

**EDUCATION LABOUR RELATIONS COUNCIL**

*Established in terms of the LRA of 1995 as amended*



## **FOUNDING AGREEMENT:**

### **FURTHER EDUCATION AND TRAINING COLLEGES SECTOR INTERIM BARGAINING UNIT WITHIN THE ELRC**

9<sup>th</sup> JUNE 2009

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**EDUCATION LABOUR RELATIONS COUNCIL**  
**FOUNDING AGREEMENT:**  
**FURTHER EDUCATION AND TRAINING COLLEGES SECTOR INTERIM**  
**BARGAINING UNIT**

**1. PURPOSE OF THE AGREEMENT**

The purpose of this agreement is:

- (1) To formally establish and activate the *FETC Sector Interim Bargaining Unit* for the FETC sector, within the ELRC ;
- (2) To commence with the provision of bargaining and dispute resolution services to the FETC sector as envisaged in the FETC Act 16 of 2006, *Collective Agreement Numbers 4 and 5 of 2007*, *Collective Agreement Number 5 of 2008* and the Labour Relations Act No. 66 of 1995; and
- (3) To make provision for the election of a Chairperson and deputy chairpersons of the *FETC Sector Interim Bargaining Unit*

**2. SCOPE OF THIS AGREEMENT**

This agreement applies to and shall bind:

- (1) The FETCEO as the employers' organisation representing the public FET Colleges in the FETC sector;
- (2) Both educator trade unions admitted in the ELRC, i.e. combined trade unions South African Democratic Teachers' Union (CTU-SADTU) and Suid-Afrikaanse Onderwysersunie (CTU-SAOU);
- (3) All employees as envisaged in the *FETC Act No. 16 of 2006*, who are members of trade union parties that are signatories to this agreement, whether they are members of trade unions to this agreement or not; and
- (4) The Department of Higher Education and Training, in fulfilling its obligations in terms of the Constitution of the country, shall be a participant in the deliberations of the *FETC Sector Interim Bargaining Unit* and as a non-voting member.

### 3. NOTING

The parties to this agreement note the following:

- (1) The Department of Higher Education and Training, recognises the role of FET Colleges as being a pivotal tool for skills development.
- (2) The educators are transferred from the ambit of the Employment of Educators Act 1998 and appointed in terms of FETC Act No.16 of 2006 in public education and training.
- (3) Section 54(3) of the *FETC Act No. 16 of 2006* and Collective Agreements 4 and 5 of 2007 affirmed the status of the ELRC as the bargaining forum for the determination of salaries and other conditions of employment;
- (4) Collective Agreement No 5 of 2007 makes provision for the ELRC to create a bargaining unit for the FETC sector; and
- (5) Collective Agreement 5 of 2008 formally created the FETC Sector Bargaining Unit within the ELRC.

### 4. ESTABLISHMENT OF THE FETC SECTOR INTERIM BARGAINING UNIT APPLICABLE TO LECTURERS

The parties agree that:

- (1) The FETCEO is admitted to the ELRC and shall be the representative employer in the FETC Sector Interim Bargaining Unit;
- (2) The admitted trade unions to the FETC Sector Interim Bargaining Unit shall be the CTU-SADTU and CTU-SAOU;
- (3) The *FETC Sector Interim Bargaining Unit* is hereby established as the bargaining unit where the parties negotiate the conditions of service and other related matters affecting the employment contract of the lecturers;

### CHAIRPERSON AND DEPUTY CHAIRPERSONS OF THE FETC BARGAINING UNIT

- (4) Upon the founding meeting passing a resolution to adopt this agreement, the parties shall meet to elect a chairperson and 2 deputy chairpersons for the *FETC Sector Interim Bargaining Unit*;
- (5) The term of the Chairperson and deputy chairpersons shall be for one year at a time;
- (6) The chairperson shall preside over the *FETC Sector Interim Bargaining Unit* meetings to facilitate the interaction between the parties. The deputy chairpersons shall act in the absence of the chairperson;

### VOTE WEIGHTS

- (7) The admitted employer (*FETCEO*) shall have 50% of the vote weights in the *FETC Sector Interim Bargaining Unit* and its committees;
- (8) The *FETCEO* is entitled to include representatives from the state in its delegations and representations in the *FETC Sector Interim Bargaining Unit*. Such persons from the state shall have full speaking rights but would not be allowed to vote;
- (9) The admitted trade unions shall have the other 50% divided according to the national distribution as contained in ELRC Collective Agreement 3 of 2008 (Vote Weights for the Trade Unions that are parties to ELRC);

### ROLE OF GENERAL SECRETARY OF ELRC

- (10) The General Secretary of the ELRC is the General Secretary of the *FETC Sector Interim Bargaining Unit* and, amongst other functions (dispute resolution functions and services), shall ensure provision of secretarial services to the *FETC Sector Interim Bargaining Unit*;

### LEVIES PAYABLE TO THE ELRC

- (11) The employer and employee shall pay levies to the ELRC in respect of the *FETC Sector Interim Bargaining Unit* with effect from 1<sup>st</sup> July 2009;

- (12) The amount of the levy shall be equivalent to that paid by parties in the General Bargaining Unit ("Basic Education Sector") of the ELRC;
- (13) The employee contribution shall be in the sum of R5.00 (five Rands) per employee per month;
- (14) The employer contribution shall be in the sum of R5.00 (five Rands) per employee per month;
- (15) The employer must begin making the authorised levy deduction from the month of July 2009 on the date of remuneration and each succeeding month thereafter and must remit the amount deducted to the General Secretary of the ELRC by not later than the 7<sup>th</sup> day of the month first following the date each deduction was made. Accompanying such payment must include the employer's contribution;
- (16) With each monthly remittance, the employer must give the General Secretary of the ELRC –
- (a) a list of the names of each employee from whose salary/wages the employer has made the levy deductions that are included in the remittance;
  - (b) details of the amounts deducted and remitted and the period to which the deductions relate; and
  - (c) a list of employees in respect of whom the levy contributions were not deducted and the reasons for such.
- (17) Despite clause 15 above, in respect of the employer contribution the employer shall be liable for levies per employee with effect from 1<sup>st</sup> July 2009. Such payment shall be made to the ELRC by no later than end of May 2010; and
- (18) Deductions for the employees shall be in accordance with clause 15.

## 5. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this agreement shall be resolved in terms of the dispute resolution procedure of the ELRC.

## 6. DATE OF IMPLEMENTATION

This agreement shall come into effect on 9<sup>th</sup> June 2009.

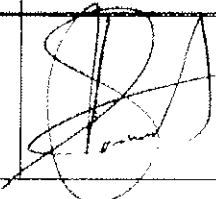
## 7. DEFINITIONS

- (1) "**Constitution**" means the constitution of the Education Labour Relations Council;
- (2) "**ELRC**" means the Education Labour Relations Council;
- (3) "**College**" means the public FET Colleges established in terms of the *FETC Act No. 16 of 2006*;
- (4) "**Agreement**" means this Agreement together with any annexure/s, as amended from time to time;
- (5) "**Lecturer(s)**" means an employee (the educator/lecturer/management/office based educators categories) other than the principal and deputy principals, of which *FETC Act No. 16 of 2006* applies and who are in the employ of the College, either on a permanent, temporary or fixed-term contract basis, and includes those employees who were employed in terms of the Employment of Educators Act of 1998 whose jobs are affected by the transfer, in terms of the *FETC Act No 16 of 2006*, to the College, excluding those appointed in terms of the Public Service Act.
- (6) "**Parties**" means parties to this agreement;
- (7) "**Trade Unions**" means registered recognised trade unions in the *Council* that are party to this agreement;
- (8) "**FETC**" means the public Further Education and Training Colleges;
- (9) "**FETCEO**" means the public Further Education and Training Colleges Employers' Organisation in the FETC sector that is registered with the Registrar of Labour Relations and admitted to the ELRC;
- (10) "**FETC Act No 16 of 2006**" means Further Education and Training Colleges Act No 16 of 2006;
- (11) "**FETC Sector Interim Bargaining Unit**" means the ELRC meeting or unit exercising the mandates from the *FETC Act No 16 of 2006*.
- (12) "**Collective Agreement No. 5 of 2007**" means Further Agreement on the Transfer of Employees from the Department of Education to individual FET Colleges;
- (13) "**Collective Agreement No 5 of 2008**" means the establishment of a Bargaining unit for the FETC Sector.

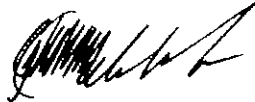
## 8. SIGNATORIES TO THIS AGREEMENT

Thus done and signed on 9<sup>th</sup> JUNE 2009 at CENTURION.

## ON BEHALF OF THE EMPLOYER

ORGANISATION	NAME AND DESIGNATION	SIGNATURE
FETCEO	MASULUKE M NATIONAL CHAIRPERSON	

## ON BEHALF OF THE EMPLOYEE PARTIES

TRADE UNION	NAME AND DESIGNATION	SIGNATURE
CTU "SADTU"	Mabuleke M.J. Acting GS	
CTU "SAOU"	HENRY FERNANDES C.	