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DISTRICT MUNICIPALITY

Province of the Eastern Cape

progress through development

CREDIT CONTROL AND DEBT COLLECTION POLICY

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CREDIT CONTROL AND DEBT COLLECTION POLICY

PART 1: OBJECTIVE: CONSTITUTIONAL OBLIGATIONS

The council of the municipality, in adopting this policy on credit control and debt collection, recognizes its constitutional obligations to develop the local economy.

PART 2: ARRANGEMENTS FOR PAYMENT OF ARREAR ACCOUNTS

Allowing defaulting accountholders to make arrangements for the payment of arrear accounts shall be at the discretion of the municipal manager.

Each defaulting accountholder shall be allowed a maximum period of 3 (three) months within which to pay an arrear account, together with the interest raised on such account, and it shall be a condition for the conclusion of any arrangement that the accountholder is bound to pay every current account in full and on time during the period over which such arrangement extends.

If an accountholder breaches any material term of an arrangement, the balance of the arrear account, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality, and if the accountholder defaults on such payment, the municipal manager shall forthwith hand such account over for collection.

An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the payment of arrear accounts.

PART 3: QUERIES BY ACCOUNTHOLDERS

In the event of an accountholder reasonably querying any item or items on the account, no action shall be taken against the accountholder provided the accountholder has paid by due date an amount equal to the monthly average monetary value of the three most recent unqueried accounts, as well as all unqueried balances on such account, and provided further such query is made in writing by the accountholder or is recorded in writing by the municipal manager on behalf of the accountholder on or before the due date for the payment of the relevant account.

PART 4: DISHONOURED AND OTHER UNACCEPTABLE CHEQUES

If an accountholder tenders a cheque which is subsequently dishonoured by or is found to be unacceptable to the accountholder's bankers, the municipal manager shall – in addition to taking the steps contemplated in this policy against defaulting accountholders – charge such accountholder the penalty charge for unacceptable cheques, as determined by the banking institution from time to time..

PART 5: DELEGATION OF RESPONSIBILITIES BY MUNICIPAL MANAGER

The municipal manager, including any person acting in such capacity, shall be responsible to the council for the implementation of this policy and its attendant by-laws but – without in so doing being divested of such responsibility – may delegate in writing all or any of the duties and responsibilities referred to in these by-laws to any other official or officials of the municipality, and may from time to time in writing amend or withdraw such delegation(s).

PART 6: ROLE OF MUNICIPAL MANAGER

Section 100 of the Municipal Systems Act 2000 (see part 24 below) clearly assigns the legal responsibility for implementing the credit control and debt collection policies and by-laws to the municipal manager.

In practice, however, the municipal manager will inevitably delegate some or many of the responsibilities specifically assigned to this office in the by-laws, as it will be administratively impossible for the municipal manager to perform the numerous other functions of this office as well as attend to frequently recurring administrative responsibilities. However, such delegation does not absolve the municipal manager from final accountability in this regard, and the municipal manager will therefore have to ensure that a proper internal reporting structure is established and consistently implemented so that the day-to-day actions of and results from the credit control and debt collection programme are properly monitored and supervised.

PART 7: ROLE OF COUNCILLORS

Section 99 of the Systems Act 2000 places the important legal responsibility on the executive mayor or executive committee, as the case may be, of monitoring and supervising the application of the present policy and the attendant by-laws, and of reporting to the council on the extent and success of credit control actions.

In order to maintain the credibility of the municipality in the implementation of the present policy and the attendant by-laws, it is essential that councillors should lead by example. Councillors, by adopting this policy, therefore pledge, not only their unqualified support for the policy, but their commitment to ensuring that their own accounts will at no stage fall into arrears.

PART 8: COLLECTION OF ARREARS

Where a debtor's account is 30 days overdue a letter of demand are sent to the debtor requesting payment within 7 days of date of letter. Should there be no response, a final notice will be issued and a demand for payment of the outstanding amount within a period of 14 days failing the debtor will be handed over to attorneys for collection.

PART 9: INTEREST ON ARREARS AND OTHER PENALTY CHARGES

Interest may be charged on all arrear accounts at the prevailing overdraft rate offered by the municipality's bankers plus 2 (two) percentage points. The charging of interest will be initiated upon the municipal manager's instruction and authorization.

If the municipality uses more than one banking institution it shall for purposes of determining the interest on arrear accounts apply the overdraft rate offered by the institution with which its primary bank account is placed. Interest shall be calculated on a daily basis. For purposes of determining arrear amounts, all amounts unpaid including interest previously raised and penalty charges, but excluding value added tax, shall be taken into account.

PART 10: UNCOLLECTABLE ARREARS

The effective implementation of the present policy also implies a realistic review of the municipality's debtors' book at the conclusion of each financial year. The municipal manager shall as soon as possible after 30 June each year present to the council a report indicating the amount of the arrears which it is believed is uncollectable, together with the reasons for this conclusion.

The council shall then approve the write off of such arrears, if it is satisfied with the reasons provided.

PART 11: PROVISION FOR DEBT IMPAIRMENT

A provision for debt impairment is calculated at 30 June and is based on debtor amounts outstanding for greater than 90 days and where it is not certain whether the amounts are collectable.

PART 12: BY-LAWS TO BE ADOPTED

By-laws shall be adopted to give effect to the council's credit control and debt collection policy.

These by-laws deal severely with defaulters, and their application requires a considerable degree of commitment from the municipal manager and his or her administration, as well as from the municipality's political structures. For these by-laws to ensure the avoidance of financial misfortunes for the municipality, and to lead to sustained financial stability, their application will have to receive the constant attention of all the municipality's key role-players and decision makers. If these by-laws are not constantly and consistently applied, from month to month and from year to year, the municipality's political and administrative credibility will be severely impaired, and it may not be able to avert financial collapse in the long run.

The by-laws comply with the requirements of the Municipal Systems Act 2000 and the Municipal Finance Management Act 2003.

PART 13: LEGAL REQUIREMENT

It is essential for the protection of the municipality's interests that the provisions of particularly the Municipal Systems Act 2000, in so far as it provides additional debt collection mechanisms for municipalities, be diligently enforced. At the same time, both the council and the administration must note the obligations, which the municipality has towards the community in respect of customer care and relations.

The legal requirements are contained in the Municipal Systems Act (specifically Sections 95 to 103 and Section 118), and the Municipal Finance Management Act (specifically Section 64).