

**SOUTH AFRICAN LOCAL GOVERNMENT
BARGAINING COUNCIL (GAUTENG DIVISION)**

(Hereafter referred to as **"SALGBC"**)

**COLLECTIVE AGREEMENT ON THE MIGRATION AND PLACEMENT OF
STAFF**

Made and entered into by and between the

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

(Hereinafter referred to as **"SALGA"**)

AND

The INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION

A Trade Union duly registered in terms of the provisions of the Labour
Relations Act (hereinafter referred to as **"IMATU"**)

AND

The SOUTH AFRICAN MUNICIPAL WORKERS' UNION,

A Trade Union duly registered in terms of the provisions of the Labour Relations
Act (hereinafter referred to as **"SAMWU"**)

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ANNEXURE "A"

DISPUTE RESOLUTION PROCESS FLOW

- STEP 1: Placement committee
- STEP 2: Placement letter
- STEP 3: Declaration of dispute
- STEP 4: Internal dispute prevention process
- STEP 5: Dispute resolution committee
- STEP 6: Determination of dispute

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1. PREAMBLE

Whereas the legislative dispensation governing municipalities regulates the review of the Staff Establishments on a periodic basis.

Whereas the review of the Staff Establishments of municipalities may result in the need for the migration and placement of employees from disestablished/abolished Staff Establishments to new Staff Establishments.

2. SCOPE OF APPLICATION

This agreement shall be applicable in respect of all permanent employees of the municipalities who fall under the auspices of the SALGBC Gauteng Division.

3. LEGAL FRAMEWORK

This agreement is underpinned by the following legal imperatives:

- Constitution of the RSA
- Municipal Systems Act
- Municipal Structures Act
- Labour Relations Act
- Basic Conditions of Employment Act
- Employment Equity Act
- Skills Development Act
- SALGBC Main Collective Agreement
- And any other relevant pieces of legislation and/or collective agreements
- Applicable Resolutions of Municipal Councils

4. DEFINITIONS

- **'Abolished organogram'**, in the context of this agreement and in relation to the permanent employees, shall refer to the Staff Establishments as approved by the relevant Municipal Council
- **'Approved organogram'**, in the context of this agreement and in relation to the permanent employees, shall refer to new Staff Establishments as reviewed by way of Municipal Council resolutions
- **'Council'** shall refer to the Municipal Council as defined in the Municipal Structures Act
- **'Day'** means Monday to Friday, excluding public and municipal holidays



- **'DPMC'** shall refer to a Dispute Prevention and Mediation Committee as provided for in this agreement
- **'DRC'** shall refer to the Dispute Resolution Committee constituted by a panel of the SALGBC Gauteng Division
- **'Employee follows function'** means an employee performs functions where the functions are required to be performed
- **"Employee not worse off"** means the employee shall not be adversely impacted by the migration and placement in relation to their conditions of service
- **'Job content'** means the current functions of the position as listed in the Job Description of the position
- **'Job Family Dispute'** means a consolidation of similar disputes of employees relating to a post category, e.g. Accountants
- **'Migration'** means the process of moving employees from the abolished organogram to the approved organogram in terms of the current functions they perform for the Municipality
- **'Permanent Employee'** means a current staff member of a municipality who has an open ended contract of employment on the approved organogram
- **'Placement'** means the placement of staff members from the abolished organogram to same or similar positions on the new approved organogram approved by Council based on the principle of close match, which takes into account Job Descriptions on the abolished organogram and compare to the same or similar one on the approved organogram
- **'Placement Committee'** shall be a Committee established by the Local Labour Forum of a municipality for the purposes of performing the function of reviewing the placement conducted by the departments on the approved organogram, as stated in Clause 8.1 of this agreement
- **'Reasonable alternative position'** means a position where an employee is placed in an alternative position on the approved organogram in circumstances where: i) the employee could not be matched on the approved organogram or ii) there are more employees close matching positions than there are available positions, as per Clause 7.13
- **'Trade Union'** shall refer to IMATU and SAMWU, which are the two recognised trade unions in municipalities and are parties to this agreement.

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5. STATEMENT OF INTENT

The parties agree that: -

- 5.1 Arising from Municipal Council resolutions on Staff Establishments that are adopted from time to time in workplaces falling under the auspices of the SALGBC Gauteng Division.
- 5.2 The terms and conditions of employment of a placed employee shall not be less favourable than his/her current terms and conditions of employment which subsisted in the abolished organogram, prior to placement.
- 5.3 A municipality shall, in instances where an employee cannot be placed on the same or similar position as his/her current position, place such employee on a reasonable alternative position at the same or similar level of authority, having regard to previous experience (job content) and qualifications of the employee relevant to the alternative position.
- 5.4 The migration and placement of staff shall be done in a manner that is consistent with the Labour Relations Act, Basic Conditions of Employment Act, Skills Development Act, Employment Equity Act, Municipal Systems Act and any other relevant law and/or applicable Collective Agreements and/or applicable Council Policies or Resolutions.
- 5.5 No employee shall be worse off by the implementation of this agreement.

6. DURATION AND PERIOD OF OPERATION OF THIS AGREEMENT

The migration and placement process is a two stage process comprising of the migration and placement of employees in the new organogram being the first stage and the dispute resolution processes being the second stage.

- 6.1 This agreement, in respect of the migration and placement of employees (first stage), shall become effective from the date of signature and shall remain in force until the 30 June 2027 or upon completion of the migration and placement of all employees (whichever occurs first), subject to the provisions of Clause 12.

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- 6.2 This agreement in respect of the dispute resolution process (second stage) shall be the basis of adjudication of all disputes that arise therefrom in terms of the Dispute Resolution mechanisms stipulated herein.
- 6.3 This agreement shall replace all existing agreements that are operative in the municipalities, in respect of the matters that are dealt with herein, and that are covered by the scope of application. The dispute resolution procedures contained herein shall apply to placement disputes and objections that are pending in the various municipalities within the Gauteng Division.

7. MIGRATION AND PLACEMENT CRITERIA

The parties agree to the following criteria: -

- 7.1 The principle of an “employee follows functions” shall apply.
- 7.2 In instances where a geographical move of a function cannot be avoided, the use of mechanisms like technology and other management tools (where possible) should be used in mitigating against the geographical relocation of an employee. Where there is geographical relocation, the Employer shall use its internal policies and operational arrangements to ensure that the employee is not made worse off.
- 7.3 The parties are committed to ensure continuity of employment and every attempt will therefore be made to ensure that no retrenchment or redundancy will occur.
- 7.4 In the event that there is no same or similar position in terms of job content in the new organogram, the employer shall reskill and/or offer suitable training to an employee to achieve the required competency level to perform the functions of the major changed position.
- 7.5 The close-match principle shall be the primary mode of placing employees into the new organogram. In close matching a post, the job content of the old post shall be compared with the job content of the new post. The employee having the closest match in respect of the job content is then the successful employee to be placed.

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- 7.6 In instances where there are more possible matches to a job, the match must be done on the most matched job content. The focus shall be on the core functions of the job.
- 7.7 This close match principle shall apply to unchanged and minor changed posts.
- 7.8 Where there is a major change in a job content of a post, employees can still be placed provided that the provisions of 7.4 shall apply.
- 7.9 The salary and qualifications of an employee shall play no role in the migration and placement of an employee, unless Clauses 5.3 and 7.10 are applicable.
- 7.10 Where more than one employee can be close matched to a post and there are more employees that can be close matched than there are posts, in terms of the close match principle and subsequent to the provisions of Clause 7.6, all of the following secondary criteria, in no chronological order, shall be used:
- 7.10.1 Employee's representativeness in terms of employment equity; and
 - 7.10.2 Years of experience in the role in question; and
 - 7.10.3 Length of service in the municipality
 - 7.10.4 Qualifications (added for instances where the employees to be placed meet the first three criteria equally and the relevant qualifications would then be used as a deciding factor).
- 7.11 When an employee is placed in a post such placement shall be final, unless there is a pending dispute.
- 7.12 When an employee does not match a position in terms of the criteria stipulated in Clauses 7.1. to 7.11, the Employer shall submit reasonable alternative positions to the Placement Committee.
- 7.13 The reasonable alternative position shall, where necessary, include a reskilling/retraining plan designed to ensure the appropriate capacitation of the employee to perform in the reasonable alternative position without being worse off.

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- 7.14 The employee shall receive a Placement Letter stipulating that he/she is placed in the reasonable alternative position.
- 7.15 The employee, who is placed in a reasonable alternative position, shall have the right to invoke the provisions of Clause 12 should he/she dispute the placement in the said reasonable alternative position.
- 7.16 The period it shall take to reskill or retrain the employee concerned shall be determined by a designed retraining / reskilling plan agreed to by the employee.
- 7.17 The migration and placement of employees shall be based on the substantive positions they held in the abolished organogram and it is specifically recorded that acting does not entitle an employee to placement on the position that an employee acted in or was seconded to.

8. PLACEMENT COMMITTEE

- 8.1. Placement of employees shall be considered by a Placement Committee, hereby established by the LLF, in line with the provisions of this agreement, provided that the Committee is composed of not more than twelve persons (6 from Organized Labour and 6 from the Employer). Should a meeting of the Placement Committee not form a quorum within 60 minutes from the time it is scheduled to commence, the meeting shall be postponed for a period of not more than for 48 hours.
- 8.2. The Placement Committee, for purposes of migrating and placing employees into the new organogram, shall have the following terms of reference:-
- 8.2.1. Shall consider placement presentations from the Employer, which shall be inclusive of compliance with the provisions of Clause 7 in respect of the Migration and Placement criteria of employees.
- 8.2.2. The presentations of the Employer shall be distributed to the members of the Placement Committee at least 14 days prior to the scheduled sitting of the Committee.
- 8.2.3. The classifications from the Employer shall be submitted to the Placement Committee in the following three categories:
- 8.2.3.1. Unchanged posts

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8.2.3.2. Minor changed posts

8.2.3.3. Major changed posts

8.2.4 The Placement Committee shall strive to reach consensus on the categories and classification of posts and staff placements and where consensus cannot be reached, the Employer's proposed placement shall be published.

8.3 In exceptional circumstances that are informed by obvious errors or operational challenges, an employee who has submitted a placement dispute shall remain in his previous substantive position pending the resolution of the dispute in line with the provisions of Clause 12 hereunder.

8.4 The Chairperson of the Placement Committee shall be elected in the meeting by the Parties.

9. NOTIFICATION AND IMPLEMENTATION OF DECISIONS

9.1. A letter shall be sent to each employee informing him or her of their placement on the Organizational Structure, by the Employer, no later than 15 working days from the date of the decision of the Placement Committee.

9.2. All employees shall sign acknowledgement of receipt of the Placement Letter. Proof of receipt shall be filed in the employee's record by the Employer.

10. CATEGORIZATION OF POSTS

10.1. New Posts

These mean funded posts whose functions did not exist in the abolished organogram and that came about as a result of the new organogram.

These also include funded posts whose functions existed in the abolished organogram and have been numerically increased in the new organogram.

10.2. Unmatched Post

These mean posts whose functions existed in the abolished organogram and no longer exist in the new organogram due to the operational requirements of the Employer. The employees affected in this category shall be dealt with through the provision of reasonable alternative positions.



These are posts in the new organisation structure that have had no change to their job description as they appeared in the abolished organogram.

10.3 Unchanged posts

These are posts in the new organisation structure that have had no change to their job description as they appeared in the abolished organogram.

10.4 Minor changed posts

These are positions in the new organisation structure whose core functions when considered holistically, have changed by at least thirty percent (30%) in terms of the Job Description applicable to the post.

10.5 Major changed posts

These are positions in the new organisation structure which, when considered holistically, the core functions have changed by at least 60% in terms of the Job Description applicable to the post.

11. DATE OF PLACEMENT

For purposes of dispute resolution procedures as contained in this agreement, date of placement shall be the date the employee received the Placement Letter.

12. DISPUTE RESOLUTION PROCEDURE

12.1 An employee and/or Trade Union, on behalf of its members, has the right to lodge a dispute against the published placement decision of Employer. A trade union may, in order to avoid duplication of disputes, lodge a job family dispute on behalf of its members.

12.2 In line with Clause 8.3, the employee shall remain in position until the dispute is resolved.

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- 12.3 The dispute must be lodged within 10 days of the date of receipt by the individual employee of the Divisional decision. The computation of the days shall exclude municipal holidays.
- 12.4 The process flow attached to this agreement as **Annexure "A"** shall be the basis of handling the dispute resolution processes in terms of this agreement.
- 12.5 Any dispute lodged will be dealt with in terms of the following procedure:

12.5.1 INTERNAL DISPUTE RESOLUTION PROCEDURE

12.5.1.1 Each Local Labour Forum shall establish a Special Sub-committee referred to as the Dispute Prevention and Mediation Committee. The terms of reference of the Sub-committee shall be:

12.5.1.1.1 To perform the function of conciliation/mediation of the objections/disputes referred by employees in terms of this agreement.

12.5.1.1.2 To seek a resolution of the objections/disputes referred by employees through implementation of the provisions of Clause 7 of this agreement.

12.5.1.1.3 To refer matters that cannot be resolved at the DPMC to the Regional Secretary of the SALGBC for resolution in terms of Clause 12.5.2.3 hereunder.

12.5.1.2 The DPMC shall be convened as per the LLF processes in a municipality to handle all disputes that have been declared by employees within the Municipality.

12.5.2 DISPUTE RESOLUTION COMMITTEE

12.5.2.1 The Executive Committee of the SALGBC Gauteng Division shall establish a Specialized Panel of Arbitrators to conduct placement dispute resolution functions as per the provisions of this agreement.

12.5.2.2 The Regional Secretary of the SALGBC Gauteng Division shall enter into a Service Level Agreement with the Special Panel of Arbitrators that will regulate the performance of the dispute resolution functions, inclusive of the determination of the rates that will be applicable.



- 12.5.2.3 The disputes shall be handled through arbitration proceedings in terms of the Labour Relations Act 66 of 1995 (as amended).
- 12.5.2.4 The placement of an employee into a position on the Organizational Structure must be given effect from date of placement.

13. MONITORING OF IMPLEMENTATION OF AGREEMENT

- 13.1 The Executive Committee of the SALGBC Gauteng Division must ensure adherence and compliance with this agreement as well as monitoring thereof, through the submission of progress reports by the Regional Secretary to the Executive Committee.

14. AMENDMENT

- 14.1 This agreement constitutes the entire agreement between the parties and any amendments to this agreement shall be effective only if it is reduced to writing and signed by the parties thereto.
- 14.2 No party shall have any claim or right of action arising from any undertaking, representation or warranty not included in this agreement.

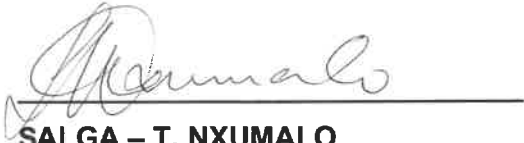
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SIGNED THIS ON 06th OF APRIL 2022 BY THE PARTIES AND WITNESSED IN THE SALGBC GAUTENG DIVISION:

SIGNATORIES



SALGA – T. NXUMALO

Signed by Themba Nxumalo as delegated by the Provincial Director of Operations



IMATU- T. MOEKETSI - REGIONAL CHAIRPERSON



SAMWU- S. KWANYANA- PROVINCIAL CHAIRPERSON



SALGBC REGIONAL SECRETARY- E.L SEKGWELEO



ANNEXURE "A"

DISPUTE RESOLUTION PROCESS FLOW

STEP 1: PLACEMENT COMMITTEE

- i) The Placement Committee reviews the Placement presentations as presented by the Employer.
- ii) The presentations must be done by the affected department assisted by the relevant Human Resources officials.
- iii) Placement Committee reviews the presentations and ensure compliance with the provisions of Clause 7 of the agreement.

STEP 2: PLACEMENT LETTER

- i) A Placement Letter is issued by the Employer (HR) not later than 15 days from the date of the Placement Committee having decided on the placement of the Employee.
- ii) The Employee must sign acknowledgment of receipt which will be filed in the Employee's record.
- iii) The Placement Letter must state the position, level and notch into which the Employee is placed on the organizational structure of the Municipality.

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STEP 3: DECLARATION OF DISPUTE

- i) The Employee shall have the right to declare a dispute against the Placement that has been implemented.
- ii) The Employee must submit his/her dispute, either directly or via the trade union (as defined herein), not later than 10 days from date of receipt of the Placement Letter.
- iii) The dispute shall be referred using the Placement dispute referral forms or on the explicitly written document.
- iv) The dispute shall be submitted to the relevant office of the Employer that schedules LLF processes in the municipality.

STEP 4: INTERNAL DISPUTE PREVENTION PROCESS

- i) The LLF secretariat shall convene the Dispute Prevention and Mediation Committee (the DPMC), a sub-committee of the LLF, not later than 10 working days from the date of submission of the placement dispute by the Employee(s).
- ii) At the DPMC the employee shall have the right to represent him/herself or through a fellow employee or through a trade union representative or trade union official.
- iii) The DPMC shall mediate the disputes referred to it by the LLF Secretariat and attempt to resolve them.
- iv) The DPMC shall be tasked with the obligation of minimizing the number of disputes that get referred to arbitration resulting from the Migration and Placement processes.



STEP 5: DISPUTE RESOLUTION COMMITTEE

- i) All disputes that have not been resolved by the DPMC shall be referred, by the employee/union, to the Regional Secretary of the SALGBC Gauteng Division not later than **30** days from the date of the finalization of the mediation by the DPMC.
- ii) The DRC shall operate in terms of the Service Level Agreement entered into by the Regional Secretary with the Special panel of arbitrators of the SALGBC Gauteng Division.
- iii) The DRC shall proceed with the matter as an arbitration in terms of the Labour Relations Act.

STEP 6: DETERMINATION OF DISPUTE

- i) The DRC shall issue an arbitration award not later than 14 days from the date of its last sitting to deal with the dispute of the Employee.
- ii) The arbitration award shall be final and binding on the parties.

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