

**PICKETING AGREEMENT
FOR THE STRIKE COMMENCING ON
1 SEPTEMBER 2010**

CONCLUDED BETWEEN

the

RETAIL MOTOR INDUSTRY ORGANISATION
(RMI)

FUEL RETAILERS ASSOCIATION OF
SOUTHERN AFRICA (FRA)

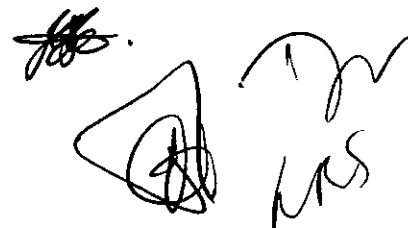
and

NATIONAL UNION OF METALWORKERS OF
SOUTH AFRICA (NUMSA)

MOTOR INDUSTRY STAFF ASSOCIATION
(MISA)

1. **AUTHORISATION**

- Any picketing must be authorised in accordance with the Union's Constitution.

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- The union shall appoint a Convener to oversee the picket – The convener's name shall be submitted to the company at least 12 hours before commencement of the picket.
- The union shall appoint two marshals from the picketers.
- The union shall instruct their marshals, whilst overseeing and controlling the picket, to wear armbands that are clearly visible to identify them. The union shall also notify the employer on a daily basis before the picketing starts of the names of the designated marshals each day.
- The union shall further instruct and explain to the Convener and marshals the law and the code of good practice on picketing issued by NEDLAC in terms of the LRA.
- The convener must notify the employer, the responsible person appointed in terms of Section 2(4)(a) of the regulation of Gathering Act, 1993 and the police of the intended picket. The notice should contain –
 - (a) Notification that the picket is in compliance with Section 69 of the Act;
 - (b) the name, address and telephone number of the Trade Union and the convener;
 - (c) Details of the picket, including the details of the employer being picketed, the date of the commencement of the picket, the location of the picket, etc.
- Despite any law regulating the right of assembly, a picket authorized in terms of sub-section (1) of Section 69 of the LRA may be held –
 - At any place to which the public has access but outside the premises of the employer; or

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- With the permission of the employer, inside the employer's premises

2. PURPOSE OF THE PICKETING

The purpose of the picket must be peaceful demonstrations in support of any protected strike, to encourage non-striking employees and members of the public to support the strike and/or in opposition of any lock-out.

Only members and the supporters of the trade unions may participate in the picket. Supporters may include non-striking employees, temporary workers and union officials.

3. WHO MAY PICKET

Members and supporters of the trade unions and union officials may picket.

4. WHERE CAN THE PICKETING TAKE PLACE

In respect of employees of the establishment, it may be on the company's premises with the consent of the employer or outside the company premises in the designated areas as agreed upon by the parties at enterprise level, provided that consent to picket on the employer's premises shall not be unreasonably withheld.

However, any picket by supporters of the picket who are not employed by the company must be conducted outside the company premises. Under no circumstances shall picketers be allowed within a 25 meter radius of the premises, gates, entrances and/or exits.

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In the event of disagreement the parties shall consider the matters at the daily meetings at National level (MIBCO) and should no agreement be reached the matters would be referred to the CCMA and/or private arbitration by consensus between the parties and in doing so taking cognizance of the need to find a speedy resolution to any impasse.

5. CONTROL OF THE PICKET

The unions appoint their shop stewards or Union officials as conveners to oversee the picket.

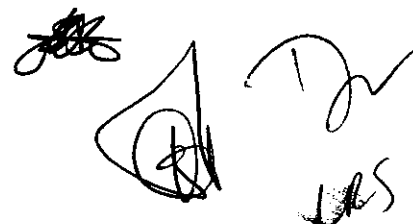
The shop stewards or Trade Union members employed by the company shall act as marshals to monitor the picket and the trade unions shall instruct the marshals on the law and any picketing rules that may be decided upon.

The prime function of the convener/marshal shall be to ensure that the picket is conducted peacefully.

During the period of picketing, representatives from the employers' organisations and those of the trade unions shall meet on a daily basis at MIBCO National offices as from 5 p.m. to consider the day's activities and/or contraventions of the picketing rules and of the Act.

These meetings will be chaired by the General Secretary of MIBCO.

During the period of the picketing management and employee representatives will meet as often as it is necessary and is reasonably practicable to discuss any matter which directly flows from these rules. Any misconduct by picketers or management shall be referred to the National Offices of the Employers' Organisations and the trade unions, as the case may be, so that any such misconduct might be resolved as soon as possible.

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6. FACILITIES AVAILABLE TO PICKETERS

In those companies where living-in accommodation is provided, striking employees will be treated in terms of the provisions of the Labour Relations Act.

Access shall be provided to employees (who are employed at the particular establishment) to water and toilet facilities which access will not be unreasonably withheld. Where this is not possible employers need to ensure availability of water and toilets in the way agreed to between the employer and its employees. The employer reserves the right to control the number of striking employees and representatives of the Trade Union wanting access to the premises at any given time for this purpose.

Employers will make available suitable designated space in designated areas.

The Company shall make reasonable telephone and fax facilities available to officials and Union shop stewards of the said company under controlled circumstances in order to allow them to communicate with the Union.

7. CONDUCT

- Section 17 of the Constitution of the Republic of South Africa recognizes the right to assemble, to demonstrate, to picket and to present petitions.
- This constitutional right can only be exercised peacefully and unarmed.

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- Section 16 of the Bill of Rights shall also be observed:

16. Freedom of expression

1. Everyone has the right to freedom of expression, which includes:

- a) Freedom of the press and other media;
- b) Freedom to receive or impart information or ideas;
- c) Freedom of artistic creativity; and
- d) Academic freedom and freedom of scientific research.

2. The right of subsection (1) does not extend to:-

- a) Propaganda for war;
- b) Incitement of imminent violence; or
- c) Hate Advocacy that is based on race, ethnicity, gender or religion, and that constitute incitement to cause harm.

- Recognition of the right to picket also reflects a society's commitment to the fundamental human rights of freedom of expression and freedom of assembly.
- Picketing shall be carried out in a lawful manner.
- Employees participating in the industrial action and picketing agree not to intimidate non-striking employees or any other person who may enter upon the company's premises for the purpose of carrying out the business of the company. In particular, they may not compel people to stop and to listen to their demands.

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- Picketers will not obstruct any access points/areas or vehicles or traffic entering or leaving company premises.
- Those taking part in the picket, under the leadership of their shop stewards, shall ensure that they yield right of way promptly and courteously to any traffic moving on roads, which may wish to pass.
- Until an appropriate arrangement has been made with the Police or other local authorities to ensure no interference with the traffic, a picket should not be conducted on a public road, unless the participants are so few that there can be absolutely no material interference with the traffic.
- Management of the company and picketers will refrain from behavior which is provocative or which could incite violence or intimidation or victimization.
- No weapons including but not limited to iron bars, knives, pangas, sticks, knob kieries, stones and firearms may be carried by a person who is picketing, or by any member of management who has contact with them.
- The Unions must ensure that shop stewards/marshals are present at the picket from the start to the end of the picket each day.
- If picketers are picketing at different locations, a sufficient number of shop stewards/marshals (no less than two) must be present at each location.
- The shop stewards/marshals must ensure that the behavior and conduct of the picketers are acceptable.

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- The shop stewards/marshals must wear an armband or vest showing clearly that they are the picket leaders.
- Participation in a protected picket does not exempt picketers from their obligation not to commit any criminal offences. Accordingly any picketers who intimidate any person or who damage property or who assault any person or who engage in any criminal act may be liable to arrest and criminal prosecution.
- Picket organizers or their representatives, i.e. shop stewards, must ensure that the language which is used during a strike/picket is not insulting or defaming of any person.
- Pickets will not damage or threaten to damage the Company property or property of personnel or the property of customers or suppliers.
- Posters are to promote the aims of workers and may not reflect personal remarks or remarks that promote racial conflict.

8. ROLE OF POLICE

The police have the responsibility to enforce criminal law, to protect the public and to assist where there is a breach of peace, law and order. The police have no responsibilities for enforcing the Labour Relations Act.

It is not the function of the police to take any view of merits of the dispute giving rise to a strike.

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An employer cannot require the police to help in identifying pickets against whom it wishes to seek an order from the Labour Court nor is it the job of the police to enforce the terms of an order of the Labour Court, subject to the provisions of Item 7(2) of the Code of Good Practice on Picketing viz –

“The police may assist officers of the Court when there is a breach of peace and the police have the responsibility to enforce the criminal law to arrest picketers for participation in violent conduct or attending a picket armed with dangerous weapons and they may take steps to protect the public if they are of the view if the picket if not peaceful and might lead to violence.

The police have the responsibility to enforce criminal law, to protect the public and to assist where there is a breach of peace, law and order. The police have no responsibilities for enforcing the Labour Relations Act.

9. ISSUES TO BE DEALT WITH AT ENTERPRISE LEVEL

The following issues which are to be dealt with at enterprise level must be in terms of this Agreement and agreed to prior to the picket between shop stewards and Management representatives:

- Whether picketing is inside or outside the premises.
- Designated picket area and number of picketers.
- Access arrangements.
- Designated union picket convener, marshal and management liaison person.
- The Company shall make reasonable telephone and fax facilities available to officials and Union shop stewards of the said company under controlled circumstances in order to allow them to communicate with the Union.

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10. IMPLEMENTATION

The unions shall inform and explain the rules contained in the agreement and shall make all the necessary arrangements for the appointment of marshals and conveners.

11. INTERPRETATION

Disputes in regard to interpretation and application of this agreement shall be referred to the CCMA and/or private arbitration by consensus between the parties taking cognizance of the need to speedily resolve the impasse.

SIGNED AND DATED AT RANDBURG ON THIS 31ST DAY OF AUGUST 2010

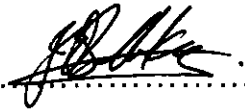
For the Employers:-

RETAIL MOTOR INDUSTRY ORGANISATION (RMI)

FUEL RETAILERS ASSOCIATION OF SOUTHERN AFRICA (FRA)

For the Unions:-

**NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA
(NUMSA)**



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MOTOR INDUSTRY STAFF ASSOCIATION (MISA)



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