

PICKETING AGREEMENT FOR THE STRIKE COMMENCING ON 09 SEPTEMBER 2013

CONCLUDED BETWEEN

the

**RETAIL MOTOR INDUSTRY ORGANISATION
(RMI)**

**FUEL RETAILERS ASSOCIATION OF
SOUTHERN AFRICA (FRA)**

and

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

1. AUTHORISATION

- Any picketing must be authorised in accordance with the Union's Constitution.
- 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 a minimum of two marshals from among the picketers.



- The union shall instruct its 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.

2. **PURPOSE OF THE PICKETING**

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

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

3. **WHO MAY PICKET**

Members, non- union members and supporters of the trade unions and union officials may picket.

4. **WHERE CAN THE PICKETING TAKE PLACE**

Despite any law regulating the right of assembly, a picket authorized in terms of subsection(1) of the LRA, may be held-

- (a) In any place to which the public has access but outside the premises of an employer; or
- (b) With the permission of the employer, inside the employer's premises.

The permission referred to in subsection (2) (b) of the LRA may 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

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premises not within ten meters; this shall not apply to the Marshals, officials, office bearers, and shop-stewards.

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, in doing so, taking cognizance of the need to find a speedy resolution to any impasse.

5. **CONTROL OF THE PICKET**

The union shall appoint their Marshals and Union officials as conveners to oversee the picket.

The marshals shall monitor the picket and the trade union shall inform and advice 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 union shall meet on a daily basis at MIBCO offices as from 16H00, 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.

Parties may meet at Regional, Local or enterprise level to address similar matters as soon as possible. Reports of such engagements must be reported to the National Offices of the Parties and 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 NUMSA, as the case may be, so that any such misconduct might be resolved as soon

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as possible, provided that any apparent breach of law and order may be reported to the SAPS.

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. Employers have the right to control the number of people entering the premises at enterprise level.

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.
- 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, but are allowed the hand out pamphlets.
 - Picketers will not obstruct vehicles or traffic entering or leaving company premises.
 - Those taking part in the picket, under the leadership of their marshals, or shop stewards, shall ensure that they yield right of way promptly and courteously to any traffic moving on roads, which may wish to pass.

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- 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.
- No dangerous weapons 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 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 Marshals (no less than two) must be present at each location.
- The marshals / must ensure that the behavior and conduct of the picketers is peaceful.
- The 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.
- Picket organizers or their representatives, i.e. marshals and union officials, must ensure that the language which is used during a strike/picket is not insulting or defaming of any person.
- Picketers 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.

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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.

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.

The wording as per the Code of Good Practice will apply as per addendum "A"

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.

10. IMPLEMENTATION

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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 taking cognizance of the need to speedily resolve the impasse.

- 12.** All relevant legislation, laws, Municipal Bi-laws, Civil laws, the Common law and case law to date shall apply.

SIGNED AND DATED AT BENONI ON 06 September 2013

For the Employers:-

RETAIL MOTOR INDUSTRY ORGANISATION (RMI)

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FUEL RETAILERS ASSOCIATION OF SOUTHERN AFRICA (FRA)

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For the Union:-


HRS

7. Role of the police

(1) It is not the function of the police to take any view of the merits in particular of the dispute giving rise to a strike or a lock-out. They have a general duty to uphold the law and may take reasonable measures to keep the peace whether on the picket line or elsewhere.

(2) The police have no responsibility for enforcing the Labour Relations Act. 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. Enforcement of an order on the application of an employer is a matter for the courts and its officers, although the police may assist officers of the court when there is a breach of the peace.

(3) The police have the responsibility to enforce the criminal law. They may arrest picketers for participation in violent conduct or attending a picket armed with dangerous weapons. They may take steps to protect the public if they are of the view that the picket is not peaceful and is likely to lead to violence.

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



