intended to deter future repetition of that behaviour. The sanction imposed must be based on the seriousness of the offence and considering the Employee's disciplinary record;
- 2.2 The imposition of discipline is progressive in that sanctions are to be applied with increasing severity with the repetition of the offence. Sanctions will generally be applied by first issuing a written warning and then a final written warning, except in cases of misconduct which would constitute grounds for immediate dismissal or suspension without pay or the immediate imposition of a final written warning,





- 2.3 All written warnings and suspensions are to be recorded in the Employee's personal file.
- 2.4 A written warning, shall remain valid and on record of the Employee for a period of six (6) months from the date of imposition. A final written warning will remain valid for a period of twelve (12) months from the date of imposition.
- 2.5 The Employer may impose as a sanction a suspension without pay having regard either to the serious nature of the misconduct or the fact that there has been a previous warning or warnings for the same behaviour in which event the maximum period shall be ten (10) days. In the event of a suspension in excess of five (5) days, the suspension without pay shall be spread over three (3) monthly pay periods;
- 2.6 A suspension without pay shall be regarded as a sanction more serious than a final written warning.
- 2.7 As a guideline, an Employee may be dismissed on the first occasion for, among others:
- 2.7.1 Intimidation, fighting and/or assault;
  - 2.7.2 Theft, unauthorised possession of or malicious damage to the Employer's property;
  - 2.7.3 Being under the influence of alcohol or intoxicating drugs whilst on duty such that performance is seriously impaired or diminished;
  - 2.7.4 The consumption of alcohol or intoxicating drugs whilst on duty if the nature of work to be performed is such that intoxication endangers the safety of the Employee or that of others;



- 2.7.5 Any act of dishonesty;
  - 2.7.6 Any act of gross negligence;
  - 2.7.7 Gross insubordination;
  - 2.7.8 Wrongful disclosure of privileged information;
  - 2.7.9 Any act of bribery or corruption; and
  - 2.7.10 Any other act of misconduct which would, in law, constitute just cause for dismissal.
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