



# CREDIT CONTROL AND DEBT COLLECTION POLICY

## **CREDIT CONTROL & DEBT COLLECTION POLICY** *2015/2016*

**This policy has been formulated in terms of the provisions of section 96(b) of the  
Local Government: Municipal Systems Act, 32 of 2000.**

# INDEX

## **Chapter 1: General**

1. Definitions
2. Object
3. Implementing Authority
4. Principles and guidelines
5. Employer deductions
6. Councillor and municipal staff arrears
7. Credit Control
8. Query, verify or dispute
9. Accounts
10. Procedures to register accounts where owner has died
11. Procedures to register accounts where owner are separated/divorced
12. Irrecoverable debt
13. Tampering and punishment

## **Chapter 2: Rates and Services**

14. Rates
15. Services
16. Other debt
17. Arrangements

## **Chapter 3: Indigent Relief for Residential Properties**

18. Criteria for qualification
19. Process for applying and approval of indigent subsidy
20. Design of the subsidy - general
21. Tariff structure
22. Excess consumption
23. Arrears
24. Registration criteria
25. Indigent relief: Water
26. Indigent relief: Electricity
27. Indigent Relief: Solid Waste and sewerage
28. Debt management actions
29. Misrepresentation

## **Chapter 4: Credits, Refunds and Transfers**

30. Credit
31. Requests for refunds or transfers
32. Deceased Estates, Insolvent Estates, Judicial Management and Curatorship
33. Refunds and transfers generally
34. Clearance Certificates
35. Nominees

## **Chapter 5: Miscellaneous**

36. Right of access to property
37. Compromising or compounding any action, claim or proceedings

38. Review of this Policy

## **Chapter 6: Other Collection Procedures**

- 39. Failure to pay debt by due date
- 40. Content of notice
- 41. Address for delivery of notifications
- 42. Procedures to be followed for debt
- 43. Involvement of employers

## **Schedule**

Minimum Payment Schedule

## CHAPTER 1: GENERAL

### 1. Definitions

- (1) In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Langeberg Municipality: Credit Control and Debt Collection By-law has the same meaning, and

**“3<sup>rd</sup> party debt collection agencies”** means any person or juristic person that collects debt on behalf of the Municipality;

**“Administration of Estates Act”** means the Administration of Estates Act, 66 of 1965:

**“advanced collection”** means any estimated amount that will be collected as a security for any debt, inclusive of any estimated tenant debt, that may accumulate against the property *for a period up to* 120 days from the date of issuing a section 118 certificate in terms of the Systems Act;

**“backyard dwellers”** means households on council rental stock property within a given area and registered as being backyard dwellers as determined by Council;

**“child-headed household”** means a household where all the occupants of a residential property are younger than 18 years old. A child-headed household is a household consisting only of children;

**“conversion of balances of old dormant accounts”** means accounts carried forward from the previous municipalities which now form part of the Langeberg Municipality on which no further transactions, other than interest, if any, have been recorded;

**“credit meter”** means a meter where an account is issued subsequent to the consumption of a metered service;

**“dispute”** means a dispute as referred to in section 102 (2) of the Systems Act as read with item 7 of this policy; **“Finance Management Act”** means the Local Government: Municipal Finance Management Act, 56 of 2003;

**“household income”** means the total gross income of both the debtor and the debtor’s spouse or partner and the gross income of any other person living in or on the premises;

**“income”** means the gross monthly household income of both the owner and spouse or partner from all sources including but not limited to salaries, wages, dividends, pensions, grants, rentals, board and lodging, interest received, and any investment income;

**“indigent relief”** means the applicable indigent relief as determined by Council from time to time;

**“Insolvency Act”** means the Insolvency Act, No. 24 of 1936;

**“meter”** means any device which measures any demand or quantity of either electricity energy or water passing through such meter as further defined in the Tariff Policy or any other by-law or policy of the Langeberg Municipality;

**“municipal valuation”** means the value of the property as determined in terms of the Property Rates Act;

**“non-residential debtors”** means any debtor who is not a residential debtor;

**“prepayment meter”** means any meter that can be programmed to allow the flow of a pre-purchased amount of energy in an electrical circuit or a pre-purchased amount of water supplied through a water meter;

**“prepayment electricity meter”** means a meter that can be programmed to allow the flow of a pre-purchased amount of energy in an electrical circuit;

**“prepayment water meter”** means any meter that can be programmed to allow the flow of a pre-purchased amount of water to be supplied through a water meter;

**“property”** means—

- (a) immovable property registered in the name of a person, and includes a unit as defined in section 1 of the Sectional Titles Act, 1986 (Act No. 95 of 1986); or
- (b) a right registered against immovable property in the name of a person;

**“Property Rates Act”** means the Local Government: Municipal Property Rates Act, 6 of 2004;

**“query”** and **“verify”** means any query which is not defined as a dispute;

**“rate”** or **“rates”** means a municipal rate as defined in section 1 of the Property Rates Act and includes any additional rates on property as envisaged in section 19 (1) (d) and section 22 of the Property Rates Act;

**“Rates Policy”** means the Langeberg Municipality: Rates Policy;

**“residential debtors”** means debtors as defined in this policy who utilise property for residential purposes and who may qualify for and who may receive free water or free electricity or a rates rebate, as determined by Council from time to time;

**“residential property”** means residential property as defined in the Rates Policy;

**“sundry”** means any sundry debt raised on a municipal account;

**“Supply Chain Management Policy”** means the Langeberg Municipality: Supply Chain Management Policy;

**“Tariff Policy”** means the Langeberg Municipality: Tariff Policy;

**“this policy”** includes the Langeberg Municipality: Credit Control and Debt Collection By-law;

**“verify”** see the definition of the word **“query”** ;and

**“water management device”** means a water management device as defined in the Tariff Policy or any other by-law or policy of the Langeberg Municipality.

## 2. Object

(1) The object of this policy is to

- (a) focus on all outstanding debt as raised on the debtor’s account;

- (b) provide for a common credit control and debt collection policy;
- (c) promote a culture of good payment habits amongst debtors and instil a sense of responsibility towards the payment of accounts and reducing municipal debt;
- (d) subject to the principles provided for in this policy, use innovative, cost-effective, efficient and appropriate methods to collect as much of the debt in the shortest possible time without any interference in the process; and
- (e) effectively and efficiently deal with defaulters in accordance with the terms and conditions of this policy.

### 3. Implementing Authority

- (1) Section 100 of the Municipal Systems Act provides as follows:

The Municipal Manager or service provider must –

- (a) implement and enforce the municipality's credit control and debt collection policy and any by-laws enacted in terms of Section 98;
- (b) in accordance with the credit control and debt collection policy and any such by-laws, establish effective administrative mechanisms, processes and procedures to collect money that is due to the municipality; and
- (c) at such intervals as may be determined by the council, report the prescribed particulars to a meeting of the supervising authority referred to in Section 99.

The above makes it clear that the Municipal Manager and his administration have the role of implementing and enforcing policy made by the supervising authority.

### 4. Principles and guidelines

- (1) This policy takes into account the following principles and guidelines:

- (a) human dignity must be upheld at all times;
- (b) this policy must be implemented in accordance with equity, fairness and consistency;
- (c) every reasonable effort should be made to ensure that details related to the debt and the account of the debtor are correct at all times;
- (d) the Municipal Manager may treat any debt, and arrangements to repay arrears holistically, but different repayment periods or methods may be determined for different types of service, debtors or areas within the general rule that the repayment period should take into consideration the financial capacity of the debtor;
- (e) the implementation of this policy is based on sound business practices and any other applicable legislation, including but not limited to the Electronic Communications and Transactions Act No. 25 of 2002;
- (f) new applications for services will be subject to prescribed credit information and outstanding amounts may be transferred to the new account. All information furnished on the application form may be verified by the Municipality with any or all data information institutions, credit information bureaux and any financial institutions as may be deemed necessary by the Municipality in determining the applicant's credit worthiness. The Municipality reserves its rights to share bad payment behaviour in a responsible manner with the aforesaid institutions, should it become necessary to do so, as determined from time to time;
- (g) where alternatives are available the Municipality may provide reduced levels of service to manage the debt growth;
- (h) debtors may be referred to 3<sup>rd</sup> party debt collection agencies and may be placed on the National Credit Rating List;
- (i) if an account is not paid by the due date, interest will be raised on capital based on a full month and part of a month must be deemed to be a full month;
- (j) for purposes of an arrangement a debtor may be required to co-operate with any reasonable measures that might be required to reduce their level of use of consumable services to affordable levels;

- (k) the terms and conditions as contained in any prescribed form or document utilised in implementing this policy, forms part of this policy and are incorporated therein as specifically stated;
- (l) the suspension of any debt management action, when interrupted for whatever reason, shall, where practical, continue from the previous action taken.
- (m) service of documents and processes may be in accordance with section 115 of Systems Act.
- (n) all legal costs, including attorney-and-own-client costs incurred in the recovery of arrears, shall be levied against the debtors account.
- (o) where a company, closed corporation, trust in terms of the Trust Property Control Act No. 57 of 1988, home owners association or a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), is indebted to this Municipality, the liability for such arrears may be extended to the directors, members or trustees thereof jointly and severally; and
  - (i) the directors, members or trustees thereof shall be considered to have provided this Municipality with a guarantee that such debt shall be recoverable from themselves in their personal capacity with each being jointly and severally liable for such debt, the one paying the other to be absolved;
- (p) where any subsidiary company of a holding company is indebted to this Municipality, the liability for such arrears may be extended to the holding company; and
  - (i) where any holding company is indebted to this Municipality, the liability for such arrears may be extended to any subsidiary company;
- (q) notwithstanding anything contained in this policy the Municipal Manager may recover any debt incurred at a property as set out in section 118 (3) of the Systems Act, from the owner of that property; and
- (r) any reference to any rand value or measured quantity as reflected in this policy may be determined or amended by Council from time to time.
- (s) In the event of this Municipality expropriating immovable property:
  - (i) For owners who do not co-operate with the Municipality, the proceeds of the sale of the property, if any, will be deposited into their Municipal account;
  - (ii) for property owners who are not clients of this Municipality or do not have a Municipal account, the proceeds of the sale, if any, will be paid into a sundry account, until such amount is claimed by such owner;
  - (iii) no interest will be paid to such owners referred to in sub-item (1) (s) (i) and (ii) unless permitted in terms of any other legislation, policy or as determined by Council from time to time; and
  - (iv) all the proceeds will be further subject to all the conditions contained in this policy .

#### *Misrepresentation*

- (2) Debtors found to have misrepresented themselves in order to benefit from any of the Municipality's relief or any benefit will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and all relief or any benefits that have been received, will be reversed by the Municipal Manager;

#### **5. Employer deductions**

Whenever an agreement in terms of the Langeberg Municipality: Credit Control and Debt Collection By-law, is concluded with an employer the Municipality may pay a commission to the employer, the amount of which will be determined from time to time.

#### **6. Councillor and municipal staff arrears**

- (1) Staff arrears will be dealt with in terms of item 10 of Schedule 2 to the Systems Act, and in terms of any procedures, method or actions referred to in this policy. Notwithstanding any other procedure, method or action that may be taken in terms of this policy, the Municipal Manager shall deduct any outstanding amount from such staff members' salary or remuneration after the 3 (three) month period referred to in item 10 of Schedule 2 to the Systems Act, has elapsed; or

- (a) notwithstanding sub-item 5 (1) the Municipal Manager shall deduct any outstanding amount from such staff members' salary or remuneration after a period of not less than 2 (two) months from the due date thereof.
- (2) In accordance with Schedule 1, item 12A of the Systems Act, a Councillor of the Municipality may not be more than 3 (three) months in arrears for municipal service fees, surcharges on fees, rates or any other municipal taxes, levies and duties levied by the Municipality. Notwithstanding any other procedure, method or action that may be taken in terms of this policy, the Municipal Manager shall deduct any outstanding amount from such Councillor's remuneration after this 3 (three) month period has elapsed; or
  - (a) notwithstanding sub-item 5 (2) the Municipal Manager shall deduct any outstanding amount from such Councillor's remuneration after a period of not more than 2 (two) months from the due date thereof.
- (3) At the sole discretion of the Municipal Manager and after complying with sub-items (1) and (2), deduct any amount owing to this Municipality by any Councillor or staff member from such Councillor's or staff member's remuneration or salary.

## 7. Credit control

- (1) All new applications for the provision of a service may be subject to the payment of a deposit based on the applicant's municipal payment record with a minimum deposit as per the tariff; or
  - (a) the Municipal Manager may waive the requirements for a deposit where a prepayment water meter, prepayment electricity meter or water management device have been installed; or
  - (b) at any other time as determined by the Municipal Manager.
- (2) Any adjustment to the basic deposit will be determined by the debtor's municipal payment record.
- (3) The applicant may be required to undergo a full credit check in an endeavour to trace all debt inclusive of municipal debt owed by the applicant. This will require the provision of, inter alia, acceptable means of identification and if applicable, the binding lease agreement, title deed and other relevant supporting documentation as required by the Municipality from time to time. The relevant application form as approved by the Municipality from time to time forms an integral part of this policy insofar as the contents of such application form are not in conflict with any of the provisions of this policy.
- (4) Application for services for businesses, including but not limited to, trusts, companies, close corporations, partnerships, sole proprietors and government institutions should be approved subject to the provisions of sub-items (1) to (3) above. **The application must include the submission of a resolution delegating authority to the applicant and furnishing, if applicable, the business entity's registration number or Trust Reference Number with the Master of the High Court.** The names, addresses and all relevant contact particulars of all the business's directors or members or trustees or proprietors or partners must be submitted with the resolution. The relevant application form as approved by the Municipality from time to time forms an integral part of this policy insofar as the contents of such application form are not in conflict with any of the provisions of this policy.
- (5) The Municipality shall not conduct any business activity with or provide any services to any persons who are in arrears with municipal accounts except as provided for in legislation or policy and as determined by the Municipality from time to time, nor will any refunds of credits be made to any debtor or any debtor's nominee who is in arrears with their Municipal account.
- (6) Contract guarantees
  - (a) Introduction In terms of the Supply Chain Management Policy, compiled in terms of section 111



of the Finance Management Act, financial guarantees may be required on behalf of contractors to secure certain performance and advance payment obligations of a contractor.

- (b) The Municipal Manager may accept a contract guarantee from a registered bank or insurance company having one of the following ratings from the credit rating agencies indicated:
    - (i) Banks: a short term rating of F1 (Fitch Ratings), A1 (Global Credit Rating Co.) or Prime-1 (Moody's).
    - (ii) Insurers: a claims paying ability rating of A-or above from Global Credit Rating, or A3 or above from Moody's.
  - (c) A 100% cash deposit may be accepted as a contract guarantee in lieu of a paper guarantee; and
    - (i) no interest will be payable while the deposit is held by the Municipality.
  - (d) The Municipal Manager may add or delete, temporarily or permanently, the name of a financial institution to or from the list of approved guarantee providers, notwithstanding the absence or presence of an acceptable credit rating, if he or she is satisfied or unsatisfied as to its credit worthiness in a particular instance.
  - (e) A guarantee shall exclude a surety ship.
- (7) Service guarantees
- (a) Introduction In terms of this policy deposits should be made by way of cash payments. Council however recognises that for large and very large electricity users guarantees may be accepted in place of cash deposits.
  - (b) The Municipal Manager may accept a service guarantee as provided for in this sub-item.
  - (c) Sub item (6),(b) to (e) read with the necessary changes as the context may require, apply to the conditions of service guarantees.
- (8) Rental guarantees
- (a) The Municipal Manager may accept a guarantee for deposits in terms of a lease agreement as provided for in this sub-item.
  - (b) Sub-item (6), (b) to (e) read with the necessary changes as the context may require, apply to the conditions of rental guarantees.
- (9) Guarantees against potential damages
- (a) The Municipal Manager may accept a guarantee against potential damages to the Municipality for any reason.
  - (b) Sub-item (6), (b) to (e) read with the necessary changes as the context may require, apply to guarantees against potential damages.
- (10) The Municipal Manager may reverse any benefit received should a debtor fall into arrears after receiving such benefit.
- (11) The Municipal Manager has a right to conduct a full credit check on any person who is or who will become subject to this policy or any other policy of this Municipality.

## **8. Query, verify or dispute**

- (1) Query or verify
- (a) In this sub-item to query or verify an account refers to the instance when a debtor queries any specific amount or any content contained in any account as rendered by the Municipality to that personas per the process contained herein;
  - (b) any query can be raised at any municipal office or via the Municipality's Call Centre or by way of correspondence;
  - (c) when a debtor queries an account such debtor must furnish full personal particulars including any acceptable means of identification, all account numbers held with the Municipality, direct contact telephone numbers, fax numbers, postal and e-mail addresses and any other relevant particulars required by the Municipality;
  - (d) a debtor may be represented by a duly appointed nominee or agent; and
    - (i) such nominee or agent shall, upon request, produce sufficient proof of such appointment;

- (e) all queries shall be acknowledged and dealt with as promptly and efficiently as possible by the Municipality; and
    - (i) where required an outcome shall be conveyed to the debtor; and
    - (ii) where an account query has arisen, the amount queried shall not be subject to debt collection by the Municipality until the query has been resolved and the outcome has been communicated to all parties, where relevant;
  - (f) the Municipal Manager may suspend any debt collection action, pending the outcome of any query;
  - (g) notwithstanding any query on any account the account must still be paid, in terms of the provisions contained in this policy, once any queries have been resolved, where relevant; or
    - (i) subject to any other legislation, payment must be based on the normal average of past accounts rendered until the query is resolved by the Municipal Manager; and
    - (ii) that portion of the account which is not subject to the query must still be paid; and
  - (h) should a debtor not be satisfied with the outcome of the query, a debtor may lodge an appeal in terms of section 62, as read with section 95 (f), of the Systems Act;
  - (i) the onus will be on the debtor to ensure that a written acknowledgement of receipt is received for any correspondence lodged with the Municipality; and
  - (j) the onus will be on the debtor to ensure that a suitable response to any query is received.
- (2) Dispute
- (a) In this sub-item a "dispute" refers to the instance when a debtor disputes any specific amount claimed by the Municipality from that person.
  - (b) any person who has a dispute with this Municipality has a right, in terms of section 34 of the Constitution, to have any dispute that can be resolved by application of law decided in a fair public hearing before a court or, where appropriate, another independent or impartial tribunal or forum;
  - (c) where the dispute process has been implemented in terms of sub-item (2) (b), section 102 (2) of the Systems Act will be applicable;
  - (d) the Municipal Manager has a right to declare a dispute on any specific amount claimed by the Municipality from any person as may be considered necessary; and
  - (e) disputes lodged with the Municipality prior to the implementation of this policy, in terms of any previous policy, shall continue to be dealt with in terms of that policy.
- (3) General
- (a) The Municipal Manager may require that any official attend any meeting in order to assist with the investigation relating to the facts surrounding any query, verification of any account or any dispute; and
    - (i) the Municipal Manager has the right to call for any document, book, computer data or record which in his or her sole discretion is deemed necessary to assist in attempting to deal with any issue referred to in this policy.

## 9. Accounts

- (1) This Municipality, in terms of section 102 (a) of the Systems Act, together with the Municipal Manager, in terms of the Langeberg Municipality: Credit Control and Debt Collection By-law, considers all separate accounts of a person liable for payment to this Municipality, to be consolidated, regardless of the fact that separate accounts for such debtor may be rendered, and includes all pre-paid services for which no account is rendered.
- (2) All separate accounts of a debtor shall for the purpose of this policy be considered consolidated and shall, for the purpose of this policy, be treated holistically.
- (3) Subject to section 118 (1) of the Systems Act payment of any undisputed debt, in terms of section 7, of the Langeberg Municipality's Credit Control and Debt Collection By-law, will firstly be allocated to the debtors account as follows-
  - (a) allocation to down payments; then

- (b) allocation to cash security deposits; then
  - (c) allocation to penalty fees (e.g. RD charges); then
  - (d) payments received via third party receipting will always be allocated as per sub-item (e) below;
  - (e) if there is a partial payment the payment shall be allocated from oldest debt to youngest debt until all debt is paid.
- (4) A debtor may make a payment at a municipal cashier, which has the facility to allocate the payment. The payment will then be allocated as specified and any overpayments will be allocated as per sub-item (3) where applicable.
  - (5) Subject to section 118 (1) of the Systems Act the Municipal Manager has the right to offset any credit, or any amount due to a debtor, against any debit pertaining to that same debtor; or to transfer any debt to another account of that same debtor.
  - (6) The Municipal Manager has the right to transfer any property debt owed by a tenant to that same registered owners account, in terms of section 118 (3) of the Systems Act.
  - (7) The Municipal Manager may apply any of the credit control and debt collection measures, contained in this policy, with the relevant changes that the context may require, for any debt.
  - (8) The Municipal Manager may raise any costs, charges and fees and collection commission as levied in terms of policy.
  - (9) Notwithstanding anything to the contrary contained in this policy the Municipal Manager may deduct any amount owing to this Municipality by any Councillor or staff member from such Councillor's or staff member's remuneration or salary where there is a history of late payments.
  - (10) The Municipal Manager will require debtors or service providers to register with the Municipality by providing the relevant documentation, as determined from time to time, confirming, amongst others, all contact details, proof of identification and postal and contact addresses.
  - (11) Failure to produce any information as required in terms of sub-item (10) may result in the restriction, disconnection or discontinuation of any supply of services, or any other relevant action in terms of this policy.
- 10. Procedures to register accounts in the name of the person who is responsible for a property where the owner has died**
- (1) Households must ensure that accounts are registered in the name of the person who is responsible for the property and use the services of the municipality (1) month after the death of the owner of the property.
  - (2) The person responsible for the property must certify that he/she accepts the conditions as indicated on a declaration form before he/she can apply for services of the municipality.
  - (3) The following conditions must be included in the declaration form as per paragraph (2) above and the person responsible for the property must certify that he/she:
    - (i) occupy the property legally
    - (ii) is responsible for the property.
    - (iii) take responsibility for the outstanding services account of the owner who has died
    - (iv) take responsibility for rates and taxes
  - (4) A death certificate or any other proof must be provided that the owner of the property has died
  - (5) Both the declaration form and application form for services must be completed and certified before services will be connected.
  - (6) With regards to municipal properties the Housing Department will give written approval that the account can be registered in the name of the applicant to ensure control over municipal properties.
  - (7) The community and households must be informed by means of notices and public meetings of their responsibility to register the account in the name of the person responsible for the property.

- (8) If the declaration and application forms is not completed within a period of one (1) month services will be disconnected to enforce households to apply for services to ensure that households take responsibility for services that are used.
- (9) If services have been disconnected and no person has taken responsibility for the outstanding account after a period of one(1) month after the services have been disconnected, the outstanding amount will be provided to the attorneys / legal adviser for sale of execution.
- (10) The service deposit can be transferred from the deceased's account to the account of the person who will take responsibility for the property.

**11. Procedures to register accounts in the name of the person who is responsible for a property where the husband/wife is separated/divorced.**

- (1) Person responsible for property inform the municipality in writing
- (2) Provide an affidavit
- (3) Provide an address of the other party
- (4) Municipality must inform other party that a request has been received to put the account in the name of the person who are staying on the property and he/she must indicate within a period of thirty(30) days if there is any objection and if no feedback are received it will be accepted that he/she is in agreement..
- (5) Other party confirm in writing that the account can be transferred to the name of the person who are staying on the property.

**12. Irrecoverable debt**

*Criteria for irrecoverable debt*

- (1) Debt will only be considered as irrecoverable if it complies with one or more of the following criteria:
  - (a) all reasonable notifications and cost-effective legal avenues have been exhausted to recover a specific outstanding amount; or
  - (b) any amount equal to or less than R500.00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it; or
  - (c) the cost to recover the debt does not warrant further action; or
  - (d) the amount outstanding relating to insolvency;
    - (i) is the residue after payment of a dividend in the rand from an insolvent estate; or
    - (ii) there is a danger of a contribution;
    - (iii) no dividend will accrue to creditors; or
    - (iv) there are insufficient funds to cover any preference afforded by section 118 (3) of the Systems Act; or
  - (e) the amount outstanding relating to a deceased estate;
    - (i) has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
    - (ii) where the estate has not been reported to the Master and there are no assets of value to attach; or
  - (f) it has been proven that the debt has prescribed; or
  - (g) the debtor is untraceable or cannot be identified so as to proceed with further action; or
  - (i) the debtor has emigrated leaving no assets of value to cost-effectively recover Councils claim; or
  - (h) it is not possible to prove the debt outstanding; or

- (i) a court has ruled that the claim is not recoverable;
  - (ii) the claim is subject to an order of court;
  - (iii) the claim is subject to an out of court settlement agreement; or
  - (iv) the debt is subject to a settlement in terms of section 109 of the Systems Act; or
- (i) the outstanding amount is;
    - (i) due to an irreconcilable administrative error by the Municipality;
    - (ii) as a result of an administrative error; or
  - (j) arrears owed by previous administrations, amongst themselves, that now form part of the Municipality; or
  - (k) expenditure incurred, in respect of internal accounts raised in the name of the Municipality, in any previous financial year; or
  - (l) conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the Municipality, and where reasonable steps have been taken to recover these debts; or
  - (m) all debtors who are registered as indigent as provided for in item 24 will have their arrears written off in terms of item 23; or
  - (n) if an offer of full and final settlement is confirmed in writing by the Municipal Manager in terms of section 14 (2) of the Langeberg Municipality: Credit Control and Debt Collection By-law; or
  - (o) where Council
    - (i) expropriates any property; or
    - (ii) purchases any property in terms of item 10 (1) (f); or
  - (p) where a property has been forfeited to the State in terms of the Prevention of Organised Crime Act 121 of 1998; or
    - (i) where the occupiers of a property have been evicted from a Council, Provincial or State property due to criminal activities; or
  - (q) through supporting the Municipality's *residential* related debt management processes where the debtor has applied for and been granted an Indigent Grant in terms of the Indigent Policy, all debt related to that property for that debtor (excluding capital debt of home ownership), up to the date of granting of indigent status will be written back.; or

#### *Authorisation*

- (2) In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address, erf number, if applicable, amount per account category as well as a reason to write-off the amount must be compiled.
- (3) Notwithstanding the above, the Municipality or its authorised officials will be under no obligation to write-off any particular debt and will always retain sole discretion to do so.
- (4) Where a debt has been written off in terms of item 12, and where applicable, the Municipal Manager shall have a right to offset any credit against any such debt written off, for the same debtor.
- (5) Subject to the Langeberg Municipality: System of Delegations the Municipal Manager may write off any debt as determined in this item.

### **13. Tampering and punishment**

- (1) Tampering with any metering equipment or damaging any such equipment should be regarded as serious and the following action shall apply:
- (a) removal of the meter and legal prosecution for damages;
  - (b) recovery of costs including that of replacing meters;
  - © the full outstanding amount being called up for immediate settlement with the normal credit control procedures being followed thereafter;
  - (d) payment of reconnection fees as determined by Council from time to time,
  - (e) that water services be suspended and electricity be disconnected until the outstanding amounts in (a) to (d) have been settled.
  - (f) The engineer department must become evidence, such as photos, of the meter that was tampered. A notice must be left at the property and the notice must indicate that their meter has been tampered with, the penalties that are payable before and that they must object within one week. The ward councillor should be informed, if possible.
  - (g) Water and/or electricity may only be reconnected if the outstanding amount are paid in full, a guarantee are provided or a debit order for payment are provided.
  - (h) Should exceptional circumstances exist, adequate payment arrangements may be permitted at the sole discretion of the Municipal Manager; and

## CHAPTER 2: RATES AND SERVICES

### 14. Rates

- (1) The following provisions apply to rates and any levies:
  - (a) interest shall be charged on all overdue accounts;
  - (b) if the account is not paid by the due date as displayed on the account the Municipal Manager may issue any notice in terms of this policy showing the total amount owed to the Municipality;
  - (c) if the account is not settled or there is no response from the debtor to make acceptable arrangements to repay the debt –
    - (i) the supply of any service to the property may be restricted, disconnected, or discontinued in terms of the Credit Control and Debt Collection By-law and items 9 (7) and 15 of this policy; and
    - (ii) irrespective of the exercise of the powers by the Municipal Manager in terms of the Credit Control and Debt Collection By-law and sections 9 (7) and 15 of this policy summons may be issued and the legal process followed;
  - (d) in instances where the rates debt is in respect of municipal property sold by suspensive sale agreement, the collection thereof will be dealt with in terms of the relevant deed of sale, and if applicable, this policy, or any subsequent applicable written agreement between the Municipality and the debtor;
  - (e) at any stage while the debt is outstanding, all reasonable steps shall be taken to ensure that the ultimate sanction of a sale-in-execution is avoided or taken only as a last resort. The Municipality, however, has total commitment to a sale-in-execution should the debtor fail to make use of the alternatives provided for by the Municipality from time to time. This is also applicable to all debt, and includes all debt which is a charge against a property, as referred to in this Chapter;
  - (f) as part of the recovery process the Municipal Manager may bid, to a amount which equal the total of the debt plus costs and include any reasonable amount for clearance purposes, at a sale-in-execution and, if successful, sign all relevant documentation to acquire and take transfer of the property;
  - (g) the Municipal Manager shall have the right to negotiate and to cancel the deed of sale, as referred to in sub-item (f) before transfer to the Municipality, if such cancellation results in either the bond holder or the debtor, or both the said parties, paying in full for all debt in connection with that property as well as all costs related thereto; and

### 15. Services

- (1) The following provisions apply to the payment for services;
  - (a) accounts must be paid by the due date as shown on the account;
  - (b) interest will be charged on all overdue accounts;
  - (c) if payment is not received or suitable payment arrangements are not made by the due date, a notice *may* be **servd in terms of section 115 of the Systems Act**, warning of an imminent restriction, disconnection or discontinuation of a service after 10 (ten) days from the date as stated on the notice;
  - (d) if payment is not received or suitable payment arrangements are not made by the due date as shown on the notice, the supply or supplies may be restricted, disconnected or discontinued for any service in respect of any arrear debt;

- (e) a notice shall be left at the property advising that the supply has been restricted, disconnected or discontinued and warn that all electric points should be considered live and that all water outlets should be closed.
    - (i) the notice must also advise that the supply will only be reconnected after the amounts specified on the notice, and any other debt including the reconnection fee, have been paid or an arrangement acceptable to the Municipality has been made;
  - (f) the above notices must also warn of the consequences of illegal reconnection;
  - (g) all residential consumers whose water supply has been restricted will have access to a basic water supply of at least 6kl per month either by means of a restricted water flow to their property or where the water supply has been disconnected or discontinued as a result of, but not limited to, unauthorised or illegal reconnections and tampering, a water management device or a prepayment water meter may be installed, or a communal water supply point, within a radius of approximately 200 meters from their property, maybe provided; and
    - (i) the Municipal Manager has the sole discretion to insist on a water management device or a prepayment water meter being installed to a property where the water supply is regularly restricted for non-payment; or
    - (ii) the Municipal Manager considers the debtor to be a credit risk to the Municipality; and a water management device, a prepayment water meter or any service may be restricted, disconnected or discontinued for any arrears owed to this Municipality;
  - (h) subject to the provisions contained in item (e), debtors may be required to pay all penalties and arrears in full before the supply is restored;
  - (i) subject to the Municipality's capacity at the time to restore such service which has been, restricted, disconnected or discontinued, such services will be restored within a reasonable period of time after the relevant conditions contained in this policy have been met;
  - (j) the onus shall always be on the debtor to request reconnection and to prove that the full amount for which the service was restricted, disconnected or discontinued, as shown on the disconnection notice referred to in item 15 (1) (c) has been paid or that an arrangement was entered into in terms of sub-item (f);
  - (k) despite the provisions of sub-items (a) to (j), should the amount outstanding for the supply of services remain unpaid, full recovery procedures, including appropriate legal actions may be undertaken in order to collect these monies;
  - (l) in the event of an insolvency, and notwithstanding any provisions provided for in this policy, the Municipal Manager, shall serve notice in terms of sub-item (1) (c) at the property and shall notify the trustee by giving 10 (ten) days' notice of the intention to restrict, disconnect or discontinue the services to the property; and
    - (i) notwithstanding sub-item (m) the period referred to therein may be waived at the request of the trustee.
- (2) The installation of a prepayment meter, with the written permission of the owner, is encouraged, however;
- (a) the Municipal Manager has the sole discretion to insist on a prepayment meter being installed on a property where the electricity supply has been disconnected for non-payment; or
  - (b) the Municipal Manager deems the debtor to be a credit risk to the Municipality; and
  - (c) a prepayment meter may be disconnected or the right to purchase units for a prepayment meter may be withheld as a *result of* non-payment of any debt owed to this Municipality.
  - (d) A conventional meter of an approved indigent can be replaced with a prepayment meter, at no cost to the indigent.



- (3) An authorised representative of, or service provider to the Municipality, shall be given access to any premises in accordance with the provisions of section 101 of the Systems Act.
- (4) The Municipal Manager shall have the right to restrict, disconnect or discontinue any service to a property, regardless of who has occupation, upon the written request from the registered owner and provided the service account is in arrears; and
  - (i) a notice *may* first be served in terms of section 115 of the Systems Act, giving 14 (fourteen) days' notice of the intention to restrict, disconnect or discontinue such service.
- (5) Where a service account, which is not in the name of the registered owner, has been restricted, disconnected or discontinued, the Municipal Manager may insist that the service be transferred into the name of such property owner; and
  - (i) notwithstanding sub-item (6) the Municipal Manager may at any other time insist that the service be transferred into the name of such property owner.
- (6) Notwithstanding anything to the contrary the provisions of this item shall apply to any debt and the supply of any service to the property may be restricted, disconnected or discontinued in terms of the Credit Control and Debt Collection By-law and item 9 (7) of this policy.

## 16. Other debt

- (1) All debt under this item will be subject to:
  - (a) Interest being charged on all overdue accounts;
  - (b) the supply of any service to the property may be restricted, disconnected or discontinued in terms of the Credit Control and Debt Collection By-law and item 9 (7) and 15 of this policy; and
  - (c) in the recovery of sundry debt, the Municipality reserves the right to utilise any legal action at its disposal as well as making use of any third party debt collectors.

### *Dishonoured payments: rates and general services*

- (2) Where a cheque, debit order, credit card or EFT payment is dishonoured and where the customer who received value from such payment, is an existing debtor of the Municipality, the reversal and penalty fee, raised by the Municipal Manager as contained in the Tariff Policy, may be debited to an account of such payer and a letter of notification must be sent to the debtor. Such fee shall be considered to be a tariff charge and shall be recovered from the debtor. The Municipality reserves the right to refuse to accept or to cancel such further payment methods from such person, to place the matter on the relevant adverse credit rating lists, or take any steps as contained in this policy, which may include criminal charges, if applicable, against the offender; and
  - (a) Where a payment referred to in sub-item (2) was tendered and any debt management action, in terms of this policy, was suspended, and such payment was not honoured, such debt management action shall continue without further notice to such debtor.
- (3) Where a cheque, debit order, credit card or EFT payment is dishonoured and where the payment is not from an existing debtor of the Municipality, then a *sundry* debtor account will be opened and a debit and a penalty fee, raised by the Municipal Manager as contained in the Tariff Policy, will be debited to the account and a letter of notification must be sent to the debtor. Once the account is submitted and the debtor fails to honour the debt by due date, a final demand will be generated and dispatched to the last known address of that debtor. If there is still no response, then the matter may be handed over for

placement on the relevant adverse credit rating lists, or any steps as contained in this policy which may include criminal charges, if applicable, against the offender may be taken; and

- (a) Where a payment referred to in sub-item (3) was tendered, and any debt management action, in terms of this policy, was suspended, and such payment was not honoured, such debt management action shall continue without further notice to such debtor.
- (4) Where a cheque, debit order, credit card or EFT payment is dishonoured and where the customer who received value from such payment method, is an existing debtor of the Municipality, the reversal and penalty fee, raised by the Municipal Manager as contained in the Tariff Policy, may be debited to an account of the drawer, or the person or entity who made the payment or the beneficiary and a letter of notification must be sent to the debtor. Such fee shall be recovered from the debtor. The Municipality reserves the right to refuse to accept such further method of payment from such payer and or beneficiary and may take any steps as contained in this policy which may include criminal charges, if applicable, against the offender.
  - (5) The Municipality may attach the rental or any other payments due to debtors who are in arrears with their municipal accounts:
    - (a) if any debt levied in respect of a property is unpaid by the owner of the property the Municipal Manager may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier.
    - (b) the Municipal Manager may recover an amount only after a written notice may have been served on the tenant or occupier as provided for in section 115 of the Systems Act; and
    - (c) the amount the Municipal Manager may recover from the tenant or occupier of a property in terms of sub-item (a) is limited to the amount of the rent or other money due and payable, but not yet paid, by the tenant or occupier to the owner of the property; and
    - (d) any amount the Municipal Manager recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner; and
    - (e) the tenant or occupier of a property must, on request by the Municipal Manager, furnish the Municipal Manager with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the Municipal Manager.
    - (f) the Municipal Manager may recover the amount due for debt on a property in whole or in part from the agent of the registered owner, if this is more convenient for the Municipal Manager; and
    - (g) the Municipal Manager may recover the amount due for debt from the agent of the registered owner only after a written notice which may have been served on the agent as provided for in section 115 of the Systems Act; and
    - (h) the amount the Municipal Manager may recover from the agent is limited to the amount of any rent or other money received by the agent on behalf of the registered owner, less any commission due to the agent; and
    - (i) the agent must, on request by the Municipal Manager, furnish the Municipal Manager with a written statement specifying all payments for rent on the property and any other money received by the agent on behalf of the owner during a period determined by the Municipal Manager.

*Dishonoured payments sundry services Clearance certificates*

- (6) All debt, inclusive of any advanced collection shall be deemed to be due and payable, for the purpose of

issuing any clearance certificate in terms of section 118, of the Systems Act and must be paid in full:

- (a) no interest shall be paid in respect of any payment made in terms of this sub-item unless permitted in terms of any other legislation or policy;
- (b) all payments will be allocated to the registered seller's municipal accounts in terms of this policy;
- (c) prior to any refund this payment will be dealt with as follows:
  - (i) the advanced collection shall be used to offset any debt that accumulated against the property as follows – (aa) any tenant debt; and (bb) any of the sellers debts:-
- (d) any refund, in respect of any credit remaining after registration of transfer has been registered in the Deeds Office, shall be refunded to such seller subject to Chapter 4 of this policy;
- (e) no certificate, in terms of section 118 of the Systems Act, will be issued where the registered owner (and, in this instance, the seller) has not complied with any relevant legislation, policy or agreement relating to the property in question;
- (f) the Municipal Manager may require the purchaser to apply for all services at the property as part of the application for a clearance certificate; or
  - (i) by virtue of registration of the property, the registered owner accepts liability for all services rendered by the Municipality to the said property, except as provided for in other legislation or policy;
- (g) with the exception of an attorney's trust cheque any cheque tendered in respect of a clearance certificate, in terms of section 118 of the Systems Act, must first be cleared by the bank before the certificate can be issued;
- (h) all figures issued in terms of section 118 of the Systems Act will only be valid for the validity period attached to such figures and only payments made within the validity period will, for the purpose of issuing the certificate, be offset against these figures; and
- (i) should any certificate be issued in respect of any payment made in sub-item (h) above and should such certificate lapse then any payment so made will be regarded as a payment on account and may be offset against any debt of such debtor.

#### *Property related debt*

- (7) In terms of section 118 (3) of the Systems Act an amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property. In addition, this amount shall be for the account of the registered owner regardless of who incurred such debt.
- (8) Any service to a debtor's property may be restricted, disconnected or discontinued in terms of the Credit Control and Debt Collection By-law and item 9 (7) and 15 of this policy.

### **17. Arrangements**

#### *Principles for residential debtors*

- (1) Current accounts must be paid in full on or before due date.
- (2) The debtor may be required to prove levels of income and must agree to a monthly payment towards arrears based on such debtors ability to pay or based on such debtors total liquidity if the Municipal Manager so requires.

- (3) That credit control officials be authorized to make affordable arrangements with consumers to pay arrear debts and all negotiations with the debtor should strive to result in an agreement that is in the interests of both parties and is sustainable.
- (4) Interest will be charged on arrears.
- (5) Interest on –
  - (a) arrears in respect of all services may be suspended;
  - (b) rates may be calculated at 0% whilst the debtor adheres to the conditions of the arrangement; and
- (6) Notwithstanding anything contained in this item the Municipal Manager shall be under no obligation to enter into an arrangement with a debtor.
- (7) All arrangements may be subject to periodic review in accordance with the terms and conditions contained in this policy; and
  - (a) not more than 3 (three) arrangement, in terms of the conditions contained in this policy, will be allowed over a three year period, starting from 1 July 2010; and.
  - (b) failure to enter into a new arrangement after the expiry of the 18 (eighteen) months referred to in sub-item (a) shall result in the debt becoming due and payable forthwith; and
    - (i) all the credit control and debt collection measures as contained in this policy may be enforced.
- (8) All services may be restricted, disconnected or discontinued and legal action may be taken against debtors who default on any arrangement and such debt may be referred to third party debt collectors, for recovery.
- (9) When the services have been disconnected are the full current account, as well as the administrative fee, payable before the services are reconnected.

*Arrangement Criteria for residential debtors*

- (9) In cases where residential debtors wish to make arrangements to liquidate their arrears, the following payment criteria, inter alia, will apply:
  - (a) Current account; and
  - (b) an agreed payment towards arrears based on the principles contained in this policy and sub-items (2) and (3);
  - (c) this minimum payment must be paid in order for the arrangement to be considered; and
  - (d) the Municipal Manager has the sole discretion to determine the amount to be paid in terms of sub-item (9)(c).
- (10) Each following month the debtor will be required to pay:
  - (a) Current account; and
  - (b) an instalment as determined in sub-item (9)(b) above.
- (11) Should the debtor default the following will apply:
  - (a) The debtor must pay the shortfall of the arrangement and thereafter continue with the terms and conditions of the arrangement; or
  - (b) enter into a new arrangement in terms of this policy.
- (12) In all cases failure to respond to notices will result in normal credit control procedures and all debt collection processes as provided for in this policy may be taken.

*Principles for non-residential debtors*

- (13) In cases where non-residential debtors wish to make arrangements to liquidate their arrears, the following criteria, amongst other things, will apply
  - (a) A arrangement for a maximum period of six months will be allowed;

- (b) debtors may be required to furnish the Municipality with their latest audited financial statements and other supporting documentation relevant to their financial position in order to negotiate a settlement arrangement acceptable to the Municipality;
- (c) credit control officials be authorized to make affordable arrangements with consumers to pay arrear debts and all negotiations with debtors should strive to result in an agreement that is in the Municipality's best interests and is sustainable;
- (d) interest will be charged on arrears at an interest rate that shall be determined by Council from time to time;
- (e) interest on
  - (i) arrears in respect of all services may be suspended; and
  - (ii) rates may be calculated at 0%; and whilst the debtor adheres to the conditions of the arrangement;
- (f) all arrangements shall be subject to item 17 (7).

*Arrangement criteria for non-residential debtors*

- (14) If the non-residential debtor wishes to make an arrangement, interest may be charged or suspended on any outstanding amount and such arrangement will be subject to approval of the official as delegated in terms of sub-item (13)(f).
- (15) Should the debtor default on any arrangement, all services may be restricted, disconnected or discontinued and, any agreement may be terminated and legal action may be taken and such debt may be referred to a third party for recovery.
- (16) When the services have been disconnected are the full current account, as well as the administrative fee, payable before the services are reconnected.

*Special conditions regarding arrangements*

- (16) Where any residential or non-residential debtor has entered into an arrangement with the Municipality in respect of the arrears on a property, the prescribed certificate as referred to in section 118, of the Systems Act, will not be issued until such time as the full outstanding amount is paid.
- (17) The conditions contained in the Municipality's arrangement document, as amended from time to time, will form part of the arrangement criteria contained in this policy; and
  - (a) the conditions contained in this policy shall form part of the conditions contained in any Municipality's arrangement document as amended from time to time.
- (18) Should the current account be higher than normal, due to, but not limited to, under-estimations and faulty meters, previous accounts rendered may be taken into consideration, when determining an amount to pay in order to enter into an arrangement.
- (19) Notwithstanding sub-item (9) (a) and (b) above, the Municipal Manager may determine that the current account, interest, disconnection, reconnection charges including any cost of installing any prepayment meter and any costs of installing a water management device, be excluded from the initial payment, when entering into an arrangement; or
  - (a) any charges or costs for any disconnection, reconnection including any cost of installing any prepayment meter and any costs of installing a water management device, which appear on any subsequent account following the arrangement concluded in sub-item (19) may be subject to a renegotiated arrangement.
- (20) All debtors entering into arrangements shall provide their banking details, and those who have the facility to sign a debit order with their financial institutions shall do so.
- (21) Where a tenant or occupier, who has the ability to pay, wishes to make an arrangement the following will

apply:

- (a) Item 16 (5) must at all times be complied with;
  - (b) where the rental is insufficient or there is no rental paid by the tenant or the occupier an arrangement to recover the monthly current account and the property debt must be entered into in terms of the conditions and requirements of this policy;
  - (c) where any service is in the name of tenant or occupier an arrangement to recover the monthly current account and the property debt must be entered into in terms of the conditions and requirements of this policy.
- (22) The Municipal Manager would normally only enter into arrangements with the registered owners, but may enter into an arrangement with a tenant or occupier, who can show that they have the ability to pay, upon receipt of an affidavit, by the occupier or a tenant of a residential property, which certifies that:
- (a) the registered owner of the property at which such tenant or occupier so resides in is;
    - (i) untraceable; or
    - (ii) not contactable: or
    - (iii) such registered owner's whereabouts are unknown; or
    - (iv) where there is no co-operation by the registered owner with the occupier, and –
  - (b) that they have a right to so occupy such property and stating the time period that they have so occupied the property;
  - (c) the last known address of the registered owner;
  - (d) the rental due for such right to so occupy;
  - (e) that such occupier or tenant undertakes to advise the registered owner at the first reasonable opportunity of the current situation and that the tenant or occupier further agrees to obtain the consent of the registered owner to condone the process as set out in this sub item failing which the arrangement may be null and void; and
  - (f) where applicable provide comprehensive details of the non-cooperation of the registered owner; enter into an arrangement with such a tenant or occupier in terms of this policy, to pay off arrears on an account which is a charge against the property:

*Steps to be taken by the Municipal Manager*

- (g) authorise an arrangement be entered into with the occupier or tenant subject to;
    - (i) the possible installation of a prepayment electricity meter, a water management device including any prepayment water meter;
- (23) Notwithstanding the provisions of sub-items (21) and (22), the Municipal Manager may refuse to reconnect or restore any service to a tenant unless written permission is obtained from the registered owner:
- (a) authorising the tenant to enter into an arrangement in terms of this policy; and
  - (b) authorising the reconnection or restoration of any service.
- (24) The Municipal Manager may restrict, disconnect or discontinue any service to a property;
- (a) if the registered owner withdraws, in writing, any permission granted in terms of sub-item (23) where the tenant has defaulted on the arrangement made; and
  - (b) no new application for any service to the property will be authorised until all the arrears have been settled in full.

## CHAPTER 3: INDIGENT RELIEF FOR RESIDENTIAL PROPERTIES

### 18. Criteria for qualification

The following criteria for qualification shall apply:

- (1) Residential consumers with a monthly household income of less than R 3000;

### 19. Process for applying and approval of indigent subsidy.

- (1) The following process for applying and evaluating/approval of indigent subsidy must be followed:
  - (i) Notice must be given to residents to apply on a prescribed form for indigent subsidy not later than 31 May of a year.
  - (ii) All applications for indigent subsidy received must be evaluated by a credit bureau and/or community development worker where-after it will be approved/disapproved by the Chief Financial Officer.
  - (iii) Indigents as approved will be effective for a medium term of three years.
  - (iv) Applications for indigent subsidy received and approved during a year/month will be implemented as from the date that the application was received.
  - (v) List of approved indigents will be referred on a six-monthly basis to the Ward Committees for evaluation. Such information must be treated as confidential and may not be discussed in public.

### 20. Design of the subsidy- general

- (1) Subsidy to the amount of 100% of the basic charges of indigents with a household income of less than R 3000 will be credited to their municipal account from the Equitable Share.
- (2) Indigents will also receive 6 kiloliter of water and 50 kwh electricity free per month.

### 21. Tariff structure

- (1) The Rates Policy and Tariff Policy are designed to enable those residential debtors who meet the criteria as defined therein to obtain free basic services.
- (2) The free basic services referred to in this Chapter will be as determined by Council from time to time, and
  - (a) such determination will override anything else to the contrary as contained in this Chapter.

### 22. Excess consumption

Any consumer who uses in excess of any free allocation of services, will be charged for those services in accordance with the Tariff Policy and will be subject to this policy.

### 23. Arrears

- (1) All residential debtors who qualify and are registered as indigent, will have their arrears written off once during a three year period, and thereafter will be subject to item 21, provided that;
  - (a) where applicable, a water management device and any prepayment meter have been installed at the property; and

- (b) the arrears are not as a direct result of tampering or any illegal usage of services.
- (2) After the arrears have been written off in terms of sub-item (1), and irrespective of whether consumers receive a current account for any subsequent rates and services, consumers who again fall into arrears are still required to make an arrangement with the Municipal Manager to pay off their arrears in accordance with the principles and conditions contained in this policy.
- (3) Sub-item (2) applies to all persons who have had their arrears written off in terms of sub-item (1) and who at any stage thereafter re-apply for indigent status.

#### **24. Registration criteria**

- (1) In order to qualify for registration as an indigent, for a period not exceeding thirty six months, an applicant, which could include any combination of applicants, must satisfy the following criteria:
  - (a) The property must be a residential property; and
  - (b) the applicant, or any combination of applicants, must be –
    - (i) the registered owner of the residential property; or
    - (ii) an occupier of a child-headed household where the residential property is registered in the name of the deceased parent or deceased parents; or
    - (iii) a purchaser of a residential property from any of the spheres of government on a delayed transfer basis; or
    - (iv) the party to whom the residential property is awarded in the event of a divorce; or
    - (v) where a deceased estate has not been wound up;
      - (aa) in the case of a deceased estate, in whose name the residential property is registered, any heir to whom the registered property has been bequeathed; or
      - (bb) a surviving spouse, where the surviving spouse was married in community of property to the deceased, and where the residential property is registered in both spouses' names, and the surviving spouse is the sole heir; or
      - (cc) a surviving spouse, who was married in community of property to the deceased, together with any other heirs, if any, where the residential property is registered in the name of that deceased; or
      - (dd) in the case where a portion of a residential property is registered in the name of a deceased estate, the surviving registered owners together with the heirs to the deceased estate; or
    - (vi) in the event of the residential property being registered in the name of a trust,
      - (aa) the beneficiaries, for the meantime, of a testamentary trust established in terms of the Administration of Estates Act, 66 of 1965; or
      - (bb) the trustees together with any beneficiaries, for the meantime, of a trust established in terms of the Trust Property Control Act, 57 of 1988; or
    - (vii) a usufructuary or habitatio where such usufruct or habitatio right is registered against a residential property in the name of that usufructuary or habitatio; or
    - (viii) where there is more than one person residing at the residential property who meet any of the criteria set out in this sub-item then they must jointly make application in terms of this item;
  - (c) the applicant may not be the registered owner of more than one immovable property nationally and internationally; and
  - (d) be a full-time occupant of the residential property or where the registered owner is unable to occupy the property due to no fault of such registered owner, the spouse or minor children may



satisfy the occupancy requirement.

- (2) The Municipal Manager may call upon an applicant, an indigent or a debtor at any time to produce documents in support of their claim for indigency or indigent status; and
  - (a) may at any time approach any person in order to verify any claim made by an applicant or indigent.
- (3) Council may determine any criteria as mentioned in sub-items(1) and (2) from time to time.
- (4) In exceptional circumstances and at the sole discretion of the Municipal Manager, the Municipal Manager may approve the indigent benefit even though the applicant does not meet all the registration criteria as set out in sub-items (1).
- (5) As soon as a business are operated from an residential property (legal or illegal) of an owner who has been approved as an indigent, will the indigent be disqualified from any further indigent support.
- (6) As soon as illegal electricity are connected on/from the property, will the indigent be disqualified from any further indigent support.

#### **25. Indigent relief: water**

- (1) Indigents receive their first 6kl, or as determined by Council from time to time, of consumption on a zero-based tariff.
- (2) The Municipal Manager shall grant authority that a water management device or a prepayment water meter may be installed in properties qualifying for indigent relief so as to reduce consumption to affordable levels.
- (3) A residential debtor who doubts the validity of the consumption stated on any account may apply for the meter to be tested at his or her cost as per the Tariff Policy relating to indigence.

#### **26. Indigent relief: electricity**

- (1) Indigents receive their first 50kwh electricity, or as determined by Council from time to time, of consumption on a zero-based tariff; and
  - (a) prepayment meters will not receive the free basic supply of electricity for months in which no energy is purchased unless this is specifically claimed each month at a vending outlet; and
  - (b) credit meters will be credited with as much of the free basic supply of electricity as is used during the metering period.
- (2) The Municipal Manager shall grant authority that a prepayment meter may be installed in those properties where the registered owners qualify and are registered for indigent relief so that the debtor cannot consume electricity beyond such debtor's means.

#### **27 Indigent relief: solid waste and sewerage**

- (1) Indigents will receive an subsidy equally to the charges for waste collection and sewerage residential properties.
- (2) All informal residential debtors will receive a free basic waste collection service.

#### **28. Debt management actions**

- (1) An application for registration as indigent is only valid for a maximum period of thirty six months from the date of approval.
- (2) It is a requirement of this policy that should the personal circumstances of a debtor improve to such an extent that such debtor no longer qualifies as an indigent, then such person must notify the Municipal Manager immediately of this change in order for such persons name to be removed from the indigent register.
- (3) If it is found that a debtor no longer qualifies as an indigent, and such debtor has not informed the

Municipal Manager, then this debtor will be de-registered as an indigent, and all suspended steps, as referred to in sub item (1) above, will be lifted, from the time the debtor's circumstances were found to have improved, and interest will be payable on any outstanding amounts.

**29. Misrepresentation**

- (1) Debtors found to have misrepresented themselves in order to benefit from the Municipality's indigent relief will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and the Municipal Manager will–
  - (a) reverse all benefits and relief received; and
  - (b) raise any fee, as determined by Council from time to time, as set out in the Tariff Policy.
  
- (2) Any person who has received any benefit or relief in terms of this policy and who has misrepresented themselves in order to qualify for such benefit or relief will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Council from time to time, and the Municipal Manager will–
  - (a) reverse all benefits and relief received; and
  - (b) raise any fee, as determined by Council from time to time, as set out in the Tariff Policy.
  
- (3) The Municipal Manager shall report any misrepresentation in terms of this policy to the South African Police Services.

## CHAPTER 4: CREDITS, REFUNDS AND TRANSFERS

### 30. Credit

- (1) The Municipal Manager shall have the right to claim any credits due to this Municipality or any of its predecessors-in-law.
- (2) No interest shall be paid in respect of any credit on any account unless permitted in terms of any other legislation, policy or as determined by Council from time to time.

### 31. Requests for refunds or transfers

- (1) All requests for refunds or transfers must be in writing.
- (2) A "Request for Refund Form" must be completed, or dictated to an official who will record it in writing and have it read, and if necessary, corrected, and
  - (a) all the applicable supporting documentation must be supplied; and the form
  - (b) must be signed by the person requesting the refund
- (3) The form must then immediately be lodged with the relevant authorised official.
- (4) Consideration for a refund or transfer will only be given where credits appear on the account.
- (5) Refunds will only be made to an account holder.
- (6) Notwithstanding sub-items (4), (5) and (7) any payment made on an account by a third party will only be considered for a refund or transferred, by the Municipal Manager, to such third party, after the latter submits proof of the payment and such refund or transfer will be subject to any law and policy of the Municipality.

#### *By the claimant*

- (a) The claimant will be required to produce the original proof of the payment which includes but does not limit same to any of the following:
  - (i) original receipt;
  - (ii) proof of payment method;
  - (iii) original cheque as processed by the bank, if applicable;
  - (iv) affidavit in support of the refund or transfer; and
  - (v) proof of the account intended to be paid, if applicable.

#### *By the Municipality*

- (b) no refund or transfer shall take place until any objection to the refund or transfer by the accountholder, as referred to in sub-item (ii), has been resolved to the satisfaction of the Municipality; and
  - (i) the Municipal Manager shall notify both the claimant and the account holder, of any final decision to either: (aa) Proceed with the refund or transfer; or (bb) to reject the request for the refund or transfer

#### *By the Accountholder*

- (c) Any accountholder objecting to such refund or transfer must comply with the following:
  - (i) Submit such objection in writing showing cause as to why the refund or transfer should not take place; and

- (ii) may be required to submit such objection in the form of an affidavit.
- (7) Except for refunds in terms of section 55, of the Property Rates Act, where there are two or more account holders all of the accountholders must complete and sign the "Request for Refund or Transfer Form" as per sub-item (2).

## **32 Deceased estates, insolvent estates, judicial management and curatorship**

### *Deceased estates*

- (1) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed executor or executrix, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the deceased estate's bank account.
- (2) Notwithstanding sub-item (1) if an estate is wound up in terms of section 18 (3) of the Administration of Estates Act, then such refund or transfer can be made as per the directions as given by the Master by applying the same or similar principle; and
  - (a) the Masters direction as referred to in sub-item (2) must be attached to the request for the refund or transfer.

### *Insolvent estates including any entity in the process of liquidation*

- (3) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed trustee or liquidator, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the bank account of either the insolvent or an entity in liquidation; or
  - (b) to an unrehabilitated insolvent; or
  - (c) notwithstanding anything else to the contrary contained herein to any nominee, subject to the conditions contained in this policy.
- (4) Despite anything to the contrary contained in this policy the right to offset any debt against any credit is subject to the Insolvency Act.

### *Judicial management*

- (5) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed judicial manager, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the bank account of a company which has been placed under judicial management.
- (6) Despite anything to the contrary contained in this policy the right to offset any debt against any credit is subject to the Insolvency Act.

### *Curatorship*

- (7) Refunds and requests for transfers will only be considered upon receipt of the duly completed form referred to in item 34, signed by a duly appointed curator, and such application shall be subject to relevant conditions contained in item 34; and
  - (a) refunds will only be made payable to the bank account of a person under curatorship.

## **33 Refunds and transfers generally**

- (1) Subject to sub-item (2) refunds shall take the form of electronic bank transfers or cheques.
- (2) Subject to sub-item (3) the Municipal Manager shall have the right to offset any credit against any debt of the same debtor.
  - (a) Notwithstanding sub-item (2) the amount referred to in item 24 (2) shall not be offset except as provided for in item 24 (3).
- (3) The right to offset any debt against any credit is subject to the Insolvency Act, or any court order prohibiting such set-off.
- (4) In the case of a refund or transfer to a partnership no set-off against any debt of the individual partner may take place; but
  - (a) any credit due to a partner may be offset against the debt of a partnership.

#### **34 Clearance certificates**

- (1) Any payment for a clearance certificate, which results in a credit on the sellers account, shall be refunded to such seller, after registration, and after finalisation, to the satisfaction of the Municipal Manager, of the respective account.
- (2) Where a sale does not result in registration taking place no refund shall be made, unless there is a credit on the account, and such refund shall be limited to the total of the amount in credit which shall not exceed the credit placed to the account in order to obtain the clearance certificate.
- (3) The sheriff of the court who sold the property shall be the seller when a property has been sold in execution.
- (4) A duly completed 'Request for Refund Form' may accompany any application for a clearance certificate.

#### **35 Nominees**

- (1) Subject to sub-item (2) and (3) and notwithstanding anything else contained in this policy refunds may be made to a nominees banking account.
- (2) The Municipal Manager has the right, subject to any applicable legislation, to offset any of the nominees debt against any credit to be refunded to such nominees banking account.
- (3) Notwithstanding sub-item (1) no refund will be made to a nominee where the account holder is a juristic person.

## **CHAPTER 5: MISCELLANEOUS**

### **36 Right of access to property**

- (1) The registered owner or occupier of any premises in this Municipality must give an official of this Municipality or any representative of a service provider, who is authorised by the Municipal Manager, access at all reasonable hours to the premises in order to inspect the premises, read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict or discontinue the provision of any service.
- (2) Where access has been denied to a property or where it is found that officials are unable to gain reasonable access the Municipal Manager may, having given fourteen days due notice, insist on the installation of a water management device and any prepayment meter may be installed at the property, at the owners cost.
- (3) Where access has been denied to a property or where it is found that officials are unable to gain reasonable access the Municipal Manager may, having given fourteen days, due notice, disconnect, stop or restrict or discontinue the provision of any service, at the cost of the owner'

### **37 Compromising or compounding any action, claim or proceedings**

- (1) In terms of section 109 of the Systems Act the Municipal Manager may compromise or compound any action, claim and proceedings where applicable.
- (2) Sub-item (1) is not applicable to rates except as provided for in section 26 (3) of the Property Rates Act.

### **38 Review of this Policy**

- (1) This policy shall be reviewed annually as part of the budget process or whenever required.

## CHAPTER 6: OTHER COLLECTION PROCEDURES

### 39 Failure to pay debt by due date

(1) Should any debtor fail to pay any debt, referred to in section 118 (3) of the Systems Act, by due date the Municipal Manager may, serve a notice in terms of section 115 of the Systems Act, –

- (a) on the debtor, and
- (b) on the property,

calling upon such debtor to pay such debt within 10 (ten) days of such notice.

### 40 Content of notice

(1) The notices referred to in item 39 shall state that should any debt not be settled within 10 (ten) days of such notice, application will be made to court for an order for the sale of the debtors property for the outstanding debt plus any additional debt incurred in the application of this Chapter.

### 41 Address for delivery of notifications

(1) Any debtor may notify the Municipal Manager of an address within the Republic to which any notice referred to in sub-item 39\_(1) (a) may be sent; and

- (a) any address given in terms of sub-item (1) may be amended by a debtor by notifying the Municipal Manager in writing of the change thereof; and
  - (i) such amended address shall take effect when a written acknowledgement of such address is dispatched by the Municipal Manager to the debtor.
- (b) the onus shall be on the debtor to ensure that such debtor receives a written acknowledgement of such amended address;
- (c) the amended address shall be deemed for all purposes to be the address where all notices in terms of this Chapter may be served to the exclusion of any address previously notified;
- (d) shall state either the property account number or numbers of each applicable account; and
  - (i) the full description of the property;
  - (ii) the physical address of the property; and
  - (iii) the full name of the registered owner.

### 42 Procedures to be followed for debt

(1) Should any debt referred to in item 39, remain unpaid after the final date for the payment thereof, such debt may be recovered in the manner set forth in this Chapter.

(2) The Municipal Manager shall cause a further notice to be served, in terms of section 115 of the Systems Act, advising that an application shall be made to Court, after the lapsing of 14 (fourteen) days from dispatch of this notice, for an Order for the sale of the debtor's property for the outstanding debt plus any additional debt incurred in the application of this Chapter.

(3) If after giving notification in terms of items 39\_ and sub-item 42\_(2) hereof, and such debt remains outstanding, a court of competent jurisdiction, upon the application by this Municipality, showing

- (a) the amount of debt not paid; and
- (b) the notices provided for in items 39 and 42 (2) has been given,

shall be requested to summarily order any such property against which the debt is owing to be sold by way of public auction, subject to the conditions contained in sub-items (4), (5) and (6) hereof, which order the court shall have the right to grant.

- (4) The order shall give the power for the proceeds of the public auction to be paid into court and direct that payment be made to the Municipality, from these proceeds; of
- (a) all debt outstanding; and
  - (b) all costs incurred by this Municipality in respect of the application made in terms of this Chapter;
- in preference to any bondholder in terms of section 118 (3) of the Systems Act.
- (5) Upon the court order as set out in sub-items (3) and (4) hereof the Municipality shall have the right to have the property or any part thereof, as the case may be, sold in accordance with the court's order without the necessity of issuing a writ or other process of court for that purpose, except as provided for in sub-item (6), provided that in all other respects any such sale shall be deemed to be a sale of immovable property in execution of the judgment of such court, save that it shall not be necessary to notify or consult the debtor, against which the amount is owing, with regards to the sale or the conditions of the sale.
- (6) Prior to applying for a date of sale of any property in terms of this Chapter, or the court order, the Municipal Manager shall –
- (a) post a notice on the official notice board of this Municipality for a period of a least 30 (thirty) days;
  - (b) publish such notice in at least three newspapers circulating in the area in which the property is situated; and
  - (c) serve a notice to this effect on the debtor.
- (7) The notice referred to in sub-item 45(6) (a) may be in the form of a schedule and shall contain at least the following information:
- (a) The name of the owner;
  - (b) the full physical address of the property;
  - (c) the amount outstanding;
  - (d) that the debtor has a right to settle the debt before the expiration of the notice;
  - (e) that the property may be sold in terms of the court order granted in terms of this Chapter should the debt remain outstanding after the expiry of the said notice; and
  - (f) any other information which the Municipal Manager deems necessary.
- (8) The notice referred to in sub-item 45(6) (b) shall contain at least the following information:
- (a) The name of the registered owner;
  - (b) the full physical address of the property;
  - (c) the amount outstanding;
  - (d) that the debtor has a right to settle the debt before the expiration of the notice;
  - (e) advising that application shall be made to the sheriff of the court for a sale date after the expiry of the notice; and
  - (f) any other information which the Municipal Manager deems necessary.
- (9) If before the sale of any such property in terms of any court order there is produced to the sheriff or any other person charged with the sale thereof a certificate from the Municipal Manager that all the amounts due have been fully paid, the said property shall be withdrawn from the sale.
- (10) Notwithstanding that all the said amounts may have been paid before the said sale this Municipality shall not be liable to any person whatsoever for any loss or damage suffered by such person by reason of the sale of any such property in respect of which no such certificates have been produced to the said sheriff or person in charge.
- (11) If any property is sold pursuant to a court order referred to in this Chapter notwithstanding the fact that all amounts due have in fact been paid; and
- (a) if the Municipal Manager, within three months of the sale, is satisfied that the said amounts had been paid at the date of the sale, the Municipal Manager shall, if transfer of the property to the purchaser has not yet been registered, declare the sale null and void;



- (b) the declaration referred to in sub-item (11)(a) hereof shall be by way of written notice signed by the Municipal Manager and a copy thereof shall be served on the registered owner, in terms of section 115 of the Systems Act, and on the purchaser, at the address supplied in the conditions of purchase, and shall be transmitted forthwith to the Registrar of Deeds.
  - (c) upon signature of the said declaration the sale shall be null and void and in that event the purchase price shall be refunded to the purchaser;
  - (d) the registered owner shall be liable for all the expenses of the sale and all expenses incurred pursuant to the sale save any expenses incurred after production, if any, of the certificate referred to in sub-item (9) hereof, to the sheriff or any other person charged with the sale; and
  - (e) if no such certificate has been signed by the Municipal Manager in accordance with sub-item (9) hereof the sale shall be of full force and effect.
- (12) Nothing contained in this Chapter prevents this Municipality from taking any other proceedings for the recovery of debt as set out in this policy, any relevant legislation, or any other competent procedure in any court of competent jurisdiction.

#### **43. Involvement of employers**

- (1) The present arrangement with major employers, such as the canning factories, in terms of which deductions in respect of arrears as well as current payments from weekly wages are made, should be encouraged, provided that employees participate on a voluntary basis and that deductions are subject to affordability. It should be extended to other employers with the following incentives for those who participate:
- (a) That a commission as determined by Council from time to time be paid to employers who participate and undertake the administration of such deductions;
  - (b) That employees who participate be granted a discount to be determined by Council;

#### **NOTES TO THE PAYMENT TABLE:**

- 1 Debtors must never feel that they have lost control of their account.
- 2 The most financially viable arrangement must be negotiated at all times.