

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

**COLLECTIVE AGREEMENT ON CONDITIONS
OF SERVICES FOR THE EASTERN CAPE
DIVISION**

In accordance with the provisions of the Bargaining Levels Collective Agreement and

Entered into by and between the:-

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

Herein represented by Mr Lulama Lancelot Taleni

and

**INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION (Eastern
Cape Division)**
(hereinafter referred to as "IMATU")

Herein represented by Mr Geoffrey Scheepers

and

**SOUTH AFRICAN MUNICIPAL WORKERS UNION (Eastern Cape
Division)**
(hereinafter referred to as "SAMWU")

Herein represented by Siphiso Ndunyana

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

1. SCOPE OF APPLICATION

- 1.1 The terms of this Collective Agreement shall be observed in the Local Government Undertaking in the Eastern Cape Province of the Republic of South Africa by all employers and by all employees who fall within the registered scope of the Eastern Cape Division of the SALGBC.

2. EXCLUSION/S FROM THIS AGREEMENT

- 2.1 That Municipal Managers and those employees reporting directly to the Municipal Manager as contemplated in terms of Section 57 of the Municipal Systems Act (Act 32 of 2000 and as amended) be excluded from this Collective Agreement.

3. PERIOD OF OPERATION

- 3.1 This Agreement shall come into operation in respect of the parties to the Agreement, on 1 July 2006 and shall remain in force until 30 June 2010;
- 3.2 This Agreement shall come into operation in respect of non-parties, on a date to be determined by the Minister of Labour and shall remain in force until 30 June 2010.

4. DEFINITIONS

- 4.1 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 contrary intention appears;
- 4.2 Words importing the masculine gender shall include the feminine, and *vice versa*.
- 4.3 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.

- 4.3.1 "Act" means the Labour Relations Act, No. 66 of 1995, as amended;
- 4.3.2 "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;
- 4.3.3 "Appeal" means an exemption appeal;
- 4.3.4 "Basic Conditions of Employment Act" means the Basic Conditions of Employment Act, 1997 (Act 75 of 1997);
- 4.3.5 "Contractual Employee" means an employee appointed to a post on the staff establishment of a municipality, whether for a fixed period, to perform a specific task or on an *ad hoc* basis;

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- 4.3.6 **"Day"** means working days, i.e. Mondays to Fridays excluding public holidays unless indicated otherwise by the context;
- 4.3.7 **"Employee"** shall include a permanent employee or a contractual employee as defined but excludes an independent contractor or its employees;
- 4.3.8 **"Employer or Employers"** refers to employers/municipalities within the registered scope of the Eastern Cape Division of the SALGBC;
- 4.3.9 **"Executive Committee"** means the Executive Committee of the Eastern Cape Division of the SALGBC;
- 4.3.10 **"IMATU"** means the Independent Municipal and Allied Trade Union;
- 4.3.11 **"Municipality"** means a metropolitan, local or district municipality established in terms of the Municipal Structures Act;
- 4.3.12 **"Night work"** means work performed after 18h00 and before 06h00 the next day;
- 4.3.13 **"Parties"** means IMATU, SALGA and SAMWU;
- 4.3.14 **"Permanent employee"** means an employee appointed to an approved post on the staff establishment of a municipality on an open-ended contract;
- 4.3.15 **"Post"** means an approved position on a municipality's organisational structure to which specific duties are coupled;
- 4.3.16 **"Public holiday"** means a public holiday as stipulated in the Public Holidays Act, 1994 (Act 36 of 1994)'
- 4.3.17 **"SALGA"** means the South African Local Government Association;
- 4.3.18 **"SALGBC"** means the South African Local Government Bargaining Council;
- 4.3.19 **"SAMWU"** means the South African Municipal Workers' Union;
- 4.3.20 **"Shift Allowance"** means a non-pensionable allowance, which shall be paid to employees who

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work in excess of 40 working hours per week.

4.3.21 "Trade union"

means either IMATU or SAMWU and trade unions means IMATU and/or SAMWU;

4.3.22 "Workplace"

means an employer/ municipality;

4.3.23 "Year"

means the period 1 January to 31 December unless indicated otherwise by the context.

5. OBJECTIVES

- 5.1 To establish common and uniform conditions of service for employees within the registered scope of the Council, and restricted to the Eastern Cape Division of the SALGBC, and to replace all existing conditions of service referred to herein;
- 5.2 The parties have reached agreement on a number of the matters delegated to them in terms of the Bargaining Levels Collective Agreement, and wish to record the terms and conditions of their agreement as follows:

6. OVERTIME

- 6.1 The provisions governing overtime, as regulated by the Basic Conditions of Employment Act (No 75 of 1997), will apply.

7. NIGHT WORK ALLOWANCE

- 7.1 A night work allowance of R4.50 per hour shall be paid for night work performed. This amount will be increased annually in accordance with salary increases as agreed upon at national level.
- 7.2 The provisions governing night work, as set out in the Basic Conditions of Employment Act (No 75 of 1997), will apply.

8. STAND-BY ALLOWANCE

- 8.1 When an employee, by resolution of the Municipality, makes himself available on a stand-by basis for active overtime service outside normal working hours, he shall be entitled to a stand-by allowance calculated on the following basis:
 - 8.1.1 The daily stand-by allowance tariff = the annual basic salary of incumbent ÷ 250 ÷ 8.
 - 8.1.2 Standby allowance is payable per day and shall be calculated as follows:
 - Monday to Friday: 1 x daily tariff
 - Saturday: 1,5 x daily tariff
 - Sunday and Public Holidays: 2 x daily tariff

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- 8.2 An employee on stand-by duty called out to perform actual work shall be paid at the appropriate rate of overtime as determined in this Agreement or as provided for in applicable legislation.

9. LEGAL INDEMNIFICATION

- 9.1 Whenever a claim is made or legal proceedings are instituted against any employee of the Municipality arising out of any act or deed done or omission by an employee in the performance of his/ her duties or the exercise of his powers, the Municipality shall:

- 9.1.1 In the case of a civil claim or civil proceedings, if it is of the opinion that the employee acted in good faith and without negligence, indemnify the employee in respect of such claim or proceedings and:-

- provide for the legal representation of such employee at the cost of the Municipality or undertake to pay his taxed party - and - party costs, and
- settle the claim and pay any amount due in terms of such settlement, or
- pay any award made by a court against him;

- 9.1.2 In the case of criminal proceedings, if it is of the opinion that the employee acted in good faith and without negligence, indemnify him in respect of his legal costs therein or provide for his legal representation at the cost of the Municipality, and

- 9.1.3 In the case of criminal proceedings, if it is of the opinion that it is in its interest to do so, indemnify the employee in respect of his legal costs therein or provide for his legal representation at the cost of the Municipality, provided that the Municipality may refuse to act in accordance with the afore-going provisions or may terminate any steps already taken by it and recover from the employee any costs incurred by it on his behalf if the employee:-

- has made an admission or statement which the Municipality considers to be prejudicial to a successful defense,
- has made any offer of payment or settlement, or
- declines to accept the services of a legal representative nominated by the Municipality, or
- fails or refuses to furnish information the Municipality may require or furnishes false or misleading information, or
- fails or refuses to co-operate with the Municipality or to render assistance required by the Municipality.

10 SHIFT ALLOWANCE

- 10.1 The allowance is equal to 6% of the employees' annual basic salary and is payable monthly.
- 10.2 The allowance shall be increased annually in conjunction with the salary increases.

11 DISPUTE/S REGARDING THE INTERPRETATION AND APPLICATION OF THIS AGREEMENT

- 11.1 Any person or party may refer a dispute about the interpretation or application of this collective agreement to the Executive Committee of the Eastern Cape Division of the SALGBC.

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- 11.2 The Regional Secretary shall investigate the dispute or cause the dispute to be investigated and attempt to resolve the dispute by issuing a directive, and in the event of the dispute not being resolved:
- 11.2.1 appoint a conciliator from the appropriate panel of conciliators or if the dispute remains unresolved;
 - 11.2.2 refer the dispute to arbitration
- 11.3 Once a conciliator is appointed, the Regional 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;
- 11.4 If the dispute is referred to arbitration, the Regional Secretary shall appoint an arbitrator from the Divisional panel of arbitrators, doing so far as possible on a rotational basis;
- 11.5 The Regional Secretary, in consultation with the arbitrator, shall decide the date, time and venue of the arbitration hearing;
- 11.6 The arbitrator shall:
- 11.6.1 endeavor to conciliate the dispute unless the parties to the dispute advise the arbitrator that the dispute has been properly conciliated;
 - 11.6.2 if the dispute remains unresolved, resolve the dispute through arbitration.
- 11.7 The arbitrator may make any appropriate arbitration award in terms of the Act that gives effect to the collective agreement.

12 EXEMPTIONS

- 12.1 Any party or person bound by this Agreement shall be entitled to apply for exemption from this Agreement either on a member's behalf or itself.
- 12.2 All applications for exemption from any provisions of this agreement shall be in writing and lodged with the Regional Secretary of the Eastern Cape Division of the SALGBC. Such applications shall contain:
- 12.2.2 all material details of the Applicant;
 - 12.2.3 the exact provision of this collective agreement from which the Applicant seeks exemption;
 - 12.2.4 detailed grounds on which such exemption is sought.
- 12.3 The Executive Committee of Eastern Cape Division of the SALGBC shall consider all applications from a party/non-party to this Agreement (which shall include the members of such party), and may, and on giving its reasons therefore, grant exemption on any conditions and for any period it considers appropriate.
- 12.4 A party aggrieved by a decision of the Executive Committee may lodge a dispute to the Arbitrator who shall consider the application subject to clause 12.7.8 and on giving its reasons therefore, may grant an exemption on any conditions and for any period it considers appropriate. The decision of the Arbitrator shall be final.
- 12.5 The Eastern Cape Division of the SALGBC shall issue to every applicant granted an exemption in terms of this clause a certificate of exemption setting out:
- 12.5.1 the applicant's name;
 - 12.5.2 the provisions of the agreement from which exemption has been granted;
 - 12.5.3 the conditions relating to the exemption; and
 - 12.5.4 the period for which the exemption shall operate.

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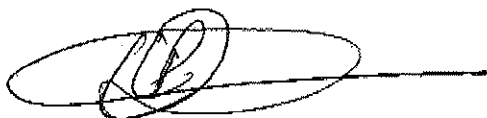
- 12.6 The Eastern Cape Division of the SALGBC may withdraw a certificate of exemption granted to a party to this agreement by giving one month's notice to the party concerned, or may, in the case of a non-party, apply to the Independent Exemptions Body for the withdrawal of a certificate granted.
- 12.7 The Independent Exemptions Body shall be constituted on an *ad hoc* basis and shall be appointed by the SALGBC from its panel of arbitrators set up in terms of its constitution.

13 ENFORCEMENT OF THIS COLLECTIVE AGREEMENT

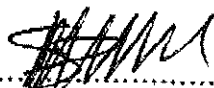
- 13.1 Despite any other provision in the Labour Relations Act, the Eastern Cape Division of the SALGBC shall monitor and enforce compliance of this collective agreements in terms of Section 33A of the LRA.
- 13.2 The Regional Secretary may issue a compliance order which will stipulate the alleged breach and shall clearly indicate that such breach be rectified within ten (10) days of receipt of such compliance order.
- 13.3 The Eastern Cape Division of the SALGBC may refer any unresolved dispute concerning compliance with any provision of this collective agreement to arbitration by an arbitrator appointed by the SALGBC.
- 13.4 If a party to an arbitration in terms of Section 33A is not a party to the SALGBC, and objects to the appointment of an arbitrator in terms of paragraph 9.3, the Commission, on request by the SALGBC, must appoint an arbitrator.
- 13.5 If an arbitrator is appointed in terms of Section 13.1, above-
- 13.5.1 the SALGBC remains liable for the payment of the arbitrator's fee; and
- 13.5.2 the arbitration is not conducted under the auspices of the Commission.
- 13.6 An arbitrator conducting an arbitration in terms of Section 33 A of the LRA has the powers of a commissioner in terms of section 142 of the LRA, read with the changes required by the context.
- 13.7 Section 138 of the LRA, read with the changes required by the context, applies to any arbitration conducted in terms of Section 33 A.
- 13.8 An arbitrator acting in terms of Section 33 A may determine any dispute concerning the interpretation or application of a collective agreement.
- 13.9 An arbitrator conducting an arbitration in terms of Section 33 A may make an appropriate award, including-
- 13.9.1 ordering any person to pay any amount owing in terms of a collective agreement;
- 13.9.2 imposing a fine for a failure to comply with a collective agreement;
- 13.9.3 charging a party an arbitration fee;
- 13.9.4 ordering a party to pay the costs of the arbitration;
- 13.9.5 confirming, varying or setting aside a compliance order issued by the General Secretary, Regional Secretary or his appointed designated agent in accordance with subsection (2);
- 13.9.6 any award contemplated in section 139 (9).

- 13.10 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, 1975 (Act 55 of 1975), unless the arbitration award provides otherwise.
- 13.11 An arbitration award in an arbitration conducted in terms of Section 33 A is final and binding and may be enforced in terms of section 143 of the Act.
- 13.12 If an employer upon whom a fine has been imposed in terms of this section files an application to review and set aside an award made in terms of subsection (7), any obligation to pay a fine is suspended pending the outcome of the application.

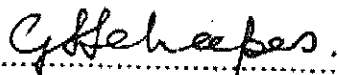
SIGNED BY THE PARTIES AT PORT ELIZABETH on THE 09 DAY OF JUNE 2006



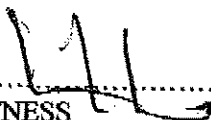
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 SALGA REPRESENTATIVE
 (MR LULAMA TALENI)



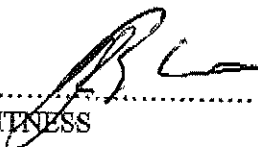
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 (MR SIPHIWO NDUNYANA)



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