

RULES FOR THE CONTROL AND MANAGEMENT OF  
THE BUILDING AND BODY CORPORATE KNOWN AS  
VICTORIA COURT

Prepared by:

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I hereby certify that these are the special Rules which were duly submitted to an extra-ordinary General Meeting of the Body Corporate known as "Controlling Body of : VICTORIA COURT NO. SS 47/1985 held on : 12 June 1985 and adopted by a unanimous and a special Resolution of the members thereof in substitution for the Rules contained in Schedules I and II and submitted to the Registrar of Deeds in terms of Section 5(3)(f) of the Sectional Titles Act No. 66 of 1971.

DATED AT CAPE TOWN THIS 12 TH DAY OF JUNE 1985.

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CHAIRMAN

**RULES FOR THE CONTROL AND MANAGEMENT OF THE BUILDING AND BODY CORPORATE KNOWN AS: VICTORIA COURT (No. SS 47/1985) AND OF THE PROPERTY ON WHICH THE BUILDING IS SITUATED.**

**GENERAL**

**1. PRELIMINARY**

These rules shall not be added to, amended or repealed except in the case of 1 to 55 by unanimous resolution and in the case of 56 to 61 by special resolution.

**2. INTERPRETATION**

In the interpretation of these rules, unless the context otherwise indicates:-

2.1 "Act" means the Sectional Titles act of 1971 (Act 66 of 1971) as amended from time to time and any regulations made and in force thereunder.

"the Building" is the building and other improvements situate on:

ERF 107504, portion of Erf 9280  
CAPE TOWN;

IN EXTENT 2 208 (two thousand two hundred and eight) square metres.

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"Business Day"	means weekdays other than Saturdays, Sundays and Public holidays.
"the House Rules"	means the House Rules made in terms of 19.2.3.
"the Managing Agent"	means any Managing Agent appointed in terms of 33.
"Mortgagee"	means any holder of a Sectional Mortgage bond over a unit and registered as such.
"Qualified Mortgagee"	means any Mortgagee holding first mortgage bonds over 25% or more of the units in the Building.
"Trustee"	includes an alternate trustee.

2.2 words and expressions used shall bear the meanings assigned to them in the Act.

2.3 words importing:

2.3.1 the singular number only shall include the plural, and the converse shall also apply.

2.3.2 the masculine gender shall include the feminine and neuter genders and the neuter gender shall include the masculine and feminine genders.

2.4 the headings to the respective rules are provided for convenience of reference only and are not to be taken into account in the interpretation of the rules.

### 3. DOMICILIUM CITANDI ET EXECUTANDI AND NOTICES

3.1 The Trustees shall from time to time determine the address constituting the domicilium citandi et executandi of the Body Corporate as required by Section 29(1)(h) of the Act subject to the following:

3.1.1 such address shall be situate in the Magisterial District of Cape Town;

3.1.2 until otherwise determined by the Trustees, the domicilium citandi et executandi shall be at:  
T M C REAL ESTATE, 206 AVLEW PLACE, CNR GROVE AVENUE  
AND MAIN ROAD, CLAREMONT.

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- 3.1.3 the Trustees shall give written notice to all owners of any change of such address;
- 3.1.4 no change of such address shall be effective until written notification thereof has been received by the Registrar.
- 3.2 The domicilium citandi et executandi of:
  - 3.2.1 each owner shall be the address of the unit registered in his name; and
  - 3.2.2 Mortgagee shall be its main office in Cape Town;  
provided that such domicilium may be changed from time to time to any other domicilium situate in the Magisterial District of Cape Town and that the change shall only be effective on receipt of written notice thereof by the Body Corporate.
- 3.3 Any notice that has to or may be given in terms of these rules shall be given in writing and either be sent by prepaid registered post or delivered by hand and if:
  - 3.3.1 sent by prepaid registered post - shall be deemed to have been received after the third day of posting; and
  - 3.3.2 delivered by hand - shall be deemed to have been received unless the contrary is proved on the date of delivery thereof;
    - 3.3.2.1 in the case of the Body Corporate to any Trustee; and
    - 3.3.2.2 in the case of an owner to the relevant domicilium; and
    - 3.3.2.3 in the case of a Mortgagee to a responsible official of the Mortgagee.

#### TRUSTEES OF THE BODY CORPORATE

#### 4. NUMBER OF TRUSTEES

The number of Trustees shall be determined from time to time by the members of the Body Corporate in a general meeting provided that there shall be not less than two or more than seven (7) Trustees.

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5. **QUALIFICATIONS OF TRUSTEES**

- 5.1 A Trustee or alternate Trustee shall not be required to be an owner or the nominee of an owner who is a juristic person to qualify for office as a Trustee.
- 5.2 An owner who is not entitled to vote at any general meeting in terms of 45.7 shall not be entitled to be elected as Trustee whilst he is not entitled to vote.

6. **ELECTION OF TRUSTEE**

- 6.1 A candidate for election as Trustee shall be nominated by an owner in writing which nomination shall not be valid unless the candidate has duly endorsed his acceptance thereon.
- 6.2 A retiring Trustee shall be deemed to be duly nominated and have accepted same for the purposes of 6.1 unless he advises the body corporate in writing not later than five (5) days before the annual general meeting that he does not intend to stand for election.
- 6.3 Nominations must be received by the Body Corporate not less than five (5) days before the annual general meeting.
- 6.4 After the closing of nominations, the Trustees shall notify all owners of the names of the persons nominated in alphabetical order.
- 6.5 If the persons nominated do not exceed the vacancies, then the persons nominated shall be declared elected and if the number of nominations do exceed the vacancies then an election shall be held at the annual general meeting where votes will be passed mutatis mutandis as provided in 45 and 46.
- 6.6 The candidates receiving the largest numbers of votes shall be elected to fill the vacancies. In the event of an equality of votes for the last vacancy, the result shall be determined by a lot conducted by the Chairman of the annual general meeting.
- 6.7 The Trustee shall hold office until the following annual general meeting and shall be eligible for re-election.

7. **VACANCY IN NUMBER OF TRUSTEES AND CO-OPTION**

The Trustess may fill any vacancy in their number or co-opt an

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additional Trustee provided that the number of Trustees shall not exceed the maximum prescribed in clause 4 hereof. Any Trustee so appointed or co-opted shall hold office until the next annual general meeting when he shall retire and be eligible for re-election as though he had been elected at the previous annual general meeting.

8. ALTERNATE TRUSTEES

- 8.1 A Trustee may appoint another person, reasonably acceptable to his co-Trustees, whether or not the latter be the owner of a unit, to act as his alternate during his absence or inability to act as a Trustee.
- 8.2 An alternate Trustee shall have the powers and be subject to the duties of the Trustee by whom he was appointed.
- 8.3 An alternate Trustee shall cease to hold office if the Trustee appointing him ceases to be a Trustee or if his appointment is revoked by the Trustee who appointed him.

9. REMUNERATION

- 9.1 Unless otherwise determined by a special resolution, Trustees who are owners shall not be entitled to any remuneration in respect of their services as such.
- 9.2 The Body Corporate may remunerate Trustees who are not owners at such rate as may be agreed between the Body Corporate and such Trustees.
- 9.3 The Body Corporate shall re-imburse to the Trustees all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.

10. VALIDITY OF ACTS OF TRUSTEES

Any act performed by the Trustees shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any Trustee, be as valid as if such Trustee had been duly appointed or had duly continued in office.

11. INDEMNITY

- 11.1 Subject to the provisions of 11.2 every Trustee agent or

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other officer or servant of the Body Corporate shall be indemnified by the Body Corporate against all costs, losses, expenses and claims which he may incur or become liable to by reason of any act done by him in the discharge of his duties, unless such costs, losses, expenses or claims are caused by the gross negligence, wilful default or fraudulent act of such person; and it shall be the duty of the Trustees to pay such indemnity out of the funds of the Body Corporate.

- 11.2 The indemnity referred to in clause 11.1 hereof shall not apply in favour of any Managing Agent.

## 12. DISQUALIFICATION OF TRUSTEES

A Trustee shall cease to hold office as such:

- 12.1 if by notice in writing to the Body Corporate he resigns his office;
- 12.2 if he is or becomes of unsound mind;
- 12.3 if he surrenders his estate as insolvent or his estate is sequestrated;
- 12.4 if he is convicted of an offence which involves dishonesty;
- 12.5 if by resolution of an extraordinary general meeting of the Body Corporate he is removed from his office provided however that the intention to vote upon the removal from office is specified in the notice convening the meeting;
- 12.6 if he is or becomes in terms of Sections 218 or 219 of the Companies Act 1973, disqualified from being appointed or acting as a Director of a company;
- 12.7 if, being an owner, he sells his section or otherwise ceases to be an owner;
- 12.8 if he is absent from four consecutive meetings of the Trustees without having obtained leave to be so absent unless an explanation to the satisfaction of the other Trustees is given.

## 13. REMOVAL FROM OFFICE

The Body Corporate may at an extraordinary general meeting remove any Trustee before the expiry of his term of office and appoint another Trustee in his place to hold office for the unexpired part of the term of office of the Trustee so removed.

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## MEETINGS OF TRUSTEES

### 14. WHEN TO BE HELD AND NOTICES

- 14.1 The Trustees may convene meetings, meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 14.2 A Trustee may at any time convene a meeting of the Trustees by giving to the other Trustees not less than seven (7) days written notice of the meeting proposed by him which notice shall specify the reasons for calling such a meeting provided that:
  - 14.2.1 in cases of urgency such shorter notice as is reasonable in the circumstances may be given;
  - 14.2.2 it shall not be necessary to give notice of a meeting of Trustees to any Trustee for the time being absent from the Republic but notice of such meeting shall be given to his alternate, if he has appointed one, if such alternate is in the Republic.
- 14.3 Any Qualified Mortgagee shall, if it so requires the Trustees in writing, be entitled to receive reasonable notice of all meetings of Trustees.
- 14.4 The nominee of any Qualified Mortgagee shall be entitled to attend and speak at all meetings of the Trustees but shall not, in his capacity as such, be entitled to vote thereat.

### 15. QUORUM

- 15.1 At a meeting of Trustees, two (2) Trustees shall form a quorum where there are four (4) or less than four Trustees, three (3) Trustees shall form a quorum where there are five (5) or six (6) Trustees, and where there are seven (7) Trustees, four (4) Trustees shall form a quorum.
- 15.2 If the number of Trustees falls below the number necessary to form a quorum, the remaining Trustees may continue to act but only for the purpose of appointing or co-opting additional Trustees to make up a quorum or for the purpose of convening a general meeting of owners.
- 15.3 If at any meeting of Trustees a quorum is not present within thirty minutes of the appointed time of the meeting, such meeting shall stand adjourned to the next Business Day at the same time and the Trustees then present shall form a quorum.

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16. CHAIRMAN

- 16.1 At the commencement of the first meeting of Trustees after the adoption of these rules and after each annual general meeting, the Trustees shall elect a chairman from among their number who shall hold office as such until the end of the next ensuing annual general meeting of the members of the Body Corporate and who shall have a casting as well as a deliberative vote.
- 16.2 The Body Corporate may at an extraordinary general meeting remove the chairman from his office as such.
- 16.3 If any chairman vacates his office as chairman or Trustee or no longer continues in office by virtue of the provisions of clause 16.2 hereof, the Trustees shall mutatis mutandis in terms of clause 16.1 hereof elect another chairman who shall hold office for the unexpired term of office of the first mentioned chairman and shall have the same rights of voting.
- 16.4 If any chairman vacates the chair during the course of a meeting or is not present or is for any other reason unable to preside at any meeting, the Trustees present at such meeting shall choose another chairman for such meeting who shall have the same rights of voting as the chairman.

17. VOTING OF TRUSTEES

- 17.1 All matters at any meeting of the Trustees shall be determined by a majority of the votes of the Trustees present and voting.
- 17.2 No Trustees shall be disqualified from voting in respect of any contract or proposed contract or any litigation or proposed litigation with the Body Corporate by virtue of any interest he may have therein provided he declares the nature and extent of his interest which must thereupon be noted in the records of the meeting.
- 17.3 A resolution in writing signed by all the Trustees for the time being present in the Republic and being not less than are sufficient to form a quorum, shall be as valid and effective as if it had been passed at a meeting of the Trustees duly convened and held.

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## THE FUNCTIONS, POWERS AND DUTIES OF TRUSTEES

### 18. GENERAL

- 18.1 The duties and powers of the Body Corporate shall, subject to the provisions of the Act and these rules and to any restriction imposed or direction given at a general meeting of the owners, be performed or exercised by the Trustees of the Body Corporate holding office in terms of these rules.
- 18.2 The Trustees may not make loans on behalf of the Body Corporate to owners or to themselves.

### 19. POWERS

- 19.1 The Trustees shall be empowered to further all the duties, powers, objects and interests of the Body Corporate.
- 19.2 Subject to any restriction imposed or direction given at a general meeting of the body corporate, the powers of the Trustees shall include but not be limited to the following:
  - 19.2.1 to appoint and dismiss for and on behalf of the Body Corporate such agents and employees as they deem fit in connection with the control, management and administration of the common property and performance and exercise of any or all of the powers and duties of the Body Corporate; and
  - 19.2.2 to delegate to one or more of the Trustees such of their powers and duties as they deem fit and at any time to revoke such delegation; and
  - 19.2.3 to make, repeal and/or amend House Rules from time to time for the control, management, administration, use, enjoyment, safety and cleanliness of sections and the common property which House Rules shall:
    - 19.2.3.1 not conflict with the Act or with these rules;
    - 19.2.3.2 be reasonable;
    - 19.2.3.3 apply equally to all owners;
    - 19.2.3.4 immediately be binding on owners upon copies being given to the owners and will remain binding until the next annual general meeting when they will be confirmed or rejected or amended in whole or in part by the owners.

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- 19.3 The Trustees may not make loans on behalf of the Body Corporate to owners of units or to themselves.

20. **SIGNING OF INSTRUMENTS**

No instrument signed on behalf of the Body Corporate shall be valid and binding unless it is signed by two Trustees or a Trustee and the Managing Agent, provided that for the purposes of Section 13(2) of the Act, two (2) Trustees must sign a resolution contemplated therein, provided further that the Managing Agent shall be authorised to sign the Certificate contemplated in Section 11(4)(b) of the Act without the assistance of a Trustee.

21. **GENERAL DUTIES OF THE TRUSTEES**

- 21.1 Without detracting from the scope of the additional duties specified in 22 to 31 and subject thereto, the Trustees shall perform the duties placed upon them by sections 29 and 31 of the Act.
- 21.2 The Trustees shall do all things reasonably necessary for the control, management and administration of the common property in terms of the power conferred upon the Body Corporate by Section 30(1)(o) of the Act.
- 21.3 The Trustees shall do all things reasonably necessary for the enforcement of the rules and House Rules in force from time to time provided that this rule shall not be construed as precluding any owner from himself taking such legal proceedings as he might deem necessary for the protection of his rights whether in terms of these rules or otherwise.

22. **INSURANCE**

- 22.1 At the first meeting of the Trustees or so soon thereafter as is possible and annually thereafter, the Trustees shall take steps to insure the Building and all improvements to the common property to the full replacement value thereof against and for any damages arising therefrom:
- 22.1.1 fire, lightning, thunderbolt, subterranean fire and explosion;
- 22.1.2 riot, civil commotion, strikes, lockouts, labour disturbances or anything done by malicious persons acting on behalf of or in connection with any political organisation;

- 22.1.3 storm, tempest, flood, excluding:
  - 22.1.3.1 any loss or damage caused by rise in the underground water table or pressures thereby;
  - 22.1.3.2 loss or damage to gates, fences, boundary walls, garden walls and retaining walls;
  - 22.1.3.3 loss or damage caused by subsidence or landslip;
- 22.1.4 earthquake;
- 22.1.5 aircraft and other aerial devices or articles dropped therefrom;
- 22.1.6 bursting or overflowing of water tanks, apparatus or pipes;
- 22.1.7 impact with the Building or improvements by any road vehicle, horses or cattle;
- 22.1.8 housebreaking or any attempt thereat;
- 22.1.9 such other perils or dangers as they or any Qualified Mortgagee may deem appropriate;
- 22.1.10 compensation for loss of occupation or loss of rent in respect of any of the above risks.
- 22.2 The Trustees shall at all times ensure that in the policies of insurance referred to in clause 22.1 hereof:
  - 22.2.1 there is specified the replacement value of each unit (excluding the owner's interest in the land):
    - 22.2.1.1 initially (but subject to the provisions of clause 22.2.1.3 hereof) in accordance with the Trustees' estimate of such value;
    - 22.2.1.2 after the first annual general meeting (but subject to the provisions of clause 22.2.1.3 hereof) in accordance with the schedule of values as approved in terms of clause 22.3 hereof; or
    - 22.2.1.3 as required at any time by any owner in terms of clause 22.4 hereof;
  - 22.2.2 any "average" clause is restricted in its effect to individual units and does not average the Building as a whole;

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- 22.2.3 there is included a clause in terms of which the policy remains valid and is enforceable by any Mortgagee against the insurer, notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured unless and until the insurer on not less than thirty (30) days' notice to the Mortgagees, shall have terminated such insurance.
- 22.3 Before every annual general meeting, the Trustees shall cause to be prepared schedules reflecting their estimate of:
- 22.3.1 the replacement value of the Building and all improvements to the common property; and
- 22.3.2 the replacement value of each unit (excluding the owner's interest in the land), the aggregate of such values of all units being equal to the value referred to in clause 22.3.1 hereof;
- and such schedules shall be laid before the annual general meeting for consideration and approval in terms of clause 40.3 hereof.
- 22.4 Any owner may at any time require the Trustees to specify in the insurance policy a higher replacement value in respect of his unit (excluding his interest in the land). In such event, the total insurance shall be increased accordingly. The portion of the premium for which each owner is liable shall be calculated and adjusted in terms of 24 whenever the specified value of his unit is altered.
- 22.5 The Trustees shall on the written request of a Mortgagee and satisfactory proof thereof, record the cession by any owner to such Mortgagee of the owner's interest in the application of the proceeds of the policies of insurance effected in terms of clause 22.1 hereof.
- 22.6.1 Unless otherwise resolved or ordered by court in terms of Section 36 of the Act any distribution of the insurance proceeds to the owners and their Mortgagees shall be based on the amount allocated to the individual units in the insurance policy (the intention being that if the claim of the Body Corporate is averaged by the insurer as a result of the value allocated to any unit being inadequate such loss shall be borne by the owner of that unit).

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- 22.6.2 If the insurer elects not to reinstate the Building but no resolution has been passed or Order of Court been granted dealing with the question of reinstatement or otherwise and if the insurance proceeds are inadequate to reinstate, the individual owners shall contribute the amount by which the claim was averaged as a result of the value allocated to their particular units in the insurance policy being inadequate.
- 22.7 At the first meeting of the Trustees or so soon thereafter as is possible, the Trustees shall take steps:
- 22.7.1 to insure the owners and the Trustees and to keep them insured against liability in respect of:
- 22.7.1.1 death, bodily injury or illness; or
- 22.7.1.2 loss of, or damage to property;
- occurring in connection with the sections or the common property for a sum of liability of not less than R100 000,00 (ONE HUNDRED THOUSAND RAND), which sum may be increased from time to time as directed by the owners in general meeting; and
- 22.7.2. to procure a fidelity guarantee in terms of which any loss of monies belonging to the Body Corporate or for which it is responsible sustained as a result of act(s) of fraud or dishonesty committed by any insured person being any person in the service of the Body Corporate and all Trustees and persons acting in the capacity of Managing Agents of the Body Corporate will be made good up to a total sum of liability equal to total levies due and payable over a six (6) month period, plus the accumulated reserves which sum may be increased from time to time as directed by the owners in general meeting; and
- 22.7.3 to procure a cash policy in terms of which there will be made good:
- 22.7.3.1 loss of money in the course of business up to and including an amount equivalent to total levies due and payable in one month or such lesser amount as the Trustees from time to time may determine ;
- 22.7.3.2 loss of or damage to any receptacle for which the Body Corporate is responsible resulting from the theft or attempted theft of money.

- 22.8 The owners may by special resolution direct the Trustees to insure against such other risks as the owners may determine.
- 22.9 All insurances effected by the Trustees in terms of clauses 22.1 to 22.8 hereof shall be effected with an insurance company nominated from time to time by the holder of sectional mortgage bonds over the largest number of units initially and this right of nomination shall continue for so long as that Mortgagee remains a Qualified Mortgagee.

23. CONTRIBUTIONS

It shall be the duty of the Trustees to levy and collect contributions from the owners in accordance with the provisions and in the proportions set forth in clause 24 hereof.

24. LIABILITY FOR CONTRIBUTIONS

- 24.1 The liability of owners to make contributions, and the proportions in which the owners shall make contributions for the purposes of Section 30 (1) of the Act or may in terms of Section 35 of the Act be held liable for the payment of a judgment debt of the Body Corporate, shall be as follows:
- 24.1.1 in respect of premiums on policies of insurance effected by the Body Corporate in terms of clause 22 hereof, the owner of each unit shall be liable for:
- 24.1.1.1 an amount equal to the replacement value of the unit as specified in the insurance policy adjusted for the replacement value of any Exclusive Use Areas as may be allocated to such owner in terms of these rules multiplied by the relevant insurance premium rate; and
- 24.1.1.2 any premiums payable by the Body Corporate during the course of the year as a result of the replacement value of the unit being varied in terms of clause 22.4 hereof.
- 24.1.2 any additional rates and taxes or any other charges payable to the relevant Local Authority arising from any alteration or addition made by any owner to his section shall be paid to the Body Corporate by such owner.
- 24.1.3 save as set out elsewhere in these rules, all expenses other than those referred to in 24.1 shall be borne by the owners in accordance with Schedule "A" annexed to these rules, or in the absence of the said Schedule, the

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participation quotas attaching to their respective sections.

- 24.2 At every annual general meeting the Body Corporate shall approve, with or without amendment, the estimate of income and expenditure referred to in 29 and shall determine the amount estimated to be required to be levied upon the owners during the ensuing financial year.
- 24.3 Within fourteen (14) days after each annual general meeting, the Trustees shall calculate the amount payable by each owner in terms of the provisions of clause 24.1 hereof and shall, forthwith, advise each owner in writing of the amount payable. Such amount shall thereupon become payable, without demand, in monthly or quarterly instalments as the Trustees may determine, the first of such instalments being payable on the first day of the month following such notification and subsequent payments on the first day of every month or quarter, as the case may be, thereafter.
- 24.4 Notwithstanding the foregoing, the Trustees shall, at all times, be entitled in their absolute discretion to make interim increases in the levy payable. In addition, the Trustees may from time to time make special levies upon the owners or call upon them to make special contributions in respect of all such expenses as are mentioned in clause 24.1 above (which are not included in any estimates made in terms of clause 24.2 above). Such levies and contributions may be made payable in one sum or in such instalments and at such time or times as the Trustees shall think fit.
- 24.5 An owner shall be liable for and pay all legal costs, including costs as between attorney and client and collection commission, expenses and charges incurred by the Body Corporate in obtaining the recovery of arrear levies or any other arrear amounts due and owing by such owner and/or arising out of the enforcement of these rules.
- 24.6 No payment of any amount due in terms of this rule 24 may be withheld because of a dispute between the owner concerned and the Body Corporate.
- 24.7 The Body Corporate shall be entitled, at its opinion, to institute any legal proceedings for the recovery of any amount due to it in terms of these rules in any Magistrate's Court having jurisdiction, notwithstanding the fact that the claim or value of the matter in dispute may exceed the jurisdiction of such Magistrate's Court in respect of the cause of action.

25. RULES

- 25.1 The Trustees shall keep a complete record of all rules and House Rules in force from time to time.
- 25.2 The Trustees shall on written application and against payment of a reasonable charge determined by the Trustees therefor, supply a copy of all rules and House Rules in force from time to time to:
- 25.2.1 an owner of a unit(s);
  - 25.2.2 an occupant of a unit(s);
  - 25.2.3 the prospective purchaser of a unit(s);
  - 25.2.4 any Mortgagee;
  - 25.2.5 the Managing Agent; and/or
  - 25.2.6 the Auditor.

26. ELECTRICITY, WATER AND GAS

- 26.1 The Trustees may procure the installation and maintenance in good working order, at the Body Corporate's cost, of separate meters to record the consumption of electricity and/or gas in respect of each individual section and the common property.
- 26.2 Unless separate meters have been installed for the measurement thereof, the contribution payable by each owner in respect of electricity, water and/or gas shall be calculated in accordance with the provisions of 24.
- 26.3 The provisions of 26.1 shall not apply in respect of the garages, servants rooms and other outbuildings or facilities forming part of any section unless the owners by unanimous resolution decide that it shall apply. Until a separate meter is erected in terms of such a unanimous resolution, the provisions of clause 26.2 hereof shall apply in respect of electricity, water and/or gas consumed in such garages, servants rooms and other outbuildings.
- 26.4 In the event of separate meters having been installed to record the consumption of electricity, water and/or gas, the respective owners shall be obliged to make their own arrangements with the relevant authority and/or supplier for the payment of the costs thereof, provided that if the

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authority or supplier is not prepared to agree thereto, then such costs shall be met by the Body Corporate which will monthly submit accounts to the relevant owners in respect thereof. Such accounts are payable within 14 (fourteen) days of delivery of the account and if not so paid, the Body Corporate may without prejudice to any other rights available to it, discontinue the supply of electricity, water and/or gas to the section concerned.

- 26.5 Should any owner not be in agreement with any measurement of any meter, or maintain that a meter is incorrect, it shall be the duty of that owner, at his expense, to determine and settle the matter with the authority supplying the water, electricity and/or gas concerned.

27. MINUTES

- 27.1 The Trustees shall:
- 27.1.1 keep minutes of their proceedings;
  - 27.1.2 cause minutes to be kept of all meetings of the Body Corporate in a minute book of the Body Corporate kept for that purpose;
  - 27.1.3 include in the minute book of the Body Corporate a record of every unanimous resolution, special resolution and any other resolution of the Body Corporate.
- 27.2 Minutes of a meeting shall be considered for approval at the next meeting and shall on approval be signed by the chairman presiding at the meeting at which same are adopted.
- 27.3 An entry in any minute book shall be conclusive evidence of the facts recorded therein and any extract therefrom if purporting to be signed by the chairman of the meeting who signs the original thereof or by any two Trustees, shall be prima facie evidence of the matter stated therein.
- 27.4 The Trustees shall keep all the minute books in perpetuity.
- 27.5 On the written application of any owner, the Managing Agent and/or any Mortgagee, the Trustees shall make all minutes available for inspection by such applicant.
- 27.6 On the written application of any owner (on payment of a reasonable charge), the Managing Agent and/or any Qualified Mortgagee, the Trustees shall furnish from time to time to such applicant copies of the minutes of all meetings of the Trustees and of the Body Corporate.

28. BOOKS OF ACCOUNT

- 28.1 The Trustees shall cause proper books of account and records to be kept in conformity with generally accepted accounting practice so as clearly to explain the transactions and financial position of the Body Corporate, including:
- 28.1.1 a record of the assets and liabilities of the Body Corporate;
- 28.1.2 a record of all sums of money received and expended by the Body Corporate and the matters in respect of which such receipt and expenditure occur;
- 28.1.3 a register of owners and Mortgagees and of all other persons having real rights in such units showing in each case their address;
- 28.1.4 individual ledger accounts in respect of each owner.
- 28.2 On the written application of any owner, Mortgagee or of the Managing Agent, the Trustees shall make all or any of the books of account and records available for inspection by such owner, Mortgagee or Managing Agent.
- 28.3 The Trustees shall cause all books of account and records to be retained for not less than five (5) years after completion of the transactions, acts or operations to which they relate.

29. ANNUAL FINANCIAL ESTIMATE, FINANCIAL STATEMENT AND REPORT

- 29.1 Before every annual general meeting, the Trustees shall cause to be prepared an itemised estimate of the anticipated income and expenses of the Body Corporate during the ensuing financial year, which estimate shall be laid before the annual general meeting for consideration in terms of clause 40 hereof.
- 29.2 The estimate of expenses referred to in clause 29.1 hereof may include a reasonable provision for contingencies.
- 29.3 The Trustees shall cause to be prepared and shall lay before every annual general meeting, for consideration in terms of clause 40.2 hereof an audited financial statement in conformity with generally accepted accounting practice, which statement shall fairly present the state of affairs of the Body Corporate and its finances and transactions as at the end of the financial year concerned.

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- 29.4 The Trustees shall further cause to be prepared and shall lay before every annual general meeting a report signed by the Chairman reviewing the affairs of the Body Corporate during the past year, for consideration in terms of 40.2.
- 29.5 The Trustees shall deliver copies of the schedules, estimates, audited statement and report, referred to in clauses 22.3, 29.1, 29.3 and 29.4 hereof to each owner and Qualified Mortgagee at least fourteen (14) days before the date of the annual general meeting at which they are to be considered.

30. AUDIT

- 30.1 At every annual general meeting the Body Corporate shall appoint an auditor to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.
- 30.2 If any vacancy occurs in the office of auditors, the Trustees shall forthwith fill the same for the period until the next annual general meeting.
- 30.3 The fees of the auditors shall be paid by the Body Corporate.

31. DEPOSIT AND INVESTMENT OF FUNDS

- 31.1 The Trustees shall cause all monies received by the Body Corporate to be deposited to the credit of an account(s) with a registered commercial bank or building society determined by the Trustees, in the name of the Body Corporate and, subject to any direction given or restriction imposed at a general meeting of the Body Corporate, such monies shall only be withdrawn for the purposes of payment of the expenses of the Body Corporate and investment in terms of clauses 31.3 hereof.
- 31.2 The Trustees may authorise the Managing Agent to administer and operate the accounts referred to in clauses 31.1 and 31.3.
- 31.3 Any funds not immediately required for disbursement shall be invested in a current or call account with a bank or building society determined by the Trustees.
- 31.4 Interest on monies invested shall be used only towards payment of the expenses of the Body Corporate or to provide for contingencies or to accumulate a reserve for future capital expenditure.

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32. NO REFUNDS OR DISTRIBUTION OF PROFITS OR ASSETS

- 32.1 The owners shall not be entitled to a refund of contributions lawfully levied upon them and duly paid by them.
- 32.2 No portion of the profits or gains of the Body Corporate shall be distributed to any owner or any other person except upon the destruction or deemed destruction of the Building.

THE MANAGING AGENT

33. APPOINTMENT

- 33.1 Notwithstanding anything to the contrary contained in clause 21 hereof, the Trustees may from time to time, and shall if required by a Qualified Mortgagee or by the members of the Body Corporate in a general meeting, appoint in terms of a written contract a Managing Agent to control, manage and administer the common property and to exercise such powers and duties as may be entrusted to the Managing Agent, including the power to collect contributions levied and the power to appoint a supervisor, superintendent or caretaker.
- 33.2 The Trustees shall ensure that there is included in the contract of appointment of all Managing Agents a provision to the effect that if he is in breach of any of the provisions of his contract or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant the Trustees may, without notice, cancel such contract of appointment and that the Managing Agent shall have no claim whatsoever against the Body Corporate or any of the owners as a result of such cancellation.

34. TERMINATION

- 34.1 Any one or more of the owners of sections in the Building or any Mortgagee may, if the Managing Agent is in breach of the provisions of his contract or if he is guilty of any conduct which at common law would justify the termination of a contract between master and servant, require the Trustees to cancel the Managing Agent's contract.
- 34.2 Any owner or Mortgagee who requires the Trustees to cancel the Managing Agent's contract in terms of clause 34.1 shall furnish the Trustees with such security as they in their discretion may determine for the payment of and shall indemnify the Trustees and the Body Corporate against:

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- 34.2.1 all litigation costs reasonably incurred by the Trustees in enforcing such cancellation against the Managing Agent; and
- 34.2.2 all other costs and damages arising out of such cancellation purported cancellation or litigation for which the Trustees or the Body Corporate might be liable up to the time such owner or Mortgagee formally notified the Trustees that he no longer requires them to pursue the action.
- 34.3 The Trustees shall not be required to cancel the contract of appointment of the Managing Agent unless and until the owner or Mortgagee requiring cancellation in terms of clause 34.1 hereof has furnished them with the security and indemnity as specified in clause 34.2 hereof.
- 34.4 The contract with the Managing Agent shall further provide for the appointment to be revoked and such Managing Agent shall cease to hold office if:
  - 34.4.1 where the Managing Agent is a Company, an order is made for its provisional or final liquidation; or where the Managing agent is a natural person, he surrenders his estate as insolvent or his estate is sequestrated; or
  - 34.4.2 the Managing Agent is convicted of an offence involving fraud or dishonesty, or, where the Managing Agent is a company, any of its directors is convicted of any offence involving fraud or dishonesty; or
  - 34.4.3 a special resolution is passed to that effect, provided that in such event the Managing Agent so removed from office shall not be deprived of any right he may have to claim compensation or damages for breach of contract.

35. RECORDS TO BE KEPT BY THE MANAGING AGENT

The Managing Agent shall keep full records of his administration and shall report to the Body Corporate and to all Mortgagees all matters which, in his opinion, detrimentally affect the value or amenity of the common property and any of the sections.

36. ATTENDANCES AT MEETINGS OF TRUSTEES

The Managing Agent shall attend meetings of the Trustees if and when so required by them but he shall not be entitled to vote thereat.

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## MEETINGS OF OWNERS

### 37. GENERAL MEETINGS

- 37.1 The first annual general meeting of owners shall be held within three (3) months of the date on which the Body Corporate comes into being as contemplated in Section 28(1) of the Act.
- 37.2 Subsequent annual general meetings shall be held once in every year; provided that not more than fifteen (15) months shall lapse between the date of one annual general meeting and that of the next.
- 37.3 All general meetings other than the annual general meeting shall be called extraordinary general meetings.
- 37.4 The Trustees may, whenever they think fit, and shall upon a request in writing made by a Qualified Mortgagee or by the owners entitled to twenty five percent (25%) of the total of the quotas of all the sections, convene an extraordinary general meeting. If the Trustees fail to call a meeting so requested within fourteen (14) days of the request, the Qualified Mortgagee or the owners concerned shall be entitled themselves to call the meeting.

### 38. NOTICE OF GENERAL MEETING

- 38.1 At least fourteen (14) days' notice of every general meeting specifying the place, within the magisterial district of Cape Town, the date and hour of the meeting and, in the case of special business, the general nature of such business shall be given:
  - 38.1.1 to all owners;
  - 38.1.2 to all Mortgagees who have advised the Body Corporate of their interests; and
  - 38.1.3 to the Managing Agent.
- 38.2 All Mortgagees and the Managing Agent shall have the right to attend the meetings herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- 38.3 The notice referred to in clause 38.1 hereof shall be accompanied by the documents referred to in clause 29.5 hereof.

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38.4 Inadvertent omission to give the notice referred to in clause 38.1 hereof to any person entitled to such notice or the non-receipt of such notice by such person shall not invalidate any proceedings at any such meeting save in the case of a Mortgagee contemplated in clause 38.1.2 unless such notice was given by registered post to such Mortgagee.

38.5 A general meeting of the Body Corporate may be called on shorter notice than that specified in clause 38.1 hereof, provided it is so agreed by all persons entitled to attend.

39. **ORDINARY AND SPECIAL BUSINESS**

All business at any general meeting other than business referred to in clauses 40.1, 40.2, 40.3, 40.4 and 40.5 hereof shall be special business.

40. **ANNUAL GENERAL MEETING**

The following business shall be transacted at an annual general meeting:

- 40.1 the election of Trustees;
- 40.2 the consideration of the financial statement referred to in clause 29.3 hereof and the report referred to in clause 29.4 hereof;
- 40.3 the approval with or without amendment of:
  - 40.3.1 the schedules of replacement values referred to in clause 22.3 hereof; and ✓
  - 40.3.2 the estimate of income and expenditure referred to in clause 29.1 ; and ✓
  - 40.3.3 any House Rules made by the Trustees;
- 40.4 the appointment of an auditor; ✓
- 40.5 the fixing of the remuneration of the auditor, or the determination of the manner in which that remuneration is to be fixed;
- 40.6 any special business of which due notice has been given in terms of clause 38 hereof.

41. **QUORUM**

- 41.1 No business shall be transacted at any general meeting unless a quorum of persons is present in person or by proxy at the time when the meeting proceeds to business.

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- 41.2 A quorum at a meeting shall be one half of the number of owners present in person or by proxy and entitled to vote.

42. ABSENCE OF QUORUM

If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting shall stand adjourned to the same day or if it is not a Business Day, then the Business Day following in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the owners present in person or by proxy and entitled to vote shall be a quorum.

43. ADJOURNMENT

By a decision of a general meeting that general meeting may be adjourned from place to place and from time to time so as to enable it to complete its business.

44. CHAIRMAN OF A GENERAL MEETING

- 44.1 The chairman, if any, of the Trustees shall preside as chairman at every general meeting of the Body Corporate unless otherwise resolved by members of the Body Corporate at such meeting.

- 44.2 If there is no such chairman, or if at any meeting the chairman of the Trustees is not present within fifteen (15) minutes after the time appointed for the holding of the meeting, or if he is unwilling to act as chairman, the members present shall elect one of their number to be chairman.

45. VOTING

- 45.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless either prior to or on the declaration by the chairman of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.

- 45.2 Unless a poll be so demanded, a declaration by the Chairman that a resolution has on the show of hands been carried shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

- 45.3 A demand for a poll may be withdrawn.

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- 45.4 A poll, if demanded, shall be taken in such manner as the chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
- 45.5 On a show of hands the owner or owners of a section or the proxy shall have one vote in respect of each section registered in his/their name/s provided that if any unit is not a residential unit or, being a residential unit is a servant's room, then such unit shall have no vote.
- 45.6 For the purpose of a special resolution (with or without a poll) or on a poll, the value of the vote of the owner or owners of a section shall be in accordance with their percentage quotas as specified in Annexure "A", and the percentage quota of any ancillary section owned by any owner shall be added to the quota of the other sections owned by him in determining such value.
- 45.7 Except in cases where a special resolution or a unanimous resolution is required under the Act or these rules, an owner shall not be entitled to vote at any general meeting if:
- 45.7.1 any contributions payable by him in respect of his section and his undivided share in the common property have not been duly paid; or
- 45.7.2 he is in breach of any of his duties under the Act, the rules or any of the House Rules, and after a written warning by the Trustees to refrain from breaching same, does not remedy such breach.
- 45.8 An owner not entitled to vote in terms of clause 45.7 hereof shall nonetheless be bound by any decisions taken at any general meeting.
- 45.9 Where an owner of a section is as such a Trustee for a beneficiary, he shall exercise the voting rights in respect of the section to the exclusion of persons beneficially interested in the trust and such persons shall not be entitled to vote.
- 45.10 When two or more persons are entitled to exercise one vote jointly, that vote shall be exercised only by one of them jointly appointed by them as their proxy provided that any one of them may demand a poll.
- 45.11 In the case of equality in the votes, whether on a show of hands or on a poll, the chairman of the general meeting shall be entitled to a casting vote in addition to his deliberative vote.

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46. PROXIES

- 46.1 Votes at a general meeting may be cast either personally or by proxy, whether on a poll or on a show of hands.
- 46.2 An instrument appointing a proxy shall be in writing under the hand of the appointer or his agent duly appointed in writing and must be received at the domicilium of the Body Corporate not less than forty eight (48) hours before the time for the holding of a meeting at which the person named in the instrument proposes to vote, and in default of compliance herewith, the instrument of proxy shall not be treated as valid; provided that the foregoing shall not apply in the case of any proxy created and contained in any registered mortgage bond if such mortgage bond is produced at the meeting.
- 46.3 A proxy need not be an owner.

47. DUTIES OF OWNERS AND OCCUPIERS OF SECTIONS

In addition to his obligations in terms of Section 32 of the Act, an owner:

- 47.1 shall not use his section or permit it to be used in such manner or for such purposes as shall be injurious to the reputation of the Building;
- 47.2 shall not make any alterations to his section or the common property which affects the appearance of the Building in any way whatsoever, without the approval of the Body Corporate given by special resolution;
- 47.3 shall not make any alterations to his section or the common property which are likely to impair the stability of the Building or the amenity of other sections or the common property;
- 47.4 shall not make any other alterations to his section without the prior approval of the Trustees obtained in writing which approval shall not be unreasonably withheld;
- 47.5 shall not contravene or permit the contravention of any law, bye-law, ordinance, proclamation, statutory regulation or the conditions of any licence relating to or affecting the occupation of the Building or the carrying on of business in the Building or the conditions of title applicable to his section or any other section;
- 47.6 shall keep his section free of white ants, borer and other wood destroying insects and to this end shall permit the Trustees, the Managing Agent and/or their duly authorised agents or employees, to enter upon his section at all

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reasonable times for the purpose of inspecting the section and taking such action as may be reasonably necessary to eradicate any such pests. The costs of the inspection and of eradicating any such pests as may be found within the section shall be paid for from the amount levied in terms of clauses 23 and 24 hereof. In the event of it being found necessary to replace any woodwork or other material forming part of such section which may be damaged by such pests, the cost of such replacement shall be borne by the owner of the section concerned;

- 47.7 shall notify the auditors of the Body Corporate of any approved alterations to his section prior to making same and furnish to them within thirty (30) days of the date on which it is made known to him, the amount of the valuation placed by the relevant authorities on any alteration or addition made by him to his section and the additional rates payable in future thereon;

provided that clauses 47.2 and 47.4 are subject thereto that an owner property as may have been agreed to by the developer.

48. **BINDING NATURE OF RULES**

The provisions of the rules and the House Rules and the duties of the owner in relation to the use and occupation of sections and common property shall be binding on the owner of any section and any lessee or other occupant of any section, and it shall be the duty of the owner to ensure compliance with the rules and the House Rules by any lessee or occupant including servants, guests and any member of the family of any owner, lessee or occupant.

49. **OWNER'S FAILURE TO MAINTAIN**

If an owner:

- 49.1 fails to repair or maintain his section in a state of good repair as required by section 32(c) of the Act and/or these rules and/or the House Rules; or
- 49.2 fails to maintain adequately any area of the common property allocated for his exclusive use and enjoyment;

and such failure persists for a period of one month after the giving of written notice to repair or maintain given by the Trustees or the Managing Agent, the Body Corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner.

50. USE OF THE BUILDING

An owner shall not store or harbour anything, or do or permit to be done in his section or on the common property anything which will or may increase the rate of the premium payable by the Body Corporate on any insurance policy.

51. EXPROPRIATION

51.1 If at any time the whole or any part of, or any rights in the common property are expropriated, each of the owners shall be deemed to have appointed the Trustees as his duly authorised agents and representatives:

51.1.1 to negotiate and settle the compensation payable to him and to that end, to employ Attorneys, Advocates and experts; and

51.1.2 on his behalf to receive and give valid acquittance for any compensation monies paid.

51.2 Any compensation received by the Trustees on behalf of the owners in terms of clause 51.1 shall be paid to the owners in accordance with their participation quotas unless any owner notifies the Trustees before such monies are so distributed that he considers such a distribution would be inequitable in which event they shall be distributed either:

51.2.1 in accordance with a scheme approved by unanimous resolution; or

51.2.2 in accordance with a scheme to be determined by arbitration in terms of clause 55 hereof and subject thereto that the arbitrator shall be nominated by the Trustees who shall be obliged to do so within three (3) weeks of being called upon to do so by any owner.

51.3 In formulating a scheme as contemplated in clause 51.2 hereof the owners and the arbitrator shall have due regard to the quantum of damages suffered by each owner as a result of the expropriation and if the exclusive rights of any particular owner or owners to use the common property have been affected by the expropriation, the scheme should, if reasonably practicable, provide for the allocation to such owner or owners of the exclusive use of another part of the common property for the same purpose.

52. EXCLUSIVE USE AREAS

52.1 Notwithstanding the fact that the area(s) more fully described below is/are in terms of the sectional plan relating to the sectional title scheme as filed with the Registrar

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of Deeds part of the common property, the owner of each section concerned shall be entitled to the exclusive use, occupation and enjoyment to the exclusion of the rights of all other owners and all other persons of the area(s) numbered corresponding to the number of such owner's section, cross-hatched on the plan(s) annexed hereto to be used by such owner for such purpose as may be indicated on the plan(s) which area(s) is/are hereinafter referred to as the "exclusive use area(s)".

- 52.2 The Body Corporate shall take all necessary steps in its power to ensure that the exclusive use area shall be reserved for the exclusive use of the owners entitled thereto in terms of clause 52.1 hereof provided, however, that nothing contained herein shall be construed as precluding any such owner from taking such legal action as may be necessary to enforce his rights in terms of this rule.
- 52.3 An owner shall be obliged to maintain the exclusive use area as if it were part of his section and shall be obliged to take all reasonable and necessary steps to keep it in a clean, hygienic, neat and attractive condition.
- 52.4 An owner shall not use the exclusive use area allocated to him or permit it to be used in such a manner or for such purposes as are likely to impair the safety, appearance or amenity of other sections or other parts of the common property.
- 52.5 Notwithstanding the provisions of clause 52.1 hereof an owner shall permit a Trustee and/or other persons access to such exclusive use area for any purpose reasonably required for the maintenance thereof, or any area required to be maintained by any other owner. Each owner shall also allow the Body Corporate access to and across such area for:
- 52.5.1 any purpose reasonably required for the maintenance of the common property; and
- 52.5.2 the purpose of implementing the provisions of clause 49 hereof should the Body Corporate so require.
- 52.6 Where the Trustees and/or the Body Corporate has designated the use to which any such exclusive use area may be put, such area shall not be used for any purpose other than that so designated.
- 52.7 Owners may not let exclusive use areas allocated to them in terms of clause 52.1 hereof without the written consent of the Trustees, which consent shall not be unreasonably withheld, provided however that where the unit concerned is let, such exclusive use area may without such consent be let to the lessee of such unit.

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- 52.8 The exclusive use area shall be subject mutatis mutandis to all rules as if it were part of a section.
- 52.9 If an exclusive use area is a parking bay, then in addition to the foregoing, the owner shall ensure that the vehicles therein shall be clean and otherwise be in conformity with the stature of the Building.
- 52.10 The owner having exclusive use of any exclusive use area shall be entitled to transfer such right of use to any other owner and shall, in such event, give notice of such transfer to the Body Corporate.

53. GARAGES

A unit in which the section is a garage shall not be capable of being owned by any person who is not the owner of a unit in which the section is not a garage.

54. SALE ETC. OF UNIT

In order only to keep the Body Corporate informed, an owner who sells, mortgages or in any other manner alienates or deals with his unit shall notify the Managing Agent, or if there be none, the Trustees, provided that this rule shall not apply to the developer and provided further that such notification is required for administrative purposes only and creates no other obligation on such owner or the Body Corporate.

55. ARBITRATION

- 55.1 Any dispute, question or difference arising at any time between owners, Trustees and to the extent that they have any rights in terms of these rules, the Mortgagees out of or in regard to:
- 55.1.1 any matters arising out of these rules; or
- 55.1.2 the rights and duties of any of the parties mentioned in these rules; or
- 55.1.3 the interpretation of these rules;
- shall be submitted to and decided by arbitration on notice given by any party to the other parties who are interested in the matter in question.
- 55.2 Arbitration shall be held in Cape Town informally and otherwise upon the provisions of the Arbitration Act No. 42 of 1965 (as amended or replaced from time to time) it being

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intended that, if possible it shall be held and concluded within twenty one (21) Business Days after it has been demanded.

- 55.3 Save as otherwise specifically provided in these rules, the Arbitrator shall be, if the question in dispute is:
- 55.3.1 primarily an accounting matter - an independant accountant;
- 55.3.2 primarily a legal matter - a practising Counsel or Attorney of not less than ten years standing;
- 55.3.3 any other matter - an independant and suitably qualified person appointed by the auditors of the Body Corporate;
- as may be agreed upon between the parties to the dispute.
- 55.4 If agreement cannot be reached on whether the question in dispute falls under clauses 55.3.1, 55.3.2 and 55.3.3 or upon a particular arbitrator in terms of clause 55.3. hereof within three (3) Business Days after the arbitration has been demanded then:
- 55.4.1 the president for the time being of the Law Society of the Cape of Good Hope shall determine whether the question in dispute falls under clauses 55.3.1, and 55.3.2 or 55.3.3 hereof; or
- 55.4.2 the president for the time being of the Law Society of the Cape of Good Hope shall nominate the arbitrator in terms of 55.3 within seven (7) Business Days after the parties have failed to agree so that the arbitration can be held and concluded as soon as possible within the twenty one (21) Business Days referred to in 55.2.
- 55.5 The arbitrator shall make his award within seven (7) days after completion of the arbitration and shall in giving his award, have regard to the principles laid down in terms of these rules. The arbitrator may determine that the cost of the arbitration may be paid either by one or other of the disputing parties or by the Body Corporate as he in his discretion may deem fit.
- 55.6 The decision of the arbitrator shall be final and binding and may be made an order of the Cape Provincial Division of the Supreme Court of South Africa upon the application of any party to the arbitration.
- 55.7 Notwithstanding anything to the contrary contained in 55.1 to 55.6 hereof, the Trustees shall be entitled to institute legal proceedings on behalf of the Body Corporate by way of application, action or otherwise in any Court having

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jurisdiction for the purposes of restraining or interdicting breaches of any of these rules and, without limiting the generality of the foregoing, in particular to restrain or interdict breaches of clauses 47, 57.2, 57.3, 58 and section 32 of the Act.

56. IMPROVEMENTS ON OR TO THE COMMON PROPERTY

No duty shall be placed upon any owner in regard to the provision of any improvement on or to the common property unless a proposal to make such improvement has been approved by special resolution at a general meeting of the owners of sections.

57. USE OF SECTIONS

- 57.1 When the purpose for which a section is intended to be used is shown expressly or by necessary implication on or by the registered Sectional Plan, an owner shall not use or permit his section to be used for any other purpose.
- 57.2 Without limiting the provisions of 47, no owner may alter or add to, structurally or decoratively, externally or internally to the extent that it can be seen externally, any portion of his section or the common property, without the consent of the Body Corporate by special resolution.
- 57.3 No occupant of any section may without the prior written consent of the Trustees:
- 57.3.1 use the section for other than strictly residential purposes;
- 57.3.2 erect any blinds or awnings, and in giving consent to the erection of blinds or awnings the Trustees shall be empowered to impose such conditions as they deem necessary in regard to the type and colour of any blind or awning to be erected with their permission;
- 57.3.3 hold or permit to be held any auction sale in any portion of the section or common property, or display any advertisement on or outside the Building or any portion thereof, or on the common property;
- 57.3.4 park any vehicle on the common property other than in any area demarcated as an area for the parking of vehicles and then subject to and in accordance with any contract relating to such parking area in terms of which such vehicle is parked;
- 57.3.5 erect any tent or other structure or alter or remove any shrub, tree or plant on the common property;

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- 57.3.6 permit any pet, including any animal, bird, reptile or fish to remain in any portion of the section or common property which he is entitled to occupy if such pet, in the opinion of the Trustees, constitutes a nuisance;
- 57.3.7 permit any of his possessions or the possessions of any of his household or any of his visitors or invitees or any refuse or rubbish for the disposal of which he is responsible, to remain in any entrance or passage, staircase or other part of the common property to which occupiers of the premises have common access;
- 57.3.8 expose from or otherwise make visible from any premises or elsewhere any washing or articles being aired or cleaned or any garbage, rubbish or rubbish bin in a manner which the Trustees deem unsightly;
- 57.3.9 deny the Trustees or their servants or nominees access to any section and/or common property which the occupier is entitled to occupy for the purposes of inspection;
- 57.3.10 neglect to make good any damage caused to the premises by him, his family, tenant, invitee or guest or any other person over whom he has control;
- 57.3.11 neglect to repair within three (3) days any window pane cracked or broken from whatsoever cause in any section which he is entitled to occupy;
- 57.3.12 allow the part of the section and/or common property over which he has rights of occupation to become unsanitary, or accumulated with rubbish, a danger to health or otherwise dirty or untidy;
- 57.3.13 keep in the section and/or common property any materials of a dangerous or explosive nature, the keeping of which contravenes any statute or local regulation or bye-law or constitutes a nuisance to occupants of other portions of the Building, or voids or renders void any insurance effected over the property or would result in the increase in the rate of such insurance;
- 57.3.14 permit anything to be done in such section or on the common property which constitutes a nuisance or an unreasonable invasion of the privacy of the other occupiers of the Building, or permit or make any disturbance or allow his children, guests, tenants or other person for whom he is responsible, to make any disturbance or noise which in the opinion of the Trustees, in their sole and absolute discretion, would constitute an invasion of the right of privacy of the other occupiers of the Building;

57.3.15 / —

BB  
*[Signature]*

- 57.3.15 exceed the loading capacity of the floor of any section or bring any heavy article into the Building which will be so compact as to exceed the loading capacity of the Building at that point.

58. DUTIES OF OCCUPANTS

Occupants of any part of the Building shall:

- 58.1 ensure that drain pipes in, or from any part of the section or common property occupied by him shall be maintained, cleaned and unobstructed from time to time and shall forthwith in the event of their becoming obstructed have same cleaned at his expense;
- 58.2 ensure that all debris, refuse and rubbish is contained in a proper receptacle and is conveniently and readily available for removal by the appropriate authorities;
- 58.3 at his own expense forthwith make good all damage done, whether accidentally or otherwise, to any part of the section or common property caused by him or any member of his household or any of his servants, invitees or guests.

59. RELAXATION OF RULES

The Body Corporate or the Trustees may in special circumstances grant a relaxation of these rules in writing which must be signed by the chairman or in his absence by two Trustees and which shall be subject to such conditions and for such period as may be stipulated therein. Such relaxation shall be subject to withdrawal at any time by the Body Corporate or, in the case of a relaxation granted by the Trustees, by the Trustees in its or their discretion without describing any reason therefor. Notwithstanding the provisions of this rule, the Trustees may not take away any right of any owner.

60. RULES BINDING ON TENANTS

Should any owner let his section then he shall make it a condition of the lease to the tenant that the tenant and/or any sub-tenant will be bound to comply with all those provisions of these rules which place any duty or obligation upon an owner, as if he, she or it were itself an owner and without limiting the generality of the foregoing, shall be bound to comply with clauses 52, 57 and 58 in all respects.

61. GENERAL / ---

A handwritten signature in dark ink, appearing to be 'RB' followed by a flourish.

61. GENERAL

- 61.1 If an owner is given the right to make alterations to his section and/or the common property then he shall deposit an amount, fixed by the Trustees, with the Body Corporate in respect of claims that the Body Corporate might have arising from any damage done to the Building whilst the said alterations are being effected.
- 61.2 If an owner lets his section or otherwise allows it to be occupied during his absence, then the owner must deposit an amount equal to the levies for that section for six months with the Body Corporate in respect of and to be used to repair any damage to the common property caused by such tenant or occupant and/or arising from any breach of these rules or the House Rules.
- 61.3 There are no exclusive use areas and therefore no plan is annexed for the purposes of Rule 52. Rule 52 has, however, been retained in case exclusive use areas should be created at a later stage.

BB  
Don

SCHEDULE "A"

<u>FLAT NO</u>	<u>SECTION NO</u>	<u>PERCENTAGE QUOTA</u>
G1	12	2,52
G2	13	2,19
G3	14	3,17
G4	15	2,32
G5	16	1,68
G6	17	1,71
G7	18	2,36
G8	19	3,17
G9	20	2,40
G10	21	2,48
101	23	2,70
102	24	2,22
103	25	2,05
104	26	3,30
105	27	2,53
106	28	2,42
107	29	3,26
108	30	3,22
109	31	3,22
110	32	2,19
111	33	2,42
112	34	3,04
201	35	2,87
202	36	2,42
203	37	2,18
204	38	3,50
205	39	3,13
206	40	2,56
207	41	3,46
208	42	3,22
209	43	3,41
210	44	2,36
211	45	2,56
212	46	3,22
301	11	3,41
303A	22	3,13
Gar G1	10	,25
Gar G2	9	,25
Gar G3	8	,25
Gar G4	7	,25
Gar G5	6	,25
Gar G6	5	,25
Gar G7	4	,25
Gar G8	3	,25
		<u>100,00</u>

78  
*[Signature]*