



Credit Control and Debt Collection Policy

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DEFINITIONS

For the purpose of this policy, any word or expression to which a meaning has been assigned in the Act, shall bear the same meaning in this policy, and unless the context indicates otherwise:

“Account”: Account in the name of a customer held with uThukela District Municipality (UDM).

“Account Statement”: formal notification by means of a statement of account to persons liable for fees, charges, surcharges on fees, taxes and other municipal taxes and services, levies, penalties and duties, indicating the net accumulated balance of account;

“Accounting Officer”: means the person appointed by the Municipality as the Municipal Manager of UDM in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), responsible and accountable in terms of Section 55(2) of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000) and includes any person acting in such position to whom the Municipal Manager has delegated a power, function or duty;

“Act”: means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended from time to time;

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

“Arrears”: means amount due, owing and payable in respect of fees, charges, surcharges on fees, property taxes and services, levies, penalties and duties and not paid by the due date;

“Authorised Officer”: means any official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this policy;

“By-law”: means a by-law adopted by the Municipality;

“Chief Financial Officer”: means the person appointed by the municipality as Chief Financial Officer of UDM in terms of Section 56 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)²

“Municipal Manager”: means the person appointed by the Municipality as the Municipal Manager of UKDM in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person acting in such position and to whom the Municipal Manager has delegated a power, or function or duty;

“Collection charges”: means collection charges which may be recovered by the Municipality in terms of Section 75A of the Act, and includes the cost:

- (a) to remind debtors of arrears;
- (b) for the termination and reconnection of services; and
- (c) all legal costs, including attorney and own client costs incurred in the recovery of arrear amounts;

“Council”: means the Council of UDM

“Customer”: means any occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, the owner of the premises and or recipient and or consumer of various services rendered by the municipality. A customer will therefore be deemed a customer by virtue of receiving, consuming and or utilising any facility, equipment, service rendered by the municipality and or a municipal entity or agent as appointed by the municipality;

“Defaulter”: any customer in arrears;

“Illegal connection”: a connection to any system through which municipal services are provided, which is not authorised or approved by the municipality or its authorised agent;

“Indigent”: means a person referred to in the Indigent Support Policy of the Municipality;

“Occupier”: means any person who occupies any premises or part thereof, without any regard to the title under which he or she so occupies;

“Owner”: means a person in whose name ownership of the property is registered or person in whose name the right is registered.

“Policy”: means the Credit Control and Debt Collection Policy adopted by the Municipality;

“Property”: (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title registered in the name of a person;

(b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;

(c) a land tenure registered in the name of a person or granted to a person in terms of legislation; or

(d) public service infrastructure;

“Registered Property”: Property registered in the Deeds Office;

“Stakeholder”: means all natural and non-natural customers of the municipality and or prospective customers and or single or group of people who consume services from the municipality;4

“Third party debt collection agencies”: means a person or juristic person that collects on behalf of the municipality.

1. Objectives

The objectives of the policy are to:

- 1.1 Lay down rights, responsibilities, duties and obligations of both the municipality and customers in as far as collection of outstanding monies are concerned;
- 1.2 Provide a framework within which the municipal council can exercise its executive and legislative authority regarding credit control and debt collection;
- 1.3 Set out business rules in the process of collecting all monies due and payable to the municipality;
- 1.4 Assist in setting realistic targets for debt collection.

2. Legislative framework

The Policy is based on the following legislation:

- The Constitution of the Republic of South Africa Act, Act No. 108 of 1996 (Section 27)
- Municipal Systems Act, Act No. 32 of 2000.
- Municipal Finance Management Act, Act No. 56 of 2003

3. Principles

- 3.1 The administrative integrity of the municipality's credit control and debt collection must be maintained. The democratically elected officials (Councillors) are responsible for policymaking, while it is the responsible of the Municipal Manager to execute these policies.
- 3.2 Billing is to be accurate, timeous and understandable.
- 3.3 The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- 3.4 The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- 3.5 Enforcement of payment must be prompt, consistent and effective.
- 3.6 Fraud/criminality will lead to loss of rights and heavy penalties and/or public prosecution.

- 3.7 Incentives and disincentives may be used in collection procedures.
- 3.8 The collection process will be cost-effective.
- 3.9 Collection 'Best Practices' will be pursued.
- 3.10 Results will be regularly and efficiently reported.
- 3.11 There must be legal cause between the municipality and its customer; and customer debt must arise out of a legal framework and must be legally collectable.

4. Arrear accounts

- 4.1 If a consumer fails to pay the full amount due and payable on or before the account due date, the unpaid amount is in arrears and a warning notice shall be sent and may be hand delivered or per mail or any electronic means available, to the most recent recorded address or electronic contact address and/or number of the consumer;
- 4.2 Failure to deliver or send a demand notice does not relieve a consumer from paying such arrears;
- 4.3 The warning notice must contain the following;
- (i) the minimum amount payable, and the date by which such amount must be paid;
 - (ii) that the consumer may conclude a debt repayment agreement, after settling the minimum payment required by the Council for payment of the arrear amount, in instalments;
 - (iii) that if full amount payable is not paid, that the municipal services will be discontinued or restricted and that legal action will be instituted against the consumer for the recovery of any amounts in arrears, without further notice;
- 4.4 The customer account(s) that is/are in default may be handed over to a duly appointed collection agent or attorney for collection;
- 4.5 The consumer's name may be made public and may be listed with a credit bureau or any other equivalent body as a defaulter.

5. Cost to remind customers of arrears

- 5.1 An administrative fee will be levied against the account of a customer in terms of the tariff provisions of the Council, in respect of any action taken in demanding payment from the customer or reminding the customer by means of notice delivered by mail, by hand or any electronic means available, that account is in arrears.

5.2 If a customer requests a temporary payment extension (before account due date, and on a monthly account) where he/she can prove that he/she does not have sufficient funds to pay the arrears and/or full monthly account (non-indigent customers), the administration fees will not be charged administration fee as long as the customer pays the part payment before due date.

6. Process Credit Worthiness.

6.1 The municipality shall maintain a record of payment behavior of all customers by maintaining a record of all actions taken.

6.2 The credit worthiness will be measured as follows:

- Statement issued per billing cycle, due for payment within 30 days from date of issue.
- 1st reminder to pay/ make a payment arrangement within 15 from the date of the 1st reminder, where a customer failed to pay invoice within 30 days after delivery- (Telephonically).
- 2nd reminder to pay/ make a payment arrangement within 15 days from the date of the 2nd reminder, where a customer failed to pay within 15 days after the first reminder – (Telephonically).
- Final Notice to pay/ make a payment arrangement within 7 days from the date of the final notice, where a customer failed to pay within 15 days after the second reminder – (In writing).
- Submission to External Collectors/ Restriction of service/ Other legal action, where a customer failed to pay within 7 days after the final notice – These actions can be carried simultaneously.

6.3 Collections for leases will be in terms of the lease contract. Credit worthiness of customers in a lease contract will be managed in the terms of the lease contract. The terms of the lease override the provisions of this policy.

7. Process Live accounts Credit Control Active Accounts Actions.

7.1 Action will be taken against all account holders who did not pay their outstanding amounts in the given payment terms.

7.2 Debtors shall be afforded the opportunity to enter into arrangements plans to pay overdue amounts off in installments within a prescribed period of time. The Debtors Clerks must ensure that prior to advising the customer of this option that the customer has no current or prior arrangements plans, i.e. customers may not enter into more than one arrangement agreement for a single account. However, a customer may enter into more than one arrangement for different accounts.

7.3 A customer may enter into payment arrangement periods of:

- 3 months; or
- 6 months; or
- 9 months; or
- 12 months.

7.4 The municipality has the prerogative on arrangement period not the customer.

7.5 If the outstanding amount was not settled within the required period, the account will become part of the next level of dunning where a final notice is sent to the customer to advise of the intention to take credit control action against the customer, should the account not be settled within the specified period.

7.6 The municipality shall contact all customers not paid 30 days after delivery of bills to follow up on payments or encourage customers to come and make payment arrangements.

7.7 Where no action taken by the customer in 15 days after the first call, a second call must be made or any other mode of communication.

7.8 Failure to act on the part of the customer in 15 days after the second call, the final notice process shall be initiated immediately. A final notice shall be in writing, demanding payment within 7 days of receipt.

8. Payment extension

8.1 On verbal request of a customer, requests for payment extension in respect of outstanding debt will be considered in the following circumstances:

- (i) Customer account under inquiry;
- (ii) Customer account under dispute;
- (iii) Pending outcome or conclusion of court cases;
- (iv) Merit cases as approved by CFO or delegated official

8.2 Customer may be represented by a duly appointed nominee or agent, and such nominee or agent shall upon request produce sufficient proof of such appointment;

8.3 Payment extension will be granted for a maximum period of sixty days from date of application and may be extended on month-to-month basis;

8.4 Payment extension will not result in the suspension of legal actions and/or court actions unless authorised by the Accounting Officer;

8.5 Approved payment extension will result in the temporary suspension of the credit control actions;

8.6 Approved payment extension will not result in the termination, extension or suspension of interest on arrears;

8.7 Extraordinary payment extensions as per this paragraph will only be allowed for a maximum period of twelve months.

9. Treatment of Debts in Terms of Section 118 of the Municipal Systems Act

9.1 If the seller insists on paying outstanding debt only for the last two years for the purposes of obtaining a clearance certificate in terms of Section 118(1) of the Municipal Systems Act the following shall apply:

- (a) After receipt of the payment the clearance certificate will be issued to the seller;
- (b) The historical debt will be immediately handed over for legal collection;
- (c) The total debt outstanding on the property shall remain and the hypothec will remain intact as provided for in Section 118(3) of the Municipal Systems Act;
- (d) The purchaser shall be advised of the hypothec against the property and that he or she might be cited as an interested party when the municipality exercises its right to have the property executable as part of the debt collection process.

10. Actions to secure payment

10.1 The Council or its duly appointed agents may, in addition to the normal civil legal steps to secure payment of accounts that are in arrears, take the following actions to secure payment, municipal services, interest, penalties and other charges namely:

- (i) termination and/or restriction of the provision of any municipal services in accordance with Section 7; and
- (ii) allocation of the full or portion of a payment of an account, or the full or portion of a pre-paid service payment, as payment for arrears in accordance with paragraphs 6 and 7 above.
- (iii) the Council may credit a payment and/or transfer a receipt made by the customer against any account of that customer.

10.2 The Council may further take steps contemplated in Section 104(1)(f)(ii) of the Municipal Systems Act, subject to the regulations made or guidelines issued by the Minister, if any, and provided that any intended seizure of property must be referred to the Municipal Manager of his/her nominee for approval or such directives which the Council deems necessary under the circumstances;

10.3 The Council may, in terms of the provisions of Section 104(1)(f)(iii) of the Municipal Systems Act, attach the rental or any other payments due to customers who are in arrears with their municipal accounts:

- (i) If any debt levied in respect of a property is in arrears by the owner of the property, the arrears may be recovered in whole or part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier;
- (ii) Written notice has been served on the tenant or occupier and property owner or agent of property owner
- (iii) The tenant or occupier of property or agent of property owner must on request by the Council, furnish a written statement specifying rental and other payments to be made by the tenant or occupier to the owner of the property during a period as determined by the Council;
- (iv) The amount the Council may recover from the tenant or occupier of a property is limited to the amount of rent payable by the tenant or occupier to the owner of the property;
- (v) The Council may recover the arrear amount on a property in whole or in part from the agent of the registered owner;

(vi) Any amount recovered from the tenant or occupier will be set off against the arrears of the property owner.

10.4 The Council may, in the case of a company, close corporation, trust in terms of the Trust Property Control Act No 57 of 1988, home owners' association or a body corporate in terms of the Sectional Titles Act, 1986 (Act No.95 of 1986), extend the liability in respect of customer arrears to the directors, members or trustees thereof jointly and severally;

10.5 The Council may, at the cost of the consumer, install water management device and/or pre-paid electricity meters upon the failure of the consumer to make regular payments to Council for services consumed.

11. Power to restrict or terminate supply of municipal services

General

11.1 The Council or its duly appointed agent may terminate and/ or restrict the supply of municipal services or in the case of pre-paid electricity withhold the selling of services in terms of the prescribed disconnection procedures, or discontinue any other service to any premises associated with the customer, whenever a consumer of any service:

- (i) after the expiry of the period for payment in terms of the final demand/ final notice referred to in paragraph 5 above, fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for municipal services, property taxes or other amounts due in terms of this policy;
- (ii) are not a registered indigent;
- (iii) no payment was received in accordance with an agreement for payment of arrears;
- (iv) fails to comply with a condition of supply imposed by the council;
- (v) obstructs the efficient supply of any other municipal services to another customer;
- (vi) supplies such municipal service to a customer/ owner who is not entitled thereto or permits such service to continue;
- (vii) causes a situation, which in the opinion of the council is dangerous, or a contravention of relevant legislation;
- (viii) in any way bridges the supply or illegally reconnect previously disconnected municipal services;
- (ix) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act 24 of 1936)

(x) is subject to an administration order granted in terms of Section 74 of the Magistrate Court Act, 1944 (Act 32 of 1944) in respect of such user.

11.2 The Council shall hand deliver, per mail or per electronic means available, to the physical address of the property or most recent recorded address or electronic contact address and / or number of such customer, a discontinuation notice informing such consumer:

- (i) that the provision of the service will be, or has been discontinued on the date stated on the discontinuation notice;
- (ii) of the steps which can be taken to have the service reconnected; and
- (iii) of the minimum amount payable to restore the service.

11.3 Subject to the provision of the Provision of Administrative Justice Act, 2000 (Act 3 of 2000), having been observed, save that the Council's reasons for its decision to act must be within seven days after a request, therefore.

11.4 The right of the Council to restrict or any duly appointed agent to restrict or discontinue water to any premises, owner of property, tenant on property, customer or occupant of property, shall be subject to the provisions of Sections 3 and 4 of the Water Services Act, 1997 (Act 108 of 1997);

11.5 The right of the Council to restrict or discontinue the provision of electricity to any premises, owner of property, tenant on property, customer or occupant of property shall be subject to the provisions of the Electricity Act, 1987 (act 41 of 1987)

11.6 The right of the Council or any duly appointed agent to limit or restrict the supply of municipal services to a customer shall be subject to the provisions of the Health Act, 1997 (Act 63 of 1997), and the regulations made thereunder.

12. Cost to restrict or discontinue services

- 12.1 Where any municipal service is restricted or discontinued as a result on non-compliance with the provision of this policy by the customer, the Council shall at its prerogative be entitled to levy and recover:
- (i) Administration fees in terms of the tariff provisions of Council;
 - (ii) Installation of water management devices as determined by the Council from time to time;
 - (iii) Installation of a measuring device or equivalent as determined by the Council from time to time;
 - (iv) Consumer deposit held against customer account may be increased subject to the provisions of the deposit policy and tariff provisions of Council;
 - (v) Any other applicable fees, tariffs, charges in terms of tariff provisions of Council
 - (vi) If a customer requests a temporary payment extension (before account due date, on a monthly basis) where he/she can prove that he/she does not have sufficient funds to pay the arrears and/or full monthly account (non-indigent customer), the admin fees will not be charged as the customer pays at least the monthly municipal services before the account due date.

13. Reconnection of municipal services

GENERAL

- 13.1 Services, restricted or disconnected in terms of paragraph 10 above, will only be reinstated and reconnected after satisfactory payment or satisfactory arrangement for payment of arrears, penalties and/or adjusted deposit have been made in accordance with this policy;
- 13.2 Services may only be reinstated or reconnected by the Council or duly appointed agent;
- 13.3 Subject to capacity at the time to restore such services which have been restricted or disconnected, such services will be restored within a reasonable time after the relevant conditions of this policy have been met. Only where payments have been made before 14h00 on a working day will services be guaranteed to be restored on the same day.
- 13.4 The onus shall be on the customer to request reconnection and to prove that the full amount as required has been paid.

14. Costs for reconnection of services

14.1 Where any instruction is issued by Council for the reinstatement of normal service flow or reconnection of municipal services, restricted or disconnected in terms of this policy, reconnection fees will be levied in terms of tariff provisions of the Council.

15. Arrangements

15.1 *Conditions for Residential Debtors*

15.1.1 In cases where residential debtors wish to make payment arrangements, the following conditions will apply:

- (i) Current charges must be paid in full.
- (ii) The debtor may be required to prove levels of income and must agree to a monthly payment towards arrears based on such debtor's ability to pay or based on such debtor's total liquidity if the Municipality so requires.
- (iii) All negotiations with the debtor should strive to result in an agreement that is in the interests of both parties and is sustainable.
- (iv) Interest will be charged on arrears.
- (v) Debtors who default on three occasions in respect of arrangements made will be denied the privilege of making further arrangements and the full amount becomes payable. Interest will be calculated from the original due date of the debt, taking any payments into consideration.
- (vi) All arrangements may be subject to periodic review.
- (vii) Legal action may be taken against debtors referred to in sub-item (v) and such debt may be referred to third party debt collectors, for recovery.

15.2 *Arrangement Criteria for Residential Debtors*

15.2.1 In cases where residential debtors wish to make payment arrangements to settle their arrears, the following payment criteria, inter alia, will apply:

- current account; and an agreed payment towards arrears based on the principles contained in this Policy and sub-items (d) and (e) with a minimum payment as per the "Minimum Payment Schedule" as adjusted by the Municipality from time to time.

Each following month the debtor will be required to pay:

- a) current account; and an instalment as determined above.

- b) Should the debtor default, payments will be as follows:
- first default: current account and the monthly payment will increase by 50% of the previously agreed payment;
 - second default: current account and double the monthly payment;
 - final default: current account and full arrears.

Important: In all cases failure to respond to notices will result in normal credit control procedures and all debt collection processes as provided for in this Policy taken.

15.3 Conditions for Non-residential Debtors

15.3.1 In cases where non-residential debtors wish to arrangements to settle their arrears, the following criteria, inter alia, will apply:

- (i) debtors may be required to furnish the Municipality with their latest audited financial statements and other supporting documentation relevant to their financial position in order to negotiate a settlement arrangement acceptable to the Municipality;
- (ii) all negotiations with debtors should strive to result in an agreement that is in the Municipality's best interests and is sustainable;
- (iii) interest will be charged on arrears at an interest rate that shall be determined by Council from time to time;
- (iv) all arrangements may be subject to periodic review;
- (v) the final decision to make these arrangements will rest with the Municipal Manager or his delegated official
- (vi) If the non-residential debtor wishes to make a payment arrangement, interest may be charged or suspended on any outstanding amount and such arrangement will be subject to approval of the official as delegated.
- (vii) Should the debtor default on any arrangement, any agreements may be terminated, and legal action may be taken and such debt may be referred to a third party for recovery. Interest will be calculated from the original due date of the debt taking any payments into consideration

15.4 Special Conditions Regarding Arrangements

- (i) Where any residential or non-residential debtor has entered into an arrangement with the Municipality in respect of the arrears on a property, the prescribed certificate as referred to in Section 118, of the Systems Act, will not be issued until such time as the full outstanding amount is paid.
- (ii) The conditions contained in the Municipality's arrangement document, as amended from time to time, will be deemed to form part of the arrangement criteria contained in this Policy.
- (iii) All debtors entering into arrangements shall provide their banking details, and those who have the facility to sign a debit order with their financial institutions shall do so.
- (iv) The Municipal Manager would normally only enter into arrangements with property owners and account holders and may, on receipt of an affidavit, by the occupier or a tenant of a residential property, which certifies that the owner of the property which such tenant or occupiers resides in, is untraceable or not contactable or such owners whereabouts are unknown, and-
 - that they have a right to occupy such property and stating the time period that they have so occupied the property;
 - the last known address of the owner;
 - the rental due for such right to so occupy;
 - that such occupier or tenant undertakes to advise the owner at the first reasonable opportunity of the current situation and that the tenant or occupier further agrees to obtain the consent of the owner to condone the process as set out in this sub item enter into an arrangement with such a tenant or occupier in terms of this policy, to pay off arrears on an account which is a charge against the property.

Steps to be taken by the Municipal Manager

- (i) authorise an arrangement be entered into with the occupier or tenant subject to:
 - a letter being dispatched to the last known address of the owner as per Council records and the address supplied which shall advise the owner of such owner's responsibilities relating to the non- payment of the amounts due against the property and of the arrangement and
- (ii) What will happen should the owner fail to respond to the notice.

16. Process Final Notices.

16.1 Action shall be taken against all account holders who did not pay their outstanding amounts in the given time period or agreed payment terms. A final notice shall be sent to the customer after the debt has aged for 30 days on the account after the final arrangement is dishonoured or customer failed to respond for 7 days, as detailed under Credit Control accounts procedure.

16.2 A final notice must be delivered in person/ electronically/ post and must be in writing to address available in our records. Acknowledgement of receipt must be made/ must be sort from the debtor, unless it is impossible or the customer refuse to acknowledge receipt. Where a debtor refuses to acknowledge receipt of final notice, a record of refusal must be kept in his file.

17. Process Deactivation of Arrangements.

17.1 The municipality shall deactivate arrangements when the customer cannot meet his/her obligations.

17.2 An arrangement plan is available to customers who cannot afford to pay arrears in full on the specified due date.

- An arrangement plan allows the client to pay the arrear amount over a specified period of time.
- If the customer defaults on paying the arrangement, the municipality will automatically deactivate the arrangement if outstanding for 30 days after entering that arrangement.
- On deactivation, the customer account becomes part of the normal credit control process and can be disconnected immediately and be subject to legal action in terms of the arrangement signed between the customer and the municipality.

18. Process Interest Charges.

18.1 The municipality shall charge interest on amounts that are overdue. These charges are levied in accordance with the criteria set within the system.

18.2 Interest charges may not exceed published prime plus 2 percentage points per annum.

19. Process debts hand-over External Collectors.

19.1 If a customer does not pay his receivables and all other Credit Management measures have been exhausted to collect the receivables internally, the municipality may manage the account by submitting receivables to an External Collection Agent.

19.2 Services of External Collectors will be procured through the procurement process. Terms controlling the relationship shall be detailed in the terms of reference and may differ from Collector to Collector.

20. Process Deceased Estate, Insolvent Estates and Admins.

The following rules need to be adhered to when an account holder becomes:

- **Deceased:** The active account holder becomes deceased and an executor is appointed to handle the deceased party's accounts until the deceased estate is wound up;
- **Insolvent:** When a natural person type account holder cannot pay up his/her creditors, he/she could be declared as insolvent. The natural person is placed under sequestration for a period of time by the court. The account is placed under the administration of a curator who will attempt to distribute available funds.
- **Liquidated:** An active account is placed under the administration of a liquidator or curator when the account holder becomes liquidated or insolvent respectively; and
- **Placed under administration:** Before a company or natural person is liquidated or becomes an insolvent estate, the court may rather decide to appoint an

administrator who will administer the account holder's financial responsibilities for a predetermined period of time.

The key objective of these rules is to ensure that the debt is settled and while doing so enforce that the new correspondence details are maintained on the system. Furthermore, there are also special procedures which are available to these account administrators in order to ensure that money due to the municipality is paid.

This process is either triggered when:

- Notice is received from the Liquidator, Executor, Curator or Administrator informing the City of the respective insolvency, deceased estate or administration; or
- A notice published in the Government Gazette notifying creditors that a specific Company or individual has been liquidated or declared insolvent or that he/ she is under administration.

Although the triggers to the whole process are the same, due to the fact that the internal procedures differ, the process has been divided into two sub-processes namely;

1. Process Deceased Estates, Liquidations and Insolvencies; and
2. Process Administrations.

The Revenue Manager must:

- Identify customers who are under administration so that an appropriate action can be taken by Business to secure an outstanding amount
- Ensure that all administrations, liquidations, deceased estates and insolvent estates are handed over to attorneys assigned with the responsibility to claim outstanding amounts on behalf of the Business.
- Liaise with attorneys in order to ensure that appropriate actions are taken to recover the money owed by the Deceased Estate, Companies in liquidation, Insolvent Estates and Administrations on behalf of Business.
- Identify customers who have been liquidated, declared insolvent or are deceased so that appropriate action can be taken by Business to secure outstanding amounts.
- Report on all Liquidations, Insolvencies, Deceased Estates and Administrations and the value as well as the recovery rate so that Business can take appropriate actions to finalize them.

21. Process Open Item transfers

21.1 The Debit Open Item Transfer process is the process of transferring debit line items from one account to the other where both accounts belong to the same customer or where the owner is liable for the tenant's debt.

21.2 This process could be triggered by:

- **A request from the client to have his/ her accounts consolidated.** A customer will either send a letter or come personally to business premises to request that his/ her two or more accounts be consolidated into one or that a balance on his/ her inactive account be transferred to his/ her active account. Since it is Customer Relationship Management's responsibility to attend to customers, it is assumed that the customer's request will be logged in the process consolidation of accounts.
- **An internal request resulting from information from the Deeds Office that certain stands have been consolidated.** The Revenue/ Planning Unit will receive information from the Deeds Office that two stands have been consolidated into one. The Land Use will map out a process for consolidation of stands and make reference to this open item transfers process where debit item transfers are required.
- **An initiative by Credit Management to manage debt.** In the case of an internal request, an inactive arrear account is picked up by Credit Management Department as belonging to the same Business Partner customer who has an active account with the business and the inactive account balance is then transferred to the active one.

22. Irrecoverable debt

22.1 *Criteria for irrecoverable debt*

Debt will only be considered as irrecoverable if it complies with the following criteria:

- a) all reasonable notifications and cost-effective legal avenues have been exhausted to recover a specific outstanding amount; or
- b) Any amount equal to or less than R500.00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it; or
- c) the cost to recover the debt does not warrant further action; or

- d) the amount outstanding is the remainder after payment of a dividend in the rand from an insolvent estate; or
- e) a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
- f) where the estate has not been reported to the Master and there are no assets of value to attach; or
- g) it has been proven that the debt has prescribed; or
- h) the debtor is untraceable or cannot be identified so as to proceed with further action; or
- i) the debtor has emigrated leaving no assets of value to cost effectively recover Councils claim; or
- j) it is not possible to prove the debt outstanding; or
- k) a court has ruled that the claim is not recoverable; or
- l) the outstanding amount is due to an irreconcilable administrative error by the Municipality; or
- m) all debtors who are registered as indigent as more fully set out in chapter 4 of the credit control and debt management policy will have their arrears written off; or
- n) if an offer of full and final settlement is confirmed in writing by the Municipal Manager in terms of UDM's: Credit Control and Debt Collection By-law; or
- o) all arrears may be written off to bad debts where Council-
 - (i) expropriates any property; or
 - (ii) purchases any property; or
- p) all arrears may be written off to bad debts where a property has been forfeited to the State in terms of the Prevention of Organised Crime Act 121 of 1998; or
 - (i) where the occupiers have been evicted from Council, Provincial or State properties due to criminal activities; or
- q) where registered non-profit organisations or public benefit organisations would, except for there being arrears on their Municipal accounts, qualify to receive a 100% rates rebate, in terms of the Rates Policy, will, with effect from the date of qualification, have all their arrears written off, thus ensuring that they meet all the criteria to receive the rates rebate and; this assistance will only be granted once to an organization.
- r) should the Municipal Manager become aware that the focus of the organization has changed, or its financial position has improved or its registration as a non-profit organisation or public benefit organisation has lapsed or terminated within three years

after the arrears were written-off, such arrears will become payable with immediate effect.

23. Provisions for doubtful debt

23.1 Provision for doubtful debts is an accounting entry that will be made in accordance with rules governing Accounting for credit losses and provisions.

23.2 It remains the prerogative of the CFO to provide for credit losses where there's evidence of possible irrecoverable debt.

Authorisation

In respect of other debt, schedules indicating the debtor's account number, the debtor's name, and the physical address in respect of which the debt was raised, address, ERF number, if applicable, amount per account category as well as a reason to writing off the amount must be compiled and submitted to Executive Mayor for approval this is part of the delegated authority.

(a) Debt below R500 as stipulated above may be automatically approved for writing off by the Municipal Manager as a delegated authority.

24. Clearance Certificates

24.1 All monies including any estimated amounts for the duration of the validation period of a certificate in terms of section 118, of the Systems Act, or section 89 of the Insolvency Act, 24 of 1936, are for the purpose of section 118, deemed to be due and must be paid in order to facilitate the transfer of immovable property;

24.2 All amounts that are due in connection with the property must be paid in full prior to the issuing of any clearance certificate in terms of section 118, of the Systems Act;

24.3 interest shall be paid in respect of any payment made in terms of this item unless allowed for in terms of any other legislation; and

24.4 all payments will be allocated to the registered sellers' municipal accounts in terms of the Municipal Credit Control and Debt Collection By-law and all refunds, if any, in respect of such payment, will be made to such seller, after registration of transfer has been registered in the Deeds Office.

24.5 No certificate, in terms of section 118 of the Systems Act, will be issued where the property owner has not complied with any relevant legislation, policy or agreement relating to the property in question.

25. Indigent Relief

25.1 *Tariff Structure*

25.1.1 The tariff structure for services are designed to enable those consumers who meet the criteria as defined in the tariffs to obtain free basic services and those residential properties, which are below a specified value, to be rates free.

25.2 *Arrears*

25.2.1 All debtors who qualify and are registered as indigent, will have their arrears written off once during ownership of the property, and thereafter will be monitored.

25.3 *Debt management actions*

25.3.1 No legal action will be instituted against any debtor, who has registered for and been accepted as an indigent for a period of twelve months, or while they still qualify as indigent, and meet all the criteria during this twelve-month period.

25.3.2 An application for registration as indigent is only valid for a period of twelve months from date of acceptance.

25.3.3 It is a requirement of this Policy that should the personal circumstances of a debtor improve to such an extent that such debtor no longer qualifies as an indigent, then such person must notify the Municipality immediately of this change in order for such person's name to be removed from the indigent register.

25.3.4 If it is found that a debtor no longer qualifies as an indigent, and they have not informed the Municipality, then this debtor will be deregistered as an indigent, all suspended steps, as referred above will be lifted, from the time the debtor's circumstances were found to be improved, and interest will be payable on any outstanding amounts.

26. Misrepresentation

26.1 Debtors found to have misrepresented themselves in order to benefit from the Municipality's indigent relief will be deemed to have committed an offence and remedial measures will be taken in a manner as determined by the Municipality from time to time, and all benefits that have been received, in terms of the indigent relief, will be reversed and claimed back to that particular customer.

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

27. Approval of the policy

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Municipal Manager

uThukela District Municipality

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Date

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Executive Mayor

uThukela District Municipality

.....

Date

COUNCIL RESOLUTION NUMBER _____