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TO:

Independent Municipal and Allied Trade Union (IMATU)

uThukela District Municipality

COPIED TO:

All Municipal Employees & Staff,

uThukela District Municipality

PUBLICATION:

Official uThukela District Municipality Website (www.uthukela.gov.za)

Dear IMATU leadership and municipal staff

**URGENT INQUIRY CONCERNING ALLEGED TRADE UNION INSTRUCTION TO REFUSE
LAWFUL WORK DIRECTIVES, DEMAND FOR CONFIRMATION/WITHDRAWAL WITHIN
THREE (3) HOURS, TABULATION OF STATUTORY STRIKE PROCEDURES UNDER THE
LABOUR RELATIONS ACT 66 OF 1995, BROADCAST NOTICE TO ALL STAFF, AND
WEBSITE PUBLICATION**

1. FORMAL INQUIRY ON ALLEGED WORK STOPPAGE DIRECTIVE

It has come to my attention that you have instructed your members to refuse lawful instructions to execute work. Will you kindly confirm if that is a legitimate instruction from you as a trade union?

As the Accounting Officer charged under **Section 55 of the Local Government: Municipal Systems Act 32 of 2000** with maintaining operational efficiency, public health, and municipal service delivery, the Municipality views any directive instructing employees to refuse lawful work orders with utmost gravity.

Under Municipal Manager Directive **HRM157-MMDIR**, all municipal employees are legally required to maintain operational flexibility and execute lawful operational duties assigned by supervisory management. A refusal to obey a lawful work instruction constitutes gross insubordination, a material breach of employment contracts, and an unlawful disruption of municipal services.

2. DEMAND FOR RESPONSE / WITHDRAWAL WITHIN THREE (3) HOURS

In light of the immediate threat posed to municipal operations and essential service delivery, IMATU is hereby formally called upon to:

1. **Confirm or deny in writing, within the next three (3) hours of service of this letter**, whether IMATU or its shop stewards issued any directive instructing members to refuse lawful work instructions;
2. In the event that such an instruction or directive was issued, **unconditionally withdraw such instruction in writing with immediate effect within the same three-hour timeframe**; and
3. Furnish written proof of such withdrawal to the Office of the Municipal Manager via return email (MM@uthukela.gov.za).

3. STATUTORY STRIKE PROCESSES AND PROCEDURES UNDER THE LABOUR RELATIONS ACT 66 OF 1995 (NARRATIVE ANALYSIS)

To ensure complete legal clarity for the trade union, its shop stewards, and all municipal employees, any partial or complete concerted refusal to work, or the retardation or obstruction of work, by employees constitutes a **"strike"** as defined in **Section 213 of the**

Labour Relations Act 66 of 1995 (LRA). For any industrial action or work stoppage to be recognized as lawful and "protected" under Chapter IV of the LRA, strict procedural and substantive statutory requirements must be satisfied.

First, **Section 64(1)(a) of the LRA** mandates that the underlying dispute must be formally referred in writing to the South African Local Government Bargaining Council (SALGBC) or the CCMA for conciliation. Second, a mandatory thirty (30) day conciliation period must elapse, or a formal Certificate of Unresolved Dispute must be issued by the SALGBC commissioner before any further step can be taken. Third, in terms of **Section 64(1)(b) read with Section 64(1)(d) of the LRA**, at least 48 hours' written notice—or seven (7) days' written notice in the case of state entities and municipal services—of the intended commencement of the strike must be served upon the Municipal Manager.

Furthermore, employees engaged in designated **Essential Services** (such as water supply, water reticulation, sanitation, and fire services) are strictly prohibited from participating in any strike action whatsoever under **Section 65(1)(d) of the LRA** and must instead resolve disputes through compulsory arbitration under **Section 74 of the LRA**. Where an industrial action fails to satisfy these mandatory procedural steps, it constitutes an unprotected and illegal work stoppage.

Under an unprotected strike, participating employees lose all statutory immunity provided by Chapter IV of the LRA. The principle of **"No Work, No Pay"** under **Section 67(3) of the LRA** applies strictly to all unworked hours, and participating employees face immediate formal disciplinary action under **Schedule 8 of the LRA (Code of Good Practice: Dismissal)** for gross insubordination and breach of contract, which may result in summary dismissal.

4. BROADCAST STAFF COMMUNICATION, EMAIL PROOF OF NOTICE, AND WEBSITE PUBLICATION

Please be advised that this correspondence is being transmitted directly to IMATU leadership, published on the official uThukela District Municipality website (www.uthukela.gov.za), and transmitted via internal broadcast email to all municipal staff.

The internal email broadcast sent to all staff shall double as formal written proof and notice to all employees, shop stewards, and trade union members of the illegality of any unauthorized work stoppage, the applicable statutory strike procedures, and the immediate enforcement of legal consequences for non-compliance.

5. CONSEQUENCES OF NON-COMPLIANCE AND MUNICIPAL ACTION

Should IMATU fail to confirm or withdraw the alleged directive within the prescribed **three (3) hours**, or should municipal employees continue to refuse lawful work instructions, the Municipality shall immediately enforce the following measures:

1. **Immediate Enforcement of "No Work, No Pay":** Full payroll deductions shall be applied immediately to the salaries of all participating employees for all unworked hours under **Section 67(3) of the LRA** and Municipal Directive **HRM157-MMDIR**.
2. **Formal Disciplinary Proceedings:** Immediate formal disciplinary action shall be instituted against all participating employees for Gross Insubordination, breach of employment contracts, and unprotected strike action under **Schedule 8 of the LRA**, which may result in summary dismissal.

Yours faithfully,



MR. L.S. JILI

*Municipal Manager & Accounting Officer
uThukela District Municipality*