THE GRAND OLIVE

SITARI country estate

# MANAGEMENT RULES OF
# THE GRAND OLIVE

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## 2. ESTABLISHMENT

These Management Rules will come in operation on the date of the opening of the Sectional Title Register of the Body Corporate known as Grand Olive upon the provisions contained in this document or any amendments thereto.

## 3. DEFINITIONS AND INTERPRETATION

3.1 In this Management and Conduct Rules the following words shall, unless the context otherwise indicates, have the meanings hereinafter assigned to them:

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| 3.1.1 | "A & D Guidelines" | means the architectural and design guidelines relating to the design and construction requirements prepared for and applicable to the Estate, including the Scheme, as contemplated in the Constitution and the Governing Rules, including the Landscape Guidelines that will be applicable from time to time, which A & D Guidelines may be amended from time to time in accordance with the provisions of the Constitution; |
| 3.1.2 | "AGM' | means the Annual General Meeting of the Body Corporate held in terms of the provisions of this Management Rules; |
| 3.1.3 | "Alienate" | means the Alienation of any Land Unit or part thereof whether by way of sale, exchange, donation, deed, intestacy, will, cession, assignment, court order or insolvency, change in shareholding of a Company or membership in a Close Corporation irrespective of whether such alienation is subject to a resolutive condition or a condition precedent, and alienation shall have a corresponding meaning; |
| 3.1.4 | "ARC" | means the Architectural Review Committee established by the Developer during the Development Period, and thereafter by the Board, the functions of which committee are described in the Governing Rules; |
| 3.1.5 | "Auditors" | means the Auditors of the Body Corporate as appointed by the Developer during the Development Period and thereafter by the Board, from time to time; |
| 3.1.6 | "BC Member" | means a member of a Body Corporate that is represented at meetings of the Sub-Association by the Chairperson of the Body Corporate; |
| 3.1.7 | "Board" | means the trustees of SCEMHOA assembled as a board as more fully provided for in the Constitution; |
| 3.1.8 | "Body Corporate" | means in relation to this Sectional Title Development, the requisite Body Corporate established in terms of Section 2 of the STSMA; |
| 3.1.9 | "Chairperson" | means the Chairperson of the Trustees, from time to time; |
| 3.1.10 | "Clear Days" | means in a computation of days, the exclusion of the first and last day of the period to be calculated; |
| 3.1.11 | "Common Property" | means, in relation to the Scheme, the land included in the Sectional Title Plan, and such parts of a building or buildings that are not included in a Section, on the approved Sectional Title Plan; |
| 3.1.12 | "Constitution" | means the Constitution of SCEMHOA; |

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| 3.1.13 | "Conduct Rules" | means the Conduct Rules adopted and approved in terms of the Constitution and/or the Governing Rules and/or the Management Rules, as the case may be; |
| 3.1.14 | "CSOS" | means the Community Schemes Ombud Service established in terms of the Ombuds Act; |
| 3.1.15 | "Developer" | means Sitari Country Estate (Pty) Ltd, Registration Number: 2007/033501/07, its successors-in-title or assigns; |
| 3.1.16 | “Development Controls” | means the Development Controls prescribed by the Developer and the Local Authority, including the zoning rights pertaining to the Land and the conditions of approval relating to the zoning rights and the subdivision of the Land as may have been issued by any relevant authority; |
| 3.1.17 | "Development Period" | means the period from the date of establishment of SCEMHOA until all the Land Units situated on the Parent Property have been transferred from the Developer and/or improved, or, until the Developer notifies SCEMHOA in writing that the Development Period has ceased, whichever shall occur first; |
| 3.1.18 | "Estate" | means Sitari Country Estate, being the township to be established on the Parent Property; |
| 3.1.19 | "Estimated Cost" | means the estimated cost to maintain, repair or replace a Major Capital Item; |
| 3.1.20 | "Expected Life" | means the estimated number of years before it is expected that the cost of maintenance, repair or replacement of a Major Capital Item will be incurred; |
| 3.1.21 | "Financial Year" | means the Financial Year of the Body Corporate; |
| 3.1.22 | “Gardens” | means the gardens allocated to the relevant Sections in terms of Section 10 (7) and 10 (8) of the STSMA indicated as such on the Parking Allocation Plan |
| 3.1.23 | "Garden Allocation Plan” | means the plan indicating the allocation of the Gardens, attached hereto as Annexure C; |
| 3.1.24 | “GM” | means a collective reference to the AGM’s and all SGM’s; |
| 3.1.25 | “Governing Rules” | means the Governing Rules to govern, amplify and/or implement the provisions of the Constitution and this Management Rules to be drafted and approved by the Developer and implemented by the Body Corporate; |
| 3.1.26 | "Land' | means Erf 588 Sitari, City of Cape Town, Western Cape Province upon which the Scheme is to be executed by the Developer; |
| 3.1.27 | "Landscape Guidelines" | means the Landscape Guidelines approved in terms of the Constitution, including the Landscape Plan; |
| 3.1.28 | "Landscape Plan" | means the Landscape Plan approved the Local Authority; |
| 3.1.29 | "Land Unit(s)" | means any portion of the Parent Property, or a Section as defined in the Sectional Titles Act, situated on the Parent Property, registered or capable of being registered in the Cape Town deeds registry, and includes but is not limited to an "erf' (howsoever zoned) or "sectional title unit"; |

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| 3.1.30 | "Levy/Levies" | means the Levies imposed, calculated and payable in terms of the provisions of the Constitution and this Management Rules, but excluding any Special Levies; |
| 3.1.31 | "Local Authority" | means the Local Authority having jurisdiction over the Estate, being the City of Cape Town; |
| 3.1.32 | “LUPO” | means the Land Use Planning Ordinance 15 of 1985, Western Cape, as amended; |
| 3.1.33 | "Major Capital Item" | means wiring, lighting and electrical systems, plumbing, drainage and storm-water systems, heating and cooling systems, any lifts, any carpeting and furnishings, roofing, interior and exterior painting and waterproofing, communication and service supply systems, parking facilities, roadways and paved areas, security systems and facilities and any other community and recreational facilities; |
| 3.1.34 | "Management Company" | means such Management Company appointed in terms of the Constitution; |
| 3.1.35 | “Management Rules’ | means the Management Rules as provided for in this document, approved by the Developer, during the Development Period, and thereafter by the Board, in respect of the Scheme; |
| 3.1.36 | "Member" | means a Member of the Body Corporate as set out in Clause 5 of this Management Rules; |
| 3.1.37 | “MPBL” | means the City of Cape Town Municipal Planning By-Law, 2015, published in Provincial Gazette Extraordinary 7414 of the 29th of June 2015, as amended; |
| 3.1.38 | "Occupant" | means any person/s occupying a Section; |
| 3.1.39 | "Office" | means the registered Office of SCEMHOA, being the physical address of the Management Company, from time to time; |
| 3.1.40 | “CSOS Act” | means the Community Scheme Ombud Service Act, Act Number 9 of 2011, as amended; |
| 3.1.41 | “Ordinary Resolution” | means a resolution taken at any meeting, where a quorum is present, by more than 50% (Fifty) of the Members of the Body Corporate present in that meeting, personally or by means of a proxy, and entitled to vote at such a meeting in terms of the provisions of this Management Rules; |
| 3.1.42 | "Owner" | means the registered Owner of a Section and as such a Member of the Body Corporate; |
| 3.1.43 | "Parent Property' | means the land approved for development by the City of Cape Town, being Erf 1 Sitari, in the City of Cape Town, Division Stellenbosch, Western Cape Province upon which the Estate is to be developed by the Developer; |
| 3.1.44 | “Parking Allocation Plan” | means the plan indicating the allocation of the Parking Bays and Parking Bays on Parking Erven attached hereto as Annexure A; |
| 3.1.45 | “Parking Bays” | means the parking bays allocated to the relevant Sections in terms of Section 10 (7) and 10 (8) of the STSMA indicated as such on the Parking Allocation Plan |
| 3.1.46 | "Parking Bays on Parking Erven" | means the parking bays 108, 109, 110 and 111 situated on the Parking Erven indicated a s such on the Parking Allocation Plan; |

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| 3.1.47 | "Parking Erven" | means Erf Numbers 245, and 247 Sitari, City of Cape Town, Western Cape Province, which Erven are notarially tied to the Scheme; |
| 3.1.48 | "Participation Quota" | means, in relation to any Section, the square meterage of such a Section expressed as a percentage, in four decimals, in relation to the building constructed on the Land, and indicated as such on the Sectional Title Plan; |
| 3.1.49 | "Past Contribution" | means the funds in the Reserve Funds of the Body Corporate in respect of the Estimated Cost; |
| 3.1.50 | “Planning Legislation” | means, collectively, the Western Cape Land Use Planning Act, Act Number 3 of 2014, the Western Cape Land Use Regulations, 2015, the MPBL and the Spatial Planning and Land Use Management Act, Act Number 16 of 2013; |
| 3.1.51 | "Prime Rate" | means the publicly quoted basic rate of interest, compounded monthly in arrears and calculated on a 365 (Three Hundred and Sixty-Five) day year irrespective of whether or not the year is a leap year, from time to time published by Nedbank Bank Limited as being its prime overdraft rate, as certified by any representative of that bank whose appointment and designation it will not be necessary to prove; |
| 3.1.52 | “Professional Trustee’ | means a Professional Trustee, nominated by the Developer during the Development Period, and thereafter by the Board, which Professional Trustee must be nominated and co-opted to the Trustees for his specific level of skill, expertise, knowledge of the Estate and experience in his field of qualification; |
| 3.1.53 | "Purchaser" | means any person or entity that enters into an Agreement of Sale with the Developer in respect of a Section; |
| 3.1.54 | “Reserve Funds" | means an amount set aside by the Body Corporate to meet the unexpected costs that may arise in future, including future cost of maintenance; |
| 3.1.55 | "Restriction Period" | means 5 (Five) years after the date of registration of transfer of any Section in favour of a Purchaser or Third Party Purchasers, as the case may be; |
| 3.1.56 | “SAC” | means the constitution of the Sub -Association; |
| 3.1.57 | “Scheme” | means the development of the Land in terms of and subject the provisions of the Sectional Titles Act; |
| 3.1.58 | "SCEMHOA" | means the Sitari Country Estate Master Home Owners Association established in respect of the Parent Property, by the Developer, in terms of Section 29 of LUPO: |
| 3.1.59 | "SDP" | means the Site Development Plan approved by the Local Authority, attached hereto as Annexure A; |
| 3.1.60 | “Section” | means any Section as shown on the Sectional Title Plan, as more fully provided for in the Sectional Titles Act; |
| 3.1.61 | “Sectional Titles Act” | means the Sectional Titles Act, Act Number 95/1986, as amended, including the Regulations promulgated thereunder; |
| 3.1.62 | “Sectional Title Plan” | means, in relation to the Scheme, a plan approved by the Surveyor General which is described as a sectional plan, which shows the building or buildings and the Land comprised in the Scheme, as divided into two or more Sections and Common |

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| | | Property and which complies with the requirements of section 5 of the Sectional Titles Act; |
| 3.1.63 | "Security Company" | means any person or entity appointed by the Developer, during the Development Period, and thereafter the Board, as an independent contractor to undertake any or all of the security functions of the Body Corporate, subject to and in terms of the Constitution; |
| 3.1.64 | “Security Protocol” | means the Security protocol, governing all aspects of the security of the Estate, Owners and Occupants, which protocol will be part of and drafted and approved in terms of the Governing Rules; |
| 3.1.65 | “SGM’ | means all Special General Meetings held by the Body Corporate as provided for and in terms of the provisions of this Management Rules; |
| 3.1.66 | “Special Levy” | means any Special Levy/Levies imposed by the Developer, during the Development Period, and thereafter by the Board or the Trustees, as the case may be, over and above the Levies as referred to in Clause 14 below, but also calculated and payable in terms of the provision of Clause 14 below; |
| 3.1.67 | "Special Resolution**"** | means a resolution passed at a SGM of which not less than 21 Clear Days' notice has been given specifying the intention to propose the resolution as a Special Resolution, the terms and effect of the resolution and the reasons for it, and passed, on a show of hands, by not less than three-fourths of the total number of Members present at the meeting who, at minimum, form a quorum for a GM; |
| 3.1.68 | “STSMA” | means the Sectional Titles Schemes Management Act, Act Number 8 of 2011, as amended and including the Regulations promulgated in terms thereof; |
| 3.1.69 | "Sub- Association" | means Sitari Country Estate Sub Home Owners Association 1A, as more fully provided for in the SAC, and of which the Body Corporate will be a member; |
| 3.1.70 | “Sub-Member” | means the owner of a Section, as such and in that capacity, being a Sub-Members of SCEMHOA, as more fully provided for in the Constitution; |
| 3.1.71 | Third Party Purchaser" | means any person or entity that enters into an Agreement of Sale with a Purchaser of a Section before date of registration of transfer of such a Section in favour of such a Purchaser or with an Owner during the Development Period and/or the Restriction Period, whichever date is the latest; |
| 3.1.72 | "Trustees**"** | mean the Trustees, from time to time, of the Body Corporate, including the Professional Trustee; |
| 3.1.73 | “Unanimous Resolution” | means a resolution passed unanimously by all the Members, who are present or represented by proxy or by a representative recognized by law at a GM of the Body Corporate of which at least 21 (Twenty One) Clear Days’ notice, specifying the proposed Unanimous Resolution, has been given, and at which meeting at least 80% (Eighty) of all the Members are present or represented, or agreed to in writing by all the Members of the Body Corporate personally or by proxy or by a representative of any such Member recognized by law. |

3.2 Any reference to natural persons includes artificial persons and vice versa.

3.3 Any reference to a gender includes the other genders (including neuter).

3.4 Any reference to the singular includes the plural and vice versa.

3.5 The Clause heading in this Management Rules have been inserted for convenience only and shall not be taken into account in its interpretation.

3.6 Words and expressions defined in any sub-Clause shall, for the purpose of the Clause of which that sub-Clause forms part, bear the meaning assigned to such words and expressions in such sub-Clause.

3.7 No provision of this Management Rules or any related document shall be construed against or interpreted to the disadvantage of any party hereto by reason of such party having or being deemed to have structured or drafted such provision.

3.8 This Management Rules shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa and the Body Corporate and every Member consent to the jurisdiction of any competent court of the Republic of South Africa, for the purposes of any proceedings instituted in connection with this Constitution.

## 4. MAIN BUSINESS

4.1 The main business of the Body Corporate is to carry on the promotion, advancement and protection of the Members as well as to manage, control and regulate the Scheme.

4.2 The Body Corporate will at all times by bound by the provisions of the Constitution, the SAC and the Governing Rules and must ensure that its Members complies with all the provisions, obligations, terms and conditions of SCEMHOA, as contained in the Constitution, the SAC, or any other document or approval as provided for in the Constitution.

4.3 In the instance of any discrepancy between the Constitution, the Governing Rules, these Management Rules, the Conduct Rules or any other document or approval as referred to in the Constitution, including any directive issued by the Developer, during the Development Period, or thereafter, by the Board, the provisions of the Constitution, the Governing Rules, the Conduct Rules or any other document or approval as referred to in the Constitution, including any directive issued by the Developer, will prevail and this Management Rules will be deemed to be amended to accommodate the relevant discrepancy, provided that such an amendment, rule or directive may never be in contravention of the Sectional Titles Act and or the STSMA.

## 5. MAIN OBJECTIVES OF THE BODY CORPORATE

5.1 The objectives of the Body Corporate are as follows:

5.1.1 to oversee, regulate and control the harmonious development of the Scheme and to ensure and promote the general high standard of the Scheme;

5.1.2 to control, improve and maintain the Common Property;

5.1.3 to control, improve and maintain and to insure where necessary the buildings, structures, installations and equipment relating to the Common Property;

5.1.4 to promote, advance, and control the communal interests of Owners, Members and residents;

5.1.5 to control the nature and position of buildings, structures, installations and equipment relating to the Land Units and to ensure compliance with the approved A&D Guidelines and control measures in respect of the Scheme;

5.1.6 to control and ensure compliance with the approved Landscaping Plan including Landscaping on the Common Property and around verges and entrances;

5.1.7 to take action including the imposition of fines, or the institution of proceedings in a court of law, as may be deemed fit by the Trustees, in relation to the non-compliance by any Member/Owner of any of the requirements of this Management Rules, the Constitution, the Governing Rules or the Conduct Rules;

5.1.8 to control the aesthetic appearance of the Sections;

5.1.9 the control over the compliance and enforcement of the A&D Guidelines;

5.1.10 the promotion of environmental awareness and responsibility amongst Members.

5.1.11 to maintain the Common Property at the costs of the Body Corporate.

5.2 The Body Corporate shall be deemed to have come into existence on the date of the first registration of transfer of a Section from the Developer to an Owner, as provided for in Section 2 of the STSMA.

5.3 The Body Corporate is a legal persona and as such –

5.3.1 its assets, liabilities, rights and obligations shall vest in it independently of its Members;

5.3.2 it shall have perpetual succession;

5.3.3 all legal proceedings shall be brought by or against the Body Corporate, in the name of the Body Corporate, and the Trustees may authorise any person/s to act on behalf of the Body Corporate and to sign all such documents and take all such steps as may be necessary in connection with any such legal proceedings; and

5.3.4 its Members shall not, by reason of their membership, be liable for the liabilities and obligations of the Body Corporate.

## 6. MEMBERSHIP OF THE BODY CORPORATE

6.1 With effect from the date on which any other person than the Developer becomes an Owner, the Body Corporate shall be deemed to be established of which the Developer and such person are Members, and any person who thereafter becomes an Owner is a Member of the Body Corporate.

6.2 Membership of the Body Corporate shall be compulsory for the following:

6.2.1 the Developer during the Development Period;

6.2.2 the Purchaser of a Section, from the date of registration of transfer of the Section in the Cape Town Deeds Registry.

6.3 The Body Corporate shall *ipso facto* be and become a member of the Sub-Association upon establishment of the Body Corporate and be represented at meetings of the Sub-Association by the Chairperson.

6.4 The Developer shall be a Member and the Chairperson of the Body Corporate during the Development Period.

6.5 It is specifically recorded that each Member, Owner and Occupant will be subject to the terms and conditions and rules provided for in the Constitution, the SAC, this Management Rules, the Governing Rules and the Conduct Rules.

6.6 Each Owner/Member will as such become a Sub-Member of SCEMOA and a BC Member of the Sub-Association and will in such capacity be subject to the provisions of the Constitution and the SAC in as far as it is applicable on Sub-Members and BC Members.

6.7 An Owner may never and at any time whilst he is the owner of a Section in the Scheme, resign as a BC Member of the Sub-Association or as a Sub-Member of SCEMHOA.

6.8 All Land Units are subject to the following condition imposed by the Developer:

"The Property may not be transferred without the written consent of SCEMHOA, of which the transferee or his successors in title shall become a member".

6.9 An Owner, ceasing to by a Member of the Body Corporate for any reason shall, (nor shall any executor, curators, trustees or liquidators) have any claim upon or interest in the funds or other assets of the Body Corporate, but this clause shall be without prejudice to the rights of the Body Corporate to claim from such Member or his estate any arrears of Levies, Special Levies, subscriptions or other sums due from him to the Body Corporate at the time of his so ceasing to be a Member of the Body Corporate.

## 7. RIGHTS AND OBLIGATIONS OF MEMBERS/OWNERS

7.1 Every Member/Owner shall comply with:

7.1.1 the provisions of the Constitution, the SAC this Management Rules, the Governing Rules, the Conduct Rules and all other rules or regulations made or promulgated by SCEMHOA, the Body Corporate, the Developer, during the Development Period or the Trustees;

7.1.2 any agreement concluded by SCEMHOA, the Developer, during the Development Period, the Body Corporate or the Trustees insofar as such agreement may directly or indirectly impose rights or obligations on a Member;

7.1.3 any directive given by SCEMHOA, the Body Corporate, the Trustees, the Developer, during the Development Period or the Management Company.

7.2 Save as may be provided for herein, the rights and obligations of a Member are not transferable, and every Member shall:

7.2.1 to the best of his ability further the objects and interests of the Body Corporate and SCEMHOA;

7.2.2 observe all directives made or given pursuant to the provisions of this Management Rules and the Constitution,

7.2.3 be jointly liable with the other Members/Owners for expenditure incurred in connection with the Body Corporate

7.2.4 not use any building or other structure constructed within the Scheme, or allow any other person to use such building or other structure, for purposes not permitted by the Constitution, this Management Rules, the A&D Guidelines, the Governing Rules, the Conduct Rules or any rules and/or regulations made in terms of the Constitution, including the Development Controls;

7.2.5 not apply for the consolidation, subdivision or rezoning of its Section with a view to procuring a variation, amendment or substitution of the Development Controls provided that selected departures or consent uses may be allowed, upon approval thereof by the ARC, the Board and the Local Authority;

7.2.6 not conduct, or permit to be conducted or change the nature of, any business on a Section or use, or permit the use of, such Section for purposes other than residential use and always subject to the Development Controls, unless the Developer, for the duration of the Development Period, or thereafter, the Board has in writing approved the use to which the Section is to be put, and the Local Authority has, to the extent that it may be necessary, granted approval authorizing such use in terms of the Planning Legislation and other applicable laws and regulations.

7.3 Membership of the Body Corporate shall confer upon a Member, inter alia, the following rights, subject to the provisions of this Management Rules and the Constitution –

7.3.1 the right to inspect and/or receive copies of the annual financial statements of the Body Corporate;

7.3.2 the right to vote at all GM's in accordance with the provisions of this Management Rules;

7.3.3 the right to receive notices of, attend and speak at all GM's in accordance with the provisions of this Management Rules;

7.3.4 the right to convene a GM of Members (other than an AGM), provided that the Members holding between them, in aggregate, not less than one third of the voting rights of the Body Corporate collectively, convene such a meeting;

7.3.5 each Member will be entitled to 1 (One) vote at any meeting or GM of the Body Corporate, irrespective whether voting is conducted by means of show of hands or by means of a poll.

7.4 The Body Corporate shall ensure that none of its Members shall let or otherwise part with the occupation of his Section, whether temporarily or otherwise, unless:

7.4.1 The proposed occupier has agreed to be bound by all the provisions of the Constitution, this Management Rules, the Governing Rules and the Conduct Rules and all other rules or regulations

made or promulgated by the Body Corporate, the Developer, during the Development Period, and thereafter SCEMHOA, and

7.4.2 Its Members shall at all times remain bound by the provisions of the Constitution, the SAC this Management Rules and the Governing Rules and the Conduct Rules and will be required to ensure and procure compliance therewith by such occupier, and

7.4.3 Its Members shall be liable for the acts or omissions of all persons occupying his Section whether lawfully or unlawfully including without limitation guests, employees, invitees, contractors, sub-contractors or agents.

7.5 The Member/Owner shall not be entitled to exhibit any signboards, notices, advertising boards, neon signs and nameplates on the interior or exterior of buildings situated on a Section or anywhere within the Scheme on Common Property without the prior written approval of the Trustees and the Board.

7.6 The Member/Owner shall keep and maintain any signs approved of by SCEMHOA and the Body Corporate in a good and clean condition, and if such signs are electronic, electric or mechanical, in proper working order and condition

7.7 The Member/Owner hereby indemnifies SCEMHOA and the Body Corporate against all claims of whatsoever nature which may be made against SCEMHOA or the Body Corporate, as a result of the installation, erection or operation of any signs or advertisements placed by the Member, whether installed with or without the written approval of SCEMHOA or the Body Corporate, or any defect in any such signs, or in any such installation or erection, or as a result of any failure on the part of the Member/Owner or any of the Member's/Owner's employees, agents, customers or invitees to keep and maintain any such signs in good order and condition, or properly installed or erected.

7.8 In addition, each Owner of a Land Unit shall –

7.8.1 ensure the maintenance of its Land Unit in a neat and tidy condition and in a state of good repair

7.8.2 not park, or permit the parking of, any commercial vehicle, boat, caravan, trailer or any vehicle not in good working order on any road, pavement, parking area within the Scheme, Parking Bays on Parking Erven or other Common Property, and if such vehicle/boat/caravan/trailer is to be parked on that Owner's Land Unit, it shall not be visible from any street;

7.8.3 not do or cause to be done on any Land Unit anything which, in the opinion of the Developer, for the duration of the Development Period, and thereafter, the Trustees, is noisome, unsightly, injurious, objectionable or detrimental, or a public or private nuisance, or a source of damage or disturbance to any Owner, tenant or occupier of any other Land Unit;

7.8.4 not permit the number of Occupants of its Section (as the case may be) to exceed two persons per bedroom;

7.8.5 comply with the Security Protocol and with all security procedures and controls imposed by SCEMHOA and/or the Body Corporate and/or the Board, from time to time;

7.8.6 ensure that it and its invitees do not damage or destroy trees, vegetation and landscaping on the Common Property and that planting on its Land Unit does not interfere with pedestrian traffic or obscure the vision of motorists;

7.8.7 afford employees, agents and representatives of the Developer, SCEMHOA and the Body Corporate full access at all times to do all things reasonably necessary to construct and/or stabilize and/or maintain all Common Property, the Parking Bays on Parking Erven, edges and, if applicable;

7.8.8 not use any building or other structure constructed within the Scheme, or allow any other person to use such building or other structure, for purposes not permitted by the Constitution and/or this Management Rules or all rules and/or regulations made in terms of the Constitution or this Management Rules;

7.8.9 not let or otherwise part with occupation of its Land Unit (or any parts thereof), whether temporarily or otherwise, unless that Owner ensures that the proposed occupier agrees to be bound by the relevant provisions of the Constitution, this Management Rules, the Governing Rules, the Conduct Rules and all rules and/or regulations made in terms of the Constitution and/or this Management Rules;

7.8.10 not consolidate a Land Unit with one or more other Land Units, without the prior written consent of the Developer, for the duration of the Development Period, and thereafter, the Board;

7.8.11 not apply for the subdivision or rezoning of its Land Unit with a view to procuring a variation, amendment or substitution of use rights, provided that selected departures or consent uses may be allowed, upon approval thereof by the Developer, during the Development Period, ARC, the Board and the Local Authority;

7.8.12 not conduct, or permit to be conducted or change the nature of, any business on a Land Unit, or use, or permit the use of, such Land Unit for purposes other than residential use, subject to the Development Controls, unless the Developer, for the duration of the Development Period, or thereafter, the Board has in writing approved the use to which the Land Unit is to be put, and any Local Authority has, to the extent that it may be necessary, granted approval authorizing such use in terms of applicable laws and regulations;

7.8.13 Notify and supply the Management Company with the personal information and copies of the Identity Documents of any Occupants of its Land Unit, domestic workers, garden workers or gardening services or any other contractors employed by the Member;

7.8.14 must ensure that all potential tenants meet the tenant accreditation criteria available from SCEMHOA and that the monthly rental payable by the tenant is market related;

## 8. ALIENATION

8.1 The Body Corporate shall ensure that none of its Members shall in any manner Alienate or transfer a Land Unit unless:

8.1.1 the proposed transferee, new shareholder of a Company or new members of a Close Corporation has irrevocably bound himself to become a Member of the Body Corporate and SCEMHOA and to observe the Constitution, this Management Rules, the Governing Rules and the Conduct Rules applicable, as the case may be, for the duration of his ownership of any Land Unit;

8.1.2 the Management Company has given its prior written consent thereto and has issued a clearance certificate that all amounts owing to the Body Corporate or the Developer, as the case may be, by such Owner have been paid and that the Owner is not in breach of the Constitution, this Management Rules, the Governing Rules and/or Conduct Rules, as the case may be;

8.1.3 The provisions of Clause 8.1 shall apply mutatis mutandis to any alienation or transfer of an undivided share in any Land Unit.

8.2 Restrictions will be registered against the title deeds of all Land Units in order to give effect to the terms of this Clause 8. The Members shall however be bound by this Clause whether or not such restrictions are registered in the Cape Town Deeds Registry, or not.

8.3 Each Member shall comply with all conditions imposed by the Local Authority or any other statutory body relating to Land Units and shall be solely responsible for non-compliance with such conditions.

8.4 It is recorded that only the Management Company will be entitled to charge any fees or costs in respect of the issuing of the clearance certificate. For the avoidance of doubt, it is recorded that the Developer will not be liable for the payment of any such costs or fees in respect of each and every transfer of a Land Unit to be registered for the first time from the Developer to an Owner/Purchaser or Third Party Purchaser.

8.5 The Management Company will only be entitled to charge one fee in respect of the issuing of the clearance certificate, irrespective of the number of Land Units indicated on such consent.

## 9. COMMON PROPERTY

9.1 The Body Corporate is will be the owner of the Common Property.

9.2 It will be the Body Corporate's responsibility to maintain, repair and insure any structural buildings, roads, and lights, etc., being part of the Common Property.

9.3 The Body Corporate acknowledges that neither the Local Authority nor the Developer shall be responsible for, and the Body Corporate shall be solely responsible for, the care, repair, maintenance, cleaning, upkeep,

improvements and proper control of the Common Property and any structure or thing erected or contained therein or thereon, including the roads, private parking, electricity, telecommunications and any other private services, if applicable,

9.4 The Developer, during the Development Period SCEMHOA and the Body Corporate and all service providers as approved by the Board or the Developer, during the Development Period, will at all times have free and unencumbered access to all registered servitudes on the Land or any Land Unit.

## 10. PARKING

10.1 It is the Body Corporate's responsibility to maintain, repair and insure any structures, buildings, roads, lights, etc., being part of the Parking Bays, at its own costs and expense.

10.2 The Body Corporate acknowledges that neither the Local Authority nor the Developer shall be responsible for, and the Body Corporate shall be solely responsible for, the care, repair, maintenance, cleaning, upkeep, improvements and proper control of the Parking Bays and any structure or thing erected or contained therein or thereon, including the roads, private parking, electricity, telecommunications and any other private services, if applicable.

10.3 The Developer, during the Development Period, SCEMHOA and all service providers as approved by the Board or the Developer, during the Development Period, will at all times have free and unencumbered access to all registered servitudes applicable on the Scheme.

## 11. PARKING ERVEN

11.1 SCEMHOA is the owner of the Parking Erven.

11.2 It is the Body Corporate's responsibility to maintain, repair and insure any structures, buildings, roads, lights, etc., being part or constructed on the Parking Bays on Parking Erven at its own costs and expense.

11.3 The Body Corporate acknowledges that neither the Local Authority nor the Developer shall be responsible for, and the Body Corporate shall be solely responsible for, the care, repair, maintenance, cleaning, upkeep, improvements and proper control of the Parking Bays on Parking Erven and any structure or thing erected or contained therein or thereon, including the roads, private parking, electricity, telecommunications and any other private services, if applicable.

11.4 The Developer, during the Development Period, SCEMHOA and all service providers as approved by the Board or the Developer, during the Development Period, will at all times have free and unencumbered access to all registered servitudes applicable on the Scheme.

## 12. GARDENS

The owner of the Section to whom a Garden has been allocated as depicted in the Garden Allocation Plan will be responsible for the care, maintenance, cleaning, upkeep, improvements and proper control of the Garden and any structure or thing erected or contained therein or thereon, at its own costs and expense.

## 13. ALLOCATION OF PARKING BAYS AND GARDENS

The following Parking Bays are allocated to the following Sections in terms of Sections 10(7) and (8) of the STSMA:

| UNIT | PARKING BAY/S | |
|---|---|---|
| 101 | 132 | 131 |
| 102 | 1 | 2 |
| 103 | 3 | 4 |
| 104 | 5 | 7 |
| 105 | 6 | 8 |
| 106 | 9 | 11 |

| | | |
|---|---|---|
| 107 | 15 | |
| 108 | 20 | |
| 109 | 27 | 28 |
| 110 | 29 | 30 |
| 111 | 33 | 34 |
| 112 | 37 | 38 |
| 113 | 43 | |
| 114 | 48 | |
| 115 | 51 | 53 |
| 116 | 54 | 52 |
| 117 | 61 | 63 |
| 118 | 66 | 65 |
| 119 | 70 | 69 |
| 120 | 72 | 71 |
| 121 | 74 | 73 |
| 201 | 130 | |
| 202 | 129 | |
| 203 | 126 | 128 |
| 204 | 125 | 127 |
| 205 | 122 | 124 |
| 206 | 10 | 12 |
| 207 | 13 | 14 |
| 208 | 21 | 22 |
| 209 | 23 | 24 |
| 210 | 25 | 26 |
| 211 | 31 | |
| 212 | 32 | |
| 213 | 35 | 36 |
| 214 | 39 | 40 |
| 215 | 41 | |
| 216 | 42 | |
| 217 | 50 | 49 |
| 218 | 55 | 57 |
| 219 | 58 | 56 |
| 220 | 60 | 59 |
| 221 | 64 | 62 |
| 222 | 68 | 67 |
| 223 | 76 | 75 |
| 224 | 78 | 77 |
| 225 | 80 | 79 |
| 301 | 123 | |
| 302 | 120 | |
| 303 | 119 | 121 |

| | | |
|---|---|---|
| 304 | 116 | 118 |
| 305 | 115 | 117 |
| 306 | 113 | 114 |
| 307 | 110 | 112 |
| 308 | 109 | 111 |
| 309 | 107 | 108 |
| 310 | 106 | 105 |
| 311 | 104 | |
| 312 | 103 | |
| 313 | 102 | 101 |
| 314 | 100 | 99 |
| 315 | 98 | 97 |
| 316 | 96 | 95 |
| 317 | 94 | 93 |
| 318 | 92 | 91 |
| 319 | 90 | 89 |
| 320 | 88 | 87 |
| 321 | 86 | 85 |
| 322 | 84 | 83 |
| 323 | 82 | 81 |

The following Gardens are allocated to the following Sections in terms of Sections 10(7) and (8) of the STSMA:

| **UNIT** | **Garden** |
|---|---|
| 101 | 1 |
| 102 | 2 |
| 103 | 3 |
| 104 | 4 |
| 105 | 5 |
| 106 | 6 |
| 107 | 7 |
| 108 | 8 |
| 109 | 9 |
| 110 | 10 |
| 111 | 11 |
| 112 | 12 |
| 113 | 13 |
| 114 | 14 |
| 115 | 15 |
| 116 | 16 |
| 117 | 17 |
| 118 | 18 |

| | |
|---|---|
| 119 | 19 |
| 120 | 20 |
| 121 | 21 |

## 14. LEVIES

14.1 The Trustees shall from time to time impose Levies and Special Levies upon the Members for the purpose of meeting all the expenses in relation to the facilities and services for or in connection with the Scheme, and for the payment of all expenses necessarily or reasonably incurred in connection with the management of the Scheme and its affairs. Each and every Member, excluding any exceptions as provided for in this Constitution or the Governing Rules, will be liable for the payment of Levies and Special Levies, as and when imposed by the Body Corporate, SCEMHOA, the Developer and/or the Board in terms of the Constitution, this Management Rules and/or the Governing Rules.

14.2 Payment and calculation the Levies:

14.2.1 In calculating the amount of the Levies the Trustees shall take into account income from other sources if any, earned by the Body Corporate.

14.2.2 Each and every Member will be liable for the payment of an initial double Levy which will be equal to 2 (Two) months Levies on the first day of the first month that the Levy becomes payable by a Member.

14.2.3 All Levies shall be paid monthly in advance by bank debit order on the first day of each and every month to the bank account of the Body Corporate or by any other method as determined by the Management Company, from time to time.

14.2.4 Levies shall be calculated according to the Participation Quota, unless exempted from the payment of Levies by the Developer during the Development Period, and thereafter by the Trustees.

14.2.5 Should a Member, excluding the Developer, consolidate two or more Land Units, the Body Corporate shall debit the amount of the Levies as per the original number of Land Units, despite the consolidation thereof.

14.2.6 Any amount due by a Member by way of a Levy shall be a debt due by him to the Body Corporate. The obligation of a Member to pay a Levy shall cease upon his ceasing to be a Member of the Body Corporate, without prejudice to the Body Corporate's right to recover arrear Levies. No Levies paid by a Member shall under any circumstances be repayable by the Body Corporate upon his ceasing to be a Member. A Member's successor-in-title shall be liable, as from the date upon which he becomes a Member to pay the Levies attributable. No Member shall be entitled or permitted to consent to the transfer of a Land Unit until the Body Corporate has certified that the Member has at the date of transfer paid all amounts owing by him to the Body Corporate and the Developer as contemplated in Clause 13.2.

14.3 Payment and calculation of Special levies:

14.3.1 Special Levies shall be calculated according to the Participation Quota, unless exempted from the payment of Levies by the Developer during the Development Period, and thereafter by the Trustees.

14.3.2 Should a Member, excluding the Developer, consolidate two or more Land Units, the Body Corporate shall debit the amount of the Special Levies as per the original number of Land Units, despite the consolidation thereof.

14.3.3 The Developer, during the Development Period, and thereafter the Trustees may, from time to time, impose Special Levies upon the Members in addition to other Levies, in respect of all or portion of the expenses of the Body Corporate, and the amount of such Special Levies and the manner of payment thereof by Members shall be at the discretion of the Trustees and which Special Levies will be apportioned to each Owner in accordance with the Participation Quota, as provided for in Clause 13.3.1 of these Management Rules.

14.3.4 Any amount due by a Member by way of a Special Levy shall be a debt due by him to the Body Corporate. The obligation of a Member to pay a Special Levies shall cease upon his ceasing to be a Member of the Body Corporate, without prejudice to the Body Corporate's right to recover arrear Special Levies. No Special Levies paid by a Member shall under any circumstances be repayable

by the Body Corporate upon his ceasing to be a Member. A Member's successor-in-title shall be liable, as from the date upon which he becomes a Member to pay the Special Levies attributable.

Previous 13.4 was deleted

14.4 The Body Corporate may hand-over any debt due to the Body Corporate to SCEMHOA's Attorneys for collection if the debt is outstanding for more than 30 (Thirty) days and the debts due to the Body Corporate may be published in SCEMHOA's Newsletter.

14.5 Monthly Levy statements will be circulated to the Members of the Body Corporate via e-mail. A Member will still be liable to effect monthly payments of the Levies and Special Levies irrespective whether the statement was actually received and/or circulated by the Body Corporate to such Member.

14.6 A Member shall be liable for and shall pay all legal costs, including costs, as between attorney and own client, collection commission, tracing agents fee, interest at the Prime Rate plus 25% (Twenty Five) per annum, expenses and charges incurred by the Body Corporate, in recovering any arrear Levy or Special Levy or other amounts due and owing to the Body Corporate, as also the costs incurred in the enforcement of any of the Governing Rules or regulations issued or made by or on behalf of the Body Corporate from time to time.

14.7 A Member or Occupant of a Land Unit that is exempted or excluded from the payment of Levies or Special Levies, excluding the Developer during the Development Period, or any Member or Occupant that is in arrears with the payment of any Levies or Special Levies, will not be entitled to the usage of the Communal Property as defined in the Constitution.

14.8 No Member ceasing to be a Member of the Body Corporate for any reason whatsoever shall, and neither shall such Member's executors, curators, trustees or liquidators, have any claim upon, interest in, right to the funds or any property or other asset of the Body Corporate.

## 15. RESPONSIBILITY FOR THE PROVISION OF SERVICES

15.1 The responsibility for the provision of services, namely facilities, utilities, services and amenities of whatever nature as may be provided by or on behalf of the Body Corporate for Members, Owners or residents within the Scheme, shall pass from the Developer to the Body Corporate on the date of the first registration of transfer of a Section from the Developer to an Owner.

15.2 It is recorded that the Body Corporate shall be responsible for the provision of the management, maintenance, upkeep and repair of the Common Property and storm water.

15.3 The Trustees is responsible to ensure that the Body Corporate employed sufficient employees to fulfil all the obligations of the Body Corporate as provided for in this Management Rules and to comply with the full responsibility as provided for in this Management Rules by the Body Corporate towards the Members and/or the Local Authority.

## 16. RULES AND CODES OF CONDUCT MADE BY THE BODY CORPORATE

16.1 Subject to the provisions of the Constitution, this Management Rules and to any directions given by the Body Corporate in a GM and to any conditions imposed by the Local Authority or the Developer or any other statutory body, the Trustees may make rules, codes of conduct and may vary or modify the same from time to time, in connection with:

16.1.1 the installation, operation and maintenance of irrigation in the Common Property adjacent to any Land Units by the Member concerned;

16.1.2 the control and conduct of persons for the prevention of nuisance of any nature to any resident;

16.1.3 the control and conduct of persons using the Common Property;

16.1.4 the use of roads, infrastructure, services amenities and facilities in the Common Property including the right to charge a reasonable fee for the use of the amenities and facilities;

16.1.5 the furtherance and promotion of any of the objectives of the Body Corporate and for the better management of the affairs of the Body Corporate and for the advancement and protection of the interests of the Members and residents.

16.2 For the enforcement of any rules or any of the provisions of the Constitution and/or this Management Rules,

generally the Trustees or the Management Company may:

16.2.1 give notice to the Member concerned to remedy any breach within such period as they may determine, which notice will include a request and provide timelines to the Member to supply the Trustees or Management Company with written or verbal representations stating his case;

16.2.2 take or cause to be taken such action as they deem fit to remedy the breach of which the Member concerned may be guilty and debit the cost thereof, which shall be a debt due to the Body Corporate, to his Levy account, and which shall be payable as part of his Levy on the first day of the following month, and

16.2.3 impose a fine on the Member concerned which amount shall be a debt due to the Body Corporate, shall be debited to his Levy account and shall be payable as part of his Levy on the first day of the following month.

16.3 Should the Trustees or Management Company institute legal proceedings against any Member or resident for the enforcement of any of the rights of the Body Corporate in terms hereof, the Body Corporate shall be entitled to recover all legal costs so incurred from the Member concerned, calculated as between attorney and own client, including tracing fees and collection commission

16.4 In the event of any breach of the rules or of any of the provisions of this Management Rules by any person residing on a Land Unit of a Member of an Body Corporate or his guests, employees, contractors, and sub-contractors or agents, such breach shall be deemed to have been committed by the Member himself; but without prejudice to the aforegoing, the Trustees or Management Company may take or cause to be taken such steps against the person actually committing the breach as they may in their discretion deem fit, in addition to any action which might be taken against the Member concerned.

16.5 Subject to any restrictions imposed or directions given at a GM of Members, the Trustees may (but shall not be obliged to) from time to time, make rules, and amend or modify those rules, in relation to, *inter alia,* the following–

16.5.1 the management and control of the Scheme;

16.5.2 the furtherance and promotion of any of the objectives of the Body Corporate including the promotion of better management of the affairs of the Body Corporate and the advancement of the interests of the Members;

16.5.3 the use, occupation and enjoyment of the Common Property (or any parts thereof);

16.5.4 the preservation of the natural environment within the Scheme;

16.5.5 the pedestrian and vehicular traffic including parking within the Scheme;

16.5.6 the conduct of any Owner, tenant, resident or visitor of the Scheme;

16.5.7 the nature, content and design of garden and landscaped areas within the Scheme;

16.5.8 the storage of flammable and other harmful substances;

16.5.9 the enforcement of any rules made in terms of this Management Rules and the adjudication of disputes relating to the application and/or interpretation of any rules;

16.5.10 the introduction of fines and other penalties that may be payable by any Member/Owner, tenant, resident or visitor for contravening or failing to comply with any of the provisions of this Management Rules or any rules and regulations made thereunder.

16.6 Any rules made in terms of this Clause 15 shall be binding upon-

16.6.1 every Member/Owner;

16.6.2 every resident within the Scheme, *mutatis mutandis,* and every Member/Owner shall procure that all its representatives, tenants, members of the household, visitors, invitees and other persons related to that Member comply with any rules made in terms of this Management Rules and every Owner acknowledges and agrees that it will be liable for any breach or non-compliance by any of its representatives, tenants, family members, visitors, invitees and other persons related to that Member.

## 17. APPROVAL OF PLANS FOR BUILDINGS AND STRUCTURES

During the Development Period, no construction or erection of any new improvements which falls outside of those improvements already approved in terms of the SDP including any additions or alterations to any existing structures on a Land Unit may commence before the approval of the plans in terms of the provisions of the Constitution, the A&D Guidelines, the Development Controls, the Governing Rules and all other related documents, measures and conditions imposed by the Developer, during the Development Period and thereafter by SCEMHOA and or the Local Authority, as the case may be.

## 18. TRUSTEES

18.1 There shall be a minimum of 3 (Three) and a maximum of 5 (Five) Trustees of the Body Corporate, provided that:

18.1.1 during the Development Period and at the first AGM, the Trustees shall be elected by the Members, provided that the Developer shall be entitled to appoint a percentage of the Trustees in terms of the provisions of Clause 23.2 of this Management Rules, and

18.1.2 after the Development Period, all the Trustees shall be elected by the Members.

18.2 A Trustee shall be an individual. A Trustee, by accepting his appointment to office, shall be deemed to have agreed to be bound by all the provisions of the Constitution and this Management Rules.

18.3 The Developer shall appoint the Chairperson of the Trustees during the Development Period and thereafter the Trustees shall appoint such a Chairperson.

18.4 The Chairperson of the Trustees shall act as the Chairperson of the AGM and other GM's of the Body Corporate. Should he not be able to do so for any reason, the Trustees shall appoint the Vice Chairman to act as Chairperson of the meeting.

18.5 A Trustee is required to:

18.5.1 perform the functions of office in good faith, honesty and in a transparent manner, and

18.5.2 at all times act in the best interests of the Body Corporate, and in such a way that the credibility and integrity of the Body Corporate and/or the Scheme is not compromised in any way.

18.6 No Member may be nominated to become a Trustee if his Land Unit or any improvements thereon do not comply with the Constitution, this Management Rules, the A&D Guidelines, Governing Rules or any other rules or regulations made or promulgated by the Body Corporate or SCEMHOA.

18.7 Each Trustee will also declare in writing to the other Trustees those respects in which, from time to time, his Land Units or any improvements thereon do not comply with the Constitution, Management Rules, the Governing Rules and the Conduct Rules and all other rules or regulations made or promulgated by the Developer, the Body Corporate or SCEMHOA.

18.8 Each Trustee must declare to the other Trustees any gifts, which he or his immediate family might be offered, or receive, from any business and or person involved or endeavouring to become involved, in any contract with financial gain with the Body Corporate.

18.9 A Trustee may not without the permission of the other Trustees, disclose any privileged or confidential information of the Body Corporate or any person not authorized or entitled to receive the same.

18.10 A Trustee may not, except through the Chairperson of the Trustees and or the Board:

18.10.1 interfere in the management or administration of the Estate, unless mandated by the Board;

18.10.2 give or purport to give any instruction to any employee other than the Management Company;

18.10.3 obstruct or attempt to obstruct the Management Company or any of the Estate office staff in the implementation of any decision or resolution of the Board, or

18.10.4 encourage or participate in any conduct which would cause or contribute to maladministration by the Board.

18.11 The Board may at any time and from time to time investigate and make a finding in respect of any alleged breach by a Trustee(s) of any of the provisions of the Constitution, this Management Rules, the Governing Rules, the Conduct Rules or any other rules or regulations made or promulgated by the Body Corporate or the Board, or establish a special committee to investigate and make appropriate recommendations to the Board in this respect.

18.12 Should the Board find that a Trustee has breached any provision of the Constitution, this Management Rules, the Governing Rules, the Conduct Rules or any of the rules or regulations aforesaid, the Board may:

18.12.1 issue a formal warning to the Trustee concerned;

18.12.2 reprimand the Trustee;

18.12.3 suspend the Trustee;

18.12.4 request the Trustee to resign, or

18.12.5 request the Body Corporate to remove the Trustee from the board of Trustees.

18.13 The Developer, during the Development Period, and thereafter, the Board may appoint a Professional Trustee to serve as a Trustee for a predetermined period of time, as and when the Board is of the opinion that the need for such a Professional Trustee has occurred. The Professional Trustee must be familiar with the operation and management of the Estate. The Professional Trustee may attend Trustee meetings but will only serve in an advisory capacity and will no voting rights whatsoever. The Developer, or the Board, as the case may be, must agree on the fee structure of the Professional Trustee prior to his appointment and is subject to the allowance for professional fees in the budget of the Body Corporate and the availability of such funds.

18.14 After the Development Period, a Member may only be elected as a Trustee if he has received formal training to enable to act as a Trustee. This qualification must be endorsed by the Management Company and must be submitted simultaneously with the nomination of the relevant Member prior to his anticipated election.

18.15 The Estate Manager may also, ipso, attend meetings of the Trustees, provided that the Estate Manager will have no voting rights whatsoever. The Estate Manager must furthermore be qualified to act as a Trustee and his qualification must be endorsed by the Management Company.

## 19. REMOVAL AND ROTATION OF TRUSTEES

19.1 Save as set out in Clause 18.2, each Trustee shall hold office as such from the date of his appointment until the next AGM following his appointment, or, at his discretion, until the second AGM following his appointment at which AGM each Trustee shall be deemed to have retired from Office, but shall be eligible for re-election as a Trustee.

19.2 A Trustee shall be deemed to have vacated his office as such:

19.2.1 should he become disqualified to act as a director of a company in terms of the Companies Act;

19.2.2 should he be removed from office by a resolution of the Trustees;

19.2.3 should his Estate be sequestrated whether provisionally or finally;

19.2.4 on his conviction of any offence involving dishonesty;

19.2.5 on the commission by him of any act of insolvency;

19.2.6 should he become of unsound mind or being found to be a lunatic;

19.2.7 on his resigning from such office in writing;

19.2.8 should he be removed from office by a resolution of the Board of the Developer, during the Development Period.

19.3 Upon any vacancy occurring in the Trustees prior to the next AGM, a person shall fill the vacancy in question nominated by those Trustees remaining, or by another Trustee nominated by the Developer if such shall occur during the Development Period.

19.4 The Trustees shall be entitled to co-opt any person chosen by them to act as a Trustee, subject always to the exclusive right of appointment and removal by the Developer during the Development Period.

## 20. TRUSTEES EXPENSES AND REMUNERATION

20.1 The Trustees shall be entitled to be repaid all reasonable *bona fide* expenses incurred by them in or about the performance of their duties as Trustees.

20.2 The Trustees shall be entitled to remuneration in respect of the performance of their duties as determined by the Body Corporate in a GM.

## 21. POWERS OF THE TRUSTEES

21.1 Subject to the provisions of the Constitution and this Management Rules, and subject to any limitations which may be imposed by the Body Corporate in a GM, the Trustees shall have full powers to perform the functions allocated to them in the Constitution and this Management Rules as provided for in Section 7(1) of the STSMA, and may exercise all such powers of the Body Corporate and do all acts on behalf of the Body Corporate as may be exercised and done by the Body Corporate itself with regard thereto.

21.2 The Trustees shall in consultation with the Management Company formulate a budget and a strategic plan and any amendments thereto for each Financial Year of the Body Corporate.

21.3 The Trustees shall further have the power:

21.3.1 to issue building and landscaping guidelines in respect of the Scheme and to ensure that same are complied with at all times, and

21.3.2 to vary, cancel or modify their decisions and resolutions from time to time;

21.3.3 must, as and when necessitated by circumstances or required by the Local Authority, make arrangements for the transfer of a Land Unit in the event that the Body Corporate or the SCEMHOA ceases to function as provided for in Section 62(1)(a)(ix) of the MPBL.

## 22. PROCEEDINGS OF TRUSTEES

22.1 The Trustees may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of this Management Rules.

22.2 The quorum necessary for the holding of all meetings of the Trustees, after the Development Period, shall be 2 (Two) Trustees present personally, and no meeting shall be held unless such quorum is present at the commencement of and for the duration of the meeting.

22.3 Any resolution of the Trustees shall be carried by a simple majority of all votes cast. In the case of an equality of votes for or against a resolution, the Chairperson of the Trustees shall have a second casting vote.

22.4 The Trustees shall cause minutes to be kept of every Trustees meeting, which minutes shall without undue delay after the meeting has closed, be reduced to writing and certified correct by the Chairperson. All minutes of Trustees meetings shall, after certification, be placed in a Trustees' minute book.

22.5 Any resolution signed by all the Trustees shall be valid in all respects as if it has been duly passed at a meeting of the Trustees.

## 23. MANAGEMENT COMPANY

23.1 The Developer shall be entitled (but not obliged, and at their own discretion) to manage or to appoint a single Management Company for the Estate and the Scheme, during the Development Period, which appointment shall be valid and binding on the Body Corporate during the Development Period and for a period of 10 (Ten) years after the termination of the Development Period. For the avoidance of doubt, it is recorded that only one Management Company may be appointed for the whole of the Estate (including the Body Corporate) irrespective of whether such appointment is made during the Development Period, or thereafter.

23.2 The Developer has the irrevocable power and authority to appoint the Management Company of the Estate, and as such, the Body Corporate, during the aforesaid period and to determine the terms and conditions of

such appointment.

23.3 Subject to the provisions of the Constitution and this Management Rules and the terms of its appointment, the Management Company shall have full power to manage and control the business and affairs of the Body Corporate or such portion thereof as may be determined by the Body Corporate in a GM, and may exercise all such powers of the Body Corporate and do all acts on behalf of the Body Corporate itself.

23.4 During the Development Period, the Developer will determine the fees or remuneration to be paid by the Body Corporate to the Management Company and the other terms and conditions of its appointment, which fees will be agreed upon by the parties to the relevant agreement, provided that fees thus payable must be allowed for in the budget of the Body Corporate.

23.5 After the Development Period and upon the termination of an appointment of the Management Company by the Developer in terms of Clause 22.1 of this Management Rules, or in the event that an existing Management Company's appointment is terminated, a successor Management Company shall from time to time be appointed by SCEMHOA who shall determine the fees or remuneration to be paid by the Body Corporate to such Management Company and all the other terms and conditions of their appointment, it being contemplated that at all times the affairs of the Body Corporate will be entrusted in whole or part to a professional Management Company with appropriate executive powers so as to conform to the requirements of good corporate governance.

23.6 The Developer, during the Development Period and thereafter the Board may enter into agreement with any third party for the provision of facilities or services to or for the Body Corporate, and may levy charges in respect of the provision thereof, or may pass on such costs direct to the Members. The Members will accordingly be bound by all agreements/appointments this done by the Developer and any agreements concluded by the Developer for the leasing or purchase of all equipment or infrastructural assets, or for the provision of security for the Estate or the Scheme, as the case may be, or for the provision of any other service or supplies for the Estate or the Scheme which the Developer may consider necessary in its discretion, even where such contracts or commitments include the payment of costs or outgoings on an ongoing basis. It is recorded that, without limitation, the Developer intends to conclude agreements for the maintenance of the landscaping and gardens, the hire or supply of electronic surveillance equipment, telephone and telecommunication services and monitoring and detection equipment for security purposes relating to the perimeter of the Estate and the Scheme.

## 24. MEETINGS OF THE BODY CORPORATE

24.1 Notwithstanding the provisions hereof, the Developer must convene the first AGM within 60 (Sixty) days after the establishment of the Body Corporate as more fully provided for in Section 2(8) of the STSMA. The Developer must, within 60 (Sixty) days after the first AGM, notify the Local Authority that the meeting was held and provide the Local Authority with a copy of the minutes of the meeting

24.2 Notwithstanding any of the provisions hereof, the Developer shall, during the Development Period, be entitled at any GM to:

24.2.1 Appoint a sufficient number of Trustees to ensure that the Developer has majority of such Trustees at all times, and

24.2.2 Act as the Chairperson.

24.3 After the Development Period, the following provisions shall apply:

24.3.1 The Body Corporate shall within 6 (Six) months after the end of its Financial Year hold a GM as its AGM in addition to any other GM's during that year, and shall specify the meeting as such in the notices of meeting.

24.3.2 GM's shall be held at such time and place as the Trustees shall decide from time to time.

24.3.3 All meetings including any AGM and the SGM, shall be called GM's.

24.3.4 The Trustees may, whenever they deem fit, convene a GM. A GM may also be convened by the Trustees on a requisition made by the Members.

## 25. NOTICES OF MEETINGS

25.1 An AGM or GM shall be called by not less than 14 (Fourteen) Clear Days' notice in writing. The notice of an

AGM shall be accompanied by a copy of the financial statements as referred to in Clauses 29.4 and 29.5 and shall be given to all Members and shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of the meeting. A meeting called by shorter notice shall be deemed to have been duly called if it so agreed by a simple majority of the Members having the right to attend and to vote at the meeting.

25.2 The accidental omission to give notice of any resolution or to transmit any document required to be given or sent in terms of this Management Rules, shall not invalidate the proceedings of any meeting or any resolution passed at any meeting. Furthermore, the non-receipt of notice of a meeting by any person entitled to receive such notice shall not invalidate the proceedings at that meeting.

25.3 The AGM shall deal with the consideration of the Management Company's report, the consideration of the annual financial statements, the election of Trustees, if applicable, the appointment of an Auditor and may deal with any other business included in the notice of meeting.

## 26. PROXIES

26.1 A Member may be represented at a GM by a proxy, who must himself be a Member of the Body Corporate.

26.2 To be effective at a GM or adjourned GM, a proxy together with the original or a notarially certified copy of a power of attorney or other authority under which it is signed must be lodged with the Management Company at least 48 (Forty-Eight) hours before the commencement of the GM or adjourned GM concerned but the Trustees may from time to time determine that such documents:

26.2.1 are to be lodged at a particular place

26.2.2 are to be lodged a certain number of hours, not exceeding 48 (Forty-Eight) in all, before the meeting

26.2.3 may be lodged at any time before or during the meeting. Notwithstanding the aforegoing the Chairperson of the meeting may agree to accept a proxy tendered at any time before or during the meeting.

26.3 A proxy will be valid for an indefinite period in relation to the GM for which it is given, unless it is stated on the proxy that it is only to be valid for a shorter period.

26.4 The instrument appointing a proxy shall be in such form that is acceptable to the Chairperson of the GM or adjourned GM in respect of which it is tendered and the decision of the Chairperson as to what is or is not acceptable will be binding on all the Members and shall be substantially in accordance with Form C attached to the Regulations promulgated in terms of the STSMA.

26.5 A proxy shall be valid for any adjournment of the GM to which it relates unless otherwise indicated on the proxy.

## 27. QUORUM

27.1 No business shall be transacted at a GM unless a quorum is present both when the GM proceeds to business and when any resolution is to be passed. Save as otherwise provided in this Management Rules 33.3% of the Members other than the Developer present in person, or by proxy, shall constitute a quorum provided that at least three Members are present in person at the commencement of and for the duration of such GM.

27.2 If within 15 (Fifteen) minutes after the time appointed for the commencement of a GM or within such extended period as the Chairperson may allow, a quorum is not present, the GM shall be dissolved if it was convened on requisition. In all other cases the GM shall stand adjourned to the same place at the same time on the same day of the next week or to such other place, time and day as the Chairperson may determine. If a quorum is not present as such adjourned GM, the Members present shall constitute a quorum.

## 28. ADJOURNMENT BY CHAIRPERSON

28.1 The Chairperson of a GM may adjourn the meeting from time to time and from place to place if the meeting approves of each adjournment by simple majority of all votes cast at the meeting. In the event of such an adjournment:

28.1.1 No notice need be given of the adjourned GM save for an announcement at the original GM of the date, time and venue of the adjourned GM, unless the GM is to be adjourned for thirty days or more in which event notice is to be given in the same manner as for the original GM;

28.1.2 Only business left uncompleted at the original GM may be transacted at the adjourned GM.

## 29. VOTING RIGHTS OF MEMBERS

29.1 Only Members shall be entitled to vote on matters raised at GM's.

29.2 At every GM:

29.2.1 each Member, present in person or by proxy and entitled to vote, shall have 1 (One) vote;

29.2.2 during the Development Period the Developer shall as a Member be entitled a veto vote in addition to its one vote, which may be exercised by the Developer if any decision is taken regarding to or in contravention of the Constitution, the Governing Rules, any amendments to these Management Rules and Conduct Rules.

29.3 Save as provided in this Management Rules, no person other than a Member duly registered and who shall have paid every Levy and other amount, if any, which may be due and payable to the Body Corporate in respect of or arising out of his membership, and who is not suspended, shall be entitled to be present or to vote on a matter, either personally or by proxy at any GM.

29.4 Voting at GM's shall take place by way of a show of hands unless on or before the declaration of the result of the show of hands a poll is demanded by the Chairperson. If a poll is demanded it shall be taken in such a manner as the Chairperson may direct.

29.5 Subject to the provision of this Management Rules, all resolutions shall be passed by Ordinary Resolution, excluding any Special Resolutions and/or Unanimous Resolution requited in terms of the Sectional Titles and/or the STSMA.

29.6 If any difficulty or dispute arises regarding the admission or rejection of a vote or regarding any other matter, such difficulty or dispute is to be determined by the Chairperson whether or not scrutinizers might have been appointed to count the votes, and his decision shall be final and conclusive.

29.7 A vote cast under a proxy, power of attorney, or other authority which has been revoked shall nevertheless be valid unless:

29.7.1 written notice of the revocation is received by the Body Corporate prior to the GM concerned, or

29.7.2 the Chairperson agrees to accept written or oral notice of such revocation at the GM.

29.8 No objection shall be raised to the admissibility of any vote except at the GM or adjournment GM at which the vote objected to is cast and every vote not disallowed at such GM shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairperson of the GM whose decision shall be final and conclusive.

29.9 A declaration made in good faith by the Chairperson of a GM to the effect that, either on a show of hands or on a poll, a resolution has or has not been passed shall be final and conclusive and the resolution shall be deemed to have been so passed or not passed.

29.10 Any resolution which could be passed at a GM, other than a Special Resolution or a resolution to remove a Trustee or Auditor, may be passed without a GM being held if one or more copies of the resolution are signed by or on behalf of a simple majority of all the Members entitled to vote at a GM.

## 30. ACCOUNTING RECORDS

30.1 The Trustees shall cause such accounting records to be kept as are necessary fairly to present the state of affairs and business of the Body Corporate and to explain the transactions and financial position of the trade or business of the Body Corporate.

30.2 The accounting records shall be kept at the registered Office of the Body Corporate or at such other place or places as the Trustees think fit, and shall be open to inspection by the Trustees at ail reasonable times during business hours.

30.3 The Trustees shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Body Corporate shall be open to inspection by Members not being Trustees and no Member, not being a Trustee, shall have any right of inspecting any

accounting records or documents of the Body Corporate except as may be authorised by the Trustees.

30.4 At each GM, the Trustees shall lay before the Body Corporate financial statements for the immediately preceding Financial Year of the Body Corporate or, in the case of the first period after the date of commencement of the Body Corporate, made up for that period. Such financial statements shall be drawn in accordance with generally accepted accounting practices, and shall be accompanied by such additional reports as may be necessary at the discretion of the Trustees

30.5 A copy of the financial statements which are to be laid before the Members in AGM shall, not less than 21 (twenty-one) days before the date of the meeting, be sent to every Member of the Body Corporate, provided that this Clause shall not require that a copy of those documents be sent to any person of whose address the Body Corporate is unaware.

30.6 The Board nominate the Auditors of the Body Corporate and the secretary of the Body Corporate from time to time, provided that for the duration of the Development Period, the Developer may nominate the Auditors and the secretary of the Body Corporate.

30.7 The Financial Year end of the Body Corporate shall be the last day of December of each year.

30.8 The Trustees shall cause proper books of account and records to be kept so as to fairly explain the transactions and financial position of the Body Corporate, which books of account and records shall include –

30.8.1 a record of the assets and liabilities of the Body Corporate;

30.8.2 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 occurred;

30.8.3 a register of Members showing, in each case, their addresses;

30.8.4 individual ledger accounts in respect of each Member; and

30.8.5 amounts due and payable to the CSOS.

30.9 The Trustees shall cause all books of account and records to be retained for a period of 6 (Six) years after completion of the transactions, acts or operations to which they relate.

30.10 Once at least in every year, the accounts of the Body Corporate shall be examined and the correctness of the income and expenditure account and balance sheet ascertained by the Auditors.

30.11 The duties of the Auditors shall be regulated in accordance with general practice and applicable professional standards applicable in the Republic of South Africa.

30.12 The Management Company must provide the Trustees with a monthly trial balance on the second business day of each and every consecutive month. The Trustees must consider each trial balance and must take appropriate action to manage the financial situation and cash-flow of the Body Corporate effectively.

30.13 The Body Corporate may, on the authority of a written Trustee resolution approach the CSOS for relief.

## 31. SERVICE OF NOTICE

31.1 Notices may be given by the Body Corporate to any Member either at the address indicated by him, or by sending it by post in a prepaid letter addressed to such Member at the address (if any) within the Republic of South Africa supplied by him to the Body Corporate for the giving of notices to him.

31.2 Notice of every GM shall be given:

31.2.1 to every Member of the Body Corporate;

31.2.2 to the Auditor for the time being of the Body Corporate;

31.2.3 to any Trustee not a Member of the Body Corporate;

31.3 No other person shall be entitled to receive a notice of GM's.

31.4 Any notice by post shall be deemed to have been served at the time when it was posted, and in proving the

giving of the notice by post, it shall be sufficient to prove that the notice was properly addressed and posted to the last known address of the Member.

31.5 The signature to any notice given by the Body Corporate may be written or printed, or partly written and party printed.

31.6 When a given number of days' notice or notice extending over any other period is required to be given, the day on which it is served or deemed to be served and the day for which it is given shall not be counted in such number of days or period.

31.7 A change of a body corporate service address is effective when written notice of that address is lodged with the CSOS in the prescribed form.

31.8 The Trustees must, when they give the CSOS notice of a change of the Body Corporate service address in terms of Section 3(1)(o) of the STSMA simultaneously give such written notice to all Members and other Occupants of Sections and to all registered bondholders.

## 32. INDEMNITY

32.1 The The Developer, the Trustees, the Professional Trustees, the Estate Manager, the Auditors and the Management Company, and each servant, agent or employee of the Body Corporate shall be and they are hereby indemnified by the Body Corporate against any liabilities *bona fide* incurred by them in their respective capacities in the proper discharge of any of their duties including, without limitation, the costs of defending any proceedings, civil, criminal or otherwise arising out of the due execution by them of their duties, and including all costs, losses and expenses, including traveling expenses which they or any of them may incur or becomes liable for by reason of any contract entered into, or any act or deed done, by them in the due discharge of any of their respective duties.

32.2 A Trustee, the Developer, Professional Trustee or the Estate Manager shall not be liable for the act or omission of the Management Company, Auditors or of any of the other Trustees whether in their capacity as such or as Chairperson, or for any loss or expense sustained or incurred by the Body Corporate through the insufficiency of deficiency of any security in or upon which monies of the Body Corporate are invested, or for loss or damage arising from the insolvency or wrongful act of any person with whom any monies, securities or effects are deposited, or for any loss or damage occasioned by any bona fide error of judgement or oversight on his part, of for any loss, damage or misfortune of whatsoever nature occurring in the execution of his duties in relation thereto, unless same shall have occurred as a result of mala fides, breach of duty or breach of trust.

32.3 The Developer and the Management Company is hereby irrevocably indemnified against any loss or any possible damages or claim for damages that the Body Corporate, Member, Sub-Member, Occupant, of any Land Unit may suffer as a result of any installation of any service or facility, including but not limited to the swimming pool, play equipment, gym equipment, irrigation dam, on the Estate or any act or conduct by the Developer in the exercising of the Development Rights, whether that such damage was caused by any willful of negligent act of the Developer.

32.4 Any person using any of the services, Common Property or any other facilities of the Body Corporate within the Estate or the Scheme, does so entirely at his own risk.

32.5 The right of admission to the Scheme is, during the Development Period, reserved in favour of the Developer and SCEMHOA and thereafter in favour of the Body Corporate.

## 33. CONDITIONS IMPOSED BY LOCAL AUTHORITY

33.1 During the Development Period, this Management Rules may from time to time be amended, without the need to be approved by the Body Corporate in GM, so as to comply with the requirements from time to time of the Local Authority in relation to the conditions of establishment for the Scheme or any subdivisions thereof.

33.2 The Developer and every Member must at all times, during and after the establishment of the Scheme, conform to the Development Controls.

## 34. DETERMINATION OF DISPUTES

34.1 Any disputes arising out of or in connection with the Management Rules must be determined in accordance with this Clause 33, except where an interdict is sought for urgent relief which may be obtained from a court of competent jurisdiction.

34.2 On a dispute arising (not moneys or a debt to the Body Corporate), the parties who wishes to have the dispute determined must notify the other party thereof. Unless the dispute is resolved amongst the parties to that dispute within 14 (Fourteen) days after such notice, either of the parties to the dispute may refer the same to determination in terms of the following provisions of this Clause 33.

34.3 Where a dispute or difference arises out of the application of these Management Rules, the Member and the Body Corporate shall use their best endeavours and efforts to resolve the matter through mutual consultation amongst themselves. If following the efforts by the parties to resolve the matter internally, the dispute shall remain unresolved and will be referred to the CSOS.

34.4 Notwithstanding anything to the contrary contained in this Management Rules, the Trustees shall be entitled to institute legal proceedings of whatsoever nature on behalf of the Body Corporate by way of application, action or otherwise in any court having jurisdiction for any purpose whatsoever relating to any matter in respect of any of the provisions of this Management Rules and any of its annexure, including any amendments of additions thereto.

## 35. AMENDMENT OF THE MANAGEMENT RULES AND RIGHTS AND OBLIGATIONS OF THE LOCAL AUTHORITY

35.1 Subject to the provisions of Section 10(5) of the STSMA and Clause 34.3 below, the Developer, during the Development Period, may without the approval of the Members of the Body Corporate, amend, substitute and repeal any provision of this Management Rules without the approval of the Local Authority. Any such amendments as contemplated herein will only be communicated by the Developer to the Management Company and the Developer will therefore not be obliged to communicate these changes to the Members.

35.2 No provision of this Management Rules shall be added to, amended, substituted or repealed without the prior written consent of the Developer for the duration of the Development Period.

35.3 The Trustees and or the Developer, during the Development Period, must lodge a notification of an amendment to the Management Rules referred to in Section 10(5) of the STSMA as soon as reasonably possible, but not later than 10 (Ten) days after the date of the relevant resolution of the Body Corporate, for approval in terms of the STSMA;

35.4 Subject to the provisions of Clauses 34.1 and 34.2 above, any such addition, amendment, substitution or repeal shall require the approval of at least an Unanimous Resolution at a GM specifically called for such purpose, and the notice of such meeting shall, in addition to complying with the other requirements of this Management Rules, set out in specific terms the proposed addition, amendment, substitution or matter to be repealed. Any provision in the best interest of the Scheme or the Members may never be deleted from this Management Rules.

35.5 Any reference herein to this Management Rules shall mean and include a reference to this Management Rules as may from time to time be amended in accordance with the provisions of Clauses 32 and 34 of this Management Rules.

35.6 Any amendment of this Management Rules, in terms of Clauses 32 or 34 of this Management Rules, will only become effective once certified by the Local Authority in terms of Sections 62 (2) and (4) of the MPBL and upon the issue of the certificate required in terms of Section 10(5) of the STSMA.

35.7 The certified copy of this Management Rules is deemed to be the Management Rules of the Body Corporate.

35.8 In terms of Section 62(7) of the MPBL, the Local Authority is exempted from liability for any damage which may be caused by its certification of this Management Rules or any amendment thereof or by a loss of the Management Rules lodged with the Local Authority.

35.9 If the Body Corporate fails to meet any financial obligation or if the Body Corporate fails to control and manage the Common Property, the services or amenities under the Body Corporate's control for the benefit of the Members, and the Local Authority believes that the Members are adversely affected by the failure, the Local Authority may take appropriate action to rectify the failure. The Local Authority may recover any expenditure in respect thereof from the Body Corporate or the Members, who are jointly liable. This expenditure will be considered as part of the Levies of Special Levies.

35.10 If the Body Corporate fails to meet any obligations in this Management Rules and the Local Authority believes that the community is adversely affected by the failure, the Local Authority may take appropriate action to rectify the failure. In this instance, the following terms and conditions will prevail:

35.10.1 The Local Authority may recover any expenditure in respect of the action contemplated above from the Body Corporate or its Members, who are jointly liable;

35.10.2 The amount of any expenditure so recovered will be considered to be expenditure incurred in connection with the Body Corporate for the purposes of recovering expenditure incurred in connection with the Body Corporate from its Members;

35.10.3 If the Body Corporate ceases to function effectively or to carry out its obligations, the Local Authority may give the Body Corporate a binding instruction to:

35.10.3.1 Hold a meeting and to reconstitute itself, or

35.10.3.2 Dissolve itself, subject to the amendment of the conditions of approval relating to an obligation to establish an owner's association and the removal of the relevant conditions in the title deeds of the Land Units.

35.11 In determining whether to act in terms of Clause 34.10.3.1 or 34.10.3.2 the Local Authority must have regard to:

35.11.1 The purpose of the Body Corporate;

35.11.2 The taking over of the maintenance of the internal engineering services, the services and other obligations which the Body Corporate is responsible for, if at all;

35.11.3 The costs of upgrading the internal engineering services, the services and other infrastructure of the Scheme in general;

35.11.4 The impact of the dissolution on the Members and the community in general;

35.11.5 Any written representations from the Body Corporate or its Members.

35.12 If the Body Corporate is dissolved, the Members must jointly pay the costs of:

35.12.1 The transfer to the Local Authority of the Common Property;

35.12.2 The upgrading of the internal engineering services to meet the required standards of the Local Authority.

35.13 If the Body Corporate ceased to function and an Owner wishes to transfer a Land Unit, the Owner must obtain the consent of at least 60% (Sixty) of the Members of the Body Corporate, which consent will be deemed to be the consent of the Body Corporate.

35.14 Irrespective of the provisions of this Clause 34, any aggrieved or interested party, as more fully listed in Section 16(1) of the STSMA, may enforce the provisions of Section 16 of the STSMA in which instance the provisions of Section 16 of the STSMA will apply to and may be enforced on the Body Corporate.

## 36. GENERAL

36.1 The Trustees or the Management Company or their employees, agents or contractors shall be entitled and shall have the right to enter any Land Units for the purpose of repairing, maintaining or installing any facilities, services, equipment or structures relating to the provision of security or any other service to the Scheme generally.

36.2 The provisions of this Management Rules shall be binding upon all Members and, insofar as they may be applicable to all persons occupying any Land Unit through or under any Member, whatsoever the nature of such occupation.

36.3 The Developer may at any time in writing, cede and assign all or any of its rights or obligations in terms of this Management Rules to any transferee of its choice and such transferee shall be entitled to take transfer of all such rights and obligations.

36.4 The Developer may, at any time in writing, abandon in whole or in part, any of its rights.

36.5 The Developer, during the Development Period, and thereafter, the Board, may appoint only 1 (One) service provider for the provision of any kind of service or product to the Scheme, the Members, Owner or Occupant.

The Body Corporate and the Members, Owners and/or Occupants will be bound by such appoint being made. This condition will be binding and of full force and effect on all appointments to be made or agreements to be concluded with such service provider, as may be provided for in the Constitution, or in the discretion of the Developer during the Development Period, and the Board, after the Development Period.

36.6 All the Land Units are subject to the servitudes as mentioned in the Title Deed of the Land, the Sectional Title Plan in respect of each phase of the Scheme and all servitudes as may have been imposed by the Local Authority and or during the Development Period, by the Developer. All of the above servitudes includes the unrestricted right of access over any Land Unit in favour of the holder of any servitude.

36.7 Members may only sell or rent their respective Land Units in accordance with and subject to Clauses 43 and 44 of the Constitution.

## 37. GAS INSTALLION – CERTIFICATE OF CONFORMITY

In the event of their being a gas installation on any Land Unit, the Owner shall at his costs be obliged to obtain a certificate of conformity in respect of such installation as is required by the Occupational Health and Safety Act, No 85 of 1993, Regulation 17(3) of the Pressure Equipment Regulations of 2009. The Body Corporate and/or its agents will have reasonable access to any Land Unit for the purposes of inspection of such gas installation. Should any repairs be required by the Body Corporate or its agent to the gas installation, such repairs will be for the costs of the Owner. It is recorded that the Owner must supply The Board with the required Certificate of Conformity, once every year. No gas installation in excess of 7 (seven) kilograms may be installed on any Land Unit without the prior written consent of The Board.

## 38. AGREEMENTS CONCLUDED ON BEHALF OF THE BODY CORPORATE

38.1 It is recorded that the Developer will be allowed to enter into agreements and appoint any service provider on behalf of the Body Corporate for a period, to be in a discretion of the Developer, which agreements and/or appointments will be effective on the Body Corporate and its Members before or after the Development Period, provided that such service provider fulfill all its obligations and all the other terms and conditions of the agreement thus concluded. It is recorded that the agreements thus concluded, includes the Management Company, the Security Company, a garden services company, the Telecom Company and Electrical and Water Metering Companies, but not limiting any further agreements or appointments by the Developer.

38.2 SCEMHOA may, after the Development Period, enter into agreements with any third party for the provision of facilities or services to or for the Members, and may levy charges in respect of the provision thereof, or may pass on such costs direct to the Members.

38.3 The Members will be bound by all agreements/appointments concluded by the Developer for the leasing or purchase of all equipment or infrastructural assets, or for the provision of security for the Estate/Scheme, or for the provision of any other service or supplies for the Estate/Scheme which the Developer may consider necessary in its discretion, even where such agreements/appointments or commitments include the payment of costs or outgoings on an ongoing basis. It is recorded, without limitation, that the Developer intend to conclude agreements for the hire or supply of electronic surveillance, monitoring and detection equipment for security purposes relating to the perimeter of the Estate/Scheme.

38.4 The Developer, during the Development Period, and thereafter, the Board, may appoint only 1 (One) single service provider for the provision of any kind of service or product to the Estate, the Members, the Body Corporate or Occupant. The Members, the Body Corporate and/or Occupants will be bound by such appoint being made. This condition will be binding and of full force and effect on all appointments to be made or agreements to be concluded with such service provider, as may be provided for in the Constitution, or in the discretion of the Developer during the Development Period, and the Board, after the Development Period.

## 39. BREACH AND PENALTIES

39.1 Any Owner or Occupant contravening any of the terms and conditions of the Constitution, this Management Rules, the Conduct Rules and/or the Governing Rules, may receive a written warning from the Board, the Trustees or the Management Company, as well as a penalty, the amount to be determined in terms of the Governing Rules by the Board, from time to time, for each infringement. Should the trespasser be a guest of an inhabitant, the Board and the Trustees reserves the right to act in terms of this rule against such inhabitant, who shall be liable for the behavior of his guest. This reservation does not impinge on any other rights of the Board or the Trustees or any others rights which the Board or the Trustees may have against any such trespasser or inhabitant.

39.2 Each penalty may be levied against the Owners Levy account for each infringement and each Owner will be

liable to pay such amount promptly.

39.3 For the enforcement of the Constitution, the Governing Rules, the Conduct Rules or any of the provisions of this Management Rules generally, the Board, Trustees or the Management Company may:

39.3.1 give notice to the Member concerned to remedy any breach within such period as they may determine;

39.3.2 take or cause to be taken such action as they deem fit to remedy the breach of which the Member or Occupant concerned may be guilty and debit the cost thereof, which shall be a debt due to the Body Corporate or SCEMHOA, as the case may be, to his Levy account, and which shall be payable as part of his Levy on the first day of the following month, and

39.3.3 impose a fine on the Member or Occupant concerned which amount shall be a debt due to the Body Corporate or SCEMHOA, as the case may be, shall be debited to his Levy account and shall be payable as part of his Levy on the first day of the following month.

39.4 Should the Board, the Trustees or Management Company institute legal proceedings against any Member or Occupant for the enforcement of any of the rights of the Body Corporate and SCEMHOA in terms hereof, the Body Corporate and SCEMHOA shall be entitled to recover all legal costs so incurred from the Member, Owner or Occupant concerned, calculated as between attorney and own client, including tracing fees and collection commission.

39.5 In the event of any breach of the Constitution, the Governing Rules, the Conduct Rules or of any of the provisions of this Management Rules by any person residing on a Land Unit of Member or his guests, employees, contractors, and sub-contractors or agents, such breach shall be deemed to have been committed by the Member himself; but without prejudice to the foregoing, the Board, the Trustees or Management Company may take or cause to be taken such steps against the person actually committing the breach as they may in their discretion deem fit, in addition to any action which might be taken against the Member concerned.

39.6 Whenever the Board, the Trustees, the ARC or the Management Company consider that the appearance of any Land Unit or buildings owned by a Member is such as to be unsightly or injurious to the amenities of the surrounding area or the Estate/Scheme generally, the Board, the Trustees or the Management Company may serve notice on such Member to take such steps as may be specified in the notice to eliminate such unsightly or injurious condition. Should the Member fail within a reasonable time, as specified in such notice, to comply therewith, the Board, the Trustees or Management Company or their employees, agents or contractors may enter upon the Land Unit or buildings concerned and take such steps as may be necessary and recover the costs thereof from the Member concerned, which costs shall be deemed to be a debt owing by that Member to the Body Corporate or SCEMHOA, as the case may be. The Board, the Trustees or the Management Company shall be obliged in giving such notice to act reasonably. In the event of any dispute, the Member shall bear the onus of establishing that the Board, the Trustees or the Management Company acted unreasonably.

39.7 If a Member fails to comply with any obligation contained in this Clause 38, the Developer, for the duration of the Development Period, and thereafter, the Board or the Trustees, shall be entitled, but not obliged, in addition to any other rights which they may have or remedies which may be available to them in terms of the Constitution or in terms of this Management Rules or otherwise in law, to –

39.7.1 impose a daily financial penalty, the amount of which shall be determined from time to time by the Developer, the Trustees or the Board (as the case may be), on notice to the Owner, should the Owner fail to comply with any obligations contained in this Clause 38; and

39.7.2 enter upon any Land Unit in order to inspect that Land Unit and any improvements constructed thereon; and

39.7.3 The Owner will be liable and obligated to perform all such work and required actions, irrespective of whether his Levies or Special Levies are paid up to date, or not.

## 40. MAINTENANCE, REPAIR AND REPLACEMENT PLAN

40.1 The Body Corporate or Trustees must prepare a written maintenance, repair and replacement plan for the Common Property, setting out:

40.1.1 the Major Capital Items expected to require maintenance, repair and replacement within the next 10 (Ten) years;

40.1.2 the present condition or state of repair of those items;

40.1.3 the time when those items or components of those items will need to be maintained, repaired or replaced;

40.1.4 the Estimated Cost of the maintenance, repair and replacement of those items or components;

40.1.5 the Expected Life of those items or components once maintained, repaired or replaced; and

40.1.6 any other information the Body Corporate considers relevant.

40.2 The annual contribution to the Reserve Fund for the maintenance, repair or replacement of each of the Major Capital Items must be determined according to the following formula: Estimated Cost minus Past Contribution divided by Expected Life.

40.3 A maintenance, repair and replacement plan takes effect on its approval by the Members in a GM; provided that on approval of such a plan, Members may lay down conditions for the payment of money from the Reserve Fund.

40.4 The Trustees must report the extent to which the approved maintenance, repair and replacement plan has been implemented to each AGM.

## 41. INSURANCE

41.1 The insurance policies of the Body Corporate in terms of Sections 3(1)(h) and (i) of the STSMA:

41.1.1 must provide cover against:

41.1.1.1 risks referred to in Regulation 3 of the STSMA;

41.1.1.2 risks that Members resolve must be covered by insurance; and

41.1.1.3 risks that holders of registered first mortgage bonds over not less than 25% (Twenty-Five) in number of the Sections by written notice to the Body Corporate may require to be covered by insurance;

41.1.2 must specify a replacement value for each Section and Exclusive Use Area, excluding the Member's interest in the Land included in the Scheme; provided that any Member may at any time by written notice to the Body Corporate require that the replacement value specified for that Member's Section or Exclusive Use Area be increased;

41.1.3 must restrict the application of any "average" clause to individual Sections and Exclusive Use Areas, so that no such clause applies to the buildings as a whole;

41.1.4 must include a clause in terms of which the policy is valid and enforceable by any holder of a registered mortgage bond over a Section or Exclusive Use Area 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 terminates the insurance on at least 30 (Thirty) days' notice to the bondholder; and

41.1.5 may include provision for "excess" amounts.

41.2 A Member is responsible -

41.2.1 for payment of any additional premium payable on account of an increase in the replacement value referred to in Clause 40.1.2;

41.2.2 for any excess amount that relates to damage to any part of the buildings that Member is obliged to repair and maintain in terms of the STSMA or these Management Rules, and must furnish the Body Corporate with written proof from the insurer of payment of that amount within 7 (Seven) days of written request.

41.3 The Body corporate must obtain a replacement valuation of all buildings and improvements that it must insure at least every 3 (Three) years and present such replacement valuation to the AGM.

41.4 The Body corporate must prepare for each AGM schedules showing estimates of:

41.4.1 the replacement value of the buildings and all improvements to the Common Property; and

41.4.2 the replacement value of each Section, excluding the Member's interest in the Land included in the Scheme, the total of such values of all Sections being equal to the value referred to in Clause 40.4.1.

41.5 On written request by any registered bondholder and the furnishing of satisfactory proof, the Body Corporate must record the cession to that bondholder of that Member's interest in any of the proceeds of the insurance policies of the Body Corporate.

41.6 The Body Corporate must take out public liability insurance to cover the risk of any liability it may incur to pay compensation in respect of:

41.6.1 any bodily injury to or death or illness of a person on or in connection with the Common Property; and

41.6.2 any damage to or loss of property that is sustained as a result of an occurrence or happening in connection with the Common Property,

for an amount determined by members in general meeting, but not less than R10 000 000.00 (Ten Million Rand) or any such higher amount as may be prescribed by the Minister in any one claim and in total for any one period of insurance.

41.7 The Body Corporate must take out insurance for an amount determined by Members in GM to cover the risk of loss of funds belonging to the Body Corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by a Trustee, Management Company, employee or other agent of the Body Corporate.

41.8 The Body Corporate, authorized by a special resolution of Members, may insure any additional insurable interest the Body Corporate has:

41.8.1 in the Land and buildings included in the Scheme; and

41.8.2 relating to the performance of its functions, for an amount determined in that resolution.

## 42. ADMINISTRATIVE AND RESERVE FUNDS

42.1 The administrative fund referred to in Section 3(1)(a) of the STSMA must be used to fund the operating expenses of the Body Corporate for a particular financial year.

42.2 The Reserve Fund maintained in terms of Section 3(1)(b) of the STSMA must be used for the implementation of the maintenance, repair and replacement plan of the Body Corporate referred to in Clause 41.

42.3 The following amounts must be paid into the Reserve Fund:

42.3.1 any part of the Levies designated as being for the purpose of reserves or the maintenance, repair and replacement plan;

42.3.2 any amounts received under an insurance policy in respect of damage or destruction of property for which the Body Corporate is responsible;

42.3.3 any interest earned on the investment of the money in the Reserve Fund;

42.3.4 any other amounts determined by the Body Corporate,

and all other Body Corporate income must be paid into the administrative fund.

42.4 Money may be paid out of the administrative fund in accordance with Trustee resolutions and the approved budget for the administrative fund.

42.5 Money may be paid out of the Reserve Fund:

42.5.1 at any time in accordance with trustee resolutions and the approved maintenance, repair and replacement plan; or

42.5.2 if the Trustees resolve that such a payment is necessary for the purpose of an urgent maintenance, repair or replacement expense, which purpose includes, without limitation:

42.5.2.1 to comply with an order of a court or an Adjudicator;

42.5.2.2 to repair, maintain or replace any property for which the Body Corporate is responsible where there are reasonable grounds to believe that an immediate expenditure is necessary to ensure safety or prevent significant loss or damage to persons or property;

42.5.2.3 to repair any property for which the Body Corporate is responsible where the need for the repairs could not have been reasonably foreseen in preparing the maintenance, repair and replacement plan; or

42.5.2.4 to enable the Body Corporate to obtain adequate insurance for property that the Body Corporate is required to insure;

provided that the Trustees must report to the Members on any such expenditure as soon as possible after it is made.

42.6 Expenditure under Clause 41.5.2:

42.6.1 must not exceed:

42.6.1.1 the amount necessary for the purpose for which it is expended; or

42.6.1.2 any limitation imposed by the Body Corporate on expenditure; and

42.6.2 must comply with any restrictions imposed or directions given by Members.

## 43. GOVERNANCE DOCUMENTS AND RECORDS

43.1 The Body corporate must:

43.1.1 lodge a notification of an amendment to the Management Rules referred to in Section 10(5) of the STSMA as soon as reasonably possible, but not later than 10 (Ten) days after the date of the relevant resolution of the Body Corporate; and

43.1.2 compile and keep a complete set of all Management Rules including:

43.1.2.1 an index; and

43.1.2.2 a prominent reference to any Management Rules that confer Exclusive Use Rights, vary the effects of the Participation Quotas in regard to the value of votes or the liability for contributions, or impose either a financial or a maintenance obligation on Members;

43.1.3 prepare a consolidated set of Management Rules whenever they are amended.

43.2 The Body Corporate must prepare and update the following records:

43.2.1 minutes of GM and Trustee meetings, including the following information:

43.2.1.1 the date, time and place of the meeting;

43.2.1.2 the names and role of the persons present, including details of the authorization of proxies or other representative;

43.2.1.3 the text of all resolutions; and

43.2.1.4 the results of the voting on all motions;

43.2.2 lists of Trustees, Members and Occupants with their:

43.2.2.1 full names;

43.2.2.2 identity numbers or, in the case of non-South African citizens, their passport numbers;

and

43.2.2.3 Section addresses and mailing addresses, if different;

43.2.2.4 telephone numbers; and

43.2.2.5 email or other electronic addresses, if any;

43.2.3 lists of:

43.2.3.1 Sections shown on the Sectional Plan, indicating in each case whether it is a residential Section, its Participation Quota and the name of the Member in whose name it is registered;

43.2.3.2 Exclusive Use Areas with descriptions of purposes and numbers, if any, indicating whether the rights to each area are conferred in terms of Sections 10 (7) and (8) of the STSMA, or in terms of a Management Rules, and a reference to the relevant rule where applicable; and

43.2.3.3 registered bondholders with their names and addresses;

43.2.4 details of all future development rights including:

43.2.4.1 names and addresses of all registered holders of such rights; and

43.2.4.2 copies of all documentation prepared in terms of Section 25(2) of the Sectional Titles Act for any such right; and

43.2.5 any other records required by the regulations.

43.3 The Body Corporate may obtain and keep copies of all of the following:

43.3.1 The registered Sectional Plan and any registered amending Sectional Plan;

43.3.2 the STSMA and the regulations;

43.3.3 resolutions that deal with changes to the Common Property, including the conferring of Exclusive Use Rights on Members;

43.3.4 consents and approvals given by the Body Corporate to Members;

43.3.5 waivers and consents given by Members;

43.3.6 written contracts to which the Body Corporate is a party;

43.3.7 any decision of an Adjudicator, arbitrator, magistrate or judge in a proceeding in which the Body Corporate is a party, and any legal opinions obtained by the Body Corporate;

43.3.8 the budget and financial statement for the current year and previous years;

43.3.9 income tax returns;

43.3.10 insurance policies, endorsement and claim forms;

43.3.11 correspondence sent or received by the Body Corporate and Trustees; and

43.3.12 any other records required by the regulations.

43.4 On receiving a written request, the Body Corporate must make the records and documents referred to in this clause available for inspection by, and provide copies of them to:

43.4.1 a Member;

43.4.2 a registered bondholder; or

43.4.3 a person authorized in writing by a Member or registered bondholder.

43.5 The Body Corporate must comply with a request for inspection or copying under this clause within 10 (Ten) days unless the request is in respect of the Management Rules, in which case the Body Corporate must comply with the request within 5 (Five) days.

43.6 The Body Corporate may charge a fee for a copy of a record or document other than the Management Rules, provided that the fee is not more than the reasonable cost associated with the process of making the copy, and the Body Corporate may refuse to supply the copy until the fee is paid.

43.7 The records referred to in this clause must be in writing or in a form that can be easily converted to writing.

## 44. OBLIGATION TO MAINTAIN

44.1 Notwithstanding that a water-heating installation forms part of the Common Property and is insured by the Body Corporate, a Member must maintain, repair and, when necessary, replace such an installation which serves that Member's Section or Exclusive Use Area; provided that where such an installation serves Sections owned or Exclusive Use Areas held by more than one Member, the Members concerned must share the maintenance, repair and replacement costs on a pro-rata basis.

44.2 If despite written demand by the Body Corporate, a Member refuses or fails to:

44.2.1 carry out work in respect of that Member's Section ordered by a competent authority as required by section 13(1)(b) of the STSMA; or

44.2.2 repair or maintain a Section owned by that Member in a state of good repair as required by Section 13(1)(c) of the STSMA;

and that failure threatens the stability of the Common Property, the safety of the building or otherwise materially prejudices the interests of the Body Corporate, its Members or the Occupants of Sections generally, the Body Corporate must remedy the Member's failure and recover the reasonable cost of doing so from that Member; provided that in the case of an emergency, no demand or notice need be given to the Member concerned.