

SERVICE LEVEL AGREEMENT

entered into by the

MUNICIPALITY OF SWELLENDAM

and the

BARRYDALE LEIWATERS GEBRUIKERS VERENINGING (BLGV)

BARRYDALE LEIWATER USERS ASSOCIATION (BLUA)

regulating certain funding, financial, compliance and management services of the Leiwater System
in Barrydale

THE PARTIES AGREE AS FOLLOWS:

1. PARTIES TO THE AGREEMENT

The parties to this agreement are:

- 1.1 The **Swellendam Municipality** as a demarcated local municipality, herein represented by - Anneleen Voster in her capacity as **Municipal Manager** of the **Swellendam Municipality**, (Hereinafter referred to as the **Municipality**).
- 1.2 The Barrydale Leiwatervereeniging a registered qualified nongovernmental organisation (NPC) with **Registration Number 2026/142226/08**, represented herein by Charles Payne as the **Chairman of the Barrydale Leiwatervereeniging**, (Hereinafter referred to as **BLGV/BLUA**) and duly authorised thereto by the **AGM of 8 January 2026**. Minutes attached as **Appendix I**.

2. DEFINITIONS

In this agreement, unless the context otherwise requires, the words and expressions listed in **Appendix II** shall have the meanings thus assigned to them.

3. INTERPRETATION

The rules of interpretation for this agreement are set out in **Appendix III** hereto and the Agreement will be interpreted within the framework of the the existing Swellendam Municipal By-Law Relating to Irrigation Water, implied to by **BLGV/BLUA** as leiwatervereeniging.

4. DURATION OF THE AGREEMENT

- 4.1 This agreement shall commence on **1 July 2026** and shall terminate on **30 June 2029**, irrespective of its date of signature.
- 4.2 The parties shall have the option to extend this agreement for further periods and shall exercise this option by giving written notice to the other parties not later than one month (**30 Days**) before the aforementioned termination date and subject to both parties' executives approval.

5. PURPOSE OF THE AGREEMENT AND APPOINTMENT

- 5.1 Various legislation places certain environmental service delivery responsibilities on Swellendam Municipality, with regard to leiwatervereeniging management,
- 5.2 **Barrydale Leiwatervereeniging (BLGV/BLUA):**
 - 5.2.1 The **BLGV/BLUA** is a duly registered Non-Profit Company (**NPC**) and acts as the service delivery authority for **BLGV/BLUA** leiwatervereeniging irrigation, on behalf of the **Municipality** in the context of a Service Level Agreement in the designated area of Barrydale, as defined in the **BLGV/BLUA** Constitution par.28, under Area of Operation of the Association.

- 5.2.2 The **BLGV/BLUA** will employ trained and experienced personnel and has the resources and experience to ensure continuing cost-effective compliance and has the requisite operational efficiency to address the effective management of leiwater in Barrydale.
- 5.2.3 The **BLGV/BLUA** is hereby contracted in terms of this agreement to deliver the leiwater services required by the Municipality, in accordance with **BLGV/BLUA Constitution** and adherence to **BLGV/BLUA Rules and Guidelines** as approved by its **AGM** on 8 January 2026.
- 5.2.4 The **BLGV/BLUA** shall conduct its obligations and duties in terms of this agreement as an independent contractor and not be regarded as being in the employment of the **Municipality**.
- 5.2.5 The **BLGV/BLUA** shall conduct its management and maintenance of the Barrydale Leiwater System in accordance with the Swellendam Municipality By-Law relating to irrigation water (Leiwater).

6. FUNDING ARRANGEMENTS

- 6.1 The Municipality acknowledges that the **BLGV/BLUA** will levy a fee for the use of leiwater from each leiwater user. on a yearly (12 monthly) basis in line with their financial year as prescribed for an NPC.
- 6.2 The **BLGV/BLUA** will manage the invoicing and collection of the levied fees for the use of the leiwater.
- 6.3 The Municipality, as a user, will be invoiced for their turn(s) of leiwater.
- 6.4 In acknowledgement of the fact that the leiwater channels in some instances double as storm water channels, the Municipality may make a financial contribution to the maintenance of said channels. The amount allocated will be included in the municipal budget.
- 6.5 In acknowledgement of the fact that the leiwater furrows have not been maintained at an acceptable level over the years, the Municipality will undertake the maintenance and repair work as per **Schedule I** to ensure an operational hand-over.
- 6.5 Where costs for services are requested by one of the parties, the cost of said service will be agreed by the parties in advance and in writing. Where possibly the cost for said services by the Municipality will be at a cost tariff scale as it to the benefit of maintenance of existing Municipal infrastructure.
- 6.6 Funding allocations to the **BLGV/BLUA** will be regarded as 'transfer payments' as governed by the Local Government Municipal Finance Management Act, 2003 (Act 56 of 2003), [Hereinafter referred to as the MFMA] more specifically section 67(1) and (3).
- 6.7 The **BLGV/BLUA** retains the discretion to subsequently spend the monies received for the leiwater association on any goods and/or services according to their individual needs subject to compliance with the stipulations of this agreement, inclusive to cost incurred to date of the signature of this SLA.

7. DUTIES AND RESPONSIBILITIES OF THE LOWER BREEDE RIVER CONSERVANCY TRUST (LBRCT)

7.1 Financial management

7.1.1 The **BLGV/BLUA** shall provide the Municipalities annually by September of each year, with the following:

- i) Its most recent financial statements prepared by a registered accountant accompanied by a certificate from its auditor that the **BLGV/BLUA** has established effective, efficient and transparent financial management and internal control systems;
- ii) The **BLGV/BLUA** must annually, by February of each year provide a certificate from its Chief Executive Officer which refers to the following:
 - functions and objectives of the **BLGV/BLUA** provided for by law or this agreement;
 - the extent to which the **BLGV/BLUA** achieved its objectives for the financial year concerned;
 - appropriate performance information regarding the economical, effective and appropriate utilisation of funds; and
 - an indication of other funds, if any, received from other organs of State, as well as any undertaking given with regards to such funding.

7.1.2 The **BLGV/BLUA** shall provide the Municipalities annually by February of each year, with the following:

- i) A business plan for the next financial year, with a proposed budget for the costs to be incurred by the **BLGV/BLUA** with regards to its operations together with a breakdown to indicate the envisaged revenue to be collected for services rendered, as well as the anticipated shortfall;
- iii) A motivated proposal for consideration and due processing by the Municipality regarding fees to be imposed for the leiwat services must be provided to the Municipality by February of each year;
- iv) An indication of other funds, if any, received from other organs of State, as well as any undertaking given with regards to such funding

7.1.3 The **BLGV/BLUA** shall be obliged to manage, enforce and collect:

- i) prescribed fees in respect of turns for leiwat in Barrydale on a yearly (12 monthly) cycle in line with their financial year as prescribed for their NPC; and
- ii) in collaboration with the municipal law enforcement function, predetermined fines may be imposed in respect of contraventions of the municipal by-laws applicable to leiwat management,

- iii) shall conduct its management and maintenance of the Barrydale Leiwatër System in accordance with the Swellendam Municipality By-Law relating to irrigation water (Leiwatër) and ensure the compliance thereof, in conjunction with the municipal law enforcement, who will enforce the legal remedies and mechanisms used to compel adherence, resolve disputes, or penalise deliberate non-compliance by leiwatër users and owners of erven within the BLGV/BLUA area of responsibility.

7.1.4 The **BLGV/BLUA** shall ensure that all income derived in terms of this agreement; whether collected by the **BLGV/BLUA** or received as a grant or funding from any organisation or entity shall be paid into an exclusive bank account operated in the name of the **Barrydale Leiwatër Gebruikers Vereniging**.

7.1.5 The **BLGV/BLUA** shall keep accurate records of all payments made from or received into this bank account and shall provide quarterly management reports of this account to Swellendam Municipality with a breakdown of monthly expenditure within each month, or as and when required on reasonable written notice from the Municipality, of which the format will be agreed upon by both parties on and before 15 August 2026 in writing.

7.1.6 The **BLGV/BLUA** shall ensure that all income derived in terms of this agreement is used exclusively for the management, control and the conservation of the designated area of operations of **BLGV/BLUA**.

7.1.7 Interest earned may only be utilised for the benefit of the project.

7.1.8 Expenditure vouchers, indicating the project reference, must be retained for audit purposes.

7.1.9 The **BLGV/BLUA** grants authorised municipal officials access to its financial records at all reasonable times and these officials shall be entitled to inspect the **BLGV/BLUA** records at the **BLGV/BLUA** premises, after reasonable notice has been given, by prior arrangement.

7.1.9. A financial statement, preferably audited, but at least certified as materially correct by a registered accountant, which indicates the total allocation, total expenditure and total interest generated must be forwarded to the Swellendam Municipality within six months at the end of the **BLGV/BLUA** financial year and should include at least the following:

- (i) Audit report;
- (ii) Report confirming all assets of the **BLGV/BLUA**, including the assets of the Municipality;
- (iii) Financial statements consisting of the following:
 - income statement;
 - expenditure statement;
 - balance sheet;
 - cash flow statement;
 - notes to the financial statements; and
 - any other documentation required by legislation.

7.2 Asset management

- 7.2.1 It is recorded that the **BLGV/BLUA** will use its own infrastructure and that of the Municipality where applicable to perform in terms of this agreement.
- 7.2.2 Assets provided to the **BLGV/BLUA** directly by the Municipality or purchased with funds generated in terms of this agreement shall be managed by the **BLGV/BLUA** for the duration of this agreement but shall remain the property of the Municipality and only revert back to the Municipality on termination of this agreement.
- 7.2.3 The **BLGV/BLUA** shall ensure that proper risk mitigation measures for the protection and safeguarding and insurance of municipal assets are implemented and maintained; and shall heed the management of asset standards in relation to the MFMA. These measures, inclusive of insurance to agree upon by both parties on and before 15 August 2026 in writing.
- 7.3 **Registration and managing of leiwater users**
- 7.3.1 The policy, protocol and documentation relating to the use of a leiwater use turn shall be regulated via the **BLGV/BLUA**;
- 7.3.2 The **BLGV/BLUA** shall be responsible for the drafting of a schedule for the effective use and maintenance of the leiwater system in Barrydale and shall be required for furrows, sluices, dams etc in due compliance with the by-laws in this regard. The prioritisation for this repair and maintenance of the leiwater system and infrastructure will be solely at the discretion of **BLGV/BLUA** due to the leiwater channels, furrows and sluices (locks) after years of no maintenance or preventative maintenance in this regard.
- 7.3.3 The fee for the leiwater use shall be in accordance with fees as contained in the Municipality's annual budget and as agreed upon by **BLGV/BLUA** and the Municipality.
- 7.3.5 The **BLGV/BLUA** shall be responsible for maintaining a database of all leiwater users in terms of this agreement and shall provide an updated copy of the database via the **BLGV/BLUA** to the Municipality on an annual basis, or as requested by the Municipality, and shall allow reasonable access to information on the database whenever requested.
- 7.3.6 The **BLGV/BLUA** shall render reports on a quarterly basis to the Municipal Manager on all relevant activity in relation to the leiwater system, to which the format has to agreed upon by both parties on and before 15 August 2026 in writing.
- 7.4 **Law Enforcement**
- 7.4.1 The **BLGV/BLUA** shall be responsible for the enforcement of the by-laws regulating the use of the leiwater system in conjunction with the support of the municipal Law-Enforcement.
- 7.4.2 The Municipal Law Enforcement division will must provide assistance with the enforcement of the By-Law as per the By-Law Relating to Irrigation (Leiwater) Water.
- 7.5 **Conservation Management Services**

7.5.1 The **BLGV/BLUA** shall continue its current level of conservation management in the designated area of Barrydale in relation to but not restricted to water quantity and quality, the conservation of biodiversity, land use and infrastructure development and promoting education and awareness.

7.6 Other

7.6.1 As part of its awareness initiatives, the **BLGV/BLUA** shall work with the Municipality to promote responsible water use.

8 DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY

8.1 Financial management

8.1.1 The Municipality shall consider and resolve any queries; disagreements and adjustments to the budget submitted by the **BLGV/BLUA** by mutual agreement by both parties;

8.1.2 Shall confirm approval of the budget for **BLGV/BLUA** before 15 June of each year.

8.2 Law Enforcement

8.2.1 The Municipality shall from time to time communicate additional associated legislation and regulations via the Barrydale Leiwat Association for enforcement and compliance. The scope and extent of such enforcement shall be determined via engagement between the Municipality and the **BLGV/BLUA**.

8.2.2 Authorised officials of the Municipality shall assist the **BLGV/BLUA** in law enforcement operations as and requested and agreed between the parties, without any delay that could have a detrimental effect on the mandate or impose the functioning of **BLGV/BLUA**.

8.2.3 Revisions to, and guidelines on, the practical application of the By-Laws shall be communicated to the **BLGV/BLUA** by the Municipality and the **BLGV/BLUA** are requested submit amendments to the By-Law January of each year.

8.2.4 The Municipalities shall be responsible for making public the particulars of this agreement as required by Law.

9. LIAISON COMMITTEE

9.1 A Liaison Committee shall be established between the Municipality and the **BLGV/BLUA**, of which the details should be concluded by 15 August 2022.

9.2 The parties to this agreement shall within 30 days from date of signature; confirm the details of the nominated individuals for the Liaison Committee from within their respective organisations to function as a coordinating body to ensure proper communication and liaison on all services and protocols as envisaged and reflected throughout this agreement.

9.3 The Liaison Committee shall be representative of all parties to the agreement and meet at least once a quarter for reporting and to provide facilitation in the implementation of this agreement.

9.4 The Liaison Committee role shall include, but not be restricted to:

9.4.1 regulating and monitoring the conditions and provisions of this agreement to ensure uninterrupted service delivery in the best interests of the community and environs of; the **BLGV/BLUA** and reviewing annually the performance of the **BLGV/BLUA** in terms of this agreement;

9.4.2 resolving any disputes arising regarding the enforcement of the By-Laws and other legislation or regulations in an appropriate manner.

10. INDEMNITY

10.1 The parties to this agreement hereby record that the **BLGV/BLUA** shall be operating as an independent body to the Municipality.

10.2 The parties to this agreement hereby record that no party shall be liable to another for any loss, injury or any other incident suffered or incurred by another party, or for any failure to comply with its obligations in terms of this agreement due to strikes, irregular industrial actions, riots, storms, explosions, force majeure occurrences, war (declared or undeclared) or any other similar cause beyond the reasonable control of any party, and any failure or delay by any party in the performance of any of its obligations in terms of this agreement, due to any of the foregoing causes shall not be considered to be a breach of this agreement.

11. NATURE OF CONTRACT

11.1 It is specifically recorded that this contract is not a contract of employment and that the **BLGV/BLUA** and any person appointed by the **BLGV/BLUA** shall not be regarded as an employee of the Municipality.

11.2 This agreement constitutes the sole record of the agreement between the parties in regard to the subject matter thereof but does not seek to limit any statutory powers and functions of the parties.

11.3 No addition to, variation or consensual cancellation of this agreement shall be of any force and effect unless reduced to writing and signed by, or on behalf of the parties to this agreement.

11.4 All appendices to this agreement are regarded as an integral part of this agreement.

12. SERVICE LEVEL

In the event that the **BLGV/BLUA** defaults in the provision of acceptable service levels, the Municipality shall advise the **BLGV/BLUA** in writing, which advice shall be accompanied by reasons and substantiated evidence. The **BLGV/BLUA** shall upon receiving such complaint

investigate it and report its findings to the Liaison Committee and at Liaison Committee level resolve on the implementation of corrective measures. The BLGV/BLUA will then be give an period of three moths to remedy the said default within reasonable limits in term of this agreement. Unresolved issues shall be referred for arbitration in terms of clause 16 of this agreement.

13. BREACH

- 13.1 The parties agree to act in good faith and reasonably at all times; and warrant that they shall not do anything to prejudice or detract from the rights or obligations of each other.
- 13.2 Should any party to this agreement breach any provision of the agreement, the aggrieved party shall give the party in breach fourteen days written notice in which to rectify the breach.
- 13.3 The aggrieved party will then have 14 days to respond and present and mutually acceptable plan of reactivating the breach of agreement provisions.
- 13.4 Should the party alleged to be in breach disagree then still be in breach of the afreement, the matter shall be referred to arbitration for resolution as provided for in terms of clause 16.
- 13.5 Subject to clause 13.3, failure to rectify the breach within the specified time period shall entitle the aggrieved party to withdraw from this agreement by written notice addressed and delivered to the domicilium citandi et executandi of the party in breach and the other party thereto.
- 13.6 It is however specifically recorded that should the breach of the defaulting party relate to a material matter such as fraud or financial mismanagement, the other party shall be entitled to execute its remedies allowed by law to immediately resile from this agreement in order to mitigate its risks, notwithstanding the provisions of clauses 13.3 or 16. In this regard, if the BLA is the defaulting party, the Municipalities shall be entitled to cancel this agreement and claim back all allocated funds with interest.

14. DOMICILIUM CITANDI ET EXECUTANDI

- 14.1 The parties record their addresses for purpose of giving notice, for the serving of any process and for any other purpose arising from this agreement as follows:

SWELLENDAM MUNICIPALITY:

Physical address: 49 Voortrek Street, Swellendam

E-mail address: info@swellenmun.co.za

BARRYDALE LEIWATER ASSOCIATION

Physical address: 31 Van Riebeeck Street, Barrydale

E-mail address: crp.barrydale@gmail.com

- 14.2 Notice to change the above addresses to any other physical address in South Africa may be given in writing to each other.

15. NOTICES

- 15.1 Notices in terms of this agreement are required to be in writing which shall include electronic communication.
- 15.2 All notices given shall be presumed, until proven to the contrary by the other party; to have been received by the addressee:
- 15.2.1 at the time of delivery, if delivered by hand at the addressee's domicile; and
 - 15.2.2 seven days after sending via a recognised courier and signed for by the receiving party;
 - 15.2.3 within 48 working hours after electronic transmission.

16. ARBITRATION

- 16.1 Disputes on any matters arising out of this agreement between the parties which cannot be settled after all reasonable efforts to settle such disputes through consultation and negotiation have failed can be referred to arbitration by any party.
- 16.2 Written notice of arbitration setting out the particulars of the dispute must be given to the other party.
- 16.3 Arbitration hearing shall be conducted under the auspices of the Association of the Arbitration Foundation of Southern Africa (AFSA) and commence not later than 3 days after receipt of notice to that effect and shall be completed within 14 days after notice of arbitration has been given.
- 16.4 All parties must agree to the appointment of a suitable arbitrator, failing which an arbitrator shall be appointed by the chairman of AFSA.
- 16.5 The decision of the arbitrator shall be final and binding for both parties. Either of the parties shall be entitled to have such a decision be made an order of the court with competent jurisdiction.

17 TERMINATION OF AGREEMENT

- 17.1 Upon termination of this agreement, whether in terms of clause 4.1 or for any other reason mutually agreed upon by the parties, all capital assets in possession of and purchased by the BLA from funds generated in terms of this agreement shall be transferred back to the Municipalities and all surplus income shall be transferred to the Municipalities, provided that the **BLGV/BLUA** shall be entitled to deduct from any monetary surpluses it holds, the monetary value of any damages suffered as a result of any breach of by the municipalities. Any of the aforementioned actions will only be conclude after complying with the BLGV/BLUA Constitution Liquidation as is stipulates in par.28, and the liquidation of BLGV/BLUA NPC in

accordance with the legal provisions of the Commissioner of Companies & Intellectual Property Commission requirements.

THUS, DONE AND SIGNED BY REPRESENTATIVES OF THE PARTIES WHO WARRANT THAT THEY ARE DULY AUTHORISED THERETO ON THIS DAY OF **JUNE** 2026.

As witnesses:

1. _____
(.....)

SWELLENDAM MUNICIPALITY

2. _____
(.....)

THUS, DONE AND SIGNED BY REPRESENTATIVES OF THE **SWELLENDAM MUNICIPALITY** WHO WARRANT THAT THEY ARE DULY AUTHORISED THERETO ON THISDAY OF **JUNE** 2026.

As witnesses:

1. _____
(.....)

BLGV/BLAU

2. _____
(.....)

THUS, DONE AND SIGNED BY REPRESENTATIVES OF **BLGV/BLUA** WHO WARRANT THAT THEY ARE DULY AUTHORISED THERETO ON THIS..... DAY OF JUNE 2026.

MINUTES OF BARRYDALE LEIWATER USERS ASSOCIATION

ANNUAL GENERAL MEETING

OF 8 JANUARY 2026

DEFINITIONS

The following words and expressions shall have the following meanings in this agreement unless otherwise required by the context in which they are used:

Agreements refers to this agreement and all schedules, appendices, attachments, addendums and variations or amendments thereof, duly effected in terms of this agreement.

By-law refers to the by-laws promulgated by the Swellendam Municipality for the control and use of leiwater in Barrydale, as noted in the Swellendam Municipality By-Law Relating to Irrigation Water.

Designated area will mean the town of Barrydale within Swellendam and refers to the leiwater users in the town.

Fees refers to the fees, tariffs and fines, as determined by the Municipality in conjunction with the BLA's budget proposal, to be paid for the use and maintenance of the Barrydale Leiwater system.

BLUA and BLGV refers to Barrydale Leiwater Users Association and Barrydale Leiwater Gebruikers Vereniging.

Signature date refers to the date of the signing of this agreement by the last party signing it.

RULES OF INTERPRETATION

1. Unless inconsistent with the context in which it is used in this agreement, a word or expression which denotes:
 - 1.1 Any gender includes the other gender;
 - 1.2 A natural person includes a corporate body, all forms of firms or associations and vice versa;
 - 1.3 Singular includes the plural and vice versa;
 - 1.4 Time shall be reference to South Africa time;
 - 1.5 A day shall be reference to a calendar day.
2. Derivatives of any word or expression shall have corresponding meanings, unless inconsistent with the context in which they are used in this agreement.
3. Headings of paragraphs and / or clauses shall not be used in the interpretation thereof.
4. Any number of days prescribed in this agreement, shall be considered exclusively of the first day and inclusively of the last day.
5. When figures are referred in numerals and in words, the words shall prevail if there is any conflict between the two.
6. All reference to a statutory provision or enactment shall include references to any amendment, modification or re-enactment of any such provision or enactment, whether before or after the date of signature, to any previous enactment which has been replaced or amended and to any regulation or order made under such provision or enactment.
7. The use of the term **Leiwater** by **BLGV/BLUA** for this agreement will be interpreted within the framework of **Irrigation Water**.
8. All appendices are and shall remain an integral part of this agreement.