RECOGNITION AND PROCEDURAL AGREEMENT

BETWEEN

NAMIBIA PUBLIC WORKERS UNION
(HEREIN REFERRED TO AS “THE UNION”)

AND

NATIONAL COMMISSION ON RESEARCH, SCIENCE AND TECHNOLOGY
(HEREIN REFERRED TO AS THE COMPANY)
# RECOGNITION AND PROCEDURAL

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1. PREAMBLE

1.1 Whereas the Company has duly recognized the Union as the exclusive bargaining agent for the Company staff members who are permanently employed and who fall within the salary grades of A to C band.

1.2 The purpose of this Agreement is to regulate industrial relations between the Company and the Union and to develop and foster fair and equitable relationship between the Union and the Company.

1.3 Both parties to the Agreement agree to the principles of freedom of association as provided for in the Act and the Namibian Constitution.

1.4 Both parties commit themselves to abide by the procedures set out in this Agreement in a spirit of respect and mutual understanding.

1.5 The Union recognizes the right and responsibilities of management to manage the Company establishment and the Company shall remain free to exercise this right with full regard to the rights and obligations of the Union and Company as provided by law.

2. GENERAL PRINCIPLES

2.1 The Company and the Union accept that the terms of this Agreement are binding upon them and shall be enforceable by law.

2.2 The Company recognizes the Union’s responsibility to represent the interests of its members within the bargaining unit, for the purpose of improved terms and conditions of their employment.

2.3 The Company and the Union recognize their common interest and joint purpose in furthering the aims and objectives of this agreement and in achieving equitable solutions to all matters which concern them. Both parties declare their commitment to maintain good industrial relations.

2.4 The Company and the Union accept the need for joint consultation and collective bargaining in securing their objectives. The parties acknowledge the value of up to date information on important changes which affect staff members of the Company.
2.5 In the event of any disputes between the Union and the Company, the parties commit themselves to abide by the procedures set out in this agreement and to negotiate in good faith.

2.6 The Union recognizes that the right to manage the business of the Company shall be the sole prerogative of the Company.

3. DEFINITIONS

In this Agreement, the following words shall carry the following meanings:

3.1 “Access”
Mean the right of authorized representative of the Union to visit the Company premises, to consult with members, provided that such activities shall not be conducted in such a manner as to disrupt operation of the Company and always subject to the provisions of this Agreement and the Act.

3.2 “Act”
Means the Labour Act, 2007 (Act No. 11 of 2007), as amended from time to time. Hereinafter referred to as the “Act”.

3.3 “Authorized representative”
Means any person authorized to represent the Union or any office-bearer or official of the Union.

3.4 “Bargaining Unit”
Shall mean all the staff members who are employed permanently by the Company and who fall within the salary grades of A to C band.

3.5 “Division”
Means a defined workplace area falling under the jurisdiction of a particular elected Workplace Union Representative.

3.6 “The Company”
Means the NATIONAL COMMISSION ON RESEARCH, SCIENCE AND TECHNOLOGY (NCRST).
3.7 “Company Representative”
Means the CEO or authorized person acting on behalf of the Company to represent it in its dealings with the Union.

3.8 “Day”
Means any calendar day excluding any Saturday, Sunday or any official Public holiday.

3.9 “Dispute”
Means dispute as defined in the Act.

3.10 “Dispute of Right”
Means dispute of Right as defined in the Act.

3.11 “Essential Service”
Means essential service as defined in the Act.

3.12 “Workplace Union Representative (WUR)”
Means a staff member of the Company who is a member of the Union and has been duly elected by the staff members in terms of section 76 of the Act, as read with this Constitution.

3.13 “Lock-Out”
Means lock-out as defined in the Act

3.14 “Management Committee”
Means the Management Committee of the Company.

3.15 “Member”
Means a staff member of the Company who is a paid up member in good standing of the Union in terms of its Constitution.

3.16 “Negotiation Committee”
Means the Negotiation Committee established in terms of clause 10.1 of this agreement
3.17 “Strike”
Means “strike” as defined in Act.

3.18 “The Secretary”
Means a person responsible for minutes taking during any particular negotiations meeting between the Company and the union.

3.19 “Union”
Means the Namibian Public Workers Union (NAPWU)

3.20 “Parties”
Means the Company and the Union.

4. RECOGNITION AND CO-OPERATION

4.1 If at any time during the life of this Agreement the Union fails to represent the majority of staff members (50% +1) in the bargaining unit, the Company may give the Union notice in the prescribed form to acquire a majority within 90 days; and if the Union then fails to acquire that majority at the expiry of the said three month period, the Company shall be entitled to withdraw the recognition of the Union and in that event this Agreement shall cease to be of force and effect.

4.2 Any dispute concerning the application of clause 4.1 above may be referred to the Labour Commissioner.

4.3 The Company and the Union endorse the principles of good faith negotiations and accordingly the question of union membership of any staff member shall be a decision for such individual and both parties shall respect this decision, subject to the law.

4.4 Neither party shall either force or hinder any staff member from either joining or refraining from joining the Union, nor shall either party either intimidate or victimize any staff member.

4.5 The Company shall cease to recognize the Union should the union not be registered in terms of the Act.
5. ELECTION OF WORKPLACE UNION REPRESENTATIVES

5.1 The Union undertakes that elections from workplace union representatives shall be conducted as provided in its Constitution and the Act.

5.2 The elections shall be convened and supervised by the Union, and the Company shall be entitled to appoint representatives who may attend the elections as observer(s).

5.3 The Union shall inform the Company of the date of elections not less than five days before they are held.

5.4 The Company shall provide a suitable venue at its premises for the elections. The elections shall take place at a time convenient to the Company and which is least disruptive of its operations.

5.5 The Union shall inform the Company in writing immediately after the elections, and in any event not later than 10 working days after the election date, of the full names, occupation and division of the members that were elected as workplace union representatives and the Company shall recognize them as the spokespersons of the staff members falling under their respective defined constituency (ies).

5.6 The term of the elected workplace union representatives shall terminate upon:

5.6.1 expiry of the period for which he/she was elected;
5.6.2 his/her resignation from the Union;
5.6.3 termination of his/her employment with the Company;
5.6.4 termination of his/her membership with the Union, in terms of the Union constitution; or
5.6.5 In the manner provided for in the Act and union Constitution.

5.7 The WURs shall hold office for a period of two years and shall be eligible for re-election. In the event of a vacancy arising and there being no alternate, a by-election shall be conducted in terms of the Constitution of the Union.
6 RIGHTS AND DUTIES OF THE WORKPLACE UNION REPRESENTATIVES

6.1 The functions of a workplace union representative are:

6.1.1 To make representations to the Company in respect of the staff members who elected the representative concerning:

6.1.1.1 Any matter relating to terms and conditions of those staff members’ employment; and
6.1.1.2 Any dismissal of staff member(s) arising from the reduction of the workforce as a result of the organization or transfer of the Company operations or business or the discontinuance or reduction of the Company’s operations or business for economic or technological reasons;

6.1.2 To represent any staff member in respect of whom the representative was elected in any disciplinary or dismissal proceedings against that staff member; and
6.1.3 To perform any other function that may be provided for in this Agreement and in the Act.

6.2 The Company shall grant each workplace union representative —

6.2.1 Reasonable time off during working hours without loss of pay, and upon approval by the Chief Executive Officer, in order to perform the functions of the union. The Union shall submit a written request for the WUR to be excused in order to perform his or her functions relating to that office or to attend training courses or Union meetings. The written request shall specify the reason for the WUR having to be excused from work and the expected length of time that the WUR will be absent from work.

7 VICTIMIZATION

The Company undertakes that no Workplace Union Representative shall be victimized as a result of his or her exercising his or her right as a Workplace Union Representative in good faith and in pursuance of his or her duties as a workplace Union Representative in accordance with this Agreement; neither would the Company victimize any staff member by virtue of his or her Union membership.
8 UNION REPRESENTATION

8.1 The Company recognizes the Union as the Trade Union with which it will consult and negotiate with on all matters set out in Clause 10.3 of this Agreement, in respect of the bargaining unit.

8.2 The Company recognizes the Union as the body representing Staff for the purposes of informing and consulting the workforce, falling under the bargaining unit, in respect of their conditions of employment and matter of mutual interest. Informing and consulting staff members will take place through the Union’s workplace union representatives.

8.3 The Company accepts that the Union’s members will elect representatives in accordance with their Union rules to act as their spokespersons in representing their interests.

8.4 Persons whose names have been notified to the Company shall be the sole representatives of the NAPWU membership and the representatives fulfill an important role and that the discharge of their duties as Union representatives will in no way prejudice their career prospects or employment with the Company.

8.5 The Company undertakes to inform all staff a member who are recruited after the coming into force of this Agreement and while it remains in force, of this Agreement.

8.6 Subject to clause 6.2.1, the Union shall be allowed to attend, through a Workplace Union Representative, Departmental management meetings, Divisional meetings and Sectional meetings for the purpose of representing the staff members falling within that Department, Division or section on human resources related matters, as the need arises.

9 ACCESS, UNION MEETINGS AND OTHER FACILITIES

9.1 The Company shall not unreasonably refuse access to the Company premises to an authorized representative of the Union:

9.1.1 during working hours –

9.1.1.1 To recruit members; or
9.1.1.2 To perform any function in terms of this Agreement, the Union’s Constitution, the Labour Act, 2007 as amended or any other law; and

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9.1.2 outside of working hours, to hold meetings with members

9.2 Where necessary for the purpose of informing and consulting the workforce, meeting of staff may be organized by the Union on the Company premises inside working hours on prior arrangement and agreement with the Company.

9.3 Union Meetings may be held on the Company premises inside working hours provided that prior written consent in every particular case is obtained from the Company by the Union. Such consent shall not be unreasonably withheld.

9.4 Company shall reserve the right to refuse a union meeting that in the view of Company will disrupt work activities or programme of the Company.

10 NEGOTIATION

10.1 Establishment and Constitution of Negotiation Committee

10.1.1 The parties hereby establish a committee to be known as the Negotiation Committee.

10.1.2 The Negotiation Committee shall consist of not more than 3 representatives from each party.

10.1.3 The negotiation Committee will elect from among its members the Chairperson of the negotiation Committee.

10.2 Negotiation Guidelines

10.2.1 Decisions of the Negotiation Committee shall be taken by consensus between the Company on the one hand and the Union, on the other hand, and shall be reduced to writing and signed by or on behalf of the Union and the Company respectively.

10.2.2 Meetings of the Negotiating Committee with a view to reaching annual agreement concerning wages and benefits of Company employees shall, unless otherwise agreed, be undertaken during 31st March every year. The Union must confirm the dates for the substantive negotiations and submit its proposals for the meetings on or before the 28th February each year.
10.2.3 Official minutes will be taken at all meetings between the parties. The minutes shall be co-signed on behalf of both parties, after confirmation of such minutes.

10.2.4 In the event that the Negotiation Committee is unable to reach consensus, either party shall be entitled to declare a dispute in which case the Dispute Resolution Procedure provided for in the Act, shall apply.

10.3 **Matters of Negotiation**

The following matters shall be subject of negotiation by the parties through the Negotiation Committee and in accordance with the Negotiation procedure provided for in this Agreement:-

10.3.1 Basic Conditions of Employment as per Chapter 3 of the Labour Act, 2007;
10.3.2 Any other particular matter of mutual interest which the parties agree in writing to negotiate on
10.3.3 Annual salary increment and other benefits

10.4 **Matters of Consultation**

The parties agree to consult each other on any particular matter of mutual interest relating to the workplace of the Union’s members which the parties agree to consult each other on.

11 **GENERAL CO-OPERATION GUIDELINES**

11.1 **Information Sharing**

11.1.1 The Company will supply the Union with the necessary human resources information for it to carry out effective consultation and negotiation. This includes, where applicable, the Company employment policies and procedures and proposed amendments thereto.
11.2 Consultation

11.2.1 The Company will consult on the current situation, structure and probable development of employment in the undertaking, especially any threat to employment, and on changes in work organization or contractual relations.

12 DISPUTE RESOLUTION

12.1 Any dispute that may arise between the parties shall be dealt with in terms of the Act.

12.2 The aggrieved party shall give the other party five (5) working days to respond in writing to the declared dispute in an attempt to resolve the dispute.

12.3 Any dispute concerning the interpretation, application or enforcement of this Agreement that arises after the signature of this agreement shall be referred to the Labour Commissioner in accordance with the Act.

13 GRIEVANCES AND DISCIPLINE

The parties agree to adhere to all the Policies, Procedures and the Conditions of Service of the NCRST.

14 INDUSTRIAL ACTION

The parties agree that the provisions of the Act, shall apply in respect of all disputes of interest which may arise between the Union and the Company.

15 STOP ORDER FACILITIES/UNION SUBSCRIPTION

15.1 The Union shall provide the Company with written proof that each employee in the bargaining unit has agreed to the Union fees being deducted from his or her remuneration.
15.2 The Company shall deduct union subscription fees from the remuneration of Union members, and shall account and pay to the Union within the first seven days of the following month, the money so deducted. The Company shall provide to the Union with a list of those members from whom the money has been so deducted and the proof of payment on a monthly basis.

15.3 No subscription shall be deducted from the remuneration of a Union member unless he or she has signed a stop order authorizing a specific deduction from his or her remuneration.

15.4 The stop order shall be lodged with the Chief Executive Officer or his or her appointee, and shall serve as proof of union membership.

15.5 The stop order deducted from the union members, shall be the only method for determining the number of the union’s members within the bargaining unit.

15.6 In the event of a change in the amount of the Union’s subscription fee, which shall be in accordance with the Union’s Constitution, written notice of such change will be given by the Union to the Company and provide the original stop order signed by the member permits automatic increases in subscription, the Company shall increase the deductions accordingly.

15.7 The Company shall be entitled to retain, as an administrative fee, an amount of two (2%) of the total amount to be deducted. This percentage may be increased on an annual basis.

15.8 Deductions of the Union subscription fees will not be stopped at the request of a staff member until he/she has furnished written proof to the Company HR department, that he/she has in writing informed the Union about his or her instruction to Company to cease deduction of the Union’s subscription fees.

16 ACCESS TO NOTICE BOARDS/FACILITIES
16.1 The Company shall make available a general notice board at its premises for use by the Union and agree that notices announcements, communications, and other written documents of the Union may be affixed hereto.

16.2 No documents shall be affixed to the notice board or distributed to staff members and/or members on the premises of the Company except with prior written approval by the Chief Executive Officer and shop steward.

17 **AMENDMENTS**

17.1 This Agreement may be amended at any time in writing and such amendment shall be valid only if agreed and duly signed by both parties.

18 **PRESS LIAISONS/STATEMENTS**

The Company or the Union shall not issue unilateral press statements concerning any provision of this or any other Agreement between the parties or any dispute arising from the relationship between the parties, without prior notification and of the other party.

19 **STATUS AND DURATION OF THIS AGREEMENT**

This Agreement shall be legally binding on the Company and the Union, and shall come into operation upon signature by both parties and shall remain in force until:-

19.1 it is substituted with any subsequent recognition and procedural Agreement;
19.2 it is terminated in terms of clause 4.1; or
19.3 it is terminated by written mutual consent.

20 **DOMICILIA AND NOTICES**

20.1 For the purpose of this Agreement, including the serving of notices and legal process, the Company and the Union choose their domiciliumpicandi et executandi ('domicilium') as follows:
For the Company:

Physical Address: NATIONAL COMMISSION ON RESEARCH, SCIENCE AND TECHNOLOGY

Erf 490,
Platinum Street,
Prosperita
Windhoek

Postal Address: Private Bag 13253
Windhoek
Tel: 061-431 7000
Fax: 061-216 531
E-mail: info@ncrst.na

For the Union:

Physical Address: The Namibia Public Workers Union (NAPWU)
NUNW Centre
Mungunda Street
Erf 8506
Windhoek

Postal Address: P.O. Box 50035
Bachbrecht
Windhoek
Tel: 061-261961/219907/219522
Fax: 061-262007

E-mail: G5@napwu.org.na

20.2 Either party may at any time change any detail of its address by giving written notice to the other party, provided that the new domicilium is or includes a physical address at which process can be served. The new domicilium shall become effective ten days after the notice in question have been given.

20.3 Any notice given in connection with this Agreement shall be:

20.3.1 Delivered by hand; or
20.3.2 Send by prepared registered post; or
20.3.3 Send by electronic mail; or
20.3.4 Send by fax to the domicilium chosen by the Company or the Union as the case may be.

21 GENERAL

This Agreement constitutes the entire Recognition and Procedural Agreement between the Company and the Union and shall supersede any previous Agreements between the parties.
22 SIGNATURES:

THUS DONE and SIGNED at WINDHOEK this 31st day of January, 2017 on behalf of the NATIONAL COMMISSION ON RESEARCH, SCIENCE AND TECHNOLOGY (THE NCRST) in the presence of the undersigned witnesses:

WITNESSES:

1. [Signature]
2. [Signature]

DR. EINO MVULA
(CHIEF EXECUTIVE OFFICER)

THUS DONE and SIGNED at WINDHOEK this 31st day of January, 2017 on behalf of the NAMIBIA PUBLIC WORKERS UNION (THE UNION) in the presence of the undersigned witnesses:

WITNESSES:

1. [Signature]
2. [Signature]

MR. PETRUS T. NEVONGA
(GENERAL SECRETARY)