

**THE BODY CORPORATE OF THE
SOMERSET GARDENS SECTIONAL TITLE SCHEME**

SS No. 390/2006

CONDUCT RULES

(in terms of section 35(2)(b) of the Sectional Titles Act, No 95 of 1986)

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1. PRELIMINARY

These rules shall not be added to, amended or repealed except in accordance with section 35(2)(b) of the Act, and subject to the provisions of section 35(3) and (5) of the Act.

2. BINDING NATURE OF THESE RULES

The provisions of these rules, the management rules, the provisions of the Act and the duties of an owner in relation to the use and occupation of his section and the common property shall be binding on the owner and the occupiers of his section, and on the invitees of the owner or the occupiers of his section. It shall be the duty of the owner of a section to ensure compliance with these rules, the management rules, and the provisions of the Act by the occupiers of his section, and by the invitees of the owner or the occupiers of his section.

3. INTERPRETATION

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

- 3.1 'Act' means the Sectional Titles Act, 1986 (Act 95 of 1986), as amended from time to time and any regulations made and in force thereunder, and subsequent to the date of its coming into effect, the Sectional Titles Schemes Management Act, 2011 (Act 8 of 2011) as amended from time to time, and any regulations made and in force thereunder. Any reference to a section of the Act herein shall, subsequent to said date, be deemed to be a reference to a corresponding section in the latter act.
- 3.2 'apartment' means a section in the scheme comprising a flat.
- 3.3 'assisted living unit' means a section in the scheme which entitles the owner to assistance from the Health Care Provider.
- 3.4 'all alterations' means the alterations to, attachments, additions and devices to the common property and/or to the exterior of a building and structural alterations in terms of conduct rule 10.
- 3.5 'body corporate' means the body corporate of the Somerset Gardens sectional title scheme, SS No. 390/2006, also known as 'Helderberg Manor'.
- 3.6 'building' means a building in the scheme.
- 3.7 'common property', in relation to the scheme, means the land included in the scheme and such parts of the building or buildings as are not included in a section.
- 3.8 'contractor' means any artisan, builder, electrician, plumber or other person appointed by or on behalf of an owner or occupier to perform work to his section and/or the common property, including the employees and/or sub-contractors of the contractor.
- 3.9 'directives' means any directives which may be issued by the trustees in terms of these rules.
- 3.10 'exclusive use area' means a part or parts of the common property for the exclusive use by the owner or owners of one or more sections.

- 3.11 'Guidelines' means the architectural- and building guidelines referred to in conduct rule 4, as may be prepared by the trustees.
- 3.12 'Health Care' means the health care centre to be provided by the developer of 46 beds and 25 assisted living suites.
- 3.13 'heavy axle' means an axle the wheels of which are fitted with tyres of a size (bead seat diameter) greater than 406,4 millimetres (16 inches), or an axle with more than two (2) wheels irrespective of tyre size, but excluding any axle of a motorcycle, a motor tricycle or a motor car.
- 3.14 'heavy vehicle' means a motor vehicle with at least one heavy axle and/or any vehicle which is principally designed or adapted for the conveyance of persons exceeding sixteen (16) in number.
- 3.15 'house' means a section in the scheme comprising a house or a cottage.
- 3.16 'invitees' means the family members, guests, visitors, contractors, service providers or other invitees of an owner or occupier.
- 3.17 'local authority' means the City of Cape Town and its successors in title or assigns.
- 3.18 'motor car' means a motor vehicle, other than a motorcycle or a motor tricycle, designed or adapted solely or principally for the conveyance of persons not exceeding sixteen (16) in number, but excluding any vehicle with an axle with more than two (2) wheels irrespective of tyre size.
- 3.19 'motorcycle' means a motor vehicle that has two wheels and includes any such vehicle having a side-car attached thereto.
- 3.20 'motor tricycle' means a motor vehicle, other than a motorcycle with a side-car, which has three wheels and which is designed to be driven by means of the type of controls usually fitted to a motorcycle.
- 3.21 'motor vehicle' means an entity comprising of one or more mechanically/electrically powered units with or without any trailer(s) physically joined by means of tow bars, tow ropes or mechanical articulation, and includes, inter alia a motorcycle, a motor tricycle, a motor car, a golf cart, a vehicle which has pedals and a mechanically/electrically powered unit as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of either such pedals or such mechanical/electrical unit or both; and a light delivery vehicle (a bakkie).
- 3.22 'nuisance' means any conduct, act, omission or condition which, in the opinion of the trustees, is offensive, injurious or dangerous to health, materially interferes with the ordinary comfort, convenience, peace or quiet of, or which adversely affects the safety of an owner or occupier, having regard to the reasonableness of the activities in question in the section or on the common property and the impact which result from these activities, and the noise related to these activities.

- 3.23 'occupier' means the tenant or other occupier of a section.
- 3.24 'owner' means the owner of a section.
- 3.25 'renovations' means refurbishment of the interior of a section, including the replacement, removal or creation of internal fittings such as kitchen- and other cupboards, sanitary ware and floor coverings and the amendment or replacement of any gas installation.
- 3.26 'retired person' means a person who is 50 years or older.
- 3.27 'section' means a section shown as such on the sectional plans of the body corporate.
- 3.28 'structural alteration' means an alteration which is of a permanent nature and which alters the form, structure or essential framework of a building on the inside or outside thereof, and the following shall be regarded as a structural alteration:
- 3.28.1 the removal, reconstruction and/or construction of a floor (concrete slab), wall or ceiling of a section or a part of such floor (concrete slab), wall or ceiling, including the drilling into of any concrete slab;
 - 3.28.2 alterations to the pipes, wires, cables and ducts in respect of a section and/or the common property;
 - 3.28.3 the removal, reconstruction and/or construction of a building or building improvement in respect of a section and/or the common property;
 - 3.28.4 the enclosing or partial enclosing of a patio, stoep or balcony;
 - 3.28.5 the extension of the boundaries or floor area of a section;
 - 3.28.6 the subdivision of a section;
 - 3.28.7 the destruction of a section or a part thereof; and
 - 3.28.8 the consolidation of two or more sections.
- 3.29 'Village' means the Somerset Gardens Sectional Title Scheme, No. SS390/2006 including the further extensions of the scheme, registered in the Deeds Registry, Cape Town from time to time, also known as 'Helderberg Manor';
- 3.30 'worker' means the domestic worker, gardener or other employee of an owner or occupier.
- 3.31 'these rules' means these conduct rules.
- 3.32 the headings to the respective rules are provided for convenience of reference only and are not to be taken into account in the interpretation of these rules.
- 3.33 words and expressions to which a meaning has been assigned in the Act, the management rules and/or these rules shall bear the meaning so assigned to them.

3.34 words importing:

3.34.1 the singular number only shall include the plural, and the converse shall also apply;

3.34.2 the masculine gender shall include the feminine and neuter genders; and the neuter gender shall include the masculine and feminine genders;

3.34.3 a reference to natural persons shall also include partnerships, trusts and juristic persons and the converse shall also apply.

3.35 when any number of days is prescribed in these rules, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or proclaimed public holiday.

3.36 if any provision in a definition in these rules is a substantive provision conferring rights or imposing obligations on any of the owners or occupiers then, notwithstanding that it is only in the definition clause of these rules, effect shall be given to it as if it were a substantive provision in the body of these rules.

4. DIRECTIVES AND GUIDELINES

4.1 The trustees may from time to time issue directives in terms of these rules to disclose further information with reference to these rules and the practical application of the rules. The directives may contain conditions imposed by the trustees in terms of these rules, application forms prescribed by the trustees in respect of these rules, amounts of penalties determined by the trustees in terms of these rules and any other information which the trustees want to disclose to the owners and occupiers with reference to these rules.

4.2 The trustees may compile Guidelines for the body corporate to control the design and appearance of buildings, building improvements and structures on the common property and alterations, devices, additions and attachments to the common property or to the exterior of the building in terms of conduct rule 10. The Guidelines may contain the application forms prescribed by the trustees and conditions imposed by the trustees. The Guidelines may be amended from time to time by the trustees, subject to any directions given or restrictions imposed by the members of the body corporate at a general meeting. Owners shall comply with the provisions of these rules and the Guidelines with regard to all alterations in terms of these rules.

5. ANIMALS, REPTILES AND BIRDS (PETS)

5.1 Pets are not permitted in the Assisted Living Units or within the Frail Care facility.

5.2 An owner or occupier shall not, without the prior written consent of the trustees, which approval may not unreasonably be withheld, keep any animal, reptile or bird in a section or on the common property, provided that:

5.2.1 the number of dogs or cats shall be limited to one dog or one cat per house or apartment; and

- 5.2.2 the written consent of the trustees must be obtained by an owner or occupier, prior to taking up residence in the section or, where applicable, prior to bringing the animal, reptile or bird into the Village.
- 5.3 To obtain the consent of the trustees in terms of sub-rule 5.2, an owner or occupier must apply to the trustees in writing and the application must be accompanied by the documents and information required by the trustees. The trustees shall consider each application upon the merits thereof.
- 5.4 When granting their consent in terms of sub-rule 5.2 above, the trustees may prescribe any reasonable conditions. The trustees may from time to time prescribe further reasonable conditions pertaining to the keeping of pets, provided that they should do so in writing in their directives.
- 5.5 The following requirements shall be regarded as conditions imposed by the trustees under sub-rule 5.4, without detracting from the trustees' discretion to impose further conditions:
- 5.5.1 All dogs and cats shall be spayed or neutered prior to arrival in the Village, and a certificate to that effect must accompany the application referred to in sub-rule 5.3 above;
- 5.5.2 Dogs and cats must wear bands and tags as prescribed by the trustees, to identify them;
- 5.5.3 A dog must be contained within the section and/or the exclusive use area of the owner or occupier and for this purpose an owner may be required to erect a fence of a design and in a position approved by the trustees, in order to prevent the dog from wandering onto the common property;
- 5.5.4 Dogs shall only be allowed on the common property if controlled on a leash or harness and provided that persons walking their dogs must be carrying a poop scoop and/or plastic bag in full view;
- 5.5.5 Owners and occupiers must remove their dog's excrement from the common property and suitably discard it, failing which the trustees may effect such removal at the cost of the applicable dog owner, and/or impose a fine;
- 5.5.6 Unless being walked on a leash, cats must be contained within the sections and/or the exclusive use areas and the cat owner must provide a box with cat litter;
- 5.5.7 No pet may be replaced upon its death, without the prior written consent of the trustees in terms of sub-rule 5.2;
- 5.5.8 Owners and occupiers shall be responsible for the care of their pets and for the behaviour of their pets and to ensure that their pets do not make a noise or become a nuisance to other owners or occupiers;
- 5.5.9 Owners and occupiers shall ensure that their animals do not cause any injury or harm to any person or animal on the premises or damage to

property and in the event of injury or damage, the pet owner will be liable for the medical expenses and/or costs and damages;

- 5.5.10 If the owner or occupier is absent from the Village for more than one day, suitable arrangements must be made to house and care for the pet/s either in the Village or off site and if the pet/s is to be temporarily housed in the Village, prior permission must be obtained from the trustees. The trustees must be informed in advance if a "pet minder" is to be employed to look after a pet during the pet owner's absence from the Village. "Pet-minders" will not be allowed to reside in the Village.
- 5.6 The trustees may withdraw their approval in the event of breach of any condition imposed in terms of sub-rule 5.4 or referred to in sub-rule 5.5 or if in the opinion of the person in charge of the Village nursing staff, the owner or occupier is no longer capable of caring for their pets.
- 5.7 When withdrawing their approval in terms of sub-rule 5.6 above, the trustees shall inform the owner or occupier by written notice and request the owner or occupier to remove the pet from the section and the Village within a period of thirty days from the date of the written notice, failing which the trustees may institute further proceedings against the owner or occupier.
- 5.8 With the exception of dogs, visitors or guests are not allowed to bring any animals, reptiles or birds onto the premises. The owner of the section being visited is responsible for ensuring that the guest/visitor bringing a dog onto the premises complies with all the relevant requirements of this rule 5, in particular sub-rules 5.5.4, 5.5.5 and 5.5.9.
- 5.9 No aviaries, kennels or other like accommodation for pets, other than normal commercially obtainable portable bird/parrot cages, may be sited at any place where they may be in view from any portion of the common property or the adjoining sections.
- 5.10 The feeding of squirrels, guinea-fowls, geese and pigeons is prohibited on the common property.
- 5.11 An owner, occupier, guest or visitor suffering from a disability and who reasonably requires a guide, hearing or assistance dog, must be considered to have the trustees consent to bring the animal onto the premises and/or keep the animal in a section and accompany it on the Common Property.

6. REFUSE DISPOSAL

- 6.1 An owner or occupier of a section shall:
- 6.1.1 ensure that recyclable refuse is placed in the clear plastic bags which are provided for this purpose,
- 6.1.2 in the case of tins or other containers, ensure that they are completely drained, and in the case of broken glass, ensure that the glass is securely wrapped in paper, before being deposited into a bag in terms of sub-rule 6.1.1 above;

- 6.1.3 place all refuse other than recyclable refuse, in heavy duty black plastic bags which are commercially available;
 - 6.1.4 for the purpose of having the refuse collected, place such refuse bags within the area and at the times designated by the trustees in their directives;
 - 6.1.5 support any recycling initiative and other directives that may be introduced from time to time by the trustees regarding the disposal of refuse.
- 6.2 An owner or occupier shall not leave any refuse bag or refuse bin on the common property contrary to the provisions of sub-rule 6.1 or to any directives introduced by the trustees.

7. LITTERING

An owner or occupier shall not deposit, throw, or permit or allow to be deposited or thrown, on any part of the common property any rubbish, including dirt, cigarette butts, food scraps or any other litter whatsoever. Cigarette ends and other objects and any other litter whatsoever, may not be thrown from balconies or windows or deposited on common property. Unwanted mail may not be discarded in any part of the common property. Rubbish of any nature must not be brushed down storm water drains.

8. ACCESS CONTROL

- 8.1 Motor vehicle/s used by residents in the Village, will be fitted with a bar-coded disc that will operate the boom at the entrance to the Village. In the event that the vehicle is disposed of, or the owner of the vehicle is no longer resident in the Village, estate management must be informed immediately.
- 8.2 Failure to adhere to the access control rules could compromise the security of fellow residents and repeated contraventions may result in the cancellation of the bar-coded discs of offenders and alternative arrangements will need to be made to obtain access to Heritage Park and the Village.

9. VEHICLES

- 9.1 No owner or occupier shall park a vehicle in a manner which obstructs the passage of other vehicles in the road or access to or egress from neighbouring driveways.
- 9.2 No vehicles may be parked on any lawn at any time.
- 9.3 No trucks, caravans, trailers, motorcycles, boats, jet skis or heavy vehicles shall be parked on exclusive use area parking bays or on the common property without the prior written consent of the trustees, who may attach reasonable conditions to their consent and provided further that the trustees may only allow a vehicle of this type to be parked in the Village for a limited period of time.
- 9.4 The trustees may cause any vehicle which is parked, stood or abandoned on the common property or in a parking bay contrary to these rules or without the written consent of the trustees, to be removed or towed away or the wheels of the vehicle to

be clamped. The trustees may determine the release fee which is to be paid for the release of the vehicle and any other charge which is to be paid to recover the costs of the process.

- 9.5 Owners shall be responsible for ensuring that the driveway of their house and/or the parking area of their apartment are kept clean and free of oil or any other motor vehicle fluids.
- 9.6 No owner or occupier shall be permitted to dismantle or effect any repairs to any motor vehicle in any parking bay or on any part of the common property.
- 9.7 Garages shall primarily be used for the purpose of parking a vehicle and not for storage purposes. No person may sleep or reside in a garage or in any vehicle on any part of the common property.
- 9.8 Owners and occupiers shall not leave obstructions to the vehicular- or pedestrian traffic on the common property.
- 9.9 Owners and occupiers shall adhere to the speed limit of 20 kilometres per hour and the road signs and shall keep proper lookout for other motor vehicles and pedestrians when driving their motor vehicles on the common property.
- 9.10 Owners and occupiers shall observe all laws, ordinances, by-laws and regulations or rules imposed by any statutory or other authority and, without detracting from the generality of the foregoing, shall observe and comply with the provisions of the Cape Provincial Road Traffic Ordinance No 21/1966 as amended (or any Ordinance or Act substituted therefore) as fully and effectually as though the private road were a public road as defined in terms of Section 1 of the Ordinance. In particular, no person may drive a motor vehicle on any part of the common property, in a manner which is considered as dangerous, reckless or negligent. No motor vehicle may be driven on the common property by any person who does not possess a valid driver's license.
- 9.11 Owners and occupiers shall not use their motor vehicles in such a manner which causes a nuisance to other owners or occupiers. In particular motor radios may not be heard outside motor vehicles and the hooters of motor vehicles may not be sounded on the common property, except in the event of an immediate imminent danger or in an emergency. Motor vehicles may not be driven on the common property with the head lights on bright.

10. DAMAGE, ALTERATIONS, ATTACHMENTS, ADDITIONS TO AND/OR DEVICES TO BE ATTACHED TO THE COMMON PROPERTY AND/OR TO THE EXTERIOR OF A BUILDING, RENOVATIONS TO SECTIONS, STRUCTURAL ALTERATIONS TO SECTIONS AND/OR THE COMMON PROPERTY, AND MAINTENANCE

Damage, alterations, attachments, additions to and/or devices to be attached to the common property and/or to the exterior of a building

- 10.1 An owner or occupier shall not mark, paint, drive nails or screws or the like into, or otherwise damage, or alter any part of the common property or the exterior of a building, without first obtaining the written consent of the trustees. In particular no

front door may be painted and no external window may be altered without the written consent of the trustees.

10.2 Notwithstanding sub-rule 10.1, an owner or person authorised by him, may install:

10.2.1 any locking device on the inside of a door or window of a section; or

10.2.2 any screen or other device inside his section to prevent the entry of animals or insects,

Provided that the trustees have first approved in writing the nature and design of the device and the manner of its installation.

10.3 An owner or occupier shall not construct or erect any satellite dish, communication equipment, glass panel, photovoltaic panel, solar panel, panel of a solar geyser, air conditioner, solar heating system, blind, shade cover, canopy, awning or any other attachment, addition or device, to or on any part of the common property or any part of the exterior of a building, including on a patio, stoep or balcony, without the written consent of the trustees, and their approval of the nature, design, the manner and place of installation of the attachment, addition or device.

10.4 No private radio aerial, television aerial or satellite dish may be erected on the common property, including on patios, stoeps or balconies, without the prior written consent of the trustees. Owners and occupiers shall make use of the satellite dish as provided by the developer. Owners and occupiers shall be responsible for their own television licenses, decoder installations, satellite dish adjustments and repairs and maintenance thereof and all charges related thereto.

10.5 To obtain the written consent of the trustees in terms of sub-rules 10.1, 10.2 and 10.3, the owner shall apply to the trustees in writing. The application shall be accompanied by sufficient plans and specifications that explain the nature, design, shape, size, material, colours and place of installation of the proposed alteration, attachment, addition or device. The trustees may grant their consent, or refuse such consent, in which case the trustees must give reasons for their refusal. The trustees may attach reasonable conditions to their consent.

Renovations to sections

10.6 For insurance purposes, an owner shall provide the trustees with full details, including valuations, of fixtures and fittings installed or substituted during a renovation. An owner shall comply with the applicable regulations when installing or replacing a gas installation in respect of his section.

Structural alterations to sections and/or the common property

10.7 An owner shall comply with the following provisions regarding structural alterations to his section and/or the common property:

10.7.1 An application, together with plans of the proposed structural alterations, and any other additional documents that may be required by the trustees, must be submitted to the trustees.

- 10.7.2 A deposit, as required by the trustees, must be paid to the body corporate; to cover the body corporate should any damage occur to the common property during construction or should there be any expenditure for the body corporate as a result of construction of the structural alteration.
 - 10.7.3 A submission fee and/or scrutiny fee must be paid to the body corporate, if required.
- 10.8 Upon receipt of the application, the trustees must consider the application and must advise the owner or applicant, should they require any further documentation or information. If considered necessary by the trustees, they may:
 - 10.8.1 request the owner to furnish them with a report by a structural engineer advising that the proposed structural alterations will not detrimentally affect the structural integrity of the building; and/or
 - 10.8.2 consult with an architect, engineer, legal advisor or other professional consultant regarding the proposed structural alterations and recover the costs of the consultation from the owner of the section, provided that the consultation is arranged with his prior knowledge.
- 10.9 If the trustees are satisfied that the proposed structural alterations are aesthetically acceptable and do not impair the structural integrity or harmonious appearance of the building/s, for the purposes of which the trustees shall be the sole judge and their decision shall be final and binding on the owner, the trustees may grant their written consent to the owner and they may approve the relevant plans. The trustees may attach reasonable conditions to their consent. If the trustees refuse/s their consent, they shall give reasons for their refusal.
- 10.10 Once the trustees have approved the plans, the owner shall submit the plans to the local authority for approval, where applicable.
- 10.11 Once the local authority has approved the plans, a copy of the approved plans must be submitted to the trustees to obtain their consent to proceed with the structural alterations.
- 10.12 If required in terms of the Act, the owner shall obtain the authorisation of the members of the body corporate for the structural alterations. The members of the body corporate may impose reasonable conditions when granting their authorisation.
- 10.13 An owner shall comply with the following provisions regarding construction of the structural alterations in respect of a section and/or the common property:
 - 10.13.1 The owner must engage suitably qualified or experienced contractors, especially in respect of plumbing-, electrical and waterproofing work, and/or suitably qualified or experienced architects, builders and/or structural engineers in respect of the proposed structural alterations.
 - 10.13.2 The owner or his contractors must take out appropriate insurance for the duration of construction, if required by the trustees.
 - 10.13.3 The owner and his contractors must adhere to the provisions of the Occupational Health and Safety Act, No. 85 of 1993, where applicable.

- 10.13.4 The owner and his contractors must make provision for fire prevention and shall ensure that the safety of owners and occupiers are not compromised.
 - 10.13.5 The owner and his contractors must comply with the requirements of the local authority and the regulations to the National Building Regulations and Building Standards Act, No. 93 of 1977, as amended, where applicable and any other relevant legislation and regulations.
 - 10.13.6 The owner shall ensure that the structural integrity of the building is not compromised.
 - 10.13.7 Upon completion of the structural alterations, the owner shall notify the trustees, who shall arrange for an inspection and the issue of a compliance certificate, before refunding the deposit (without interest) to the owner, subject to any deductions that may be made for costs and damages in terms of these rules.
- 10.14 If required in terms of the Act, the owner shall ensure that the structural alteration is registered in the Deeds Registry.

Provisions applicable to all alterations undertaken in terms of this rule

- 10.15 An owner shall comply with the following provisions regarding all alterations in terms of this rule:
- 10.15.1 An owner shall comply with the relevant provisions of these rules and the Guidelines, and the conditions prescribed by the trustees and/or the body corporate.
 - 10.15.2 An owner shall ensure that the harmonious appearance of the buildings is not compromised. All doors, windows and other external fittings being installed must conform in outward appearance to, or be of a similar standard and appearance as, such items generally installed elsewhere in the buildings.
 - 10.15.3 An owner shall not perform work or allow work to be performed outside the hours of 08h00 to 18h00 on Mondays to Fridays, except for additional specific hours that may be authorised by the trustees in writing. No work is allowed outside these hours or on Saturdays, Sundays or Public Holidays, except emergency repairs and repairs specifically authorised by the trustees in writing.
 - 10.15.4 The common property must be kept clean, tidy and free of building rubble, which must be removed as work proceeds.
 - 10.15.5 The electricity supply of the body corporate may only be used with the consent of the trustees and subject to payment of the costs of such usage.
 - 10.15.6 The work must be performed with the minimum of discomfort, disturbance, obstruction or nuisance to other owners or occupiers. The work must be completed as soon as possible within the timeframe specified by the trustees, if any.

- 10.15.7 The owner shall ensure that his contractors and/or other workers comply with the provisions of these rules.
- 10.16 Should any work commence before the trustees have granted their consent, or should the scope of work be materially changed, the trustees may instruct the owner or his contractors to stop the work until the necessary authorization to continue with the work has been granted by the trustees.
- 10.17 The owner accepts responsibility and shall be liable to the body corporate (or to other owners, as the case may be) for any damage caused by him or by his contractors or other workers to the common property (or to other sections) and indemnifies the body corporate against such damage or any claims arising therefrom. If an owner or his contractors or workers damage/s the common property during construction, the trustees may appoint an independent contractor to repair the damage and utilise the deposit paid by the owner to defray the costs of repairs and/or recover the costs for shortfall from the owner of the section.

Maintenance

- 10.18 An owner shall repair and maintain the alterations, attachments, additions or devices in respect of his section or the common property in a state of good repair at his own expense. If an owner fails to repair and maintain the alterations, attachments, additions or devices in a state of good repair and any such failure persists for a period of 30 (thirty) days after written notice given by the trustees or the managing agent on their behalf, the trustees shall be entitled to remedy the owner's failure and to recover the reasonable cost thereof from such owner. This provision is also binding upon an owner's successor/s in title.
- 10.19 An owner shall repair and maintain his section (including the pipes, wires, cables and ducts in his section and used in connection with the enjoyment of his section) in a state of good repair as required by section 44(1)(c) of the Act. In particular an owner shall ensure that any kitchen and bathroom outlets and drains are cleaned and remain unobstructed from the inside of the section. If an owner fails to repair or maintain his section in a state of good repair and any such failure persists for a period of 30 (thirty) days after written notice given by the trustees or the managing agent on their behalf, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner.

11. APPEARANCE FROM OUTSIDE

- 11.1 An owner or occupier shall not place or do anything on any part of the common property or of a section, including on patios, stoeps and balconies which, in the discretion of the trustees, is aesthetically displeasing or undesirable when viewed from the outside of the section, or which is in contravention of the Guidelines.
- 11.2 Owners and occupiers shall ensure that their sections are provided with adequate curtaining or blinds. All curtains, linings and blinds which are visible from the outside of the house or apartment must be of a neutral colour.

- 11.3 No tinting of glass facing onto the common property is permitted without the prior written consent of the trustees. Only curtains or blinds may be used as window coverings and no tinted foil, sheets, towels or the like will be permitted.

12. SIGNS AND NOTICES

No owner or occupier shall place any sign, notice, billboard or advertisement of any kind whatsoever on any part of the common property or of a section, including on stoeps and balconies, so as to be visible from outside the section without the written consent of the trustees first having been obtained.

13. LAUNDRY

Owners and occupiers shall hang their washing or laundry on the washing lines provided. Owners and occupiers shall not hang any washing or laundry or any other items on any part of the common property, or of a section, including on a patio, stoep or balcony, so as to be visible from outside the section.

14. STORAGE OF INFLAMMABLE MATERIAL AND OTHER DANGEROUS ACTS

- 14.1 An owner or occupier shall not store any material, or do or permit or allow to be done, any other act in a building or on the common property which will or may increase the rate of the premium payable by the body corporate on any insurance policy or which will or may lead to the insurance policy of the body corporate being suspended or cancelled or rendered void. In particular no inflammable material or material in quantities which may constitute a danger may be stored in any form in an apartment, garage or in a parking bay.
- 14.2 If an owner or occupier contravenes sub-rule 14.1, the owner shall be liable to the body corporate for any damage arising from the contravention.
- 14.3 No material may be stored in electrical distribution cupboards and fire extinguisher storage cupboards.

15. LETTING OF SECTIONS AND RELATED MATTERS

- 15.1 All tenants of sections and other persons granted rights of occupancy by any owner of the relevant section are obliged to comply with these rules, notwithstanding any provision to the contrary contained in, or the absence of provisions, in any lease or any grant of rights of occupancy.
- 15.2 Owners shall ensure that these rules are incorporated into their lease agreements as an annexure thereto.
- 15.3 In the event of a tenant breaching the Conduct Rules, and the ongoing failure on the tenant's part to remedy such breach/es despite written requests from the Body Corporate to do so, the Body Corporate shall enjoy the following remedies, in addition to any other remedies it may have either in terms of these rules or at law:

- 15.3.2 Impose a penalty in terms of the conduct rules and failing payment thereof to apply to the Community Schemes Ombud Service for an appropriate order, and/or
- 15.3.2 Convene an internal dispute resolution meeting between the trustees with the tenant and the owner (after the submission of a complaint per the prescribed form contained in annexure 4 to the Sectional Title Management Regulations), and/or
- 15.3.3 Apply to the Community Schemes Ombud Service (per the prescribed dispute resolution form) for an appropriate order (which may include cancellation of the Lease) in terms of section 39 of the Community Schemes Ombud Service Act, 2011.
- 15.4 An owner or tenant, who lets, sub-lets or otherwise grants occupation of a section, whether gratuitously or not and irrespective of the lease period, shall comply with the following provisions and shall ensure compliance thereto by his letting agent:
- 15.4.1 A written lease agreement must be concluded with the tenant;
- 15.4.2 The following provisions must be incorporated into the lease agreement as a *stipulation alteri* in favour of the Body Corporate and the trustees:
- a. The lessee hereby acknowledges that the scheme is a residential scheme for occupancy by retired persons and their spouses and that he and the occupiers of the dwelling will be bound by the provisions of the conduct rules of Somerset Gardens.
 - b. The lessee further acknowledges that the trustees have the power to impose penalties in respect of contraventions of the conduct rules and that other remedies are available to the body corporate in terms of the conduct rules.
 - c. The lessee hereby agrees that a breach of the conduct rules, and failure to remedy such breach within reasonable time after written notice from the body corporate to do so will constitute a breach of the lease agreement and will entitle the lessor after due notice to the lessee to remedy the breach, to cancel the lease agreement.
 - d. The lessee and the lessor further acknowledge that the trustees may in exceptional circumstances, where the rights of other owners are severely prejudiced by the conduct of the lessee, and where notice to remedy the breach would not, in the reasonable opinion of the trustees be effective, require the lessor to terminate the lease agreement without notice to the lessee to remedy the breach thereof.
- 15.5 No owner or tenant or his letting agent may give occupation of the section to any person until all the provisions of sub-rules 15.4.1 to 15.4.2 above have been complied with.
- 15.6 A copy of the lease agreement must be submitted to the trustees.

- 15.7 Owners and occupiers shall primarily use their residential sections for residential purposes. No business or trade may be conducted in a section or on the common property.

16. OCCUPANCY OF SECTIONS

- 16.1 A section may only be occupied by a retired person and his or her spouse.
- 16.2 Notwithstanding sub-rule 16.1 above, an owner or occupier may temporarily house his or her family members, guests, or visitors in his or her section, subject to the reasonable conditions imposed from time to time in their directives.
- 16.3 The number of occupants and/or temporary occupants of a section, including children, shall be restricted to:
- 16.3.1 three (3) persons in respect of a section consisting of one bedroom;
- 16.3.2 five (5) persons in respect of a section consisting of two bedrooms;
- 16.3.3 seven (7) persons in respect of a section consisting of three bedrooms.

17. ERADICATION OF PESTS

An owner shall keep his section free of rats, mice, lice, cockroaches, white ants, borer and other wood destroying insects and to this end shall permit the trustees, the managing agent, and their duly authorised agents or employees, to enter his section from time to time for the purpose of inspecting the section and taking such action as may be reasonably necessary to eradicate any such pests. The costs of the inspection, eradicating any such pests as may be found within the section and replacement of any woodwork or other material forming part of such section that may be damaged by any such pests shall be borne by the owner of the section concerned.

18. USE OF PATIOS, STOEPS, BALCONIES AND YARDS

- 18.1 Patio furniture and pot plants may be stored on patios, stoeps, balconies and yards, subject to compliance with the following provisions and any reasonable conditions imposed from time to time by the trustees in their directives:
- 18.1.1 Patio furniture used on an open patio shall be limited to typical, conventional makes of tables, chairs or benches made of white or green material or stained wood that have been specifically designed for exterior use.
- 18.1.2 Plant pots shall be of good quality, and shall be limited to a reasonable number. Pots and pot plants must be well maintained. Pots on upstairs balconies must be equipped with catchment trays, in order to avoid water nuisance to the occupiers of sections below.
- 18.1.3 No pots or other items may be stood on any yard wall, or on a balustrade in an upstairs apartment.

18.1.4 Owners and occupiers shall comply with the directives imposed from time to time by the trustees with regard to the style, number and placement of pot plants on patios, stoeps, balconies and yards.

18.1.5 Enclosed patios may not be utilised as a bedroom.

19. GARDENS

19.1 Gardens and open spaces that form part of the common property will be maintained by the body corporate. All trees and shrubs will be strategically planted and regularly maintained and pruned in order to provide privacy while at the same time preventing overgrowth and encroachment.

19.2 Owners and occupiers may not trim, prune, remove or in any way interfere with the trees, shrubs and other plants planted on the common property without the permission of the trustees.

19.3 Owners and occupiers will be permitted to garden their personal garden areas or yards and to plant and maintain annuals and small shrubs subject to the conditions imposed from time to time by the trustees in their directives.

19.4 Owners or occupiers may not plant large shrubs or trees without the specific written approval of the trustees. Despite approval being given, the trustees shall have the right to maintain, trim, prune and even remove such trees and shrubs where these become a nuisance, unsightly, encroach on other sections or exclusive use areas or the common property, or obstruct views or sunlight or for any other reason.

20. USE OF COMMON PROPERTY AND COMMUNAL FACILITIES

20.1 Owners and occupiers and their invitees shall use and enjoy the common property and facilities in such a manner so as not unreasonably to interfere with the use and enjoyment thereof by other owners or occupiers.

20.2 Owners and occupiers shall comply with the reasonable conditions imposed from time to time by the trustees in their directives in respect of the use of the common property and facilities.

20.3 The communal facilities within the Village are for the use and benefit of the owners and occupiers and their invited guests or visitors where the use by guests or visitors is permitted, provided that when using the communal facilities, the guest or visitor shall at all times be accompanied by the owner or occupier who invited them.

21. NOISE OR NUISANCE

21.1 An owner or occupier shall not use his section or exclusive use area or permit it to be used in such a manner or for such purpose as shall cause a nuisance to any other owner or occupier or an invasion of his or their privacy.

21.2 Owners and occupiers shall particularly between the hours of 22h00 and 07h30 nightly and between the hours of 13h00 and 15h00 daily maintain quietness in their sections and on the common property. No power tools or other noisy devices may

be used during the foregoing hours. Owners and occupiers shall at all other times limit noise to a minimum.

- 21.3 All television, radio, and other appliances, instruments or apparatus emitting sound, including musical instruments must be kept at audio levels which are reasonable, in the discretion of the trustees.
- 21.4 No hobbies or other activities, which cause an undue or disturbing noise in the opinion of the trustees, are permitted on the common property.
- 21.5 No explosives, crackers, fireworks or items of similar nature may at any time be exploded, lit or operated in a section or on the common property.
- 21.6 No firearms, air guns, pellet guns, catapults or bow and arrows may be discharged in a section or on the common property, except in self-defence and related purposes.
- 21.7 No stones or other solid objects may be thrown on the common property.
- 21.8 No hawkers, beggars or people looking for work may be allowed on the common property.
- 21.9 No private auctions or jumble sales may be held in any section or on the common property.
- 21.10 No door-to-door canvassing and/or selling are permitted, unless specifically authorised by the trustees.
- 21.11 Children are not permitted to play ball games, ride or use bicycles, skateboards, roller skates, roller blades, scooters or the like on the common property, unless under adult supervision at all times.
- 21.12 Children must be supervised when present in the Village to prevent them from causing a nuisance to owners or occupiers.
- 21.13 No animal, poultry or any living thing may be slaughtered in any section or part of the common property.

22. CONDUCT OF SERVICE PROVIDERS, DOMESTICS AND CONTRACTORS

- 22.1 Body corporate employees and employees of service providers contracted to the body corporate, are responsible to the trustees only and no owner or occupier may make use of their services during their work hours other than as provided for in these rules or the directives issued by the trustees from time to time.
- 22.2 Owners and occupiers are responsible for the activities and conduct of their service providers, domestics and such the contractors employed from time to time by them and must ensure that they adhere to these rules and they do not:
 - 22.2.1 cause an unnecessary noise or nuisance to other owners or occupiers;
 - 22.2.2 entertain guests or friends as visitors at any time on the common property or generally wander around or loiter on the common property.

- 22.3 Owners and occupiers must in the interest of security for all concerned check the references and Identity Documents of their domestics and other workers in their employ.

23. EXCLUSION OF LIABILITY

- 23.1 Any owner or occupier or other person present on the common property or using any of the facilities or services of the body corporate does so entirely at their own risk. Any claim of an owner or any other person shall be limited to the amount actually recovered by the body corporate from the receipt of proceeds of any general public indemnity liability insurance, if any. If and to the extent that the body corporate does not have any such public indemnity liability insurance, no such person shall have any claim against the body corporate, save in the case of bad faith or gross negligence.
- 23.2 Subject to sub-rule 23.1, the body corporate, the trustees, the managing agent or any of the body corporate's agents, employees or contractors shall not be liable for any loss (including consequential loss), injury, loss of life or damage to person or property of any nature whatsoever which any owner or other person whosoever may sustain:
- 23.2.1 by reason of any defect in or state of disrepair of the common property or any facility, service or property, or any part thereof, or any fittings, fixtures, equipment or appurtenances of whatsoever nature therein, notwithstanding that such effect or state of disrepair may be due to or occasioned wholly or in part by any act or omission (whether negligent or otherwise) of the body corporate, the trustees, the managing agent, or any of the body corporate's agents, employees or contractors; or
- 23.2.2 directly or indirectly, in or about the common property, whether such injury, loss or damage be due to theft, the action of rain, wind, hail, lightning, explosion, spontaneous combustion, gas, fire water leakage, seepage, cessation or interruption of or defect in any electric, gas, fuel, water, sanitary, telephone, air conditioning or other services to Somerset Gardens (irrespective of the cause thereof), or be due to or occasioned wholly or in part by any act or omission (whether negligent or otherwise) of the body corporate, the trustees, the managing agent, or any of the body corporate's agents, employees or contractors, or be due to riots, strikes, civil commotion or any other cause whatsoever.
- 23.3 The owners undertake in favour of the body corporate, as soon as practical, to notify their occupiers and invitees of the provisions of this rule 23, and to take all such steps required and/or necessary to ensure that such persons agree hereto in writing in such form as the trustees may from time to time determine so as to enable the body corporate to accept the benefits hereof at any time without notice to such person.
- 23.4 Subject to clause 23.1, every owner individually hereby fully and completely indemnifies and holds harmless the body corporate against all claims of whatsoever nature and howsoever arising which may be brought against the body corporate by that owner or the occupiers of his section or any invitee of the owner or occupier, or any other person within Somerset Gardens at the invitation of or under the control of the owner or occupier concerned, notwithstanding the nature of such claim.

- 23.5 The body corporate shall not be liable for any costs of suit in any legal proceedings instituted against it in any court or arbitration forum or other tribunal by any owner. The exclusion herein contained will not apply if the proceedings in question are founded on any conduct of the body corporate or its representatives or employees which is alleged by the claimant, and found by the court, arbitrator or tribunal, as the case may be to be mala fide or wilfully wrongful.
- 23.6 The body corporate shall not be liable for any damage suffered by an owner or occupier or any other person present within Somerset Gardens by reason of power surges.

24. WRITTEN CONSENT OF THE TRUSTEES

- 24.1 Whenever the written consent of the trustees is required in terms of these rules, application for such consent must be made in writing and the applicant must furnish the trustees with all the information, details and documentation as may be required by them from time to time. The written consent of the trustees in terms of these rules or the withdrawal thereof shall be in such format as the trustees shall from time to time determine.
- 24.2 The trustees may attach reasonable conditions to their consent. The trustees may summarily withdraw their consent in the event of non-compliance with any of their conditions. When withdrawing their consent, the trustees shall notify the owner or occupier in writing and provide him with reasons for their decision.
- 24.3 If the trustees refuse their written consent in terms of these rules, they must furnish reasons for refusing their consent.

25. WRITTEN NOTICES

- 25.1 A written notice in terms of these rules must be in such format as the trustees may from time to time prescribe.
- 25.2 A written notice will be regarded as having been properly delivered, if delivered to the owner by:
- 25.2.1 hand, in which event it shall be regarded as having been received on the date of delivery, or
 - 25.2.2 registered post to his *domicilium citandi et executandi*, in which event it shall be regarded as having been received on the 4th day after the date of posting, or
 - 25.2.3 fax or e-mail to the fax number or e-mail address reflected in the records of the body corporate, in which event it shall be regarded as having been received on the date of transmittal.

26. CONTRAVENTION OF THESE RULES, THE MANAGEMENT RULES OR THE ACT

- 26.1 If an owner or occupier or the invitees of an owner or occupier contravene/s these rules, the management rules or the Act, the trustees shall be entitled, without prejudice to the other rights or remedies which the body corporate may have in law, or in terms of the Act, any other act, the management rules or these rules, including to claim compensation for damages, to:
- 26.1.1 enter the section, exclusive use area and/or the common property to take such action as may be reasonably required to remedy the contravention and hold the owner of the section liable for the costs incurred in this regard; and/or
 - 26.1.2 bring a court application for a suitable order; and/or
 - 26.1.3 institute arbitration proceedings; and/or
 - 26.1.4 apply to the applicable Ombud for a suitable order, as soon as the Ombud Service is in operation; and/or
 - 26.1.5 institute mediation proceedings or expert intervention; and/or
 - 26.1.6 impose a penalty on the owner of the section in terms of conduct rule 28.
- 26.2 Aforesaid provisions may, where applicable, also be applied to occupiers of sections.

27. COMPLAINTS

Any complaints by owners or occupiers pertaining to violations of these rules, or any other cause for concern must be addressed to the trustees or the managing agent in writing. The trustees may advise owners and occupiers of the relevant contact details via notices or via their directives.

28. IMPOSITION OF PENALTIES

- 28.1 If the conduct of an owner or occupier or the invitees of an owner or occupier constitute/s a nuisance in the opinion of the trustees, or a contravention of a provision of the Act, the management rules or these rules, the trustees or the managing agent on their behalf may, without prejudice of the other rights or remedies available in terms of these rules, by written notice inform the owner of the section of the nuisance or contravention and warn the owner that if he, or the occupier fail/s to remedy the contravention and/or if he or they persist/s in such conduct or contravention, a penalty will be imposed on the owner of the section.
- 28.2 If notwithstanding the written notice given by the trustees or the managing agent in terms of sub-rule 28.1, the owner or the occupier of the section fails to remedy the contravention or persist in the conduct or contravention, or if the conduct or contravention is repeated, the trustees may resolve to impose a penalty on the owner of the section. The trustees or the managing agent on their behalf, shall by

- written notice advise the owner of the penalty and state the reasons for imposing the penalty.
- 28.3 The penalty imposed under sub-rule 28.2 above, shall become due on the passing of the resolution by the trustees and must be paid within 30 (thirty) days of the date of the written notice. Should the penalty remain unpaid it may be added to the owner's levy statement and may be recovered from the owner of the section in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies.
- 28.4 The trustees shall from time to time determine the categories of contraventions and the amounts of the penalties in respect of the various contraventions and in respect of first and successive contraventions, subject to any directions given or restrictions imposed by the members on the trustees at a general meeting.
- 28.5 A penalty may be imposed in respect of each separate contravention. In the event of a continuing contravention, the owner shall be deemed to be guilty of a separate contravention for every 24 hours or part thereof during which such contravention continues and shall be liable for a penalty in respect of each such separate contravention.
- 28.6 An owner may within 30 (thirty) days of the date of the written notice of the penalty in terms of sub-rule 28.2, submit an objection, with a motivation, against the penalty imposed, to the trustees.
- 28.7 Upon receipt of the objection, the trustees may:
- 28.7.1 withdraw or reduce the penalty; or
 - 28.7.2 schedule a trustees' meeting (hearing) for the purpose of considering the objection and invite the owner to attend the meeting, and/or to be represented at the meeting.
- 28.8 At the trustees' meeting (hearing) referred to in sub-rule 28.7.2 above, the owner and/or his representative shall have the right to:
- 28.8.1 present his case;
 - 28.8.2 present any evidence, including the calling of witnesses, to substantiate his case;
 - 28.8.3 cross-examine any person called as witness in support of the charge;
 - 28.8.4 have access to documents produced in evidence; and
 - 28.8.5 produce mitigating factors.
- 28.9 The failure of the owner charged or his representative to attend the trustees' meeting referred to in sub-rule 28.7.2 shall not render the proceedings at the meeting void. Should the owner or his representative not attend the trustees' meeting without providing a reasonable request for postponement, the trustees may, in their sole discretion, continue with the trustees' meeting and consider the objection in the absence of the owner.

28.10 Upon the conclusion of the trustees' meeting, the trustees shall deliberate the evidence and if so resolved, they may:

28.10.1 uphold the penalty; or

28.10.2 withdraw or reduce the penalty.

28.11 Should the owner not agree with the decision of the trustees in terms of sub-rule 28.10 the owner may request, without prejudice of the other rights or remedies which may be available in terms of the Act or the rules or in law, that:

28.11.1 the trustees refer the matter to a general meeting of the members for their decision, without prejudice to any other rights or remedies, which the owner may have in law, or in terms of the Act or the management rules, and/or

28.11.2 the matter be referred for arbitration proceedings in terms of management rule 71.

29. LIABILITY FOR DAMAGES AND COSTS

29.1 If an owner or occupier or any invitee of an owner or occupier causes damage to the common property, the owner of the section concerned shall be liable to the body corporate for the damage caused and for the costs of repairs.

29.2 An owner shall be liable for and pay all legal costs, including costs as between attorney and own client, collection commission, administrative costs, expenses and charges incurred by the body corporate in obtaining the recovery of any compensation for damages, penalties, costs or other arrear amounts due and owing by such owner to the body corporate in terms of these rules, or in enforcing compliance with these rules.

29.3 Any costs incurred by the trustees in terms of these rules, shall be regarded as a levy and may be added to the levy account of the specific owner, who was/is liable for the costs in terms of the rules, and may be recovered from the owner as a levy debt, with interest at the rate applicable to arrear levies.

30. RELAXATION OF RULES

No indulgence or relaxation in the application of these rules shall constitute a precedent, waiver or consent, or prevent the enforcement thereof by the trustees.

31. CREATION AND ALLOCATION OF EXCLUSIVE USE AREAS (PATIOS AND YARDS)

31.1 In terms of section 27A of the Act, rights of exclusive use of parts of the common property are hereby conferred upon members of the body corporate, being the registered owners of sections in the scheme, as stipulated hereunder.

31.2 The parts of the common property referred to in sub-rule 31.1 above, are the patios and yards, indicated with 'P' and 'Y' respectively and distinctively numbered on the plan marked 'Plan A' attached to these rules, being a layout plan of the affected

- parts of the common property. Where a patio or yard borders a section, the patio or yard will extend to the edge of the building and not to the section boundary.
- 31.3 The exclusive use areas shall be used for the purpose of patios and yards respectively.
- 31.4 The said exclusive use areas are hereby allocated to the owners of sections (the linked sections) as indicated in the Schedule marked 'Schedule A' attached to these rules.
- 31.5 The rights vested in terms of this rule, shall not be real rights as contemplated in section 27(6) of the Act.
- 31.6 Upon the transfer of a linked section, the new owner of the linked section will automatically obtain the right of exclusive use of the exclusive use area which is linked to the section, as indicated in Schedule A.
- 31.7 An exclusive use area held in terms of this rule may only be cancelled or linked to another section in the scheme by way of a suitable amendment of Schedule A, with the approval of the members by special resolution and with the consent of the owner of the linked section.
- 31.8 No owner of a linked section shall erect any structure or building improvement on his exclusive use area without the written consent of the trustees as contemplated in management rule 68(1)(vi), and subject to compliance with any reasonable conditions imposed by the trustees.
- 31.9 An owner of a linked section shall repair and maintain his exclusive use areas, yard and/or patio, including the improvements on his exclusive use areas, in a state of good repair and in a clean and neat condition.
- 31.10 If an owner of a linked section fails to repair and maintain his exclusive use areas in terms of sub-rule 31.9 above; or to adequately maintain any improvement on his exclusive use areas, and if any such failure persists for a period of 31 (thirty) days after the giving of written notice by the trustees or the managing agent to repair or to maintain, as the case may be, the body corporate shall be entitled to remedy the owner's failure and to recover, subject to section 37(1)(b) of the Act, the reasonable cost of doing so from such owner.
- 31.11 An owner of a linked section shall be liable in terms of section 37(1)(b) of the Act, to pay an additional levy to the body corporate as imposed by the trustees in respect of his exclusive use area to defray the expenses relating to his exclusive use area.
- 31.12 An owner or occupier of a linked section shall comply with the applicable provisions of the Act, the management rules and the conduct rules when using their exclusive use areas and with any reasonable conditions imposed by the trustees.
- 31.13 An owner of a linked section shall allow the trustees or their duly authorised representative(s) access to and across his exclusive use area for any purpose reasonably required in terms of the Act or the rules.

32 CREATION AND ALLOCATION OF EXCLUSIVE USE AREAS – THE HEALTHCARE BUILDING

- 32.1 In terms of section 10(7) and 10(8) of Act, rights of exclusive use of parts of the common property are hereby conferred upon the owner of Section 7014.
- 32.2 The parts of the common property referred to in sub-rule 32.2.1 above, are the Reception Area, Lounges, Passages, and Fire Stairs, indicated with “REC – P1” and “LOF – P2” respectively as noted on “Plan B1” and “Plan B2” attached to these rules, being a layout plans of the affected parts of the common property.
- 32.3 The exclusive use areas shall be used for the purposes as described.
- 32.4 The said exclusive use areas are hereby allocated to the owner of the section (the linked section).
- 32.5 The rights vested in terms of this rule, shall not be real rights as contemplated in section 27(60) OF THE Sectional Titles Act 1986 (Act 95 of 1986).
- 32.6 Upon the transfer of a linked section, the new owner of the linked section will automatically obtain the right of exclusive use of the exclusive use areas which are linked to the section, as indicated in “Plans B1 and B2”.
- 32.7 An exclusive use area held in terms of this rule may only be cancelled or linked to another section in the scheme by way of a suitable amendment of Plans B1 and B2, with the approval of the members by special resolution and with the consent of the owner of the linked section.
- 32.8 No owner of a linked section shall erect any structure or building improvement on his exclusive use area without the consent of the Body Corporate as contemplated in management rule 30(g) and subject to the conditions imposed in management rule 30(g)(i)(ii) and (iii).
- 32.9 An owner of a linked section shall repair and maintain his exclusive use areas, including the improvements on his exclusive use areas, in a state of good repair and in a clean and neat condition.
- 32.10 If an owner of a linked section fails to repair and maintain his exclusive use areas in terms of sub-rule 32.2.9 above; or to adequately maintain any improvement on his exclusive use areas, and if any such failure persists for a period of 31 (thirty one) days after the giving of written notice by the trustees or the managing agent to repair or to maintain, as the case may be, the body corporate shall be entitled to remedy the owner’s failure and to recover, subject to section 3(1)(c) of the Act, the reasonable cost of doing so from such owner.
- 32.11 An owner of a linked section shall be liable in terms of section 3(1)(c) of the Act, to pay an additional levy to the body corporate as imposed by the trustees in respect of his exclusive use area to defray the expenses relating to his exclusive use area.
- 32.12 An owner or occupier of a linked section shall comply with the applicable provisions of the Act, the management rules and the conduct rules when using their exclusive use areas and with any reasonable conditions imposed by the trustees.

- 32.13 An owner of a linked section shall allow the trustees or their duly authorised representative(s) access to and across his exclusive use area for any purpose reasonably required in terms of the Act or the rules.

33. SOLAR INSTALLATIONS

33.1 Approval

- 33.1.1 An owner or person authorised by him or her shall not install on the exterior or roof of a building, or on any other part of the common property, a solar system without the prior written consent of the Trustees, who may attach reasonable conditions to their consent. For purposes of this Rule, a solar system shall be considered as being a system installed for purposes of generating electricity or hot water for a unit and shall include all tanks, panels, cabling brackets, covers, ducts, pipes, invertors, batteries and suchlike associated with the system irrespective of where they are installed.
- 33.1.2 A request for the Trustees' consent or approval contemplated in sub-rules (1) must be made in writing to the Trustees and must be accompanied by plans/sketches and specifications sufficient to explain the nature, design, shape, size, material, colours and location of the proposed installation.
- 33.1.3 The Trustees, in considering the application in terms of sub-rules (1) and (2), shall have due regard to the aesthetic appearance of the scheme and shall, as far as practically possible, prescribe conditions so as to ensure uniformity in respect of solar installations installed on the common property.
- 33.1.4 If the application is approved, the owner shall have the solar system installed at his or her expense. All installations must be done by qualified persons approved by the Trustees, and a Certificate of Compliance issued by the City of Cape Town must be provided on completion.
- 33.1.5 Once installed, the owner concerned shall not be permitted to remove, reposition or alter the system without the prior written consent of the Trustees.

33.2 Structural Integrity

- 33.2.1 The owner must ensure that the structural integrity of the roof and/or the building is not compromised by the installation. The owner indemnifies the body corporate against any structural damage that might be caused by the solar installation.
- 33.2.2 The body corporate may request a report from a structural engineer, at the owner's expense, to certify that the installation will not compromise the structural integrity of the roof and/or building. Such a report shall in no way relieve or release the owner of any responsibility or liability as set out in this Rule.

33.3 Damage

- 33.3.1 The owner shall be responsible and liable for any damage caused to or by the solar system and indemnifies the body corporate and its members against any such damage.
- 33.3.2 The body corporate shall not be liable or responsible for any damage to the solar system by its members, agents or contractors.

33.4 Insurance

- 33.4.1 Should the owner wish to insure the solar system and equipment, he or she must insure it under his or her own insurance policy.
- 33.4.2 Notwithstanding the aforesaid, should the solar system increase the insurance premium of the body corporate, the owner of the section concerned shall be liable for any additional premium due by the body corporate to its insurers as a result of the installation which shall be added to his or her levy account. The owner shall furthermore be liable for any excess payment due by the body corporate in respect of any claim in respect of, or associated with, the solar system. In addition to the aforesaid, the owner of the section concerned shall be liable for any other expenses that arise as a result of the installation being covered by the body corporate insurance, or, on a pro rata basis, for any increase resulting from an increase in the number of claims in the scheme.

33.5 Maintenance

- 33.5.1 Any solar system installed by an owner in terms of this Rule shall be maintained by the owner concerned in a state of good repair and in a clean, neat, hygienic and attractive condition, at his or her own expense. If an owner fails to maintain adequately such installation and any such failure persists for a period of 30 (thirty) days after the giving of written notice to repair or maintain given by the Trustees or the Managing Agent on their behalf, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner.
- 33.5.2 Should the solar system result in increased maintenance cost for the body corporate, the owner shall be responsible for the increased cost.

33.6 Removal

- 33.6.1 If the solar system is removed, the owner shall be responsible for the removal cost and for the cost to restore the roof and/or building to its original state.

33.7 Maintenance and repair to structure

- 33.7.1 Should the body corporate need to do maintenance and repairs to the roof and/or building, for whatever reason, that requires the removal of the solar system or parts thereof, the owner shall remove the system or relevant parts thereof at his or her cost and replace it afterwards at his or her cost.

33.8 Proof of registration

- 33.8.1 The owner must supply the body corporate with proof that the solar system has been registered with the local authority.

33.9 Rules

- 33.9.1 The owner shall, at all times, comply with the applicable provisions of the Rules of the body corporate.

33.10 Successors-in-title

33.10.1 The owner shall, upon selling his or her unit, either remove the solar installation at his or her expense and restore the property to the satisfaction of the Trustees, or his or her successor-in-title shall assume all responsibility in terms of this Rule and any conditions imposed

THE SCHEDULE
Allocation of Exclusive Use Areas

With reference to the Plans marked “**B1 AND B2**” the Exclusive Use Areas –
(Reception Area, Fire Stairs, Lounges and Passages)
are hereby allocated as follows:

Linked Section Number	Relevant areas
Section 7014	Ground Floor: Reception Area and Passages Abutting Sections – 7009-7014, 7011 - 7014 7005-7008, 7004 - 7001 Marked REC – P1
Section 7014	First Floor: Lounges, Passages, and Fire Stairs Abutting Sections – 7033-7050 7032-7045 7030-7016 7035-7017 7026-7049 7025-7049 7049-7045 7040-7044 7022-7019 7015-7018 Marked LOF – P2



