Policy Name	eThekwini Municipality Credit Control and Debt Collection Policy
Policy Number	2024/2025
Policy Review Team	Legal & Compliance Unit Electricity unit Water & Sanitation Unit Revenue Management Unit
Status	Approved
Approved By	Council
Date Approved	22 March 2024
Review	Annually

ETHEKWINI MUNICIPALITY

CREDIT CONTROL AND DEBT COLLECTION POLICY

2024/2025

Purpose… 4

1. Definitions….. 4
2. Registration for the provisions of Municipal Services……..... 14
3. Deposits…. 19
4. Accounts….. 24
5. Responsibility for amounts due……..... 28
6. Payment options…….....31
7. Payments in full and final settlement…..... 33
8. Consolidation of account and allocation of payment…..…….…….....33
9. Interest and administrative charges……..... 34
10. Procurement of goods and services and payments in terms of contracts……36
11. Agreement with employers in terms of Section 103 of Systems Act…….. 37
12. Staff, Councillors and Ward Committee Members in arrears……..…..37
13. Arrears account……..……..……39
14. Domestic water and sewage disposal customers……..... 42
15. Debt relief programme: Water charges……..... 44
16. Domestic water insurance and water loss……..... 45
17. Termination of services and services agreement……..... 46
18. Unallocated consumption……..... 47
19. Meter readings and estimation..... 48
20. Debt recovery using the pre-payment metering system (residential customer only). 48
21. Revenue clearance assessment and certificates…….....50
22. Legal action and cost orders…….....56
23. Credit authorities in respect of arrears in terms of Section 57 or 58 of the Magistrates' Courts Act…….....57
24. Disputes..... 60

25. Refunds..... 63
26. Deceased Estates……..... 64
27. Housing…..... 65
28. Indigent support……..... 65
29. Irrecoverable debt……..……..66
30. Leases..... 69
31. Business rescue and insolvency……..……..……..…70
32. Third-party debt collection……..……..71
33. Enforcement of credit control measures during disaster……..…..72
34. Hostels……..……..…73
35. Claims in respect of damages to service infrastructure and Municipal property……..73
36. Misrepresentation……..……..……..…74
37. Policy evaluation and review……..……..…....74
38. General..……..……..……..……75

PURPOSE

This Policy, read together with the eThekwini Municipality Credit Control and Debt Collection Bylaw, has been compiled in compliance with the Local Government: Municipal Systems Act 32 of 2000 (hereinafter referred to as "the Systems Act") and provides procedures and mechanisms for credit control and debt collection as contemplated in Chapter 9 of the Systems Act. In terms of Section 96 of the Systems Act, the Municipality is enjoined to (a) collect all money that is due and payable to it, subject to the Act and any other applicable legislation; and (b) for that purpose, to adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies.

The raising and recovery of revenue is a constitutional obligation of the Municipality which is fundamental to the long term financial and economic sustainability of the Municipality and to the achievement of the Municipality's constitutional responsibilities in, inter alia, addressing the needs of the local community. In turn, members of the local community have the right, amongst others, to access municipal services (subject to the law), and a reciprocal statutory duty in terms of Section 5(2)(b) of the Systems Act to pay promptly service fees, rates on property and other charges, levies and duties imposed by the Municipality.

This Policy aims, on the one hand, to ensure that the Municipality's approach to credit control and debt collection is sensitive, transparent and is equitably applied throughout the Municipality's geographic area and seeks on the other hand, to enable the Municipality to conduct its financial affairs in an effective, economic and efficient manner by ensuring that the incidence of under collection of revenue and bad debt is minimised, its revenue base is protected and has ability to grow and that cash flow is not negatively impacted upon, thereby compromising optimal delivery of services.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless indicated to the contrary in this Policy, words contained in this Policy have the same meaning as in the eThekwini Municipality: Credit Control and Debt Collection By-law.

"Account" means written notification in the form of a statement of account in respect of municipal services, rates, sundry charges and other charges, addressed to a person liable for payment thereof;

"Acknowledgement of debt" means an admission of liability and written undertaking by a debtor to repay an amount owing to the Municipality, and includes a consent to judgement and for the purposes of this policy it also means a Credit Authority;

"AEA" means Administration of Estates Act, 1965 (Act 66 of 1965), as amended;

"Agent" means a person authorised by the Customer to act on his or her behalf;

"Arrears" means any amount which is due, owing and payable and which remains unpaid by due date;

"Authorised Official" for the purposes of this policy means the Head: Revenue or his lawful delegate in terms of the Municipality's System of Delegations;

"Availability Fee" means the tariff referred to under Tariff Type in the eThekwini Municipality's Tariff Policy, Tariff Book and Tariff By-law;

"Bulk Customer" means a customer who consumes large amounts of electricity and/or water for commercial or industrial purposes;

"By-law" means the eThekwini Municipality: Credit Control and Debt Collection By-law, 2017 as amended;

"Category of Owners" means, for the purpose of Clause 3.1.2 of this Policy, any department of state or administration in the national, provincial or local sphere of government which has a good credit history with the Municipality.

"CFO" means a person employed by the Municipality in terms of Section 56 of the Systems Act as the Chief Financial Officer of the Municipality, and includes any person to whom the Chief Financial Officer has delegated or sub-delegated a power, function or duty in accordance with the system of delegation developed by the Municipal Manager in terms of Section 79 of the Municipal Finance Management Act and Section 59 of the Systems Act;

"Children's Act" means Children's Act, 2005 (Act 38 of 2005), as amended;

"CIPC" means the Companies and Intellectual Property Commission established in terms of Section 185 of the Companies Act;

"Collection Charges" means the charges which the Municipality is entitled to recover in terms of section 75A (1) of the Systems Act, and includes the administrative cost–

(a) of reminding any ratepayer or Customer of arrears;

(b) for the termination, restriction or reinstatement of any Municipal service to a defaulting ratepayer or Customer;

(c) of any notice rendered, sent, delivered or published to a ratepayer or Customer in terms of the By-law or any other law;

(d) of any merchant fee; and

(e) in respect of any other charge which the Municipality is by law entitled to recover;

"Company" means a Company as defined in the Companies Act, 2008 (Act 71 of 2008), as amended;

"Companies Act" means the Companies Act (Act 71 of 2008), as amended;

"Consolidated account" means a monthly account reflecting municipal service fees, charges, surcharges on fees, property rates, sundry charges and other municipal taxes, levies and duties and all consolidations in terms of Section 102 of the Systems Act;

"Constitutional Documents" mean documents that define the existence of a Juristic entity and regulate the structure and control of the Juristic Entity and its members, directors and/or office bearers;

"Credit Authority" means any arrangement made by agreement between the Municipality and a Customer for the payment of any arrears in instalments. Such arrangement may take the form of an agreement or an acknowledgment of debt;

"Customer" means any person or their agent with whom the Municipality or an Authorised Official has entered into an agreement for the provision of any Municipal service to the premises;

"Defaulter" means a customer whose account is in arrears;

"Deposit" means a monetary amount raised by the Municipality in relation to the consumption of a Municipal service and mitigation of credit risk to the Municipality, irrespective of the existence of an agreement;

"Disaster Management Act" means Disaster Management Act, 2002 (Act 57 of 2002), as amended;

"Disconnection" means a termination or restriction of a Municipal service supplied to a meter;

“Due date” means the date on which a Customer’s account becomes payable, which in the case of monthly accounts is twenty-one days from the date of the account, and in the case of annual accounts is the 31 October each year;

“ECA” means the Electronic Communications Act, 2005 (Act 36 of 2005), as amended;

“ECTA” means the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), as amended;

“EFT” means an electronic transfer of money, initiated through an electronic terminal, telephone/cellular phone, computer (including on-line banking) or any other means recognised by law, for the purpose of ordering, instructing or authorising a bank or other financial institution, to debit or credit an account;

“Effective Date” means the date on which this Policy comes into effect which shall be 1 July 2023;

“Existing Guarantee” means any security which was provided to the Municipality in lieu of a Deposit, prior to the Effective Date, including without limitation, any guarantee, Financial Guarantee, suretyship, or any similar such document, which remains legally enforceable;

"Fee" means a prescribed amount charged by the Municipality to a Customer for the provision of any Municipal service;

“Financial Guarantee” means an irrevocable and unconditional written undertaking, in the prescribed form, issued by a registered South African Bank in favour of the Municipality, to honour all obligations (present or future) owed by a person to the Municipality, should that person be in breach of any or such obligation;

“Fines” means any lawfully determined pecuniary penalty which is payable by a person to the Municipality in terms of applicable legislation, arising from the commission of an act or an omission that is punishable by law;

“Flow limiter” means an electronic device installed in the water connection which allows for a normal flow rate but restricts the daily volume of water to 300 litres per day;

“Flow restrictor” means a washer which is installed in the water connection which allows a daily consumption of approximately 360 litres of water in a six-hour period but at an extremely low flow rate;

“Government property” means property that is administered by, vested in or registered in the name of an organ of state as defined in Section 239 of the Constitution;

"Guarantee" means any security, warranty or pledge that is recognised by law and includes a Financial Guarantee, suretyship or any other similar such document, whereby a person undertakes in writing to be responsible for the payment of any amount due to the Municipality or for the performance of any contractual obligation owed to the Municipality;

"Guardian" means a parent or other lawfully appointed person who acts as guardian of a minor as contemplated in the Children's Act. Where more than one person has guardianship of a minor, the term shall apply to them both;

''Holding company'', in relation to a subsidiary, means a company that controls that subsidiary as a result of any of the circumstances contemplated in the Companies Act;

"Illegal connection" means any connection or reconnection to a system through which Municipal services are provided, which is not authorised or approved by the Municipality or an Authorised Official;

"Indigent customer" means a customer who qualifies for Indigent Support as determined by the Municipal Council at its annual budget meeting, read together with the Municipality's Indigent Policy;

"Indigent Policy" means the eThekwini Municipality Indigent Policy adopted and approved by the Municipal Council from time to time at an annual budget meeting;

"Indigent Support" means the applicable indigent support as determined by the Municipal Council from time to time at an annual budget meeting, read with the Indigent Policy;

"Joint owner" means a co-owner or the co-owners of a property who may share ownership in the property in equal or different shares;

"Juristic person" includes a partnership, a proprietor, association or other body of persons, corporate or unincorporated and includes a trust and organ of state;

"Leak period" means the metering period immediately prior to the date of repair of the leak and the metering period during which the leak is repaired. Each of these two periods will not exceed 65 days;

"Meter" means any device which measures any demand or quantity of either electricity energy or water passing through such meter;

"Metering period" means the time interval between two successive billed meter readings but shall exclude previous leak periods;

“MFMA” means Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), as amended;

“Minor” means a natural person under the age of 18 years, excluding a minor that has been emancipated by a court of law;

“MPRA” means the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004), as amended;

“MSCOA” means the Local Government Municipal Finance Management Act, 2003: Municipal Regulations on Standard Chart of Accounts No. R312 in Government Gazette 37577 of 22 April 2014;

“Multi-property owner” means an owner of 50 or more registered properties in the Municipality’s area of jurisdiction;

“Municipal charges” means municipal service fees, surcharge on fees, penalties, interest, property rates, and other municipal taxes, levies and duties, as well as any other charges in terms of Legislation, Policy or an agreement, and includes Sundry Charges and Collection charges;

“Municipal Council” means the eThekwini Municipal Council; a council composed and elected in terms of Section 157 of the Constitution;

“Municipal property value” means the value of a property as appearing in any Valuation Roll or Supplementary Valuation Roll of the Municipality contemplated in Sections 30 and 78 of the MPRA, and as determined in accordance with the provisions of the MPRA and in particular, but not limited to, Section 46 read with Section 45 thereof;

"Municipal service" means a service provided by the Municipality in terms of its powers and functions to or for the benefit of the local community, irrespective of whether or not:

(a) such service is provided by the Municipality itself or by engaging an external mechanism contemplated in Section 76 of the Systems Act; or

(b) any fees, charges or tariffs are levied in respect thereof;

“Occupier” means any person who occupies any premises or part thereof, without regard to the title under which such person occupies the premises concerned;

"Owner" means:

(a) In relation to a property referred to in paragraph (a) of the definition of "property" in the MPRA, a person in whose name ownership of the property is registered;

(b) The administrator of the body corporate of a sectional title scheme where the common property of a sectional title scheme is at issue and there are no elected trustees of the body corporate;

(c) The administrator, where the owner of a property is a mental health care user as defined in Section 1 of the Mental Health Act, 2002 (Act 17 of 2002), as amended;

(d) The business rescue practitioner, where the owner of a property has been placed under business rescue;

(e) The agent, where the owner of a property is absent from the Republic of South Africa or where the Municipality has, after reasonable attempts, not been able to determine his or her whereabouts;

(f) Every person who is entitled to occupy or use a building, or who does occupy or use a building, where –

(i) The owner of the property is absent from the Republic of South Africa;

(ii) The Municipality has, after reasonable attempts, not been able to determine the whereabouts of the owner of the building; and

(iii) There is no managing agent;

(g) Trustees and beneficiaries jointly, in the case of property in a trust;

(h) An executor, executrix or administrator, in the case of property in a deceased estate;

(i) A trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;

(j) A judicial manager, in the case of a property in the estate of a person under judicial management;

(k) A curator *ad litem*, in the case of property in the estate of a person under curatorship;

(l) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude, as joint owner together with the registered owner;

(m) A lessee, in the case of a property that is registered in the name of the Municipality and is leased by it;

(n) A buyer or a developer, in the case of a property that was sold by the Municipality and of which possession was given pending registration of ownership in the name of the buyer, beneficiary, or a developer;

(o) A fideicommissary as joint owner together with the fiduciary;

(p) Ingonyama Trust in respect of the land vested in the Ingonyama Trust by virtue of the Ingonyama Trust Act, 1994 (Act No. KZ 3 of 1994), as amended, or any other law;

(q) The National Government of the Republic of South Africa, in the case of a property that is registered in the name of a deregistered company or close corporation and where ownership thereof has accrued to the state by operation of law (bona vacantia);

(r) An owner of a property in the name of any other juristic person not mentioned in this definition of an owner; and

(s) A child or children in charge of a property in the case of a child headed household as contemplated in this Policy and the Rates Policy of the Municipality;

"Person" means a natural person or Juristic Person;

"Pre-payment debt recovery" means a pre-payment system whereby a percentage of payment, as determined and approved by the CFO from time to time, is allocated to arrears and the other remaining percentage is allocated to the purchase of electricity.

"Primary property" means the primary residential property where a person has his or her permanent principal home to which he or she returns or intends to return and where he or she resides for at least nine (9) months in the Municipal Financial Year;

"Property" means–

(a) immovable property registered in the name of a person, including, in the case of sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in the name of a person;

(c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, excluding a permission to occupy; or

(d) public service infrastructure;

“Prescribed” means a determination set or laid down by law, or by the Municipal Council or the CFO from time to time;

“Prescribed Form” means any document that may be prescribed by law or approved by the Municipal Council or required by the CFO from time to time;

“Prevention and Combating of Corrupt Activities Act” means Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);

“Rates" means a municipal rate on property envisaged in terms of section 229(1) (a) of the Constitution and levied by the Municipality in terms of the MPRA, expressed as cents in the rand;

“Rates Regulations” means the Municipal Property Rates Regulations, 2006 as amended;

“Residential property” means a dwelling, in any building, premises, structure, or any other place, or any part thereof, used predominantly as a place of residence or abode of any natural person excluding a dwelling where the dominant use is for any purpose other than residential, or where it is used in the supply of commercial accommodation;

“Revenue Clearance Certificate” means a certificate referred to in Section 118(1) of the Systems Act;

“Section 118(1) debt” means debt contemplated in Section 118(1) of the Systems Act;

“Section 118(3) debt” means debt contemplated in Section 118(3) of the Systems Act;

“Services Account” means an account which relates to water and electricity consumption, sewage disposal, refuse collection and related charges;

“Service Agreement” means an agreement entered into between the Customer and the Municipality for the provision of a Municipal service which includes but is not necessarily limited to water and electricity;

“**Share Block Company**” means a share block company as defined in the Share Blocks Control Act;

“Share Blocks Control Act” means the Share Blocks Control Act, 1980 (Act 59 of 1980), as amended;

“Share block scheme” means a share block scheme as defined in the Share Blocks Control Act;

“Social Housing Tenant” means any person renting any residential premises from any public legal body for less than a full rack rental or renting residential premises from a private person

and receiving from the National or Provincial Government a subsidy or other amount to empower the tenant to pay the full rack rental;

"Social Worker" means a person employed by the Municipality who is registered as a Social Worker under the Social Service Professions Act, 1978 (Act No 110 of 1978);

''Subsidiary'' has the meaning determined in accordance with Section 3 of the Companies Act;

"Sundry charge" means an amount charged to a Person which is not directly linked to a property and includes but is not limited to−

(a) charges arising from damage to municipal property and equipment;
(b) monies owed for Municipal services other than rates, water, electricity and sanitation;
(c) monies awarded to the Municipality through court orders and judgments;
(d) fines; and
(e) monies owed to the Municipality by the Municipality staff (staff debts);

"Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended;

"System of Delegations" means the delegations document adopted by the Municipal Council in terms of section 59 of the Systems Act;

"Structures Act" means the Local Government: Municipality Structures Act, 1998 (Act No. 117 of 1998), as amended;

"Tariff Book" means the tariff tables that accompany the annual budget which is tabled before the Municipal Council in terms of section 17(3) of the MFMA;

"Tenant" means in relation to this Policy, a person who entered into a lease agreement with a Landlord, or an occupier of property with or without the express or tacit approval of the owner;

"Tenderer" means a contractor, service provider or supplier who has submitted a tender for the provision of services or the delivery of goods to the Municipality;

"Third- party debt collector" means a natural or juristic person appointed by the Municipality to collect outstanding debt on behalf of the Municipality;

"Water services" means the supply of potable water and, where a municipal sewerage reticulation system exists, the disposal of sewage;

1.2. Interpretation

Where there is a conflict between this Policy and another policy of the Municipality, this Policy prevails over the affected portion of the other policy in respect of any credit control and debt collection matter.

PROVISION OF MUNICIPAL SERVICES

2. REGISTRATION FOR THE PROVISION OF MUNICIPAL SERVICES

2.1 **Residential property** - The Municipality will endeavour to register owners only for services on their properties.

2.2 **Business property** - Unless specified to the contrary in this Policy, the Municipality will only enter into new contracts for the provision of Municipal services with tenants:

i. if the owner of the property is a multi-property owner as defined in this Policy, and the municipal accounts on all of his or her properties are paid up.

ii. If the tenant is a licensee or cell mast operator under the Electronic Communications Act and a valid planning authorisation or consent has been issued for the telecommunication facility by the Municipality or other competent authority in terms of applicable planning legislation. In order to mitigate risk to the Municipality –

(a) the owner of the property must sign a Deed of Suretyship in favour of the Municipality for the obligations by the licensee or cell mast operator to the Municipality, or

(b) in lieu of a Deed of Suretyship as required in sub-clause (a) above, the licensee or cell mast operator, must provide a Financial Guarantee, in the prescribed form, for an amount that is acceptable to the CFO in his sole opinion, based on sound business practices.

(c) notwithstanding the conditions set out in (a) and (b) above, a licensee or cell mast operator will be exempted from the requirement to provide a Deed of Suretyship from the owner of the property, if a registered real right in favour of the licensee or cell mast operator is registered over the portion of the property occupied or used by such licensee or cell mast operator.

(d) The CFO has the right to determine that the licensee or cell mast operator must install a separate meter on the property for the Municipal service that it requires.

(e) the tenant must produce a written consent from the landlord, that permits the tenant to register an account in their name and acknowledging that the landlord remains responsible for unpaid account.

iii. if the tenant of a property which does not fall into the category of multi property owner, requires a VAT invoice for payment of Municipal services, documentation to the satisfaction of the CFO must be provided to verify that the tenant is registered with SARS for VAT purposes. In addition, acceptance of an application for Municipal services will be subject to the registered owner of the property signing a Deed of Suretyship in the prescribed form for the obligations of the tenant, alternatively, the tenant applying for a separate meter where he or she does not occupy the entire property.

2.3 When the owner of the property is a Bulk Customer, the CFO, at his or her discretion, may allow tenants of the bulk customer to be registered for Municipal services on the property concerned, upon submission of any documents or information that may be requested by the CFO.

2.4 **Government property** - The Municipality will continue to register tenants for services. In the event of non-payment, the respective Government Departments shall be held liable for the debts on their own property.

2.5 **Sundry accounts** – For other services provided by the Municipality, but not directly linked to a property, a person must provide the Municipality with a municipal services account number or rate account number. If the person does not have an existing municipal account, then a new account must be created.

2.6 **Miscellaneous administration matters** - The Municipality shall, whenever possible and in accordance with Section 102 of the Systems Act, combine any separate accounts of a person who is liable for payment to the Municipality, into one consolidated account.

2.7 No registrations or additions to the customer database can be processed unless legal documentation acceptable to the CFO has been produced in each instance.

2.8 If there is an outstanding debt on the property (other than historical debt incurred by a previous owner of the property) this debt must be settled in full, or suitable payment arrangements must be made by the owner of the property, before a Customer or owner

is registered for services. This Clause does not apply to a new owner who has taken transfer of property and applies for a Municipal service.

2.9 Customers who fail to register and who illegally consume services will be subjected to such administrative, civil or criminal action as the Municipality deems appropriate.

2.10 Where the purpose for or extent to which any Municipal service used is changed, the onus and obligation is on the Customer or owner to advise the Municipality of such change.

2.11 A Person applying for a Municipal service must enter into a Service Agreement with the Municipality in order for such Municipal service to be provided.

2.12 **Documentation and Information (Juristic Persons)-** An application by a Juristic Person for a Municipal service must include –

(a) The submission of a resolution delegating authority to the applicant's representative and furnishing, if applicable, the Juristic person's Registration Number or Trust Reference Number with the Master of the High Court.

(b) The names, identity number, cell phone number, physical and postal addresses, email addresses and any other particulars of all the directors (excluding ex-officio directors as contemplated in the Companies Act, 2008 (Act 71 of 2008, as amended) and where applicable, of members or trustees or proprietors or partners.

(c) Certified copies of the following where applicable:

(i) Current Letter of Authority of the Trustee(s).

(ii) Identity documents of the persons referred to in (b) above.

(iii) CIPC registration documents.

(iv) Constitution

(v) Trust Instrument

(d) A signed Direct Debit form in the prescribed form.

(e) Deeds of Suretyship in the prescribed form, signed by the persons referred to in (b) above. Provided that:

(i) Directors of a listed company on a stock exchange for public trading or of a public company or of a state-owned company, are excluded from this requirement.

(ii) The CFO may, upon written application, waive such Deed of Suretyship requirement and determine another form of security that will protect the Municipality's interests and mitigate risk to the Municipality. Such other form of security may include (but is not necessarily limited to) a higher deposit as contemplated in Section 3.19 or the installation of a pre-paid meter (where applicable), and/or the signing of a direct debt authorisation for payment of the account. Ultimately, the decision rests with the CFO.

2.13 A person may be required to provide to the Municipality with personal information, as may be prescribed, for any purpose contemplated in this policy, amongst others, all contact details (such as postal/physical/email address), proof of identification, financial information and any other relevant documentation, as may be required by the Municipality from time to time (such as a lease agreement or a title deed). Such information must be collected and processed in compliance with any data privacy policy or code of conduct applicable within the Municipality or the provisions of the Protection of Personal Information Act, 2013 (Act 4 of 2013).

2.14 All information furnished may be verified by the Municipality with any or all data information institutions, credit information bureau's and any financial institutions as may be deemed necessary by the Municipality in determining a person's credit worthiness or for any other reason as determined by the CFO.

2.15 The Municipality 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 the Municipality.

2.16 **Sureties -** A Surety may, upon application to the CFO, be released from his obligations to the Municipality in the following circumstances-

2.16.1 The Surety has resigned or been removed/disqualified as a director, member, trustee, proprietor or partner as the case may be, or the Surety's term of office as director has expired as per the Memorandum of Incorporation in terms of the Companies Act, 2008, as amended; and

2.16.2 No amounts are due, owing and payable by the principal debtor at the time of application.

2.17 No application for the release of a Surety as contemplated in Clause **2.16**, will be considered by the CFO unless the application is accompanied by the following documentation: -

2.17.1 In the case of a Director of a company or member of a close corporation, the Surety must provide proof in the form of a document issued by CIPC that he is no longer a director /member of such company or close corporation;

2.17.2 In the case of a Trustee, the Surety provides proof in the form of a document issued by the Office of the Master of the High Court or a certificate by a practicing attorney that he is no longer a trustee;

2.17.3 Where another person takes the place of the Surety within the Juristic Entity, a duly signed Deed of Suretyship in favour of the Municipality must be furnished, by the new surety to the Municipality, in the prescribed form.

2.18 In considering an application for the release of a Surety, the provisions of Clause **2.13**-**2.15** shall be applicable.

2.19 Notwithstanding the provisions of Clause **2.12(e)**, a juristic entity may elect to pay a higher Deposit, in cash, as determined by the CFO, from time to time, in lieu of furnishing Deeds of Suretyship as contemplated in Clause **2.12(e)**. A written application to waive the provisions of Clause **2.12(e)**, must be made to the CFO who shall conduct a full financial analysis and credit check of the juristic entity and to call for any documents or other information as may be considered relevant to the consideration of the application. A Financial Guarantee in lieu of a higher cash Deposit, will not be accepted.

2.20 When an application is made in terms of Clause **2.12e (ii)**, Clause **2.12**, or Clause **2.19**, the following financial ratio's will be applicable in order for the CFO to consider the application:

i. Quick ratio of 1:1

ii. Net Profit margin of 2.5%

iii. Gearing < 40%

iv. Cash Reserves 60 days over monthly expenditure.

2.21 A member of a Share Block company may register for a Municipal service to an individually metered flat or piece of land that constitutes part of a Share Block Scheme. In order to mitigate risk to the Municipality in the event of non-payment of any Services Account, a Share block company must stand surety for the obligations of such member and furnish a Deed of Suretyship in favour of the Municipality in the prescribed form, alternatively a

Financial Guarantee. No application for a Municipal service will be accepted unless such suretyship is provided, alternatively a Financial Guarantee.

2.22 Where the Constitutional Documents of a Juristic Entity preclude a person from standing as surety or where a person contemplated in Clause **2.12(e)** refuses to sign a Deed of Suretyship, the applicant may have to opt for a pre-paid meter.

2.23 If a prospective surety contemplated in Clause **2.12(e)** is not the registered owner of immovable property within the jurisdiction of the Municipality or is the registered owner or Joint owner of a Primary Property, the CFO shall have the right to determine another form of security to mitigate risk to the Municipality. Such other form of security may include a higher Deposit, as contemplated in Clause **2.19**, a Financial Guarantee as contemplated in Clause **3**, or a pre-paid meter.

2.24 Where a property is registered in the name of a minor, the guardian may register for services on behalf of the minor. Once the minor turns 18 years of age, he/she may enter into a services contract with the Municipality and register in his/her name, unless the minor has been legally emancipated by the court.

2.25 Notwithstanding Clause 2.24, a minor over the age of seven (7) year may make an application for the provision of Municipal services in his/her own name, provided the minor is assisted by or produces a written consent from the guardian in the prescribed form. In addition to such written consent, the guardian must stand as a surety for such minor and sign a Deeds of Suretyship in favour of the municipality in the prescribed form.

3. DEPOSITS, FINANCIAL GUARANTEES AND REVIEW OF DEPOSITS

3.1 DEPOSITS

3.1.1 Upon date of ownership transfer, a Deposit will be raised, based on the criteria determined by the CFO, from time to time which include but not limited to the Customer's profile, the financial risk assessment of the customer, previous consumption, connection type and size of the metered Municipal service.

3.1.2 All organs of state should budget to pay a Deposit equivalent to at least 3 months estimated municipal service charges, when making application for a Municipal service.

3.1.3 Where a tenant terminates a Services Account, consumption charges emanating from a meter must thereafter be linked to the owner's rates account, a Deposit will be raised and will become due in the next months' bill.

3.1.4 The Municipality may appropriate a Customer's Deposit on any account related to that Customer.

3.1.5 Notwithstanding receipts for different services, Deposits payable to the Municipality: -

i. shall constitute a consolidated Deposit; and

ii. must be paid **in cash,** unless the Policy specifies otherwise**.**

3.1.6 Where a business customer does not present a valid South African ID Document, a Deposit equivalent to twice the prescribed Deposit shall apply, in addition to the personal suretyships.

3.1.7 If a Customer is in arrears, the Deposit may, upon due notice, be increased.

3.1.8 The Municipality may utilise the consolidated Deposit as security for any or all of the charges or amounts owed by the customer as included in the statement of account.

3.1.9 Social Housing tenants qualify for the same Deposit as an owner.

3.1.10 No Deposit will be raised on property where there is no consumption. However, the Municipality will have the right to raise an availability fee in accordance with a tariff approved in terms of section 75A of the Systems Act.

3.1.11 Where a tenant has absconded leaving a debt on a property, an additional Deposit, equal to the debt on the property, may be raised on any other account held by the tenant with the Municipality.

3.1.12 The CFO or an authorised official may exclude a Category of Owners from payment of Deposits.

3.2 Guarantees

3.2.1 Unless specified to the contrary in this Policy, the Municipality will not accept a financial guarantee, suretyship or any other form of security in lieu of a Deposit.

3.2.2 The Municipality shall have the right to call up (where applicable) any Existing Guarantee that it holds as a result of an arrangement or agreement that precedes the Effective Date.

3.2.3 Where an account falls into arrears and the Municipality still holds an Existing Guarantee, the Municipality shall have the right to present such Existing Guarantee to the guarantor for payment and to raise a Deposit against the relevant account in an amount determined by the CFO, as continuing security (without derogating from any other rights that the Municipality may have in terms of this Policy or in law).

3.2.4 Notwithstanding an Existing Guarantee, the Municipality is not obliged to call up or present an Existing Guarantee for payment and may resort to other means available to it in law to recover outstanding debt.

3.2.5 The CFO shall be entitled to review an Existing Guarantee from time to time and may, despite such Existing Guarantee, raise a Deposit against an Account in order to mitigate risk to the Municipality.

3.2.6 Where:-

i. Municipal property is alienated, the CFO may accept the lodging of a Financial Guarantee, in a form acceptable to the CFO, in lieu of a cash Deposit on the purchase price.

ii. Bulk Customer applies for the registration of Municipal service, the CFO may accept the lodging of a Financial Guarantee provided the value of the Financial Guarantee is not less than one month estimated charges based on the total monthly consumption charges of all properties in the Bulk Customer's property portfolio within the eThekwini municipal area, irrespective of whether or not they are occupied. In addition to the furnishing of a Financial Guarantee, the Bulk Customer must pay a Deposit, in cash– equivalent to the amount of the Financial Guarantee.

For example: If a Bulk Customer pays an aggregate of R1 million per month to the Municipality in respect of consumption charges in relation to his/her entire property portfolio, then a Financial Guarantee in the sum of R1 million will be required, as well as a cash deposit of R1 million. The final decision in relation to the quantum of the Financial guarantee and Deposit shall, subject to the right of an appeal in terms the Systems Act, reside with the CFO.

Written application to furnish such Financial Guarantee must be made to the CFO, who shall have the authority to conduct financial risk analysis and credit check for such Bulk Customer, as contemplated in Clause **2.13** – Clause **2.15** of this Policy.

3.2.7 A Financial Guarantee in the prescribed form, may, at the discretion of the CFO, be furnished by an applicant for a Municipal Service in lieu of the Deed of Suretyship referred to in Clause **2.12(e)** above, where the value of the Financial Guarantee is **R50 000** or higher. The value of a Financial Guarantee will be determined by the CFO, taking into account potential risk to the Municipality and estimated monthly consumption charges.

i. Written application to furnish such a Financial Guarantee must be made to the CFO who shall have the right to conduct a full financial analysis and credit check of the applicant and the persons referred to in Clause **2.12(b)** and to call for such other documents and have regard to such other information as may be considered relevant to the consideration of the application.

ii. A higher Deposit will always be the preferred option over a Financial Guarantee. Accordingly, full motivation must be provided in the application as to why a higher Deposit should not be payable. This must be supported by, at least, the most current annual financial statements of the Juristic Entity.

3.2.8 Where the applicant for a Municipal Service is a prospective Bulk Customer and tenant of a property, the CFO may determine that the registered owner should register for the Municipal Service, in lieu of the provision of a Financial Guarantee from the persons in order to mitigate risk to the Municipality.

3.2.9 Should a person be unable to procure a Financial Guarantee, provide a Deed of Surety ship, or furnish a higher Deposit, in order to satisfy the provisions of this Policy or a determination made by the CFO, such person must opt for a pre-paid meter where a pre-paid meter is available.

3.2.10 The CFO may demand or accept, a Financial Guarantee issued by a registered South African Bank or financial service provider, on behalf of a contractor, in favour of the Municipality as security for any damage or loss that is incurred by or may be sustained by the Municipality during the course of any work undertaken by the contractor in the circumstances set out in Clause **33**.

3.2.11 The CFO may, on written application, permit a person to substitute a Financial Guarantee or an Existing Guarantee with a new Financial Guarantee either from the same guarantor or a different guarantor, provided there is no risk to the Municipality. In exercising his discretion, the CFO may require the quantum of the Financial Guarantee to be increased and indicate the quantum of the new Financial Guarantee.

i. Where a person applies for the value of an Existing Guarantee to be reduced on account of a reduction in consumption charges, the CFO may approve such application, based on an evidence-based risk assessment and provided the Customer's account is in good standing. The final decision in relation to the quantum of the new Financial Guarantee shall, subject to the right of an appeal in terms of the Systems Act, reside with the CFO. In undertaking an assessment, Clause **3.2.7** read with the necessary changes as the context may require, shall apply. The CFO shall have the right to determine any additional criteria to be taken into account when considering an application to provide a new Financial Guarantee with a reduced value in order to ensure that any risk to the Municipality is mitigated.

3.2.12 The CFO may, in the interests of reducing the cost of retention of documents, return a Guarantee to the guarantor where the amount secured is below **R2000** and instead, raise a Deposit or review an existing Deposit held by the Municipality.

3.3 Review of Deposits

3.3.1 If the Customer poses a credit risk, the value of the original deposit paid or an existing guarantee held by the Municipality, may be reviewed from time to time by the CFO.

3.3.2 Without derogating from sub-clause **3.3.1**, a Deposit shall be reviewed when−

i. the account is paid after the due date;
ii. payment by direct debit is dishonoured; or
iii. there is increased consumption of Municipal services.

3.3.3 The Municipality may increase the deposit payable by a Customer by up to 12 months average usage.

3.3.4 The deposits on all accounts may increase on a pro rata basis based on the bulk consumption charge to Eskom and Umgeni Water.

3.4 Interest Payable on Cash Deposits

3.4.1 The Deposit held by the Municipality will not accrue any interest.

3.5 Substitution of Accounts for Social Housing Tenants

3.5.1 Should a Social Housing Tenant request to substitute another person as a Customer on their existing account, such Customer shall forfeit his/her/its Deposit and the person so substituted shall inherit the Deposit on the account. Such Deposit shall be subject to review in terms of Clause **3.3** above.

ACCOUNTS MANAGEMENT

4. ACCOUNTS

4.1 The Municipality will deliver notices, any other document and accounts in accordance with Section 115 of the Systems Act. A Customer may register for another mode of transmission as set out in the Credit Control and Debt Collection By-law. In the case of multiple ownership, the account will be delivered to any one of the owners.

4.2 Subject to the provisions of Section 95(e) of the Systems Act, a failure to receive or accept accounts does not relieve a Customer of the obligation to pay any amount due and payable. The onus is on the Customer to make every effort to obtain a copy of the account or establish the amount payable for payment.

4.3 The Municipality or an authorised official must, if administratively possible, issue a duplicate account to a customer on request. The Municipality will provide owners with copies of their tenant's accounts if requested in writing.

4.4 The Municipality may post annual rates assessments for record purposes.

4.5 With the exception of Government Accounts, assessment rates shall be billed on a monthly basis, and may only be billed annually by prior written agreement, subject to the Rates Policy of the Municipality.

4.6 Customers are required to update their information details with the Municipality, promptly whenever the information on record changes and or whenever requested by the

Municipality. A failure to update information with the Municipality or a failure to respond to the Municipality's request for updated information may, subject to the principles of administrative justice, result in the restriction of services, disconnection of services or legal action instituted. Such update of information includes, but is not limited to−

(a) Details of executors or administrators of deceased estates;

(b) Deregistration or termination of a company, close corporation or trust if the company, close corporation or trust is the account holder;

(c) Details of deceased - company directors, members of Close Corporations, partners in the case of a partnership and trustees of Trusts;

(d) Details of-

(i) Company directors;

(ii) Members of close corporations;

(iii) Trustees of Trusts; or

(iv) Executive Officers of a voluntary association (incorporated or unincorporated) or any other body corporate recognised by law.

(e) Letters of appointment of a Trustee or Liquidator in the case of an insolvency /liquidation together with contact particulars and copies of the provisional and final liquidation court orders;

(f) Contact details of the Customer;

(g) Notice of a company or close corporation placed under business rescue or liquidation;

(h) Any change of members, trustees or directors of a juristic person; and

(i) The determination of a Sectional Title Body Corporate service address in terms of the Sectional Title Schemes Management Act, 2011 (Act 8 of 2011), as amended.

4.7 The Municipality may recover a rate annually, on application, from multi-property owners. Such application must reach the Municipality on or before 30 April of each year and the annual rates account is to be paid by 31 October of each year.

4.8 The payment of rates shall not be affected by reason of an objection, appeal or query lodged in terms of MPRA.

4.9 Subject to Clause **4.11**, a request for a reconciliation of any account shall be processed after payment of a prescribed fee.

4.10 Tokens for pre-paid electricity may only be refunded within 48 hours of purchase thereof.

4.11 There is no obligation on the Municipality to provide records older than 5 years from the date such records are requested.

4.12 Accounts may reflect actual or estimated Municipal charges.

4.13 In order to ensure that credit control information on owners and property is regularly updated, the Municipality's Building Plans Assessment Department must provide the CFO with monthly returns of all applications submitted in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977). Such monthly returns must contain the name of the owner of the property, the nature of the application and application reference number, as well as the deeds office description and street address of the property that is the subject of the application. Similar information must be provided by the Municipality's Land Use Management Department in relation to land development applications that are made under the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) read together, with the eThekwini Municipality: Planning and Land Use Management Bylaw**,** 2016.

4.14 Where a Customer of the Municipality seeks to transfer shares in a Share block company-

(a) Such Customer must ensure that all arrears on any Services Account relating to the Customer's individually metered flat or piece of land that constitutes part of a Share Block Scheme, are fully paid or satisfactory arrangements have been made with the Municipality to pay the debt. The Customer must liquidate all debt or make arrangements to settle amounts owed to the Municipality, within 14 days of date of conclusion of either the contract that must be entered into for the acquisition of a share or shares in terms of the Share Blocks Control Act, or the date of conclusion of the Use Agreement in accordance with the Share Blocks Control Act, whichever date is the earlier.

(b) The Share block company, must, before concluding a Use Agreement with the transferee or before the transfer of the shares is effected into the name of the transferee, whichever date is the earlier, forthwith notify the Municipality, in the

prescribed form of the proposed transfer of shares so that the Municipality can update its records.

4.15 Provided that the Share block company fulfils its obligations set out in Clause **4.14 b**), the Municipality will not exercise its rights under the Deed of Suretyship contemplated in Clause **2.21** to recover debt owing by the Customer.

4.16 A Share block company must annually, by not later than 30 April of each Municipal Financial Year furnish the Municipality with a written statement, in a prescribed form, certifying-

(a) The number of flats in the Share block scheme or pieces of land that constitute part of a Share block scheme, that are individually metered for the purposes of receiving a Municipal service;

(b) The type of Municipal service being supplied to each such individually metered flat or piece of land;

(c) The full names and addresses of the members of the Share block company whose flats are individually metered, with their corresponding flat number and municipal billing number.

4.17 The provisions of Clause **4.13 (b)** apply with such changes to the context, as may be required, where a Share block company cancels a Use Agreement that it has concluded with a Customer in terms of the Share Blocks Control Act.

4.18 In terms of Section 22 of the Companies Act, 2008 (Act 71 of 2008), as amended, a company may not carry on its business recklessly, with gross negligence, with intent to defraud or trade under insolvent circumstances. Where a company fails to honour its obligations to the Municipality in terms of the law, and its debt to the Municipality exceeds 90 days or longer, the CFO may (without detracting from other credit control measures that may be implemented), report such company to the Companies and Intellectual Property Commission for investigation for having breached the provisions of such Act. This could result in the Commissioner issuing an order for the company or close corporation to cease trading.

4.19 The Municipality has the right, at any time, to transfer receipts/credits between accounts held by an account holder.

4.20 The Municipality has the right not to approve any building plans where a customer or the registered owner, as the case may be, is in arrears with his account.

4.21 Where an account rendered to a debtor remains outstanding for more than ninety (90) days, the defaulting debtor's name may, at the option of the Municipality, be listed with a credit bureau or any other equivalent body as a defaulter.

4.22 The Municipality may upon due written notice to the property owner, instruct her or him to remove, fix, repair or dispose of any object in their property that may cause any destruction or danger or cause any harm to the public or interfere with the municipal services.

Example: Where an overgrown tree and/or its branches interfere with the servitude of electrical, water, roads infrastructure, etc., causing destruction to the supply of services, posing risk of harm to public or wastage of services.

4.23 Should the property owner fail to comply with the written notice issued, the Municipality may undertake to remove, fix, repair or dispose of such object at the cost of the property owner in accordance with the Tariff approved by the Council.

4.24 Where the Municipality is unable to remove, fix, repair or dispose of such object due to no access into the owner's property, the Municipality may, upon due written notice to the property owner, impose punitive charge to the property owner until property owner complies with the written notice.

5. RESPONSIBILITY FOR AMOUNTS DUE

5.1 In terms of Section 118 (3) of the Systems Act, an amount due for municipal service fees, surcharge 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. Accordingly —

(a) the owner of such property shall be liable for charges incurred in connection with such property during his or her ownership and shall remain liable irrespective of the

change of ownership, and all municipal debts must be paid by the owner of such property without prejudice to any claim or right of recovery which the Municipality may have against another person;

(b) The Municipality reserves the right to cancel a contract with the Customer in default and to register the owner of such property for services on the property; and

(c) Subject to the right to a basic water supply as contemplated in the Water Services Act, 1997 (Act No.108 of 1997), as amended, the Municipality will not provide any services on the property until all municipal debts (other than historic debt incurred by a previous owner of the property), on the property have been paid in full or suitable arrangements have been made to pay such debts. The Municipality reserves the right to determine the manner in which access to a basic water supply will be provided.

5.2 Where the property is owned by more than one person, each owner shall be jointly and severally liable, the one paying the other to be absolved, for all municipal debts charged on the property.

5.3 Owners with their tenants who are registered as Customers shall be held jointly and severally liable, the one paying the other to be absolved, for debts on their property, except for property rates. It is in the interests of a tenant of property, however, to ensure that the landlord provides the tenant with proof of payment of rates on the leased property, on a regular basis.

5.4 Refuse removal shall form part of the property debt payable by the owner of the property.

5.5 Subject to the provisions of this Policy, when a Juristic person opens a Service Account, the directors, members or trustees as the case may be, must sign personal suretyships in favour of the Municipality. Liability for outstanding amounts may be extended to such directors, members or trustees jointly and severally, the one paying the other to be absolved.

5.6 The Municipality may —

(a) In a case of an Owner who is in arrears:

(i) recover from a tenant, occupier or agent such monies as are owing by the tenant, occupier or agent to the owner, as payment of the arrears owing by such owner for so long as a tenant or occupier occupies a property in respect

of which arrears are owing, or an agent acts for an owner in respect of whose property arrears are owing;

(ii) recover the amount in whole or in part despite any contractual obligation to the contrary on the part of the tenant, occupier or agent; or

(iii) recover from the tenant, occupier or agent an amount which is limited to the amount of the rent or other money due and payable, but not yet paid by the tenant, occupier or agent;

(b) apply to the Companies and Intellectual Property Commission to re-register a deregistered company or close corporation or apply to court for an order of restoration or the voiding of the deregistration for the purposes of recovering the amounts owed by that company or close corporation for all municipal debts which have accrued and shall recover the costs of reregistration from the directors or members accordingly; or

(c) In the case of assets accruing to the State by operation of any law [(bona vacantia) – Section 76 (2) (i) of the PMFA] collect outstanding fees from the relevant treasury who may exercise all powers, authority and prerogatives, and fulfil any obligation on behalf of the state.

5.7 Should the tenant, occupier or agent fail or refuse to effect payment to the Municipality as contemplated in Clause **5.6**, the services of the tenant, occupier or agent may be disconnected on account of non-compliance. The Municipality shall also have the right to institute legal action against such person under the Bylaw.

5.8 Should any dispute arise as to the amount owing, the Customer shall pay all amounts which are not subject to the dispute that are due and payable, pending the finalisation of the dispute lodged in respect of the specific amount owed by the Customer.

5.9 Subject to Clause **20** of this Policy, where an existing Customer wishes to convert an existing electricity and or water supply service to a pre-paid meter, the Customer must first settle all outstanding amounts or make a suitable arrangement to liquidate the outstanding amount as contemplated in Clause **23** of this Policy, before an application for a pre-paid meter may be considered.

5.10 On special projects identified by the Municipal Council, pre-paid meters may be zero costed.

5.11 In former cluster dwellings that are owned by the Municipality, where 80% of the electricity is serviced via pre-paid meters, the remaining credit meters are to be converted to the pre-payment system.

5.12 In relation to low cost housing schemes, the Municipality may charge a fixed rate for property rates as contemplated in Section 11(2) of the MPRA and such charges may be deducted via the pre-payment system.

5.13 The owner of the property may be held liable for tampering with the electricity metering equipment or the water metering equipment on the property as well as charges that arise therefrom.

5.14 Subject to the operation of the law, where any subsidiary company of a holding company is indebted to the Municipality, the liability for such arrears may be extended to the holding company; and where any holding company is indebted to the Municipality, the liability for such arrears may be extended to any subsidiary company.

5.15 The Municipality may enter into a Credit Authority for the liquidation of a debt by a person other than the debtor, where such person offers to settle the debt and meets the qualifying criteria as contained in this Policy or as prescribed by the CFO.

5.16 Where a deregistered company continues to trade, the directors of the deregistered company may be held personally liable for any outstanding amounts due to the Municipality.

6. PAYMENT OPTIONS

6.1 The Municipality will endeavour to establish a payment network to ensure that wherever practically possible, Customers have access to a payment site within a reasonable distance of their home.

6.2 The Municipality shall accept payment under the following circumstances–

(a) Cash payment,

(b) Subject to Clause 6.2(a) above, the following payment methods are also available:

i. EFT;

ii. Third-party collectors appointed by the Municipality from time to time;

iii. Direct debit; and

iv. Digital/mobile payment platforms e.g. Master-pass, Zapper scan to pay, and any other digital Payments that may be acceptable to the Municipality.

v. Mastercard or Visa debit cards issued by legally recognised financial institutions and financial service providers.

(c) The following shall apply for all EFT payments of the Customer's arrears accounts:

i. The proof of payment will be verified, where applicable, for authenticity (through the submitting bank's website).

ii. All reconnection requests where services have been disconnected will ONLY be actioned once payments have been cleared and/or receipted to the respective consumer accounts.

(d) Customers whose accounts are in arrears are encouraged to pay at online sites in the Municipality's banking halls.

6.3 The Municipality shall not accept payment of any account by means of cheque.

6.4 Where any direct debit or payment made to the Municipality or an authorised official is later dishonoured by the bank, the Municipality or its authorised official−

(a) will recover the bank charges incurred relating to that dishonoured payment against the account of the Customer;

(b) may regard such an event as default on payment and the account shall be dealt with as an arrear account; and

(c) reserves the right to take legal action for recovery of arrears.

6.5 The Municipal Council may at its annual budget meeting determine threshold limits for payments made by debit or credit cards and impose an administration charge where the threshold is exceeded.

6.6 The methods of payment shall be determined by the CFO from time to time.

6.7 Where a Customer signs a Credit Authority with the Municipality, payment shall, as far as possible, only be accepted via a direct debit procedure.

7. PAYMENTS IN FULL AND FINAL SETTLEMENT

7.1 Subject to the provisions of this Policy, no unilateral offer of compromise, unilateral offer of payment in full and final settlement or endorsement of any account payment with the words 'in full and final settlement' shall be binding on the Municipality.

7.2 Where the exact amount due and payable has not been paid in full, any lesser amount tendered and receipted, shall not be in full and final settlement of such an account, except when duly accepted in terms of a delegated authority.

7.3 An offer of negotiated payment of debt in full and final settlement, when such payment is less than the outstanding debt will only be accepted upon a written confirmation by the CFO or authorised official. This may only occur upon receiving and assessing the written representation from the debtor and full affordability assessment conducted.

7.4 Notwithstanding the provision in clause **7.3** above, the payment so offered must nevertheless be credited against the debtor's account, without prejudice to the Municipality's rights.

7.5 The CFO must be consulted on any settlement, out of court or otherwise, that has a budgetary implication on the Municipality.

8. CONSOLIDATION OF ACCOUNT AND ALLOCATION OF PAYMENT

8.1 The Municipality may–

(a) consolidate any separate accounts of persons liable for payments to the

Municipality;

(b) credit a payment by such a person against ANY accounts of that person; and

(c) implement any of the debt collection and credit control measures provided for in this Policy and the By-law in relation to any arrears on any of the accounts of such a person.

8.2 Any amounts paid may be appropriated to the oldest debt first.

8.3 Any amount paid by the Customer in excess of an existing debt may be held in credit for the Customer in anticipation of future rates and fees for Municipal services, and no interest will be payable on that amount.

8.4 The Municipality's allocation of payment is not negotiable, and the Customer may not choose which account to pay.

9. INTEREST AND ADMINISTRATIVE CHARGES

9.1 The interest charges are raised on arrears which appear on the accounts.

9.2 Amount on accounts which remain unpaid after the due date, shall attract interest irrespective of the reason for non-payment.

9.3 The prescribed legal rate of interest raised on arrears is equivalent to the rate of interest as determined in Regulation 9 of the Municipal Property Rates Regulations, 2006 or applicable legislation.

9.4 Interest shall accrue 30 days from date of account on unpaid accounts. Interest shall accrue for each completed month in respect of any arrears remaining unpaid after 30 days of the account. A part of a month shall be deemed to be a completed month on the basis that interest is charged as from the first day of the account being in arrears.

9.5 Payments on assessed or estimated charges, where the final amount has not been determined but which would have been due and payable had the amount been determined, shall attract interest from the date when it would have been so due and payable. For example, 30 days from date of account.

9.6 Where a debtor qualifies for a full reduction in the value of his property, and where such debtor enters into an Acknowledgement of Debt with the Municipality to pay off arrears for service charges, no further interest will be added to the arrears outstanding if during the period, the debtor adheres to the agreement.

9.7 Interest may only be reversed under the following circumstances–

(a) exemptions as determined by the Municipal Council from time to time;
(b) if the Municipality has made an administrative error on the account;
(c) where any debt has arisen as a result of a faulty meter or the Municipality has applied an incorrect charge, meter constant or tariff due to an administrative error;
(d) where the Municipal Council approves such reversal from time to time; or
(e) where an owner takes over the municipal debts of the tenant, where the account has been registered in the name of the tenant under a lease agreement;
(f) where a customer offers a payment in full and final settlement of the entire outstanding debt.

9.8 Where the Municipality has instituted legal action against a debtor to recover any amount in arrears, an administrative charge as determined by the Resolution of the Municipal Council, shall be levied.

9.9 Municipal entities and departments of the Municipality are exempt from interest charged on arrears owed to the Municipality.

9.10 An indigent debtor will be exempted from payment of interest charged on arrears owed to the Municipality.

9.11 Upon application and approval in terms of Clause 17 of the Property Rates Policy, an owner who, has been granted a deferment in respect of the payment of rates, due to unemployment, is exempted from paying interest on the deferred rates amount, for the duration of the deferment, which period shall not exceed a period of six months.

10. PROCUREMENT OF GOODS AND SERVICES AND PAYMENTS IN TERMS OF CONTRACTS

10.1 When submitting a tender for the provision of services or the delivery of goods, each potential tenderer must prove to the satisfaction of the Municipality that all accounts for which the tenderer is liable, have been paid up to date, and that all accounts for which each and every director, member, owner, partner or trustee of the tenderer is liable for are also up to date.

10.2 The Municipality shall at its own discretion check whether all the municipal accounts of the tenderer are up to date. Copies of all current accounts sent to the tenderer and to each director, member, owner, partner or trustee must be attached to the tender documents.

10.3 Where a tenderer's place of business or business interests are outside the jurisdiction of the Municipality, a Revenue Clearance Certificate from the relevant Municipality must be produced.

10.4 Before awarding a tender, the Municipal debts of the tenderer and of each director, member, owner, partner or trustee of the tenderer must be paid in full.

10.5 A tender condition may contain a condition conferring upon the Municipality the right to cancel a contract in the event of the service provider/contractor failing to pay any account on due date and or for having contravened any provision of the Bylaw.

10.6 Where payments are due to a creditor of the Municipality, or in terms of any contractual arrangement with the Municipality, any arrear amount owing to the Municipality may be set off against such payments.

10.7 The provisions of this Policy also apply to quotations, public tenders and tenders in terms of section 36 of the Municipality's Supply Chain Management Policy.

11. AGREEMENT WITH EMPLOYERS OF DEBTORS IN TERMS OF SECTION 103 OF THE SYSTEMS ACT

11.1 Section 103 of the Systems Act reads as follows—

A Municipality may–

(a) with the consent of a person liable to the Municipality for the payment of rates or other taxes or fees for Municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of that person-

(i) any outstanding amounts due by that person to the Municipality; or

(ii) regular monthly amounts as may be agreed.

11.2 In the event that the employee voluntarily chooses to use the method of payment as contemplated in Clause **11.1** for the payment of his or her municipal accounts, the employee may approach the Municipality for an agreement to be concluded.

11.3 A collection commission may be payable to the employer in accordance with Section 103 of the Systems Act, provided such collection commission has been determined by the Municipal Council at its annual budget meeting.

11.4 Where a person has consented in writing to the deduction of amounts from his salary or wages, as contemplated in this Clause **11**, an employer shall be obliged to pay over such agreed amounts to the Municipality irrespective of whether a collection commission is payable or not.

12. STAFF, COUNCILLORS AND WARD COMMITTEE MEMBERS IN ARREARS

12.1 Where municipal staff members are in arrears, the Municipality must take cognizance of the provisions of Schedule 2 (Code of conduct for Municipal Staff members) of the Systems Act in particular:

i. Item 10 (Payment of arrears) which reads as follows:

A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than three (3) months, and a

municipality may deduct any outstanding amounts from a staff member's salary after this period.

ii. Item 14 (Breaches of Code) which reads as follows:
Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67 (1) (h) of this Act.

iii. *Item 14A (Disciplinary steps) which reads as follows:*

A breach of the Code is a ground for dismissal or other disciplinary steps against the staff member.

12.2 Notwithstanding the statutory rights afforded by Schedule 2 of the Systems Act, nothing shall detract from any other mechanism available in law or in terms of this Policy, to mitigate risk to the Municipality and recover debt from a municipal staff member.

12.3 The Municipality shall liaise with the relevant staff on repayment of their arrears.

12.4 Subject to the municipal staff member satisfying criteria contained in the Policy, the Municipality may permit a municipal staff member to conclude a Credit Authority with the Municipality to liquidate amounts owing. In such case, the municipal staff member must sign a direct debit or stop order form.

12.5 No special treatment shall be afforded to municipal staff members whose accounts are arrears.

12.6 Where a property is registered in the joint names of a municipal staff member and another party/parties, the municipal staff member is jointly and severally liable for any debt owing on the property as laid down in the By-law.

12.7 Where a municipal staff member is an owner or tenant of a property, the municipal staff member is jointly and severally liable as the tenant or owner, as the case may be, for debts on the property as laid down in the By-law.

12.8 Item 14 of Schedule 7 (Code of Conduct for Councillors) to the Structures Act provides that a Councillor may not be in arrears to a municipality for rates and service charges for a period longer than three months. The Municipal Manager must report a breach of the Code to the Speaker for the matter to be dealt with as contemplated in Schedule 7.

12.9 Nothing in Schedule 7 to the Structures Act shall detract from any other mechanism or procedure available in law or in terms of this Policy, to mitigate risk to the Municipality and recover debt from a Councillor.

12.10 The principles of joint and several liability contained in **12.6** and **12.7** will apply, with such changes as the context may require, to Councillors who are owners or tenants of property.

12.11 Where the Municipality is satisfied with the reasons supplied by a municipal staff member or Councillor or Ward Committee Member stating why the account is in arrears, the staff member or Councillor or Ward Committee Member must pay such arrears within a period of 3 months with interest.

12.12 On appointment to a higher post, municipal staff members who have signed a Credit Authority, shall increase their instalments on the Credit Authority in accordance with their new salary increase.

12.13 Staff and Councillors do not qualify for Indigent Support in terms of the Indigent Policy.

12.14 The Municipal Council reserves the right to deduct any arrears from the stipend or any other amounts payable to Ward Committee Members.

13. ARREAR ACCOUNTS

13.1 Disconnection and Reconnection of Services

13.1.1 Arrears on rates, services or any other consolidated debt may result in disconnection of ANY service or in a restriction of use of municipal facilities.

13.1.2 A disconnection and/or reconnection fee, as determined by the Municipal Council, from time to time, may be raised on all accounts printed for disconnection/reconnection.

13.1.3 Any official or contractor appointed by the Municipality for the purposes set out herein, may, at all reasonable times enter any premises to which services are supplied by the Municipality, in order to inspect pipes, wires or any apparatus used for the supply of services and belonging to the Municipality, for the purpose of ascertaining the quantity of services supplied or consumed, or to disconnect or terminate such supply or remove any apparatus belonging to the Municipality.

13.1.4 Should the owner fail to allow access to the premises or the property to which services are supplied by the Municipality on three consecutive occasions, the CFO may, having given due notice, disconnect, stop, restrict or discontinue the provision of any service, and the owner, at his or her cost should opt for a pre-paid meter.

13.1.5 The owner of the property remains liable and responsible for all instances of unauthorised reconnections and disconnections, Illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Furthermore, the onus is upon the owner to ensure that tenants/occupiers on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality or in a court of law, to have predated a current owner's title to the property, or where the application of the law~~s~~ allows, from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

13.1.6 An unauthorised reconnection or illegal connection of or tampering with a service supply is prohibited and shall constitute a criminal offence which shall result in legal action being taken against the owner and disconnection of Municipal services or removal of the entire services supply being effected.

13.1.7 Subject to applicable legislation, the Municipality may refuse the supply of water or electricity to a consumer who is found guilty of fraud, theft or any other criminal offence related to Municipal services, or, where it is evident that such criminal offence has occurred, until such time as the total costs, penalties, other fees, illegal consumption and any applicable tariffs and rates due to the Municipality have been paid in full.

13.1.8 Reconnections of Municipal services will only be allowed when all applicable penalties and fees have been paid and the debt has been extinguished or suitable arrangements have been made to settle the debt.

13.1.9 In addition to the other circumstances in which a Municipal service may be disconnected in terms of this Policy or the By-law, services may be disconnected, after due notice has been given −

(a) Where the owner or tenant is deceased, and such has not been reported to the Municipality; or

(b) Where a company, close corporation or trust has been deregistered and such has not been reported to the Municipality, or

(c) Where a Company or close corporation is deregistered and continues to trade but fails to settle debt owed to the Municipality.

13.1.10 Reconnection of services where services have been disconnected in terms of subsection 13.1.9 above will be authorised when−

(a) an executor has been appointed; or

(b) the Company or Close corporation has been re-registered.

13.1.11 The services of Customers on pre-paid meters, who tamper with their services, will be disconnected and any amounts due to the Municipality will become payable immediately.

13.1.12 Subject to the principles of administrative justice, the CFO may, at any time, insist that any service not registered in the name of the registered owner be transferred into the name of such property owner. Without derogating from the generality of the foregoing, the CFO shall have the right to take the same course of action where a Municipal Service that is not in the name of the registered owner, has been either restricted, disconnected or discontinued.

13.1.13 The Municipality is under no obligation to reconnect its service in the property occupied by the Company or Close Corporation that is under business rescue,

unless full liquidation of debt and payment arrangements have been concluded between such Company or Close Corporation and the Municipality.

13.1.14 Any additional grounds for disconnecting Municipal services as set out in the Bylaw, shall be deemed to form part of this Policy.

14. DOMESTIC WATER AND SEWAGE DISPOSAL CUSTOMERS

14.1 Flow restrictors or flow limiters shall be installed in water connections of Customers who have not paid the total charges for water services (i.e. supply of potable water, and, where applicable, the disposal of sewage) for sixty (60) days or more, and who owe the Municipality more than the amount determined by the CFO from time to time, for water used and sewage discharged and who have not responded to written notification from the Municipality to−

(a) pay the outstanding amount;
(b) meet with officials of the Municipality; or
(c) make arrangements to settle the debt.

14.2 Flow limiters are installed on application and in compliance with the conditions as set out in Clause **14.3**.

14.3 On restriction of the water supply via a flow restrictor washer, Customers have the following payment options–

(a) pay the outstanding arrear amount in respect of water service charges plus, all relevant charges in full;
(b) apply for a flow limiter and sign a Credit Authority, subject to Clause 14.7; or
(c) sign a Credit Authority for the arrears.

14.4 In the event of tampering of a restricted supply on two occasions, the Municipality may remove the entire water connection. Customers have two options to facilitate the reinstatement of the water supply–

(a) pay the outstanding debt in respect of water services charges in full (including all charges) plus the prevailing costs of a new water connection and penalty charges; or

(b) apply for a flow limiter and sign a Credit Authority. The connection costs and penalty charges must be paid immediately.

14.5 If a Customer has received a new connection and then tampers with it again, the connection will be removed and will not be replaced until all outstanding water debts have been paid or liquidated by way of a Credit Authority.

14.6 All illegal connections that are found will be removed and owners and the Municipality may institute legal actions against occupiers.

14.7 The following applies to customers whose water supply has been limited using a flow limiter device–

(a) They are obliged to attend a 15-minute training session. The training programme is vital as it makes Customers aware of how to manage with the free basic water per day. The Customer is also made aware that if the flow limiting device is tampered with in any way and the supply of water to the property increases above the free basic water per day and the tampering is detected by the Municipality before it has been reported to eThekwini Water and Sanitation Unit by the Customer, then the supply of water to the property will be permanently disconnected until the amounts owing have been paid in full (including the cost of a new water connection). In this regard, interest will again be due from the date that the tampering is detected by the Municipality.

(b) They must sign a Credit Authority. Provided the terms of the Credit Authority are honoured, the debt will not attract further interest for the duration of the Credit Authority.

(c) They must pay a minimum amount at the time of concluding the Credit Authority, as determined from time to time by the CFO, towards the Credit Authority.

(d) The flow limiter device shall be removed once the outstanding amount is paid in full and the charge to remove the device is paid.

(e) The Credit Authority shall be cancelled on application for a revenue clearance certificate and all debts on the property shall become due, owing and payable.

14.8 In the event of a funeral or other function associated with the death of a family member, or a family wedding, an application may be made for temporary relief whereby the flow limiter may be removed for a specific period of up to seven days only. The application must be supported by a letter from the ward or PR Councillor and the payment of a prescribed fee must be made to the Municipality as per the approved schedule of tariffs. The flow limiter will be reinstated after seven days.

14.9 Where a domestic customer has suffered water loss due to an underground water leak or water leak that was not easily detectable, the Municipality may adjust the sewage disposal charges.

15. DEBT RELIEF PROGRAMME: WATER CHARGES

15.1 The debt relief programme is aimed at assisting Customers who are in arrears for water services charges, for a period of sixty (60) days or more. Customers, excluding staff and Councillors, eligible for the debt relief programme are those families−

(a) who reside on property with a Municipal property value that satisfies the threshold value contemplated in Clause **15.2**; or
(b) where the Customer has temporarily lost employment and meets the criteria contained in Clause **15.2**.

15.2 The following criteria must be met before a customer will be regarded as eligible for debt relief:

(a) The submission to the Deputy Head: Customer Services (Water) of a comprehensive report by the ward or PR councillor on the Customer and status as contemplated in Clause **15.1 a**. and/or **15.1 b**.

(b) The submission to the Deputy Head: Customer Services (Water) of a written report by a municipal social worker containing a finding that the Customer qualifies for debt relief, based on a site visit and assessment of the family's circumstances;

(c) The Municipal property value of the Customer's property does not exceed the threshold value for rates relief as determined by the Municipal Council at its annual budget meeting; and

(d) The Deputy Head: Customer Services (Water) must grant written approval for debt relief to be granted to the Customer.

15.3 Upon approval of the Customer's eligibility for debt relief by the Deputy Head: Customer Services (Water) and notification to the CFO, the debt must be written off. The CFO must report the writing off of all debt in terms of this section to the Municipal Council by compiling a report in terms of Section 71 of the MFMA.

15.4 Debt relief will lapse where the customer ceases to meet all the relevant qualifying criteria, as contemplated in Clause **15.2**.

16. DOMESTIC WATER INSURANCE AND WATER LOSS

16.1 It is the responsibility of the owner of property to take out a water loss insurance policy against undetected leaks. Where the Municipality has contracted with a private insurance Company for the provision of Domestic Water insurance for its Customers, a Customer may opt to participate in such insurance arrangement (currently restricted to individually metered dwelling units in terms of the Water Supply Bylaw, 2015 of the Municipality). In such event, the monthly premium payable, will be raised on the consolidated account, and forwarded to the private insurance company. If the private insurance company, in question, is satisfied that the there was a leak and was repaired correctly, it will process the Customer's claim and pay directly to the Municipality. Customers are given sixty (60) days after the leak has been repaired to submit a claim. Customers are referred to the actual Insurance policy document for a detailed explanation on the conditions of Indemnity or Basis for Cover.

16.2 Where an account is in arrears on account of an insurance claim contemplated in Clause **16.1**, not having been finalized, the CFO may suspend proposed action to terminate a municipal service to the Customer's property (as part of its debt collection processes) for a period of sixty (60) days. Such period may be extended by the CFO for a further period

of thirty (30) days upon written application by the Customer in the prescribed form. No further extensions shall be granted irrespective of whether or not the claim is finalized.

16.3 In relation to the individually metered dwelling units referred to in Clause **16.1**, the Municipality may, in accordance with its Water Supply By-law, adjust charges that were raised in respect of sewage disposal against any domestic or non-domestic Customer, where the sewage disposal charges arise from water leaks which were repaired correctly and timeously.

16.4 The adjustment in Clause **16.3** will only be considered where the customer had fully paid up accounts prior to the water leak and is extended to all Customers, not only to those who have Domestic Water insurance with a private company contracted by the Municipality. However, an adjustment will be limited to property owners with a property value as determined by the Municipal Council at its annual budget meeting.

16.5 Customers who are covered by Domestic Water Insurance referred to in Clause **16.1** will have an item on their account which reads “Water Loss levy”.

17. TERMINATION OF SERVICES AND SERVICES AGREEMENT

17.1 At least fourteen (14) days’ written notice is required from the Customer upon termination of an account, to enable the Municipality to take final meter readings and process account adjustments.

17.2 Once the account is terminated, the account must thereafter be linked (where applicable) to the owner’s rates account.

17.3 Unless otherwise directed by an order of court, the Municipality will not terminate or disconnect water and or electricity supply, at the request of a Landlord or owner, where there are occupiers on the property or premises and the Landlord or the owner is not a Customer in respect of such supply.

17.4 A Customer who wishes to terminate, disconnect or remove a water and or electricity supply where there are occupiers on the property or premises, must, before such an application may be considered:

(a) Provide the Municipality with proof that the occupiers have been given 14 days' notice of the proposed termination (not later than 30 days prior to the lodging of an application with the Municipality); and

(b) Settle all amounts owing to the Municipality or make a suitable arrangement to liquidate the debt as contemplated in Clause **23** of this Policy.

17.5 The Municipality may exercise its common-law right where a tenant on a property is in breach of his or her contract with the Municipality and link the debt to the owners' account. The tenant shall forfeit his or her deposit to the owner where the outstanding debt is paid by the owner.

17.6 The Municipality may terminate a service agreement, having given a written notice of not less than 14 days to the Customer, if the Customer concerned has breached or failed to comply with any specific term or condition of the service agreement and has failed to remedy such breach or rectify such failure after service on such Customer of a notice to do so in terms of Section 11 of the Credit Control and Debt Collection Bylaw.

18. UNALLOCATED CONSUMPTION

18.1 A registered owner remains liable to monitor his /her property as well as meter readings even if all electricity or water services have been disconnected. Accordingly, when electricity and water consumption is recorded on a property during a period for which there is no registered Customer against whom a bill can be raised, the relevant charges for electricity and water services shall be raised against the registered owner on his or her consolidated bill. Furthermore, the Municipality has the right to remove relevant Municipal infrastructure (and other components) at the cadastral boundary of the property to ensure that ongoing electricity and or water consumption, is terminated.

19. METER READINGS AND ESTIMATIONS

19.1 The Municipality may estimate readings and read meters in accordance with the period prescribed in the respective water and electricity policies and By-laws.

19.2 If for any reason, the Municipality is unable to gain access into the customer's property to read electricity or water meter, estimated charges will be raised into the account, in accordance with the electricity and water By-laws and/or Policies. The compliance notices will thereafter be issued to the customer requesting access to the meter for conducting readings.

19.3 Should the Customer fail to comply with the compliance notice within the prescribed time period, the Customer will be guilty of an offence. In addition, the Municipality may levy higher estimated charges, increase the Deposit of the Customer or disconnect services to the property.

19.4 The Municipality may reverse and/or adjust any consumption raised and charged into the customer's account erroneously. This may also be done in conjunction with Clause 9.7 of this Policy.

20. DEBT RECOVERY USING THE PRE-PAYMENT METERING SYSTEM (RESIDENTIAL CUSTOMER ONLY)

20.1 Subject to the provisions of this Clause **20**, a person whose account is in arrears, may apply to the CFO on a prescribed form for the pre-payment debt recovery facility.

20.2 In order to qualify for the pre-payment debt recovery facility, the following minimum criteria must be met:

(a) A Customer must be registered as a residential customer.
(b) A Customer must be indebted to the Municipality in respect of Municipal services exceeding the sum of R1000.
(c) A Customer must be an occupier of immovable property.
(d) The Customer's property value must not exceed the value as determined by the Municipal Council at its annual budget meeting.

(e) The Customer must sign an Acknowledgement of Debt in favour of the Municipality in respect of the total outstanding debt.

20.3 The CFO will determine the criteria towards the ratios for the recovery of debt and is not obliged to grant an application for the pre-payment debt recovery facility.

20.4 When concluding the Acknowledgement of Debt, the Customer's Deposit will be appropriated towards reducing the outstanding debt.

20.5 Where an application for the pre-payment debt recovery facility is approved, the Customer shall be liable to pay a pre-payment meter connection fee or other charge as may be prescribed in the Tariff Book.

20.6 A Customer whose account is in arrears and whose meter has been tampered with, shall be liable to pay a connection fee and sign an Acknowledgement of Debt before a pre-paid meter can be installed on site. Such connection fee may, in the discretion of the CFO, be added to the principal debt owing under the Acknowledgment of Debt.

20.7 Upon conclusion of an Acknowledgment of Debt, it will be incumbent upon the Customer to complete such documents as may be required by the eThekwini Electricity Unit for the installation of the pre-payment metering system.

20.8 Child - Headed Households must meet the requirements as set out in the Municipality's Rates Policy and an application must be made with the consent of the Social Worker appointed by the Municipality.

20.9 In the event of the Customer falling into arrears in respect of any other debt when the Customer is currently benefitting from the pre-payment debt recovery facility, such prepayment debt recovery facility will immediately lapse and the facility will be deemed henceforth to be at the discretion of the CFO or his representative.

20.10 An application for pre-payment debt recovery facility may be granted subject to the condition that a prepayment electricity meter, is installed.

20.11 Municipal staff and Councillors do not qualify for a pre-payment debt recovery facility.

20.12 The CFO will not grant pre-payment debt recovery facility to any customer, other than residential customers.

21. REVENUE CLEARANCE ASSESSMENTS AND CERTIFICATES

21.1 Subject to Sections 118(1) and (1A) of the Systems Act, the following shall apply to the issue of a revenue clearance certificate for the purpose of effecting transfer of a property to a new owner.

21.2 **Assessments**–

(a) an application shall be made by a conveyancer, in the prescribed form. Each application will attract a fee in an amount as determined by the Municipal Council at its annual budget meeting.

(b) copies of all current accounts must accompany any application made manually or electronically, as the case may be. If the relevant information is not provided, the application will be returned to the Conveyancer.

(c) the Municipality does not accept responsibility for errors on manual applications. The Conveyancer must check that all details on the application, assessment and the revenue clearance certificate are correct.

(d) assessed figures are calculated in advance based on the period determined by the CFO. Municipal charges are estimated based on previous consumption, taking into account any existing Property Rates Rebate. However, in the case of a transfer of a share in a deceased estate property to the heir and holder of the other share/s, assessment figures may be calculated thirty (30) days in advance if all arrear debt is paid or will be paid when the assessment is paid by the Conveyancer and the heir is already registered on the system as a customer in respect of such property. Should the Conveyancer opt for the reduced assessment period, he/she must indicate this when making application for a revenue clearance certificate.

(e) Where an assessment is requested and there is Section 118(1) debt, and other outstanding amounts that have arisen during ownership of a property ("Section 118(3) debt"), the Municipality shall notify the Conveyancer, in writing and request an indication of the manner in which the whole of the debt will be settled. The Conveyancer must inform both the seller and the purchaser of the outstanding debt due to the Municipality.

(f) The only acceptable modes of settlement of Section 118(3) debt, other than in the case of insolvency, are: (1) full payment or (2) the furnishing of a Financial Guarantee in favour of the Municipality for the Section 118(3) debt payable on date of registration of transfer of the property.

(g) The Conveyancer must indicate to the Municipality in writing, which of the two settlement modes referred to in Clause **21.2(f)** will be used in order to settle the Section 118(3) debt.

(h) an "Attorneys' Report" in respect of all amounts owing and the assessed figures, shall be issued upon receipt of a request for the report.

(i) the assessment shall remain valid for a period of thirty (30) days from the issue date. If payment has not been received within this period, a reassessment may be required, and payment of a further application fee will apply.

(j) Any subdivision still held under the title of the parent property, must be valued by the Municipal Valuer and entered on the valuation roll prior to the issue of a revenue clearance certificate so the rates and other Municipal charges incurred in connection with that subdivision can be determined and paid.

(k) any discrepancies may result in delays in the issuing of a revenue clearance certificate, and in addition may result in the levying of additional backdated rates, penalties or charges.

(l) any amounts paid shall be appropriated to the oldest debt first.

(m) a separate application is required for each transfer.

(n) an assessment in terms of Section 118 (1) of the Systems Act will only be issued on request by a Conveyancer.

(o) The Municipality shall exercise its rights to recover such debt as guided by the law on the application of Section 118 of the Systems Act.

(p) The onus is on the Conveyancer to advise the seller of the provisions of Clause **21.2(o)** above.

(q) Where the Municipal account is in respect of a debt consolidated under Section 102 of the Systems Act, the said consolidated account will be deconsolidated on application for a revenue clearance certificate. An account for the property subject to the revenue clearance application will be rendered together with the full interest that accrued on the consolidated account.

(r) Assessed figures **must** be based on, and will be issued only, once an actual reading has been done.

(s) Subject to Clause **21.8** of this Policy, a revenue clearance certificate shall be issued within ten (10) days of the date of payment of the amount requested in the "Attorneys' Report".

(t) Where simultaneous transfers of a property are contemplated, the Conveyancer must apply for a separate revenue clearance certificate in respect of each new transfer notwithstanding that this may not be a requirement of the Deeds Office. The purpose of separate revenue clearance certificates is to ensure that all debt due to the Municipality is paid.

(u) A conveyancer must, when requesting an assessment in respect of a property to be transferred to a minor, submit an affidavit in the prescribed form providing such particulars of the minor and of the minor's guardian as may be prescribed.

(v) The CFO has the right to request the conveyancer to submit either with, or any time after an application for an assessment, a photograph of the water and or electricity meter showing the meter reading as at a certain date.

(w) The CFO may allocate receipts to any other account of the seller prior to the issuing of a Revenue Clearance assessment to the Conveyancer.

(x) Where a Revenue Clearance application, shows that a prospective transferee is a minor, the conveyancer must produce the following documents:

(a) Full name and contact details of the guardian
(b) Proof of residential address of the guardian
(c) Identity document of the guardian
(d) Birth certificate / identity document of the minor
(e) An indication of the status of the guardian:

(i) As parent;
(ii) Under the Children's Act;
(iii) Person nominated by Will and appointed by the Master of the High Court

(y) Where an assessment is requested in respect of a property that vests in an insolvent deceased estate, the Conveyancer must provide the following particulars:

i. If the estate has been sequestrated in accordance with the provisions of the Insolvency Act, a copy of the court order must be supplied.

ii. If the sale of the property is being dealt with in terms of Section 34(2) of the AEA, the Conveyancer must indicate this on the application and furnish the Municipality with-

(a) A copy of the notice to creditors in terms of Section 34 (1) of the AEA;
(b) A copy of the approval of the sale by the Master of the High Court;
(c) A copy of the conditions of sale

21.3 **Revenue Clearance Certificates**–

(a) Payment of the assessment must be made in cash, EFT payments, direct debit, bank transfers, or other instruments accepted by the CFO from time to time.

(b) There shall be no refunds on the cancellation of a sale or otherwise.

(c) The certificate shall be valid for a period of sixty (60) days from date of issue.

(d) The certificate shall be endorsed with the balance owing as a charge against the property in order to bring the same to the attention of the seller, buyer and conveyancer. The onus is on the conveyancer to advise his or her clients accordingly.

(e) The Municipality reserves the right to follow any of the legal mechanisms available to it in order to recover the balance of the debt, including, lodging an urgent application to interdict the sale of the property until the debt is paid in full.

(f) All Collection Charges incurred in pursuing recovery of arrears, shall be levied against the debtor's account.

21.4 Information and contact details of the purchaser provided on the revenue clearance certificate shall be used as details of the new owner (purchaser) for the purposes of billing for rates, services and consolidated accounts, until the same has been changed by the purchaser or Conveyancer.

21.5 On the date of ownership transfer, the previous owner's (the Seller) service agreement will be deemed to have lapsed, and the new owner (purchaser) must conclude a new service agreement with the Municipality in terms of this Policy and Bylaw.

21.6 The seller shall furnish to the Municipality new contact details, in writing, comprising a postal and/or physical address in the Republic as well as an email address and such further information as may be determined by the CFO from time to time, prior to the Municipality issuing the rates clearance certificate. The seller shall continue to keep the Municipality informed of any change in contact details until such time as the Municipality

has confirmed in writing that all amounts that became due whilst the property was in the ownership of the seller (whether or not raised at the time of the rates clearance certificate) have been paid up. Non-compliance with this Clause will be regarded as an offence.

21.7 Subject to the application of the law, where, subsequent to the transfer of ownership of a property, the Municipality becomes aware of any Municipal Charges that ought to have been raised in terms of any Legislation (e.g. the MPRA) or this Policy against a predecessor in title to the property, the Municipality will be entitled to hold such predecessor in title liable for such Municipal charges. If, by law, the Municipality is entitled to continue raising such Municipal charges post transfer, the new owner will only become liable for those Municipal charges that become due and payable with effect from the date of transfer.

(a) An example will be the levying of adjusted rates in terms of Section 78 of the MPRA on account of an event on the property (e.g., illegal building works) or a change of category (e.g. an illegal use of the property) that occurred prior to transfer and continues post transfer.

21.8 Where an application has been made for a revenue clearance certificate, in respect of a property on which unauthorised development has taken place, or unauthorised /illegal activities have been conducted, the application will not be processed further until such time that the Municipality has re-assessed the valuation of the property, the rate randage of the property and where applicable, has implemented a rating category change.

21.9 Where *prima facie* evidence exists that a property has been transferred or a real right has been registered in the Deeds Registry on the basis of an invalid or fraudulent revenue clearance certificate or any act in contravention of the Prevention and Combating of Corrupt Activities Act, the CFO shall have an authority, upon written notice, to bar the Conveyancer and/or the legal firm responsible for the conveyancing transaction in question, from lodging further applications for revenue clearance assessment or clearances. The right to bar further lodging of application: -

i. may be for a defined period;
ii. shall not be construed as detracting from other remedies available in law against any person;

iii. is necessary to mitigate risk to the Municipality against non-recovery of debt and/or unlawful activities; and

iv. will be subject to due compliance with the rules of natural justice.

22. LEGAL ACTION AND COST ORDERS.

22.1 Without derogating from other remedies available to the Municipality in law, legal proceedings may be instituted by the Municipality to recover arrear amounts on service accounts, where–

(a) disconnection action yielded no satisfactory result;

(b) disconnection action is not possible due to the nature of the services for which the account has been rendered; or

(c) the arrears are older than ninety (90) days.

22.2 The Municipality may, in terms of Sections 28 and 29 of the MPRA, recover arrear rates from tenants in occupation of the relevant property, or estate agents, but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property. This does not preclude further legal action against the owner.

22.3 Where an immovable property constitutes a Primary Property, all reasonable steps will be taken to ensure that the ultimate sanction of judgment and sale-in-execution is avoided or taken as a last resort. The Municipality, however, has total commitment to follow the legal process through to judgment and sale-in-execution should the debtor fail to make use of the alternatives provided for by the Municipality from time to time.

22.4 The Municipal Council may, at its annual budget meeting, determine the Municipal property value threshold, below which it will not attach a Primary Property to satisfy a judgment debt.

22.5 Subject to Clause **22.3**, the Municipality shall be entitled to apply to a Court for an order declaring a debtor's immovable property to be specially executable and for a writ of execution to be issued against the property in order to realize the full judgment debt unless the debt is paid, or an arrangement has been made to settle the debt to the satisfaction of the Municipality.

22.6 All Collection Charges shall be debited to the relevant debtor's account.

22.7 Proceeds of the Sale in Execution may be appropriated to any of the debtor's accounts in arrears.

22.8 Metering and connection equipment remain in the ownership of the Municipality at all times, and the owner of the property on which such meters and connection equipment is installed, shall be held responsible for all instances of tampering, damage or theft. Accordingly, the owner of the property concerned is liable for any breach of this duty and legal action may be instituted against such owner.

22.9 Where a Sectional Title Body Corporate is in arrears, the CFO may apply to court for the appointment of an administrator in terms of Section 16 of the Sectional Titles Management Scheme Act 8 of 2011, as amended, or for the joinder of the members of the Body Corporate, in their personal capacities as joint judgment debtors in respect of a judgment debt in favour of the Municipality in terms of section 15 of such Act.

22.10 Where a court awards a costs order against the Municipality, a bill of costs must be submitted for taxation.

23. CREDIT AUTHORITIES IN RESPECT OF ARREARS IN TERMS OF SECTION 57 OR 58 OF THE MAGISTRATES' COURTS ACT

23.1 The Municipality may, at its discretion, enter into a Credit Authority in the prescribed form, incorporating a consent to judgment in terms of sections 57 or 58 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as amended, with Customers and owners in arrears with municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and sundry charges, after consideration of an application submitted by such persons as prescribed by the Municipality.

23.2 The Municipality may conduct a credit check and request certain information from a Customer or owner in order to satisfy itself that the Customer or owner will be able to honour the agreement. Such credit check may include a full risk analysis of the Customer or owner concerned to determine his/hers/it's:

(a) Risk profile as an individual/entity;
(b) Interests in any Juristic person;
(c) Affordability of the proposed debt instalments; and
(d) Court orders or agreements, if any, with other creditors for payment of a debt and costs in instalments

23.3 Before any Credit Authority is concluded, all municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and sundry charges must be consolidated onto one account (if not done previously) and a Credit Authority concluded for the full debt.

23.4 The Customers' current account must be paid in full, and maintained, for the duration of the Credit Authority.

23.5 Where an account is registered in the name of the tenant, a valid lease agreement and a consent by the property owner must be produced and the Municipality must record these documents before the Credit Authority is concluded.

23.6 Should the tenant breach the Credit Authority referred to in Clause **23.5**, the Credit Authority and the account shall be terminated with the tenant and linked to the owner's rate account. Such action shall not detract from other legal mechanisms available to the Municipality to recover the debt.

23.7 Re-connection and disconnection fees, where applicable, must be paid in full before any Credit Authority can be entered into.

23.8 By entering into a Credit Authority, the debtor(s), and where applicable, the owner, acknowledges that failure to meet any instalment will, subject to the provision of the Bylaw, result in prompt disconnection action being taken, without prejudice to any legal action that the Municipality may take to recover the arrears.

23.9 Credit authorities to be concluded with Juristic persons shall require;

(a) documentation and information as set out in Clause **2.12** above as may be applicable;

(b) the financial situation of the Juristic person to be reviewed taking into account latest audited financial statements and other supporting documentation relevant to their financial position;

(c) Deeds of suretyship in favour of the Municipality, by the persons referred to in Clause **2.12 (b)** above, as the case maybe; in an amount equivalent to the value of the debt plus current accounts; and

(d) the Deposit to be reviewed.

23.10 A Credit Authority may **not** be granted where–

(a) arrears have arisen due to direct debit reversals;

(b) instances of repeated meter tampering or illegal connections have been identified;

(c) the CFO determines that the customer will be unable to afford the debt repayments under the Credit Authority; or

(d) Any other relevant factors as determined by the CFO from time to time.

23.11 Where any debt has arisen as a result of a faulty meter or the Municipality having applied an incorrect charge or tariff, the Customer may arrange to pay the debt over a maximum period at the discretion of the CFO.

23.12 The amount of the down payment and the period of the Credit Authority shall be as follows:

(a) residential and Non-Profit Organisation customers may be required to make a down payment of 25% of the total debt over negotiated twenty- four (24) months; or

(b) business customers may be required to make a down payment of 50% of the total debt over negotiated 24 months; or

(c) at a discretion of the CFO or authorised official.

23.13 The Credit Authority shall be terminated if a debtor relocates from the property. The balance owing shall become immediately due and payable.

23.14 The monthly instalments on a Credit Authority are payable within twenty-one (21) days from the date of the account notwithstanding any further extension of time printed on the face of the account.

23.15 A Credit Authority shall be cancelled upon application for a revenue clearance certificate on the property, and the whole debt shall become due, owing and payable, notwithstanding any agreement to the contrary.

23.16 Where the Credit Authority is based on interim readings, the amounts on the Credit Authority will accordingly be adjusted once the actual readings are taken. The Customer must sign any additional documentation relative to this.

23.17 A Credit Authority for staff and councillors shall be in accordance with Clause **12** of the Policy.

23.18 The Customer who signs a Credit Authority may make payment to the Municipality via a Direct debit.

23.19 The Head: Revenue Management Unit or Deputy Head: Arrears Management may, from time to time, grant partial relief to customers in a form of discounts in percentage, on the interest and/or capital debt.

23.20 The Municipality is not a Credit Provider within the meaning of the National Credit Act, 2005 (Act 34 of 2005). Nothing in this Policy should be construed as conferring such status on the Municipality.

24. DISPUTES

24.1 Should any dispute arise with respect to the amount owing, the debtor must continue to make regular payments based on the average charges for the preceding three (3) months prior to the dispute, plus interest where applicable. A debtor may not raise a dispute under this Policy in relation to rates levied on a property due to its categorization of 'Unauthorised or Illegal Development or Use, and Abandoned Property or Building' in terms of the MPRA read with the Rates Policy. The legal remedies to object or appeal against such categorization, are contained in the MPRA.

24.2 A Person has the right to request the CFO to review a decision of the Authorised Official. The CFO may hear representations and either confirm, vary or revoke the decision of the Authorised Official and must communicate his decision within thirty (30) days of date of receipt of the request for a review of the Authorised Official's decision, or as soon thereafter as possible.

24.3 A Person who wishes to lodge a dispute in respect of an account must submit the dispute in writing, on the prescribed form, to the Authorised Official as defined in this Policy stating the reasons for such dispute and any relevant facts, information or representation which the Authorised Official should consider to resolve the dispute.

24.4 The dispute must be submitted within twenty-one (21) days of the account. If a dispute is raised after this period, it will be treated as an enquiry, the account will not be suspended, and normal credit control procedures will apply.

24.5 The dispute must relate to a specific amount on the account. Amounts not in dispute must be paid in full. If the amounts not in dispute remain unpaid, services may be disconnected.

24.6 A query is not regarded as a dispute. A query is a verbal inquiry whereas a dispute must be in writing and lodged with the relevant municipal department or section.

24.7 Proven tampering charges are not regarded as a dispute. Where a charge or penalty has been legally raised in relation to an Illegal Connection, a person may not raise a dispute in terms of this Clause **24**. Any legal remedies must be invoked under the legislation that gave rise to the charge or penalty. The charge or penalty remains payable unless reversed by law.

24.8 The person contemplated in Clause **24.1**, must provide the Authorised Official with the account alleged to be in dispute, which includes incorrect readings, misallocation of payments, incorrect tariffs charged and incorrect property values used and any other relevant information that may be required.

24.9 The Authorised Official:

(a) May investigate or cause the dispute to be investigated within thirty (30) days, or as soon as possible after such dispute is received;

(b) May call for additional information /documentation from a customer who disputes an account;

(c) Must inform the person in question, promptly, in writing, of his or her finding after conclusion of the investigation; and

(d) Must take a decision, based on the spirit of the Policy.

24.10 A dispute submitted above shall not stop or defer the continuation of any credit control and legal procedure already instituted for the recovery of arrear payments relating to such dispute.

24.11 A person whose rights are affected by the decision of the Authorised Official, may request the CFO to review the decision of the Authorised Official as contemplated in Clause 24.2 of this Policy. The decision of the CFO shall be subject to the right of appeal in terms of Section 62 of the Systems Act. A written notice of the appeal and reasons must be lodged with the City Manager in a prescribed form, within twenty-one (21) days of the date of notification of the decision by the CFO.

24.12 Disputes regarding the General Valuation Roll or any supplementary valuation roll must be submitted to the Municipality's Real Estate Unit in the form of an objection or appeal as envisaged by the MPRA. The account must be paid in full until an objection or appeal outcome is reached where-after the account will be credited or debited accordingly.

24.13 Parties who are jointly and severally liable for a debt due to the Municipality in terms of the Bylaw read with this Policy, may not raise a dispute against such liability where the Municipality elects to enforce payment against one of the parties.

24.14 An account must be paid in full regardless of any query that may be raised in respect of the account. Once the query is resolved and a decision is reached, such account will be credited or debited accordingly.

25. REFUNDS

25.1 Credits on accounts shall only be refunded:

25.1.1 On application and subject to all the Customer's accounts being fully paid,

(a) to the account holder, on a water services or electricity account; or

(b) to the owner; or

(c) unless otherwise directed by an order of Court.

25.1.2 unless stipulated to the contrary in this Policy, a refund due to an account holder shall only be transferred to a bank account that is registered in the name of that account holder.

25.1.3 a refund due to a subsidiary company may be paid to a holding company, on application in the prescribed form where:

(a) The subsidiary company is deregistered or has been dissolved and rights and assets of the subsidiary company have been absorbed by the holding company;

(b) There has been a consolidation of the subsidiary company and the holding company in circumstances where the subsidiary company becomes a division of the holding company and no longer trades for its own account as a separate legal entity.

25.1.4 Notwithstanding the provisions of Clause **25.1.2**, where an account holder undergoes a name change, the Municipality may effect a refund to such account holder provided the account holder produces prescribed documentation to confirm such name change. Such prescribed documentation includes:

(a) A valid, certified resolution of the juristic entity;

(b) Where applicable, a current CIPC report confirming the name change;

(c) Where applicable, a valid letter from the Office of the Master of the High Court – where juristic entity is a trust;

(d) Such other documentation as the CFO may determine.

25.2 The provisions of Clause **25.1.1** above shall also apply to any credits that may arise from an objection or Appeal process.

25.3 A refund shall be forfeited after 3 years if it remains unclaimed.

26. DECEASED ESTATES

26.1 Subject to Clause **26.6**, the Executor, executrix or representative of a Deceased Estate shall be liable for payment of all debts on the property.

26.2 Where neither an executor, executrix nor a representative has been appointed in the deceased estate of a property owner, the CFO may request an occupier or the occupiers on the property, to enter into a Service Agreement with the Municipality to ensure the continued supply of services to the property.

26.3 In accordance with Clause **4.6**, failure to inform the Municipality that the property forms part of a deceased estate may result in the disconnection of services, until an executor, executrix or representative has been appointed.

26.4 Where a deceased estate is insolvent (liabilities exceed all assets) and a property is sold by the executor pursuant to Section 34 of the Administration of Deceased Estates Act, 1965 (Act 66 of 1965), the Municipality enjoys preferent creditor status in terms of Section 118 (1) of the Systems Act. Accordingly, no revenue clearance certificate will be issued until all amounts assessed for the prescribed 2-year period, have been paid. The balance of the debt will be dealt with as guided by the law on the administration of deceased estates.

26.5 Where a deceased estate has not been wound up within a period of three (3) years, then the Municipality, without derogating from such other rights as may exist in law, may disconnect a Municipal service to the property, or review the provisions of any applicable Service Agreement.

26.6 The Municipality may conclude a Credit Authority with any person who wishes to settle a deceased person's debt or a portion thereof. This provision is intended to assist family members of a deceased person or an occupier of property that is vested in a deceased estate, to receive Municipal services pending the winding up of an estate.

26.7 In the case of an insolvent deceased estate, the executor or conveyancer handling a transfer of a property that vests in the insolvent deceased estate, must furnish the Municipality with the particulars set forth in Clause 21.2 (y) of this Policy and such other information as may be requested in writing, by the CFO for the purposes of determining the Municipality's rights in relation to unsecured debt owing to the Municipality.

27. HOUSING

27.1 This Policy shall apply to Social Housing tenants.

27.2 The rental and other charges are payable in advance by the due date, in accordance with the terms of the Lease Agreement between the tenant and the Municipality.

27.3 In the event that the Social Housing tenant fails to pay the stipulated rent and/or other charges, and as a result, the account falls into arrears, collection processes, envisaged in this Policy, the Bylaw and any other applicable legislation, will take place.

27.4 Where the Municipality has sold a property to a Social Housing tenant all accounts will be consolidated. Non-payment of any amount will be dealt with in accordance with this Policy and the law.

27.5 Where Social Housing tenants are substituted in terms of any Municipal Policy, Legislation or agreement, the substituted tenant shall assume the rights and obligations of the one so substituted, including all debts, credit authorities and deposits.

27.6 The Municipality shall, at any time, have the right to install a pre-paid meter device to any premises leased by a Social Housing tenant.

28. INDIGENT SUPPORT

28.1 The Municipality may grant assistance to any person who is regarded as an indigent Customer, in accordance with the qualifying criteria as set out in the Municipality's Indigent Policy and subject to the availability of a budget provision, as determined by the Municipal Council at its annual budget meeting.

28.2 A person who qualifies for assistance in terms of Clause **28.1** must be prepared to convert to pre-payment metering at no additional cost to them.

29. IRRECOVERABLE DEBT

29.1 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;

(b) any amount equal to or less than R500.00, or as determined by the Municipal Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it;

(c) the cost to recover the debt does not warrant further action;

(d) it has been proven that the debt has prescribed;

(e) the debtor is untraceable or cannot be identified so as to proceed with further action;

(f) the debtor has emigrated leaving no assets of value to cost-effectively recover the Municipality's claim;

(g) it is not possible to prove the debt outstanding;

(h) a court has ruled that the claim is not recoverable;

(i) the claim is subject to any order of court;

(j) the claim is subject to an out of court settlement agreement;

(k) the debt is subject to a settlement in terms of section 109 of the Systems Act;

(l) the Municipality has resolved that the debt is irrecoverable;

(m) if an offer of Full and Final Settlement is accepted and confirmed in writing by the Head: Legal and Compliance Unit and CFO if it has financial implications;

(n) the outstanding amount is–

i. as a result of an administration error;

ii. as a result of a property debt that arose prior to the current owner taking transfer and successive transfers before his;

(o) expenditure incurred in respect of internal accounts raised in the name of the Municipality, in any previous financial year;

(p) 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;

(q) where the Municipality-

i. expropriates any property and the amount of compensation payable is insufficient to offset the debt due to it; or

ii. purchases any property at a sale in execution.

(r) Where the Municipality has entered into a valid written agreement with, or is the holder of a valid power of attorney issued by, National/Provincial Government alternatively, an organ of State, to develop land registered in the name of / statutorily vested in such entity for low income purposes in terms of a government subsidised housing program, and-:

i. Salient terms of the agreement or power of attorney include any of the following:

(a) the Municipality assumes responsibility for the payment of rates, or any other charges levied on such property;

(b) The Municipality will not levy rates, or any other charges on the property until such time as a serviced land reference number is created and property registered in the name of a beneficiary of the subsidised housing program; or

(c) The Municipality is contractually obliged to exempt the owner from liability to pay rates and or service charges on such property.

i. A certified copy of the written agreement or power of attorney is produced to the CFO by duly authorised representative of the Municipality's Human Settlement Unit confirming that the Municipality is, and remains,

legally obliged to assume/waive/exempt rates and or any service charges.

(s) The Municipality may write-off the debt where any property, other than a property registered in the name of an Organ of State, has been informally settled upon for a period in excess of twenty-four (24) months and: -

i. Most of the land comprises of informal structures and the balance of the properties that remain unoccupied, is not suitable for formal development on its own, due to planning or statutory grounds;

ii. the accrued debt on the property exceeds the Municipal value of the property, as confirmed by a certificate from the Municipal Valuer;

iii. the Municipality is in receipt of Deeds Registry report not older than three (3) months, confirming that the owner(s) either has no other fixed assets or has fixed assets with a Municipal value below the value of the uncollected debt. This provision applies, with such changes as may be necessary, to any sureties who may have stood security for the debt; and

iv. ultimately, all other legal mechanisms and avenues to recover the debt as contemplated in this Policy and Bylaw, have been exhausted, including an unsuccessful endeavour to obtain a court order in the owner's favour for the return of the use and possession of the property**.**

29.2. Subject to provision for bad debt, the CFO shall, in terms of this Clause **29**, write off any revenue which is irrecoverable or the recovery of which is considered not to be reasonably practicable.

29.3. The CFO must report to the Municipal Council all amounts that have been written off as irrecoverable by including the amount so written off during the preceding month in the Section 71 MFMA report to the Municipal Council.

30. LEASES

30.1 Persons who lease property from the Municipality for the purposes of any business or trade must provide a deed of suretyship in favour of the Municipality for the due and punctual payment or performance of all such person's obligations arising from the agreement of lease. Such deed of suretyship must be in the prescribed form and be furnished either before or upon date of signature of the agreement of lease by the last party signing.

30.1.1 Where a surety is not the registered owner of property, the CFO will be entitled to conduct a credit check on such person in order to ensure that the Municipality's interests are properly safeguarded. In such event, the provisions of Clause **23.2** will apply, mutatis mutandis.

30.1.2 If the CFO is not satisfied with the outcome of the credit check, the CFO may reject such surety. In such event, a prospective tenant must produce another surety to the satisfaction of the CFO.

30.2 Where the person referred to in Clause **30.1**, is a juristic person, the directors, members, trustees or executive officers, as the case may be, must sign a personal surety covering all debt and other obligations arising from the lease or an account in the name of such juristic person.

30.3 Subject to Clause **29.4**, service accounts must be opened in the name of the municipal tenant. Where the municipal tenant is liable for the payment of rates, the rates and services accounts will be consolidated.

30.4 Sub-lessees of a municipal tenant may open service accounts in their names with the consent of the Head: Real Estate and provided that the account is consolidated with the rates account.

30.5 Upon termination of a lease relating to municipal property through effluxion of time or for any other valid reason, all Municipal services to such property will likewise terminate. Where a natural person or any person occupying residential premises through him/her, is required to vacate such municipal property due to termination of the lease, for

whatsoever reason, but refuses to do so, such person's right to access a water and or electricity supply, shall be guided by the law.

30.6 The Municipality will not provide a Municipal service to a person who occupies or uses a municipal property without having first obtained the prior written permission of the Municipality.

30.7 The leasing of property to a person contemplated in Section 12 (1) of the Diplomatic Immunities and Privileges Act, 2001 (Act No 37 of 2001), as amended, will be guided by the requirements of such Act and the policies and protocols determined by the National Department of International Relations and Cooperation.

31. BUSINESS RESCUE AND INSOLVENCY

31.1 In terms of Section 118 (3) of the Systems Act, an amount due for municipal service fees, surcharge 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. Accordingly:

31.1.1 Where in terms of the Companies Act, 2008 as amended, a company is required to publish a notice in terms of subsection (3)(a) or (4)(b) of Section 129 relating, respectively to the adoption of a resolution to be placed under business rescue or the appointment of a business rescue practitioner, it must simultaneously give notice to the Municipality by pre-paid registered post to the Correspondence Department, attention: Head of Revenue, 4th Floor Florence Mkhize Building, 251 Anton Lembede Street, Durban, 4001, and by electronic communication clearly headed "Business Rescue", addressed to all:

Lihle.Ndzelu@durban.gov.za
Khanyi.Gama@durban.gov.za
Mxolisi.Nkosi@durban.gov.za
Malusi.Mhlongo@durban.gov.za

31.2 The provisions of Clause **31.1.1** apply, mutatis mutandis, to notices of meetings to creditors by a business rescue practitioner.

31.3 Notwithstanding that a juristic entity may be under business rescue, the Municipality has the right to cancel a Service Agreement if the juristic entity is in breach of the agreement, or invoke any other mechanism contemplated in this Policy (other than legal proceedings) where debt remains unpaid.

31.4 An official who is duly authorised by the System of Delegations may:

i. complete, sign and submit a claim or any other document contemplated in the Insolvency Act, 1936 (Act 24 of 1936), as amended and the Companies Act, 2008 (Act 71 of 2008), as amended;

ii. attend any meeting convened by a liquidator or business rescue practitioner;

iii. vote (subject to prior consultation with the CFO) on any subject matter relating to debt recovery at any meeting of creditors convened by a trustee in an insolvent estate, liquidator or business rescue practitioner.

31.5 Where a natural person has been declared insolvent or a juristic person has been liquidated (provisionally or finally), the trustee or liquidator, as the case may be, must deliver any statutory notice or other correspondence to the Municipality in the manner contemplated in Clause **31.1.1** (mutatis mutandis).

31.6 In the event of any mode of service being determined by law, then the provisions of Clause **31.1.1** shall be regarded as being additional to such statutorily recognised mode of service. The objective of this provision is to mitigate risk to the Municipality of matters not coming to the attention of officials responsible for debt collection.

32. THIRD-PARTY DEBT COLLECTION

32.1 The Municipality may appoint and refer any debt to a third-party debt collector and tracing agent for collection, on its behalf.

32.2 Third-party debt collectors or tracing agents may not negotiate terms and/or extend payment periods on behalf of the Municipality, contrary to the provisions of this Policy.

32.3 All payments in respect of any outstanding debt must only be made to the Municipal

bank account as indicated in the debtor's utility bill and municipal service account number be referenced in every payment.

32.4 All legal and debt collection costs incurred by the Municipality or appointed third-party debt collectors or tracing agents in the recovery of debt, may be levied against the customer's account.

32.5 No payment, in respect of any outstanding debt, will be paid direct to the third-party debt collector or tracing agents.

32.6 The Municipality must ensure that the proper procurement procedures have been followed in the appointment of a third-party debt collector or tracing agent.

32.7 The Municipality must ensure that there is compliance with the provisions of the Protection of Personal Information Act, 2013 (Act 4 of 2013) and applicable data privacy policies in its appointment and collaboration with a third-party debt collector or tracing agent in respect of the outstanding municipal accounts.

33. ENFORCEMENT OF CREDIT CONTROL MEASURES DURING DISASTER

33.1 Notwithstanding the statutory obligations which are in accordance with the Systems Act, the Council may consider a temporary suspension of any/or all credit control measures during a declared national, or provincial or local state of disaster.

33.2 In this instance, the suspension of any credit control measures may only be considered once the disaster is declared in terms of Disaster Management Act and a notice has been published in the Government Gazette.

33.3 The temporary suspension intends to assist customers with the relief during the said period. An example of the relief to customers may be, but not limited to a suspension of services disconnections, where account falls into arrears.

33.4 Once the declared disaster ceases to exist, the Council reserves its rights to resume its credit control measures in line with its statutory obligations in terms of the Systems Act.

34. HOSTELS

34.1 Sanctions and collections

34.1 Where an account rendered to a debtor remains outstanding for more than ninety (90) days, the defaulting debtor's name may, at the option of the Municipality, be listed with a credit bureau or any other equivalent body as a defaulter.

34.2 Emolument attachment orders in the case of employed debtors, and eviction processes may be implemented as part of the debt collection procedures.

35. CLAIMS IN RESPECT OF DAMAGE TO SERVICE INFRASTRUCTURE AND MUNICIPAL PROPERTY

35.1 Where a contractor has been engaged to provide services or to deliver goods on behalf of the Municipality and the contractor damages/destroys service infrastructure or Municipal property, the following will apply:

35.1.1 The contractor must forthwith notify the relevant department within the Municipality, e.g. eThekwini Electricity Department whose service infrastructure or Municipal property was damaged/destroyed, so that a claim can be submitted to the Municipality's Insurance section or where applicable, to the Municipality's Insurance Company in order to quantify and recover the damages sustained.

35.1.2 The contractor shall remain liable for the damage caused to the service infrastructure or Municipal property notwithstanding that its contract with the Municipality may have terminated or been cancelled.

35.1.3 Upon quantification of the damages sustained, the CFO shall issue a certification of the quantum. Such certification shall be deemed to be a liquid document for purposes of recovery of the damages.

35.1.4 The damages shall become a collectable debt in terms of this Policy.

36. MISREPRESENTATION

36.1 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 commits an offence and, in addition to criminal proceedings, remedial measures will be taken in a manner as determined by the Municipality from time to time, and the CFO will–

(a) reverse all benefits and relief received;

(b) raise any fee, as determined by the Municipal Council from time to time, as set out in the Tariff Policy; and

(c) cancel any Credit Authority and all amounts due to the Municipality will become payable immediately.

36.2 The Municipal Manager shall report any misrepresentation in terms of this Policy to the South African Police Services.

37. POLICY EVALUATION AND REVIEW

37.1 To be in a position to measure the outcome of the Policy, the Municipality believes that the output of this Policy should be measured in terms of general recognised accounting practices and the following benchmarks will be applicable:

$$\text{DEBT COLLECTION PERIOD} = \frac{\text{Total amount outstanding}}{\text{revenue}} \times \frac{365}{1}$$

$$\text{ANNUAL DEBTORS COLLECTION RATE} = \frac{\text{last 12 months receipts from debtors}}{\text{last 12 months billing}} \times \frac{100}{1}$$

The norm on the debt collection period is set at 60days and the collection rate is set at 95**%.**

37.2 This Policy shall be reviewed annually by the Municipal Council and any changes shall be adopted by the Municipal Council together with the approval of the annual budget.

38. GENERAL

38.1 Electronic submissions

i. Where this Policy requires that a prescribed document must be signed or initialled, the signing or initialling may be effected in any manner recognised by law, including the use of an electronic signature, as defined in the ECTA if such document or the revenue management system specifically allows the use of an electronic signature.

ii. The provisions of the ECTA apply to any electronic communication made in terms of or arising out of this Policy.

iii. Subject to the ECTA and any other law, a document incorporated into the revenue management system of the Municipality by electronic means may be deemed to be the only original and valid record.

38.2 MSCOA

38.2.1 Any costs or charges to be raised in terms of this Policy or legislation, must be raised against the revenue management system and in accordance with the requirements of MSCOA.

38.3 VERIFICATION OF INFORMATION

38.3.1 In order to ensure the integrity of data accuracy, optimise revenue yield and thereby provide a quality service to the local community, the Municipality may exchange information with the South African Revenue Services for purposes of verifying data (limited to non-financial information) of Customers and owners. Such exchange of information is permissible in terms of Section 70(4) of the Tax Administration Act, 2011 (Act 28 of 2011), as amended, read with the Regulations promulgated under Section 257 of that Act.