

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

INDEX

1. Pages 2 - 26 Management Rules
2. Pages 27 - 37 Conduct Rules

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

ANNEXURE 1

MANAGEMENT RULES

PART 1 INTRODUCTORY

HEADING

1. Management rules prescribed in terms of section 10(2)(a) of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

INTERPRETATION

2. (1) In the interpretation of these rules, unless the context indicates otherwise —
 - (a) **"adjudicator"** means an adjudicator acting in terms of the Community Schemes Ombud Service Act, 2011 (Act No. 9 of 2011);
 - (b) **"administrator"** means an administrator appointed in terms of section 16 of the Act;
 - (c) **"auditor"** means a person accredited to perform an audit in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005);
 - (d) **"Community Schemes Ombud Service"** means the service established in terms of the Community Scheme Ombud Service Act, 2011 (Act No. 9 of 2011);
 - (e) **"estimated cost"**, for the purposes of rule 22, means the estimated cost to maintain, repair or replace a major capital item;
 - (f) **"expected life"**, for the purposes of rule 22, 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;
 - (g) **"executive managing agent"** means a managing agent appointed to carry out all the functions and powers of the trustees in terms of rule 28;
 - (h) **"future development right"** means a right to extend the scheme in terms of section 25 of the Sectional Titles Act;
 - (i) **"major capital item"**, for the purposes of rule 22, 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;
 - (j) **"managing agent"** means any person who provides scheme management services to a body corporate for reward, whether monetary or otherwise, including any person who is employed to render such services;
 - (k) **"member"** means a member of the body corporate;
 - (l) **"past contribution"**, for the purposes of rule 22, means the funds in the reserve fund of the body corporate in respect of the estimated cost;
 - (m) **"primary section"** means a section designed to be used for human occupation as a residence, office, shop, factory or for any other type of use allowed in terms of local municipal by-laws, not being a utility section;
 - (n) **"registered auditor"** means a person as defined in terms of the Auditing Professions Act, 2005 (Act No. 26 of 2005);
 - (o) **"registered bondholder"** means the holder of a mortgage bond of whom the body corporate has been notified in terms of section 13(1)(f) of the Act;
 - (p) **"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;
 - (q) **"Sectional Titles Act"** means the Sectional Titles Act, 1986, (Act No. 95 of 1986), as amended;

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (r) **"service address"** means the service address of a member or the body corporate in terms of rule 4; and
 - (s) **"the Act"** means the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011);
 - (t) **"utility section"** means a section which, in terms of local municipality bylaws, is designed to be used as an accessory to a primary section, such as a bathroom, toilet, storeroom, workshop, shed, servant's quarters, parking garage, parking bay or other utility area, not being a primary section.
- (2) In the interpretation of these rules —
- (a) words and expressions to which a meaning has been assigned in the Act or its regulations, bear those meanings;
 - (b) words importing—
 - (i) the singular must be interpreted to include the plural, and the plural to include the singular; and
 - (ii) any one gender must be interpreted to include all other genders; and
 - (c) the headings of rules must not be taken into account.

AMENDMENT AND BINDING NATURE

3. (1) The body corporate may substitute, amend, repeal, or add to the management rules subject to and in accordance with the provisions of section 10 of the Act.
- (2) A member must take all reasonable steps to ensure compliance with the conduct rules in force in terms of section 10(2)(b) of the Act by any tenant or other occupant of any section or exclusive use area, including the member's employees, guests, visitors and family members.

SERVICE ADDRESSES

4. (1) The body corporate must, from time to time, determine the address that is its domicilium citandi et executandi in terms of section 3(1)(o) of the Act; provided that such service address must be—
- (a) the physical address of a section in the scheme;
 - (b) the physical address of a duly appointed managing agent or administrator; or
 - (c) another physical address within the magisterial district in which the scheme is located.
- (2) The trustees may designate a fax, email or other address as an alternate body corporate service address.
- (3) A change of a body corporate service address is effective when written notice of that address is lodged with the Community Schemes Ombud Service in the prescribed form.
- (4) The trustees must, when they give the Community Schemes Ombud Service notice of a change of the body corporate service address in terms of section 3(1)(o) of the Act, simultaneously give such written notice to all members and other occupiers of sections and to all registered bondholders.
- (5) The service address for any legal process or delivery of any other document to a member is the address of the primary section registered in that member's name; provided that a member is entitled by written notice to the body corporate to change that address for purposes as contemplated in subsections 6(3)(c) and 6(4) of the Act to another physical address, postal address or fax in the Republic of South Africa or to an email address, and that the change in the service address of the member is effective when the body corporate receives notice of such a change.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (6) The service address for any legal process or delivery of any other document to an occupier of a section, who is not a member, is the physical address of that section.

PART 2 TRUSTEES

5. (1) All the members are trustees from the establishment of the body corporate until the end of the first general meeting.
- (2) Subject to rules 6(4) and 28(1), if a body corporate consists of less than 4 members who are owners of primary sections, each member or his or her representative recognised by law is considered to be a trustee without election to office.
- (3) If a body corporate consists of more than 4 members who are owners of primary sections, they must from time to time determine the number of trustees to be elected in terms of these rules.

REQUIREMENTS FOR OFFICE AND DISQUALIFICATION

6. (1) A trustee need not be a member or the legally recognised representative of a member who is a juristic person.
- (2) A person who is the managing agent or an employee of the managing agent or the body corporate may not be a trustee unless that person is a member.
- (3) A trustee who has any direct or indirect personal interest in any matter to be considered by the trustees must not be present at or play any part in the consideration or decision of the matter concerned.
- (4) A trustee ceases to hold office if that trustee—
- (a) by written notice to the body corporate, resigns from office;
 - (b) is declared by a court to be of unsound mind;
 - (c) is or becomes insolvent and the insolvency results in the sequestration of that trustee's estate;
 - (d) is convicted, or has been convicted in the Republic or elsewhere, of theft, fraud, forgery, perjury or any other offence involving dishonesty;
 - (e) is sentenced to imprisonment without the option of a fine;
 - (f) is removed from an office of trust on account of misconduct in respect of fraud or the misappropriation of money;
 - (g) is removed from office by ordinary resolution of a general meeting; provided the intention to vote on the proposed removal was specified in the notice convening the meeting;
 - (h) is or becomes disqualified to hold office as a director of a company in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
 - (i) fails or refuses to pay the body corporate any amount due by that trustee after a court or adjudicator has given a judgment or order for payment of that amount.

NOMINATION, ELECTION AND REPLACEMENT

7. (1) A member may nominate any person for the office of trustee.
- (2) The nomination of a trustee must be in writing, accompanied by the written consent of the person nominated and delivered to the body corporate service address at least 48 hours before the annual general meeting is due to start.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (3) If an insufficient number of nominations are received in terms of sub-rule (2), further nominations may be called for at the annual general meeting with the consent of the persons nominated.
- (4) Save for the provisions of rules 5(1) and (2), trustees must be elected at the first general meeting of the body corporate and then at each subsequent annual general meeting.
- (5) If a trustee ceases to hold office —
 - (a) the remaining trustees; or
 - (b) the members in general meeting, may appoint a replacement trustee.
- (6) An elected or replacement trustee holds office until the end of the next annual general meeting and is eligible for re-election, if properly nominated.
- (7) The trustees may appoint, for a specified period, a person qualified to serve as a trustee as a replacement for any trustee who is absent or otherwise unable to perform the duties of that office.

PAYMENT AND INDEMNITY

8. (1) The body corporate must reimburse trustees for all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.
- (2) Unless so determined by special resolution, trustees who are members are not entitled to any reward, whether monetary or otherwise, for their services as such.
- (3) Trustees who are not members may be rewarded for their services as such; provided that any reward, whether monetary or otherwise, must be approved by a resolution of the body corporate as part of the budget for the scheme's administrative fund.
- (4) The body corporate must indemnify a trustee who is not a managing agent against all costs, losses and expenses arising as a result of any official act that is not in breach of the trustee's fiduciary obligations to the body corporate.

PART 3 TRUSTEE MEETINGS AND DECISIONS

GENERAL POWERS AND DUTIES

9. The trustees must—
 - (a) meet to carry out the body corporate's business, adjourn and otherwise regulate their meetings as they think fit, subject to the provisions of the Act, these rules and the common law of meetings;
 - (b) exercise the body corporate's powers and functions assigned and delegated to them in terms of section 7(1) of the Act in accordance with resolutions taken at general meetings and at meetings of trustees;
 - (c) apply the body corporate's funds in accordance with budgets approved by members in general meeting;
 - (d) appoint any agent or employee in terms of section 4(a) of the Act in terms of a duly signed written contract; and
 - (e) compile minutes of each trustee and general meeting in accordance with rule 27(2)(a) and distribute these to the persons entitled to notice of the meeting concerned as soon as reasonably possible, but not later than 7 days after the date of the meeting.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

VALIDITY OF ACTIONS

10. (1) No document signed on behalf of the body corporate is valid and binding unless it is signed on the authority of a trustee resolution by —
 - (a) two trustees or the managing agent, in the case of a clearance certificate issued by the body corporate in terms of section 15B(3)(i)(aa) of the Sectional Titles Act; and
 - (b) two trustees or one trustee and the managing agent, in the case of any other document.
- (2) A resolution adopted or other act performed by the trustees remains valid and effective notwithstanding the later discovery of some defect in the appointment of a trustee or the disqualification of a trustee.

CALLING AND ATTENDANCE AT MEETINGS

11. (1) A trustee may at any time call a meeting of trustees by giving all other trustees not less than seven days written notice of the time and place of the meeting and by setting out an agenda for the meeting: Provided that —
 - (a) in cases of urgency a trustee may give such shorter notice as is reasonable in the circumstances; and
 - (b) notice need not be given to any trustee who is absent from the Republic unless the meeting is one referred to in sub-rule (5), but notice must be given to any replacement trustee appointed for that trustee.
- (2) The trustees may by written resolution set the dates of and a standard agenda for their future meetings and delivery of a copy of this resolution is considered adequate notice of all such future meetings.
- (3) Members, registered bondholders, holders of future development rights and the managing agent may attend trustee meetings and may speak on any matter on the agenda, but they are not entitled to propose any motion or to vote; provided that such persons are not entitled to attend those parts of trustee meetings that deal with —
 - (a) discussions of contraventions of the Act or rules; or
 - (b) any other matters in respect of which the trustees resolve that the presence of any such persons would unreasonably interfere with the interests of the body corporate or any person's privacy.
- (4) If a member, a registered mortgagee or the holder of a future development right in writing requests notice of trustee meetings, the trustees must deliver to that person a copy of a notice of a meeting referred to in sub-rule (1), a resolution referred to in sub-rule (2) and a notice of any adjournment of such a meeting; provided that the body corporate may recover from the person concerned the costs of delivery of such documents.
- (5) The trustees may make arrangements for attendance at a trustee meeting by telephone or any other method, if the method —
 - (a) is accessible to all trustees and other persons entitled to attend the meeting;
 - (b) permits all persons participating in the meeting to communicate with each other during the meeting; and
 - (c) permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- (6) A person who attends a meeting as provided under sub-rule (5) is considered present in person at the meeting.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

CHAIRPERSON

12. (1) If a body corporate consists of only two members, the provisions in these rules in regard to the election and functions of a chairperson do not apply.
- (2) From the establishment of the body corporate until the end of the first general meeting, the developer or the developer's nominee is the chairperson of the trustees.
- (3) At the commencement of the first meeting of trustees after an annual general meeting at which trustees have been elected and whenever else necessary, the trustees must by majority vote elect a chairperson from among their number.
- (4) The chairperson of the trustees holds office as such until the end of the next annual general meeting.
- (5) The trustees at a trustees' meeting or the members at a general meeting may remove the chairperson from office if notice of the meeting contains a clear statement of the proposed removal; provided that such removal does not automatically remove the chairperson from the office of trustee.
- (6) If a chairperson is removed from office as such or ceases to hold office as a trustee, the remaining trustees must elect a replacement chairperson from among their number who holds office as chairperson for the remainder of the period of office of his or her predecessor and has the same voting rights.
- (7) If the elected chairperson vacates the chair during the course of a trustee meeting, is not present or is for any other reason unable or unwilling to preside, the trustees present must choose another chairperson from among their number and that replacement chairperson has all the powers and functions of the chairperson while acting as such.

QUORUM

13. (1) At a trustee meeting, 50 per cent of the trustees by number, but not less than two, form a quorum.
- (2) If the number of trustees falls below the number necessary to form a quorum, the remaining trustee or trustees may continue to act, but only to—
 - (a) appoint replacement trustees to make up a quorum; or
 - (b) call a general meeting.
- (3) If at any trustee meeting a quorum is not present within 30 minutes of the appointed time for the meeting, the trustees present, but not less than two, must adopt interim resolutions in respect of each item on the agenda.
- (4) An interim resolution adopted by trustees in terms of sub rule (3) does not take effect unless it is confirmed—
 - (a) at the next trustee meeting at which a quorum is present; or
 - (b) by written resolution signed by all the trustees.

VOTING

14. (1) A motion at a trustee meeting —
 - (a) does not have to be seconded; and

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (b) must be determined by resolution adopted by the majority of the trustees present and voting.
- (2) Each trustee is entitled to one vote; provided that if the deliberative votes of the trustees, including that of the chairperson, are tied, the chairperson has a casting vote, unless there are only two trustees.
- (3) A trustee is disqualified from voting in respect of —
 - (a) any proposed or current contract or dispute with the body corporate to which the trustee is a party; and
 - (b) any other matter in which the trustee has any direct or indirect personal interest.
- (4) Trustees must adopt decisions by resolutions adopted by majority vote: Provided that resolutions may be put to the vote —
 - (a) at trustee meetings; or
 - (b) by a notice sent to each trustee which contains the text of any proposed resolutions and instructs the trustees to indicate their agreement to the resolution by their signature, which signatures must be received by the body corporate before expiry of the closing date specified in the notice.

PART 4 OWNER MEETINGS

NOTICE

- 15. (1) Subject to sub-rule (7), at least 14 days' written notice of a general meeting specifying the place, date and hour of the meeting must be given to—
 - (a) all members;
 - (b) all registered bondholders;
 - (c) all holders of future development rights; and
 - (d) the managing agent.
- (2) A person who has a right to be notified under this rule may waive that right by notice in writing delivered to the body corporate and may, at any time and in the same way, revoke that waiver; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to notice and any of them may revoke that waiver.
- (3) The notice of a general meeting must be accompanied by at least—
 - (a) an agenda, as required in terms of these rules;
 - (b) a copy or comprehensive summary of any document that is to be considered or approved by members at the meeting; and
 - (c) a proxy appointment form in the prescribed format.
- (4) A general meeting must be held in the local municipal area where the scheme is situated unless the members have by special resolution decided otherwise.
- (5) Registered bondholders, holders of future development rights and the managing agent may attend general meetings and may speak on any matter on the agenda, but they are not, in those capacities, entitled to propose any motion or to vote; provided that such persons are not entitled to attend any part of a general meeting if the members resolve that their presence would unreasonably interfere with the interests of the body corporate or any person's privacy.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (6) Notice of a general meeting must be delivered to—
 - (a) members at their service addresses in terms of rule 4(5), and
 - (b) other persons at the most recent physical, postal, fax or email address of which they have notified the body corporate in writing.
- (7) A general meeting may be called—
 - (a) on 7 days' notice if the trustees have resolved that short notice is necessary due to the urgency of the matter and set out their reasons for this resolution; provided that the trustees must not take such a resolution in regard to a meeting referred to in rule 29(2) or (4);
 - (b) on less than 14 days notice, if this is agreed to in writing by all persons entitled to attend.
- (8) Failure to give proper notice of a general meeting to a person entitled to receive notice does not invalidate a vote taken at the meeting, as long as the body corporate made a reasonable attempt to give the notice.
- (9) Voting at a general meeting may proceed despite the lack of notice as required by this rule, if all persons entitled to receive notice in writing waive their right to notice.

FIRST GENERAL MEETING

16. (1) The developer must include with the notice of the first general meeting held in terms of section 2(8) of the Act —
 - (a) an agenda in accordance with sub-rule (2);
 - (b) the documents referred to in sub-rule (2); and
 - (c) a comprehensive summary of the rights and obligations of the body corporate under the policies and contracts referred to in sub-rule (2)(d).
- (2) The agenda for the first general meeting of members must include at least the following —
 - (a) a motion to confirm or vary the terms of the policies of insurance effected by the developer or the body corporate;
 - (b) a motion to confirm or vary an itemised estimate of the body corporate's anticipated income and expenses for its first financial year;
 - (c) a motion to approve, with or without amendment, the developer's —
 - (i) evidence of revenue and expenditure concerning the management of the scheme from the date of the first occupation of any unit until the date of the establishment of the body corporate, as required in terms of section 2(8)(c)(iii) of the Act; and
 - (ii) financial statements relating to the management and administration of the scheme from the date of establishment of the body corporate to the date of notice of the first general meeting referred to in sub rule (1);
 - (d) subject to section 15(2) of the Act, a motion to ratify or not to ratify the terms of any contract entered into by the developer on behalf of the body corporate;
 - (e) a motion confirming that the developer has —
 - (i) furnished the meeting with copies of the documents referred to in section 2(8) of the Act and in this rule; and
 - (ii) paid over any residue referred to in section 2(9) of the Act;
 - (f) a motion appointing an auditor to audit the evidence and financial statements referred to in sub-rule (2)(c);
 - (g) motions determining the number of trustees and electing trustees;
 - (h) a motion detailing any restrictions to be imposed or directions to be given in terms of section 7(1) of the Act or confirming that there are no such restrictions or directions.
- (3) For the purposes of voting on the items of business referred to in sub-rule (2)(c), (d) and (e), any vote held or controlled by the developer is suspended.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (4) In addition to the documents referred to in section 2(8) of the Act, the developer must at or before the first general meeting furnish the body corporate with copies of —
 - (a) all building plans approved by the local municipality;
 - (b) any encroachment permit or other document issued by the local municipality in regard to the improvements in the scheme;
 - (c) plans showing the location of all pipes, wires, cables and ducts referred to in section (3)(1)(r) of the Act;
 - (d) names and addresses of all contractors, subcontractors and any other persons whom the developer has employed to render services or supply materials relating to the development of the scheme;
 - (e) all warranties, manuals, schematic drawings, operating instructions, service guides, documentation from manufacturers and other similar information in respect of the construction, installation, operation, maintenance, repair and servicing of any common property or body corporate assets, occupation certificate, including any guarantee or warranty provided to the developer by a person referred to in sub-rule (4) (d); and
 - (f) all records the body corporate is required to prepare or retain in terms of rule 27.
- (5) If the developer fails to provide the body corporate with any document referred to in section 2(8) of the Act or in this rule, the body corporate must do all things reasonably necessary to obtain or have the specific document prepared and may recover the reasonable costs incurred in doing so from the developer.
- (6) If the developer fails to call the first general meeting in compliance with the requirements of section 2(8) of the Act, any member or the body corporate may do so and the body corporate must recover from the developer all costs reasonably incurred in ensuring compliance with the developer's obligations.

ANNUAL AND SPECIAL GENERAL MEETINGS

17. (1) Subject to sub-rule (2), the body corporate must hold an annual general meeting within four months of the end of each financial year.
- (2) The body corporate is not obliged to hold an annual general meeting if, before or within one month of the end of a financial year, all members in writing waive the right to the meeting and consent in writing to motions that deal with all the items of business that must be transacted at the annual general meeting; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolutions in writing.
- (3) All general meetings other than the annual general meeting are special general meetings.
- (4) The trustees may by resolution call a general meeting whenever they think fit and must do so if either—
 - (a) members entitled to 25 per cent of the total quotas of all sections; or
 - (b) the holder of mortgage bonds over not less than 25 per cent in number of all the primary sections, deliver to the body corporate a written and signed request for a special general meeting; provided that if the trustees fail to call a meeting thus requested within 14 days of delivery of the request, the members or bondholder concerned are entitled to call the meeting.
- (5) Members or a bondholder who request a meeting in terms of sub-rule (4) must include one or more motions or matters for discussion with their request and these motions or matters must be included, without amendment, in the agenda for the meeting.
- (6) The order of business at general meetings is as follows:

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (a) confirm proxies, nominees and other persons representing members and issue voting cards;
 - (b) determine that there is a quorum;
 - (c) elect a person to chair the meeting, if necessary;
 - (d) present to the meeting proof of notice of the meeting or waivers of notice;
 - (e) approve the agenda;
 - (f) approve minutes from the previous general meeting, if any;
 - (g) deal with unfinished business, if any;
 - (h) deal with any business referred to in sub-rule (5);
 - (i) if the meeting is the first general meeting referred to in section 2(8) of the Act, deal with the business set out in rule 16(2);
 - (j) if the meeting is an annual general meeting —
 - (i) receive reports of the activities and decisions of trustees since the previous general meeting, including reports of committees;
 - (ii) approve the schedules of insurance replacement values referred to in rule 23(3), with or without amendment;
 - (iii) determine the extent of the insurance cover by the body corporate in terms of rules 23(6), (7) and (8);
 - (iv) approve the budgets for the administrative and reserve funds for the next financial year;
 - (v) consider the annual financial statements;
 - (vi) appoint an auditor to audit the annual financial statements, unless all the sections in the scheme are registered in the name of one person;
 - (vii) if the body corporate has more than four members who are owners of primary sections and is not managed by an executive managing agent in terms of rule 28, determine the number of trustees to be elected to serve during the next financial year; and
 - (viii) elect the trustees;
 - (k) report on the lodgement of any amendments to the scheme's rules adopted by the body corporate under section 10 of the Act and, if applicable, table a consolidated set of scheme rules;
 - (l) deal with any new or further business;
 - (m) give directions or impose restrictions referred to in section 7(1) of the Act; and
 - (n) dissolve the meeting.
- (7) Subject to sub-rules (5) and (6), the trustees determine the agenda for an annual or special general meeting; provided that the agenda must contain—
- (a) a description of the general nature of all business, and
 - (b) a description of the matters that will be voted on at the meeting, including the proposed wording of any special or unanimous resolution.
- (8) If any of the items of business that require member approval are not approved at an annual general meeting or any adjournment of the meeting; the resolution not to approve the relevant document must include the reasons for non-approval and the body corporate must have the document revised and submitted to another general meeting for approval as soon as reasonably possible, until it is approved.
- (9) The body corporate does not have to hold a special general meeting to consider a resolution if all members waive the right to the meeting and consent to the resolution in writing; provided that if two or more persons are jointly entitled to exercise a vote, all of them must waive the right to the meeting and consent to the resolution in writing.
- (10) A body corporate may make arrangements for attendance at an annual or special general meeting by telephone or any other method, if the method—

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (a) is accessible to all members and other persons entitled to attend the meeting;
 - (b) permits all persons participating in the meeting to communicate with each other during the meeting; and
 - (c) permits the chairperson to confirm, with reasonable certainty, the identity of the participants.
- (11) A person who attends a meeting as provided under sub-rule (10) is considered present in person at the meeting.

CHAIRPERSON

18. (1) The chairperson of the trustees must preside as chairperson at every general meeting of the body corporate, unless otherwise resolved by members at the meeting.
- (2) If there is no chairperson or the chairperson of the trustees is not present within 15 minutes after the time appointed for the meeting, or is unwilling or unable to act as chairperson, the members present must elect a chairperson for such meeting.
- (3) A chairperson must—
- (a) maintain order, regulate the orderly expression of views and guide the members and other participants through the business of the meeting in accordance with the common law of meetings;
 - (b) ensure that all motions and amendments proposed are within the scope of the notice and powers of the meeting;
 - (c) ensure that the scheme's rules, the minute books and any other documents relevant to the items of business on the agenda are available at the meeting;
 - (d) act fairly, impartially and courteously to all members and others entitled to attend the meeting;
 - (e) ensure that all members and other persons entitled to speak are able to express their views without unnecessary disturbance or interruption;
 - (f) adjourn the meeting, when it is not able to complete or continue with its business;
 - (g) make decisions on points of procedure;
 - (h) settle disputes by giving rulings on points of order; and
 - (i) surrender the chair to a temporary chairperson elected by the members for any period during which the chairperson wishes to engage in the debate of any item of business.
- (4) A chairperson at a general meeting must not—
- (a) from the chair, attempt to influence members' views on any item of business; or
 - (b) disclose in advance of a vote how the chairperson intends to vote on any item of business.

QUORUM

19. (1) Business must not be transacted at any general meeting unless a quorum is present or represented.
- (2) A quorum for a general meeting is constituted—
- (a) for a scheme with less than 4 primary sections or a body corporate with less than four members, by members entitled to vote and holding two thirds of the total votes of members in value;
 - (b) for any other scheme, by members entitled to vote and holding one third of the total votes of members in value, provided that at least two persons must be present unless all the sections in the scheme are registered in the name of one person, and provided further

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

that in calculating the value of votes required to constitute a quorum, the value of votes of the developer must not be taken into account.

- (3) For the purpose of establishing a quorum and for the purposes of section 6 of the Act, the value of votes of any sections registered in the name of the body corporate must not be taken into account and the body corporate must not be considered to be a member.
- (4) If within 30 minutes from the time appointed for a general meeting a quorum is not present, the meeting stands adjourned to the same day in the next week at the same place and time; provided that if on the day to which the meeting is adjourned a quorum as described in sub-rule (2) is not present within 30 minutes from the time appointed for the meeting, the members entitled to vote and present in person or by proxy constitute a quorum.

VOTING AND REPRESENTATIVES

20. (1) A motion at a general meeting —
 - (a) does not need to be seconded; and
 - (b) except for a special or unanimous resolution, must be adopted by resolution of the majority of the votes, calculated in value, of the members present and voting.
- (2) Except for special and unanimous resolutions, a member is not entitled to vote if—
 - (a) a member fails or refuses to pay the body corporate any amount due by that member after a court or adjudicator has given a judgment or order for payment of that amount; or
 - (b) that member persists in the breach of any of the conduct rules of the scheme referred to in section 10(2)(b) of the Act after a court or an adjudicator has ordered that member to refrain from breaching such rule.
- (3) For the purposes of any vote, the values of votes of any sections registered in the name of the body corporate are considered abstentions.
- (4) Where a member is as such a trustee for a beneficiary, that member exercises voting rights to the exclusion of persons beneficially interested in the trust and such persons are not entitled to vote.
- (5) A member's appointment of a proxy in terms of section 6(5) of the Act and the proxy's acceptance of the mandate must, except in the case of an appointment in a mortgage bond, be substantially in the prescribed form and must be—
 - (a) delivered to the body corporate 48 hours before the time of the meeting; or
 - (b) handed to the chairperson before or at the start of the meeting.
- (6) A proxy need not be a member, but must not be the managing agent or an employee of the managing agent or the body corporate.
- (7) When two or more persons are entitled to exercise one vote jointly, that vote may be exercised only by one person, who may or may not be one of them, jointly appointed by them as their proxy.
- (8) The outcome of each vote, including the number of votes for and against the resolution, must be announced by the chairperson and recorded in the minutes of the meeting.
- (9) If a special resolution is passed at a general meeting by members holding less than 50 per cent of the total value of all members' votes—
 - (a) the body corporate must not take any action to implement that resolution for one week after the meeting, unless the trustees resolve that there are reasonable grounds to believe that immediate action is necessary to ensure safety or prevent significant loss or damage to the scheme; and

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (b) within seven days from a resolution referred to in sub-rule 9 (a), members holding at least 25 per cent of the total votes of all members in value may, by written and signed request delivered to the body corporate, require that the body corporate hold a special general meeting to reconsider the resolution.
- (10) If a demand referred to in sub-rule (9)(b) is delivered to the body corporate, the trustees must not implement the resolution unless—
- (a) it is again passed by special resolution; or
 - (b) a quorum is not present within 30 minutes of the time set for the meeting.

PART 5 FINANCIAL MANAGEMENT

FINANCIAL YEAR, FUNCTIONS AND POWERS

21. (1) The financial year of a body corporate established after the Act comes into operation must run from the first day of October of each year to the last day of September of the following year unless otherwise resolved by the body corporate in general meeting.
- (2) The body corporate must not—
- (a) make loans from body corporate funds without the authority of a unanimous resolution;
 - (b) refund to any member a contribution lawfully levied and paid;
 - (c) distribute to a member or any other person any portion of the body corporate's profits or gains except—
 - (i) upon destruction or deemed destruction of the buildings, or
 - (ii) where such profit or gain is of a capital nature.
- (3) The body corporate may, on the authority of a written trustee resolution—
- (a) levy members with a special contribution if additional income is required to meet a necessary expense that cannot reasonably be delayed until provided for in the budget for the next financial year;
 - (b) increase the contributions due by the members by a maximum of 10 per cent at the end of a financial year to take account of the anticipated increased liabilities of the body corporate, which increase will remain effective until members receive notice of the contributions due by them for the next financial year; provided that the trustees must give members notice of such increased contributions by notice in terms of rule 25, with such changes as are required by the context;
 - (c) charge interest on any overdue amount payable by an member to the body corporate; provided that the interest rate must not exceed the maximum rate of interest payable per annum under the National Credit Act (2005) Act No 34 of 2005) , compounded monthly in arrear;
 - (d) invest any moneys in the reserve fund referred to in sections 3(1)(b) of the Act in a secure investment with any institution referred to in the definition of "financial institution" in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990);
 - (e) enter into written and signed contracts in respect of its powers and duties under the Act and these rules;
 - (f) join organisations and subscribe to services to further its purposes under the Act and these rules;
 - (g) delegate to one or more of the trustees, to a member, agent or an employee such of their powers and duties as they deem fit, and at any time to revoke such delegation; provided that when they delegate any power or duty they must specify in writing—
 - (i) the power or duty concerned;

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (ii) a maximum amount of the body corporate's funds that may be spent for a particular purpose; and
 - (iii) any conditions that may be applicable; and
 - (h) approach the Community Scheme Ombud Service for relief.
- (4) The body corporate must ensure that all money received by the body corporate is deposited to the credit of an interest-bearing bank account—
- (a) in the name of the body corporate; or
 - (b) that is a trust account opened in terms of either the Estate Agency Affairs Act, 1976 (Act No. 112 of 1976), or the Attorneys Act, 1979 (Act No. 53 of 1979).

MAINTENANCE, REPAIR AND REPLACEMENT PLAN

22. (1) A body corporate or trustees must prepare a written maintenance, repair and replacement plan for the common property, setting out—
- (a) the major capital items expected to require maintenance, repair and replacement within the next 10 years;
 - (b) the present condition or state of repair of those items;
 - (c) the time when those items or components of those items will need to be maintained, repaired or replaced;
 - (d) the estimated cost of the maintenance, repair and replacement of those items or components;
 - (e) the expected life of those items or components once maintained, repaired or replaced; and
 - (f) any other information the body corporate considers relevant.
- (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].
- (3) A maintenance, repair and replacement plan takes effect on its approval by the members in general meeting; provided that on approval of such a plan, members may lay down conditions for the payment of money from the reserve fund.
- (4) The trustees must report the extent to which the approved maintenance, repair and replacement plan has been implemented to each annual general meeting.

INSURANCE

23. (1) The insurance policies of the body corporate in terms of sections 3(1)(h) and (i) of the Act —
- (a) must provide cover against —
 - (i) risks referred to in regulation 3;
 - (ii) risks that members resolve must be covered by insurance; and
 - (iii) risks that holders of registered first mortgage bonds over not less than 25 per cent in number of the primary sections by written notice to the body corporate may require to be covered by insurance;
 - (b) must specify a replacement value for each unit 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 unit or exclusive use area be increased;
 - (c) must restrict the application of any "average" clause to individual units and exclusive use areas, so that no such clause applies to the buildings as a whole;
 - (d) 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

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- 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 days' notice to the bondholder; and
- (e) may include provision for "excess" amounts.
- (2) A member is responsible —
- (a) for payment of any additional premium payable on account of an increase in the replacement value referred to in sub-rule (1)(b);
- (b) 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 Act or these rules, and must furnish the body corporate with written proof from the insurer of payment of that amount within seven days of written request.
- (3) A body corporate must obtain a replacement valuation of all buildings and improvements that it must insure at least every three years and present such replacement valuation to the annual general meeting.
- (4) A body corporate must prepare for each annual general meeting schedules showing estimates of—
- (a) the replacement value of the buildings and all improvements to the common property; and
- (b) the replacement value of each unit, excluding the member's interest in the land included in the scheme, the total of such values of all units being equal to the value referred to in sub-rule 4(a).
- (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.
- (6) A body corporate must take out public liability insurance to cover the risk of any liability it may incur to pay compensation in respect of—
- (a) any bodily injury to or death or illness of a person on or in connection with the common property; and
- (b) 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 10 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.
- (7) A body corporate must take out insurance for an amount determined by members in general meeting 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, managing agent, employee or other agent of the body corporate.
- (8) A body corporate, authorised by a special resolution of members, may insure any additional insurable interest the body corporate has —
- (a) in the land and buildings included in the scheme; and
- (b) relating to the performance of its functions, for an amount determined in that resolution.

ADMINISTRATIVE AND RESERVE FUNDS

24. (1) The administrative fund referred to in section 3(1)(a) of the Act must be used to fund the operating expenses of the body corporate for a particular financial year.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (2) The reserve fund maintained in terms of section 3(1)(b) of the Act must be used for the implementation of the maintenance, repair and replacement plan of the body corporate referred to in rule 22.
- (3) The following amounts must be paid into the reserve fund —
 - (a) any part of the annual levies designated as being for the purpose of reserves or the maintenance, repair and replacement plan;
 - (b) any amounts received under an insurance policy in respect of damage or destruction of property for which the body corporate is responsible;
 - (c) any interest earned on the investment of the money in the reserve fund;
 - (d) any other amounts determined by the body corporate, and all other body corporate income must be paid into the administrative fund.
- (4) Money may be paid out of the administrative fund in accordance with trustee resolutions and the approved budget for the administrative fund.
- (5) Money may be paid out of the reserve fund —
 - (a) at any time in accordance with trustee resolutions and the approved maintenance, repair and replacement plan; or
 - (b) 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—
 - (i) to comply with an order of a court or an adjudicator;
 - (ii) 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;
 - (iii) 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
 - (iv) 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.
- (6) Expenditure under sub-rule (5)(b) —
 - (a) must not exceed—
 - (i) the amount necessary for the purpose for which it is expended; or
 - (ii) any limitation imposed by the body corporate on expenditure; and
 - (b) must comply with any restrictions imposed or directions given by members.

CONTRIBUTIONS AND CHARGES

25. (1) The body corporate must, as soon as possible but not later than 14 days after the approval of the budgets referred to in rule 17(6)(j)(iv) by a general meeting, give each member written notice of the contributions and charges due and payable by that member to the body corporate, which notice must—
 - (a) state that the member has an obligation to pay the specified contributions and charges; and
 - (b) specify the due date for each payment; and
 - (c) if applicable, state that interest at a rate specified in the notice will be payable on any overdue contributions and charges; and
 - (d) include details of the dispute resolution process that applies in respect of disputed contributions and charges.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (2) If money owing is not paid on the dates specified in the notice referred to in sub-rule (1), the body corporate must send a final notice to the member, which notice must state—
 - (a) that the member has an obligation to pay the overdue contributions and charges and any applicable interest immediately; and
 - (b) if applicable—
 - (i) the interest that is payable in respect of the overdue contributions and charges at the date of the final notice; and
 - (ii) the amount of interest that will accrue daily until the payment of the overdue contributions and charges; and
 - (c) that the body corporate intends to take action to recover the amount due if the overdue contributions and charges and interest owing are not paid within 14 days after the date the final notice is given.
- (3) Subject to rules 21(3) (a) and (b), after the expiry of a financial year and until they become liable for contributions in respect of the next financial year, members are liable for contributions in the same amounts and payable in the same instalments as were due and payable by them during the past financial year.
- (4) A member is liable for and must pay to the body corporate all reasonable legal costs and disbursements, as taxed or agreed by the member, incurred by the body corporate in the collection of arrear contributions or any other arrear amounts due and owing by such member to the body corporate, or in enforcing compliance with these rules, the conduct rules or the Act.
- (5) The body corporate must not debit a member's account with any amount that is not a contribution or a charge levied in terms of the Act or these rules without the member's consent or the authority of a judgment or order by a judge, adjudicator or arbitrator.
- (6) The body corporate must in its annual financial statements account for all contributions and any other charges debited to members' accounts.
- (7) On request in writing by a member the body corporate must make available a full and detailed account of all amounts debited and credited to the member's account with the body corporate.

FINANCIAL RECORDS, BUDGETS, REPORTS AND AUDIT

26. (1) A body corporate must—
 - (a) keep proper books of accounts that—
 - (i) record all its income, expenditure, assets and liabilities;
 - (ii) disclose all amounts recovered from members by the body corporate or any managing agent or other service provider acting on its behalf;
 - (iii) include individual accounts for each member; and
 - (iv) contain all other information necessary to allow members to assess the body corporate's financial situation and their financial situation in regard to the body corporate.
 - (b) keep separate books of account and bank accounts for its administrative and reserve funds referred to in sections 3(1)(a) and (b) of the Act;
 - (c) prepare annual financial statements for presentation at the annual general meeting, which statements must include analyses of the —
 - (i) amounts due to the body corporate in respect of contributions, special contributions and other charges, classified by member and the periods for which such amounts were owed;
 - (ii) amounts due by the body corporate to its creditors generally and prominently disclosing amounts due to any public authority, local municipality or other entity for services including, without limitation, water, electricity, gas, sewerage and

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- refuse removal, classified by creditor and the periods for which such amounts were owed;
- (iii) amounts advanced to the body corporate by way of levy finance, a loan, in terms of a guarantee insurance policy or otherwise, setting out the actual or contingent liability of the body corporate and the amounts paid by the body corporate and by any member in terms of such arrangement;
 - (iv) amounts in the reserve fund showing the amount available for maintenance, repair and replacement of each major capital item as a percentage of the accrued estimated cost and the rand value of any shortfall;
 - (v) premiums and other amounts paid and payments received by the body corporate and any member in terms of the insurance policies of the body corporate and the expiry date of each policy; and
 - (vi) amounts due and payable to the Community Schemes Ombud Service.
- (d) prepare a maintenance, repair and replacement plan in accordance with rule 22 for presentation at the annual general meeting;
 - (e) prepare budgets for the administrative and reserve funds comprising itemised estimates of the anticipated income and expenses during the next financial year for presentation at the annual general meeting; provided that such budgets may include discounts not exceeding 10 per cent of a members' annual contributions applicable if all those contributions are paid on or before the due dates;
 - (f) prepare a report adopted by the trustees reviewing the affairs of the body corporate during the financial year for presentation at the annual general meeting.
- (2) On the application of any member, registered bondholder or of the managing agent, the body corporate must make all or any of the books of account and records available for inspection and copying.
- (3) The body corporate must ensure that all the body corporate's books of account and financial records are retained for a period of six years after completion of the transactions, acts or operations to which they relate.
- (4) Unless all the sections in the scheme are registered in the name of one person, the body corporate must present audited financial statements to a general meeting for consideration within four months after the end of the financial year.
- (5) The audit of a body corporate's annual financial statements—
- (a) must be carried out by an independent auditor who has not participated in the preparation of the annual financial statements or advised on any aspect of the accounts of the body corporate during the period being reported on;
 - (b) need not be carried out in accordance with any recognized financial; reporting framework of guidelines for financial accounting;
 - (c) must include opinions as to whether or not—
 - (i) the annual financial statements accurately reflect the financial position of the body corporate for the financial year under review, with such qualifications and reservations as the auditor considers necessary;
 - (ii) the body corporate has complied with the accounting requirements set out in rules 21, 24 and this rule 26, with a specific description of any failure to comply with such requirements;
 - (iii) the books of account of the body corporate have been kept and its funds have been managed so as to provide a reasonable level of protection against theft or fraud; and
 - (iv) the financial affairs of the body corporate appear to be effectively managed;
 - (d) must be completed within four months of the end of the body corporate's financial year.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

PART 6 ADMINISTRATIVE MANAGEMENT

GOVERNANCE DOCUMENTS AND RECORDS

27. (1) The body corporate must—
- (a) lodge a notification of an amendment to the scheme's rules referred to in section 10(5) of the Act as soon as reasonably possible, but not later than 10 days after the date of the relevant resolution of the body corporate; and
 - (b) compile and keep a complete set of all management and conduct rules including —
 - (i) an index; and
 - (ii) a prominent reference to any 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;
 - (c) prepare a consolidated set of rules whenever they are amended.
- (2) The body corporate must prepare and update the following records —
- (a) minutes of general and trustee meetings, including the following information—
 - (i) the date, time and place of the meeting;
 - (ii) the names and role of the persons present, including details of the authorisation of or other representative;
 - (iii) the text of all resolutions; and
 - (iv) the results of the voting on all motions;
 - (b) lists of trustees, members and tenants with their—
 - (i) full names;
 - (ii) identity numbers or, in the case of non-South African citizens, their passport numbers; and
 - (iii) section addresses and mailing addresses, if different;
 - (iv) telephone numbers; and
 - (v) email or other electronic addresses, if any;
 - (c) lists of—
 - (i) sections shown on the sectional plan, indicating in each case whether it is a primary or a utility section, its participation quota and the name of the member in whose name it is registered;
 - (ii) exclusive use areas with descriptions of purposes and numbers, if any, indicating whether the rights to each area are conferred in terms of section 27 of the Sectional Titles Act or in terms of a rule, and a reference to the relevant rule where applicable; and
 - (iii) registered bondholders with their names and addresses;
 - (d) details of all future development rights including —
 - (i) names and addresses of all registered holders of such rights; and
 - (ii) copies of all documentation prepared in terms of section 25(2) of the Sectional Titles Act for any such right; and
 - (e) any other records required by the regulations.
- (3) The body corporate may obtain and keep copies of all of the following:
- (a) The registered sectional plan and any registered amending sectional plan;
 - (b) the Act and the regulations;
 - (c) resolutions that deal with changes to the common property, including the conferring of exclusive use rights on members;
 - (d) consents and approvals given by the body corporate to members;

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (e) waivers and consents given by members;
 - (f) written contracts to which the body corporate is a party;
 - (g) 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;
 - (h) the budget and financial statement for the current year and previous years;
 - (i) income tax returns;
 - (j) insurance policies, endorsement and claim forms;
 - (k) correspondence sent or received by the body corporate and trustees; and
 - (l) any other records required by the regulations.
- (4) On receiving a written request, the body corporate must make the records and documents referred to in this rule available for inspection by, and provide copies of them to —
- (a) a member;
 - (b) a registered bondholder; or
 - (c) a person authorised in writing by a member or registered bondholder.
- (5) The body corporate must comply with a request for inspection or copying under this rule within 10 days unless the request is in respect of the rules, in which case the body corporate must comply with the request within five days.
- (6) The body corporate may charge a fee for a copy of a record or document other than the 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.
- (7) If the body corporate terminates its contract with an employee or a managing agent, that person must within 10 days deliver to the body corporate all records referred to in this rule that are in the person's possession or under the person's control.
- (8) The records referred to in this rule must be in writing or in a form that can be easily converted to writing.

EXECUTIVE MANAGING AGENT AND MANAGING AGENTS

28. (1) The body corporate may, by special resolution, appoint an executive managing agent to perform the functions and exercise the powers that would otherwise be performed and exercised by the trustees.
- (2) Members entitled to 25 per cent of the total quotas of all sections may apply to the Community Scheme Ombud Service for the appointment of an executive managing agent.
- (3) An executive managing agent —
- (a) is subject to all the duties and obligations of a trustee under the Act and the rules of the scheme;
 - (b) is obliged to manage the scheme with the required professional level of skill and care;
 - (c) is liable for any loss suffered by the body corporate as a result of not applying such skill and care;
 - (d) has a fiduciary obligation to every member of the body corporate;
 - (e) must arrange for the inspection of the common property at least every six months; and
 - (f) must report at least every four months to every member of the body corporate on the administration of the scheme.
- (4) The reports of an executive managing agent referred to in sub-rule (3)(f) must include at least the following details —

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (a) proposed repairs to and maintenance of the common property and assets of the body corporate within the next four months;
 - (b) matters the executive managing agent considers relevant to the condition of the common property and the assets of the body corporate;
 - (c) the balance of each of the administrative and reserve funds of the body corporate on the date of the report and a reconciliation statement for each fund; and
 - (d) for the period since the appointment of the executive managing agent or from the date of the last report —
 - (i) the expenses of the body corporate, including repair, maintenance and replacement costs; and
 - (ii) a brief description of the date and nature of all decisions made by the executive managing agent.
- (5) The body corporate may, if trustees so resolve, and must if required by —
- (a) a registered mortgagee of 25 per cent in number of the primary sections; or
 - (b) a resolution of members, appoint a managing agent to perform specified financial, secretarial, administrative or other management services under the supervision of the trustees.
- (6) A management agreement for any managing agent must comply with the requirements as may be set out in the regulations,
- (7) A management agreement may not endure for a period longer than three years and may be cancelled, without liability or penalty, despite any provision of the management agreement or other agreement to the contrary —
- (a) by the body corporate on two months notice, if the cancellation is first approved by a special resolution passed at a general meeting, or
 - (b) by the managing agent on two months notice.
- (8) The body corporate or trustees may by ordinary resolution cancel the management agreement in accordance with its terms or refuse to renew the management agreement when it expires.

PART 7 PHYSICAL MANAGEMENT

IMPROVEMENTS TO COMMON PROPERTY

29. (1) The body corporate may on the authority of a unanimous resolution make alterations or improvements to the common property that is not reasonably necessary.
- (2) The body corporate may propose to make alterations or improvements to the common property that are reasonably necessary; provided that no such proposal may be implemented until all members are given at least 30 days written notice with details of —
- (a) the estimated costs associated with the proposed alterations or improvements;
 - (b) details of how the body corporate intends to meet the costs, including details of any special contributions or loans by the body corporate that will be required for this purpose; and
 - (c) a motivation for the proposal including drawings of the proposed alterations or improvements showing their effect and a motivation of the need for them; and if during this notice period any member in writing to the body corporate requests a general meeting to discuss the proposal, the proposal must not be implemented unless it is

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

approved, with or without amendment, by a special resolution adopted at a general meeting.

- (3) A body corporate must, if so directed by a resolution of members —
 - (a) install and maintain separate meters to measure the supply of electricity, water, gas or the supply of any other service to each member's sections and exclusive use areas and to the common property; and
 - (b) recover from members the cost of such supplies to sections and exclusive use areas based on the metered supply.
- (4) A body corporate may on the authority of a special resolution install separate pre-payment meters on the common property to control the supply of water or electricity to a section or exclusive use area; provided that all members and occupiers of sections must be given at least 60 days notice of the proposed resolution with details of all costs associated with the installation of the pre-payment system and its estimated effect on the cost of the services over the next three years.
- (5) If a pre-payment system referred to in sub-rule (4) is installed —
 - (a) the body corporate is responsible to ensure that the system does not infringe on the constitutional rights of section occupiers to access basic services; and
 - (b) any member who leases a unit to a tenant is responsible to ensure that the system does not infringe the rights of the tenant in terms of the Rental Housing Act, 1999 (Act No. 50 of 1999), or any other law.

USE OF SECTIONS AND COMMON PROPERTY

30. The body corporate must take all reasonable steps to ensure that a member or any other occupier of a section or exclusive use area does not—
 - (a) use the common property so as to unreasonably interfere with other persons lawfully on the premises, in breach of section 13(1)(d) of the Act;
 - (b) use a section or exclusive use area so as to cause a nuisance, in breach of section 13(1)(e) of the Act;
 - (c) contravene the provisions of any —
 - (i) law or by-law relating to the use of a section or an exclusive use area; or
 - (ii) conditions of a license relating to use of the building or the common property, or the carrying on of a business in the building; or
 - (iii) conditions of title applicable to sections or exclusive use areas;
 - (d) make alterations to a section or an exclusive use area that are likely to impair the stability of the building or interfere with the use and enjoyment of other sections, the common property or any exclusive use area;
 - (e) do anything to a section or exclusive use area that has a material negative affect on the value or utility of any other section or exclusive use area;
 - (f) subject to the provisions of section 13(1)(g) of the Act, use a section or exclusive use area for a purpose other than for its intended use as —
 - (i) shown expressly or by implication on a registered sectional plan or an approved building plan;
 - (ii) can reasonably be inferred from the provisions of the applicable town planning by-laws or the rules of the body corporate; or
 - (iii) is obvious from its construction, layout and available amenities;
 - (g) construct or place any structure or building improvement on an exclusive use area which in practice constitutes a section or an extension of the boundaries or floor area of a section without complying with the requirements of the Act and the Sectional Titles Act; provided that the body corporate may by ordinary resolution —

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (i) give consent for such a structure or building improvement, if they are satisfied that it does not require compliance with such requirements;
- (ii) prescribe any reasonable condition in regard to the use or appearance of the structure or building improvement; and
- (iii) withdraw any consent if the member or other occupier of a section breaches any such condition.

OBLIGATION TO MAINTAIN

31. (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.
- (2) If despite written demand by the body corporate, a member refuses or fails to —
- (a) carry out work in respect of that member's section ordered by a competent authority as required by section 13(1)(b) of the Act; or
 - (b) repair or maintain a section owned by that member in a state of good repair as required by section 13(1)(c) of the Act; 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 occupiers 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.

SALE OF UNIT

- 72.(1) When alienating or otherwise transferring a unit, an owner shall be obliged to utilise the documentation (including the standard Sale Agreement) as prescribed by the Trustees;
- (2) In the event of an owner disposing of a unit or in the event of the owner being an artificial person, such as a close corporation, company or trust, and the members' interest, shares or beneficial interest (as the case may be) being disposed of privately (ie without the assistance of an estate agent) then in that event, the owner shall be responsible for the payment of an administration fee charged by the Body Corporate in consideration for attending to its formalities in this regard. The aforesaid administration fee charged by the Body Corporate shall be set by the Trustees in their sole discretion, but shall not exceed 1% of the purchase price (plus Value Added Tax thereon) of the unit, members interest, shares or beneficial interest (as the case may be) or in the event of the unit, members' interest, shares or beneficial interest(as the case may be) not being sold, shall not exceed 1% of the market value of the unit, members interest, shares or beneficial interest (as the case may be) at the date of transfer or cession of same (plus Value Added Tax thereon).
- (3) An owner who wishes to dispose of any unit in the Scheme shall, to the extent that he requires the services of an estate agent during the Developing Period, do so exclusively through an estate agent accredited by the Developer. After the expiry of the Development Period, any owner who wishes to dispose of any unit in the Scheme, shall, to the extent that he requires the services of an estate agent, do so exclusively through an estate agent accredited by the Body Corporate.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (4) In the event of the owner being an artificial person, such as a close corporation, company or trust, and in the event of the member/director/shareholder/trustee or beneficiary of the owner, as the case may be, wishing to dispose of the members interest, shares or beneficial interest in the owner, to the extent that such party requires the services of an estate agent in regard to such disposal, the provisions of paragraph 72(3) above shall apply, mutatis mutandis.
- (5) Should a unit in the Scheme be sold on auction, such auction may not be held in the unit or anywhere else on the Scheme.

COLLECTION OF LEVIES

- 73.(1) In the event of the Trustees instituting any legal action, or proceedings against an owner as a result of any breach of the Act, any Management and/or Conduct Rule or the regulations framed hereunder, the owner shall be liable to pay, all attorney and client own fees and disbursements, including collection commission, as determined by the Kwa-Zulu Natal Law Society from time to time.
- (2) Any levy in arrears shall bear interest at the prime overdraft rate charged by the Standard Bank of South Africa Limited, from time to time, calculated from the date that the payment of such levy became due, to the actual date of payment of such levy (both days inclusive). A certificate by any branch manager of the aforesaid bank shall be prima facie proof of such rate.
- (3) An owner shall be required to pay his monthly levy to the Body Corporate by way of a debit order unless the Trustees specify otherwise.

EXCLUSIVE USE AREAS

- 74.(1) The areas designated as parking bay areas (hereinafter referred to as “exclusive use areas”) on the plan annexed hereto and marked annexure “A” shall be allocated to the owners in phase 1 of the Scheme (being Sections 1 to 22) in accordance with the schedule attached hereto marked annexure “B”, as contemplated in Section 27A of the Act. The aforesaid owners shall be entitled, free from the payment of any consideration, to the exclusive use, occupation and enjoyment in perpetuity (and to the exclusion of other owners and all other persons) of the exclusive use area allocated to them in the schedule attached hereto marked annexure “B”, which areas are illustrated on the plan attached hereto marked “A”, subject to the provisions of these Rules and in particular, subject to the provisions of this Rule 74.
- (2) An owner shall only be entitled to utilize any portion of the common property allocated to it as an exclusive use area, as contemplated in Rule 74(1) above, for the use specified in the schedule attached hereto marked annexure “B”.
- (3) The Developer shall be entitled to amend this Rule 74 for the purposes of allocating further exclusive uses areas (which are illustrated on the plans lodged by the Developer with the Deeds Registry in terms of Section 25 of the Act) to future owners in future phases of the Scheme.
- (4) The Body Corporate shall take all necessary steps in its power to ensure that the aforesaid exclusive use areas shall be reserved for the exclusive use of the respective owners.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- (5) The Body Corporate shall maintain each exclusive use area on the common property in the Scheme (including those allocated to owners in accordance with Section 27A of the Act and those ceded to owners in terms of Section 27 of the Act) at the cost of the owner (to whom such area has been allocated), which cost may be recovered by the Trustees from such owner as part of the monthly levy, but it shall be incumbent upon an owner to take all the necessary steps to keep such exclusive use areas in a neat and tidy condition at all times.
- (6) Each respective owner shall not use his respective exclusive use area or permit it to be used in such a manner or for such purposes as are likely to impair the safety, appearance or amenity of other sections or other parts of the common property.
- (7) Notwithstanding the provisions of Rule 74, an owner shall permit the Trustees and their agents access to any exclusive use area allocated to him at all times.
- (8) An owner may not let any exclusive use area allocated to him, (whether in terms of Section 27A or Section 27 of the Act), separately from his section.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

CONDUCT RULES

ANIMALS, REPTILES AND BIRDS

- 1.1 An owner or occupier of a section shall not, without the consent in writing of the trustees, keep any animal, reptile or bird in a section or on the common property.
- 1.2 When granting such approval, the trustees may prescribe any reasonable condition.
- 1.3 The trustees may withdraw such approval in the event of any breach of any condition prescribed in terms of sub-rule (2).

REFUSE DISPOSAL

2. An owner or occupier of a section shall—
 - 2.1 maintain in an hygienic and dry condition, a receptacle for refuse within his section, his exclusive use area or on such part of the common property as may be authorised by the trustees in writing;
 - 2.2 ensure that before refuse is placed in such receptacle it is securely wrapped, or in the case of tins or other containers, completely drained;
 - 2.3 for the purpose of having the refuse collected, place such receptacle within the area and at the times designated by the trustees;
 - 2.4 when the refuse has been collected, promptly return such receptacle to his section or other area referred to in paragraph 2.1.
 - 2.5 No refuse or rubbish shall be left on any portion of the common property or elsewhere, including any Section where it is visible by the public, whether in a receptacle or not, except for collection within the area and at the times designated by the Trustees from time to time.

VEHICLES

- 3.1 The trustees may cause to be removed or towed away, at the risk and expense of the owner of the vehicle, any vehicle parked, standing or abandoned on the common property without the trustees' consent.
- 3.2 No owner or occupier shall be permitted to dismantle or effect major repairs to any vehicle on any portion of the common property, an exclusive use area or in a section.
- 3.3 Owners shall at all times ensure that no oil is allowed to drop onto, or to soil, any portion of the Common Property and any parking area constituting portion of the Common Property, which is used by any Owner or Occupier, shall be kept clean at all times. It is the responsibility of the Owner/Occupier to clean up any oil spills on the common property
- 3.4 No vehicles other than light motor vehicles and motorbicycles may be kept in an open parking bay on the common property of the scheme without the prior written consent of the Trustees.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- 3.5 Owners/Occupiers may park their vehicles only in areas as are specifically demarcated by the Body Corporate as parking bays and designated owners' garages.
- 3.6 Motor vehicles may be washed only in the area demarcated "wash bay".
- 3.7 Vehicles may not travel at speeds in excess of 20 kilometres per hour on any portion of the Common Property.
- 3.8 Save with the prior written consent of the Trustees, no caravan or boat shall be parked on the Common Property, (excluding any under cover parking bay or garage which constitutes an exclusive use area). Further, no persons shall under any circumstances whatsoever, be entitled to stay overnight in a caravan or the like anywhere on the common property (including any exclusive use areas).
- 3.9 Garage doors are to remain closed when the garage is not in use.
- 3.10 The speed of vehicles travelling within the basement of the Scheme, shall be 10kms per hour.

DAMAGE ALTERATIONS OR ADDITIONS TO THE COMMON PROPERTY

4. An owner or occupier of a section shall not mark, paint, drive nails or screws or the like into, or otherwise damage, or alter, any part of the common property without first obtaining the written consent of the trustees.

APPEARANCE FROM OUTSIDE

5. The owner or occupier of a section shall not place or do anything on any part of the common property of the Scheme, (including balconies, patios, stoeps, and gardens) which, in the discretion of the trustees, is aesthetically displeasing or undesirable when viewed from the outside of the section. In no way detracting from the generality of the aforesaid, the owner shall not install any satellite dish, television antennae, jacuzzi, splash pool or the like anywhere on the common property of the Scheme without the prior written consent of the Trustees, which written consent the Trustees may in their sole and absolute discretion grant or refuse.
 - a. Curtains and blinds on windows in any unit, which are visible from the exterior of such unit, shall be a shade of white in colour, save with the prior written consent of the Trustees.

SIGNS AND NOTICES

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

LITTERING

7. An owner or occupier of a section shall not deposit, throw, or permit or allow to be deposited or thrown, on the common property any rubbish, including dirt, cigarette butts, food scraps or any other litter whatsoever.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

LAUNDRY

8. An owner or occupier of a section shall not, without the consent in writing of the trustees, erect his own washing lines, nor hang any washing or laundry or any other items on any part of the building or the common property so as to be visible from outside the buildings or from any other sections.

STORAGE OF INFLAMMATORY MATERIAL AND OTHER DANGEROUS ACTS

9. An owner or occupier shall not store any material, or do or permit or allow to be done, any other dangerous act in the 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.

LETTING OF UNITS

- 10.1 Should an owner wish to lease his section, such lease shall be entered into on such documentation as may be prescribed by the Trustees from time to time (including, but in no way limited to, a standard lease agreement) and shall be subject to such rules as may be laid down by the Trustees in respect of the leasing of sections in the scheme (in particular in respect of short term letting of units in the scheme). Further, it shall be incumbent upon an owner to ensure that a copy of the Rules of the Body Corporate are given to any prospective tenant of a section and that he is made familiar with same.
- 10.2 During the Development Period, to the extent that an owner requires the services of a rental agency, to lease any unit in the Scheme, it shall be obliged to utilize the agency appointed by the Developer. After the expiry of the Development Period, to the extent that of an owner requiring the services of a rental agency in respect of the leasing of any unit within the Scheme, it shall be obliged to utilize an agency appointed by the Body Corporate.
- 10.3 An owner shall not be entitled to lease his unit in the event of the owner being in arrears with its levy payments to the Body Corporate.
- 10.4 An owner shall not be entitled to let his unit for a period of less than 14 days save with the prior written consent of the Trustees and, during the Development Period, the Developer.
- 10.5 Rules 10.2 and 10.4 shall not apply to Phase 2
- 10.6 To the extent that an owner of a unit in Phase 2 requires the service of a rental agent in respect of the leasing of any unit within the Scheme, he shall be obliged to utilise an agency appointed by the Association and
- 10.7 an Owner of a unit in Phase 2 shall not be entitled to let his unit for a period of less than 14 days, save with the prior written consent of the Association.

ERADICATION OF PESTS

11. An owner shall keep his section free of white ants, borer and other wood destroying insects and to this end shall permit the trustees, the managing agent, and their duly authorised agents or employees, to enter upon 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, replacement of

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

any woodwork or other material forming part of such section which may be damaged by any such pests shall be borne by the owner of the section concerned.

USER

- 12.1 An owner shall not do or permit to be done in his Section or on the common property anything that will or may increase the insurance premiums payable by the Body Corporate on any insurance policy save with the prior written approval of the Trustees. When granting such approval, the Trustees may prescribe any specific condition. The Trustees may withdraw such approval in the event of any breach of any condition prescribed when granting their approval.
- 12.2 The Body Corporate will not be responsible for any loss or damage suffered by an owner or occupier in respect of any loss or damage caused by the Body Corporate or any servant or agent of the Body Corporate from any cause whatsoever and it shall be the responsibility of an owner or occupier to effect his own insurances in respect of his personal effects contained in his Section or in any part of the common property.
- 12.3 All owners and occupiers of Sections shall ensure that their respective activities in and uses of the common property and of the Section or any part thereof and of all services, facilities and amenities available on the common property shall at all times be conducted and carried out with proper and diligent care and with due and proper consideration for all the other owners and occupiers of the buildings and in accordance with these Conduct Rules and of the provisions of the Act.
- 12.4 An owner shall not cause or permit any disorderly conduct of whatsoever nature in the Section or upon any part of the common property nor do or permit any act, matter or thing in or about the same which shall constitute or cause a nuisance or any inconvenience to any other owner or occupier of the buildings or member of the Body Corporate.
- 12.5 An owner or an occupier shall not keep, leave, or store any article or do anything on the common property except with the prior written approval of the Trustees, with the Trustees being at any time in their discretion on written notice to such owner or occupier to remove such article from the common property or to refrain from continuing the previously approved activity.
- 12.6 An owner shall, at his own expense, maintain the interior of the section in a good, clean and thoroughly tenable and attractive condition, and where necessary repair or refurbish any damaged item and replace any lost item.
- 12.7 An owner shall, at its own expense, maintain in a good working order and condition all electrical, plumbing and sewerage installations and appurtenances of whatever nature, serving and within the section.
- 12.8 An owner or occupier shall not allow any linen, clothing, carpets or mats to be hung on the outside of any Section except in such place specifically designated therefor. Carpets and mats shall not be shaken or dusted or beaten over the balconies, verandas, and corridors or through windows of the buildings. In addition, no flagpoles, flags or bunting may be erected or displayed anywhere on the common property of the Scheme without the prior written consent of the trustees, which consent the trustees may in their sole and absolute discretion grant or refuse.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- 12.9 No exterior accessories such as glazing to windows, fences, awnings, canopies or the like, may be attached to or erected on or about the Section or the common property, including the immediate exterior of a Section, and the exterior of a Section may not be painted or otherwise treated except with the prior written approval of the Trustees. When granting such approval the Trustees may prescribe any reasonable condition. The Trustees may withdraw such approval in the event of any breach of any condition prescribed when granting such approval. Any approved accessories shall at all times be maintained and/or renovated by the owner or occupier to the satisfaction of the Trustees.
- 12.10 Inflammable or other dangerous material or articles may not be brought on to the common property or into a Section, save for bona fide domestic purposes.
- 12.11 When the purpose for which a section is intended to be used, is shown expressly or by necessary implication in the title deeds of a section or the registered sectional plan, an owner shall not use or permit his section to be used for any other purposes.
- 12.12 Save with the prior written consent of the Trustees, the maximum number of persons that shall be entitled to occupy any section of the Scheme shall be determinable by multiplying the number of bedrooms in the section by two.
- 12.13 Smoking shall not be permitted on any part of the common property of the Scheme (including the basements and the swimming pool area).

GAMES

13. No person shall cause or permit the hitting, striking, throwing or bouncing of balls or other objects against any of the walls of the Section or on the common property or on the buildings, except in areas specially designated for such activities and no person shall play, run or make noise in any carport, or on any staircases, corridors, entrance areas, parking bays or in any part of the common property except in areas specially designated for such activities.

HOBBIES AND ACTIVITIES ON COMMON PROPERTY

- 14.1 No hobbies or other activities may be conducted in a Section or on the common property if it causes a nuisance to other occupiers.
- 14.2 Hobbies and other activities which cause undue noise are not permissible under any circumstances.

VISITORS

- 15.1 An owner or occupier of a Section is liable for the conduct of visitors and/or other occupants of the section, and he must ensure that all rules in terms of the Act and these Conduct Rules are adhered to.
- 15.2 Any of the guests of an Owner or Occupier shall be entitled to use the communal facilities, provided that such Owner or Occupier accompanies them.
- 15.3 Residents must supervise any children visiting them, so that no damage, interference or nuisance is caused to other owners or occupiers, to their property or to the common property.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

ALTERATIONS AND RE-DECORATION

- 16.1 An Owner shall not make any alterations, improvements or redecorating (including painting of walls and the like) in respect of its section, save as otherwise provided for herein, and save with the prior written approval of the Trustees and then subject to the conditions as the Trustees may impose. It is recorded that conditions that may be imposed by the Trustees shall include, inter alia, the time period within such work is to be completed, the imposition of fines should such work not be completed timeously or in accordance with such plans approved of by the Trustees. Further, any such work shall be done in such a manner so as not to unreasonably cause disturbance to the occupiers of neighbouring sections. No work in this regard may commence until such time as the Trustees aforesaid approval has been obtained in writing.
- 16.2 An owner may place in his Section, at the owner's expense, any improvements, additions, fixtures or fittings, covering mantles, light fittings, refrigerators, cooking ranges, woodwork, panelling, ceilings, doors or decorations which will not cause any damage to the buildings, subject always to the condition that the owner shall at all times only use electrical appliances and fittings as shall comply with the electrical wiring of the buildings and shall at no stage jeopardise the safety of the buildings. An owner or occupier shall obtain an Electrical Certificate of Compliance in respect of any alterations, additions or changes to the electrical installations within the Section.
- 16.3 No jacuzzi or splash pool may be installed in any section without the prior written consent of the Trustees, which consent the Trustees may in their sole and absolute discretion, grant or refuse.
- 16.4 An owner may not install any gas appliances within his unit save with the prior written consent of the Trustees first being had and obtained. Further, should the aforesaid consent be granted, the installation shall be undertaken by a suitably qualified person and the owner shall, when such installation is complete, furnish the Trustees with a certificate of conformity from an accredited person in respect of all gas installations installed in the unit and such certificate shall confirm that:
- 16.4.1 all gas installations in the unit have been inspected and tested and
- 16.4.2 in terms of Regulation 17(3) of the Pressure Equipment Regulations to the Occupational Health and Safety Act 85 of 1993 (or such other regulations or other Law enacted to replace same), such installations shall be safe and free from any leakage.”
- In addition to the aforesaid, it is recorded that any gas cylinder used in respect of any gas appliances within a unit, shall not exceed 9kgs in weight (subject to the requirements of the aforesaid regulations).
- 16.5 Any alterations, improvements or redecorating, in respect of the interior of any Section, may only be undertaken by a contractor approved by the Trustees, which contractor must be:
- 16.5.1 suitably qualified;
- 16.5.2 registered with the relevant professional body and
- 16.5.3 have adequate and proper insurance in place (to the reasonable satisfaction of the Trustees);

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

The aforesaid contractor shall at all times, while on the scheme, comply with the Law in every respect and in particular, and in no way detracting from the generality of the aforesaid, shall comply with the Occupational Health and Safety Act No 85 of 1993 (or any successor thereto), while attending to the aforesaid.

AIRCONDITIONING UNITS

- 17.1 No owner or occupier of a Section shall install any additional air-conditioning in such Section except with the prior written approval of the Trustees, and when granting such approval the Trustees shall take into consideration whether such air-conditioning units interfere with the peace and quiet of the Scheme and whether their installation is aesthetically pleasing within the Scheme.
- 17.2 Any air-conditioning unit shall be kept in a state of good repair and maintained and renovated to the satisfaction of the Trustees. Should the Trustees not be satisfied with the physical appearance or working order of a particular air-conditioning unit, the owner of such unit shall have it repaired or renovated to the satisfaction of the Trustees. The repairs or renovations shall be done at the expense of the owner who shall have no claim to compensation whatsoever.

ELECTRICITY AND WATER

- 18.1 An owner shall make his own arrangements with the Local Authority or relevant service provider for the opening of electric current and water accounts and for the supply of such electricity and water, and shall pay any deposits payable in connection with the supply of any such services as well as all electricity and water consumed in his Section.
- 18.2 An owner shall be liable for the payment of all services provided to the section in the form of telephones and television.

EMPLOYEES

- 19.1 For security purposes no worker or domestic help may be employed by any of the Occupiers unless prior permission of the Trustees has been obtained, which may be withdrawn at any time by the Trustees if due cause is shown. Employees and domestic help are obliged to wear authentic identification cards while in Sections or on Common Property. In the event of the Owner or Occupier receiving notice of withdrawal, he shall ensure that the worker in question vacates the property or the Section within the stipulated period.
- 19.2 No employee or domestic help is permitted to sleep on the common property at any time.
- 19.3 The services of Body Corporate employees may not be utilised by Owners/Occupiers/Residents, either in or outside of working hours, without the prior permission of the Trustees or manager (if so appointed).
- 19.4 An Owner/Occupier shall not interfere with the Body Corporate's Contractors or their staff in the course of their duties on the common property. Complaints, suggestions or requests are to be directed to the Chairman of the Body Corporate in writing.

SILENCE

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- 20.1 Silence must be maintained between 23h00 and 06h00 every day.
- 20.2 Motor hooters may not be used on the Common Property except in an emergency, nor may any sounding car alarms be left unattended by the owner thereof at any time.
- 20.3 Radios, musical instruments, record players, television receivers, etc must be used in such a manner as not to be an annoyance to others.

FACILITIES

- 21.1 The trustees shall be entitled to regulate and impose restrictions from time to time, on the use of any facilities on the common property of the Scheme, to ensure that such facilities are utilized for the mutual benefit of all owners in the scheme.
- 21.2 The Body Corporate may provide a concierge service to Owners. Owners making use of this service, shall be required to make payment of a fee or fees determined by the Trustees.
- 21.3 The Body Corporate may provide a valet service to Owners. Owners making use of this service, shall be required to make payment of fees as determined by the Trustees.

RESTRICTIONS ON ACCESS TO THE COMMON PROPERTY

- 22. The Trustees shall be entitled to restrict the access of owners to certain portions of certain buildings forming part of the common property of the Scheme provided that (save as provided for in paragraph 23 below) no restriction shall be placed on an owner obtaining access to his unit or exclusive use area or any facility that may have been built for the mutual benefit of all owners in the Scheme.

SECURITY

- 23. The owners shall abide by the regulations and restrictions imposed by the Trustees in order to ensure the security of the Scheme and in particular, restrictions put in place in respect of ingress and egress from the common property of the Scheme.

BREACH OF OR FAILURE TO COMPLY WITH RULES

- 24.1 Should any owner, or his lessee, invitee, guest, servant, employee or occupier of his section, or any other person who may come upon the common property of the Scheme by virtue of his right thereto, breach any of the Body Corporate's conduct or management rules and fail to remedy such breach within a period of 3 days of having received written notice from the Trustees to remedy such breach, the Trustees shall be entitled to take such action as is available to them in terms of the Rules and the Act.
- 24.2 In no way detracting from any rights that the Trustees of the Body Corporate may have in terms of the Act or in Law, the Trustees shall be entitled, in the situation referred to in paragraph 24(1) above to, inter alia:

- call for an explanation or an apology

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- impose a fine or fines
 - withdraw the previously given consent applicable to the particular issue
 - instruct attorneys to advise the Body Corporate or institute legal action on the Body Corporate's behalf
 - refer the matter to arbitration if appropriate (as contemplated in the Act)
- 24.3 The actions taken by the Trustees and the penalties imposed shall be entirely at the discretion of the Trustees having due regard for the nature, circumstances and severity of each breach of the Rules.
- 24.4 Fines imposed for the breach of or non-compliance with the rules shall be deemed to be part of the levy due by the owner.
- 24.5 The rights of the Trustees as referred to above are without prejudice to any other rights that they may have in terms of the Act in particular or law in general.
- 24.6 place a wheel clamp on the wheel on any vehicle parked on the common property of the Scheme in contravention of the Conduct of Management Rules.
- 24.7 In accordance with Management Rule 21(3), the Trustees have determined by resolution that monthly levy contributions and any ancillary Sectional Title charges, are due and payable in advance by the first of every month, subject to the levy collection and credit policy.
- 24.8 Notwithstanding the provisions of Conduct Rule 24, the Trustees are empowered to immediately charge a monthly penalty for each month that the levy contribution and charges as set out in the monthly levy statement is not paid in full by the first of the month.
- 24.9 The penalty amount to be charged shall be as determined by the Trustees from time to time.
- 24.10 The Trustees are empowered to determine an arrear levy collection policy from time to time. The policy may include the raising and recovering of annual levies against owners who are in arrears with their monthly levy contributions.

DISCLAIMER OF RESPONSIBILITY

- 25.1 The Body Corporate shall not be liable for any injury to person, damage to or loss of property to whomsoever it may belong, occurring or suffered, upon the Scheme regardless of the cause thereof nor shall the Body Corporate be responsible for any theft of property occurring on the Scheme. Owners hereby acknowledge that they shall not, under any circumstances have any claim or right of action against the Body Corporate for damages, loss or otherwise, nor be entitled to withhold or defer payment of any amount due by them for any reason whatsoever.
- 25.2 The Body Corporate and/or its agents shall not be liable to any owner or any of the owner's lessees, or their respective employees, agents, servants, invitees or customers or any member of the public dealing with the owner or any lessee for any injury or loss or damage of any description which the owner or any such other person aforesaid may suffer or sustain whether directly or indirectly in or about the Scheme, regardless of the cause thereof.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- 25.3 Owners shall accept responsibility for and indemnify the Body Corporate and its employees, servants and lawful invitees against all claims by any person arising from any injury or loss or damage as contemplated in clauses 25.(1) and 25.(2) above.

CAPITAL CONTRIBUTION TO THE RESERVE FUND

- 27.1 In order to minimize increases in the monthly levy payable by members to the body corporate, and in order to avoid the unnecessary raising of special levies by the trustees of the body corporate to fund any extraordinary or capital expenditure of the body corporate, every transferee of a unit in the Scheme, shall be required to make payment of a once-off, non-refundable contribution to the Reserve Fund of the Body Corporate on transfer of the unit.

- 27.2 When taking transfer of a unit in the Scheme the new owner shall be obliged to make a contribution to the aforesaid fund, in an amount equal to:

27.2.1 R40'000, where the total purchase price of the unit purchased is equal to or less than R3'000'000.00

or

27.2.2 R40'000 plus 0.15% of the total purchase price of the unit purchased, where the purchase price of the purchased unit exceeds R3'000'000.00.

In the event of a unit not being sold however transferred in terms of another transaction (for example, a donation), then in that event, the market value of the unit at the date of transfer (and not the purchase price), shall be utilised to calculate the contribution to be made by the new owner to the Body Corporate's reserve fund as aforesaid. In the event of the Trustees and the new owner being unable to agree on the market value of the unit at the time, then in that event, the matter shall be referred to a registered estate agent, (acting in his capacity as an expert and not an arbiter), familiar with the Scheme and properties in the area, nominated by the Trustees, whose estate agent's decision as to the market value of the unit at the time, shall be final and binding on the parties. All costs incurred with the aforesaid estate agent in obtaining the aforesaid evaluation, shall be for the account of the new owner.

- 27.3 The aforesaid contribution shall be paid by the new owner on the date that such owner takes transfer of the unit in question and payment of same shall be secured by the new owner to the reasonable satisfaction of the body corporate, pending the date of transfer.
- 27.4 The aforesaid rule shall as envisaged in Section 35(5)(c) of the Sectional Titles Act 95 of 1986 (as amended) be effective from the date on which notification of such rule is lodged with the Registrar of Deeds. However, in instances where a contract of sale has been signed before the notification of this Resolution is lodged as aforesaid and the transfer of the unit in question is only effected after the aforesaid notification has been lodged with the Registrar of Deeds, the transferee shall be exempt from making payment of the contribution to the body corporate's levy stabilisation fund as contemplated herein.
- 27.5 In the circumstances where a unit:
- 27.5.1 is being transferred to a Trust, of which the transferor, or any of his immediate family, is a beneficiary.
- 27.5.2 is being transferred, from a deceased estate to an heir of such estate or

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

27.5.3 is being transferred in terms of a divorce settlement to either of the ex-spouses. The transferee shall not be required to make the aforesaid contribution to the aforesaid fund.

For the purpose of this paragraph 27.5 “immediate family” shall mean the transferor’s legal spouse, parent, child, grandchild or sibling.

27.6 In the circumstances where the transferred unit constitutes a garage:

27.6.1 and which unit is being transferred simultaneously, from and to the same parties as a unit which constitutes a dwelling, then in that event, the transferee shall not be required to make the aforesaid contribution to the aforesaid fund.

27.6.2 and which unit is not being transferred simultaneously from and the same parties, as a unit that constitutes a dwelling, the Levy Stabilisation Fund contribution to be made by the transferee to the aforesaid fund, shall be an amount equal to:

(i) 0.3% of the total purchase price (including Value Added Tax, if any) of the unit being transferred or

(ii) R1’000 (ONE THOUSAND RAND) (which amount shall be increased by 10% per annum (compounded) from the date that this resolution is passed, unless the members, in a general meeting, direct that the amount shall escalate at a higher rate).

whichever amount is greater.

27.7 The aforesaid levy fund contribution, by a transferee, shall be allocated by the Trustees to the reserve fund of the Scheme (as contemplated in Section 3(1)(b), of the Sectional Title Schemes Management Act No. 8 of 2011) unless such reserve fund exceeds the minimum amount prescribed in terms of the regulations to the aforesaid Act, in which event, it may be allocated by the Trustees to the administrative fund of the Scheme, referred to in Section 3(1)(a), of the aforesaid Act.”

DIGITAL SERVICES

28. Any expenses incurred by the Body Corporate in providing digital services (such as internet, telephone and e-mail connections) to a particular unit shall be included in the levy charged to the owner of that unit (as opposed to the costs of providing digital services to the scheme as a whole being divided between owners in accordance with the participation quota of the scheme).

LEVY FUND CONTRIBUTION

29. As contemplated in Section 11 of the Sectional Title Schemes Management Act No 8 of 2011, it was agreed that the following undermentioned rule be adopted in terms of which the liability of Owner of section to make contributions for the purposes of Section 3 (1) (a) of the aforesaid Act shall be modified, namely:

Where the expenses of the Body Corporate are directly attributable to:

29.1 Phase 1 (by which is meant the entire scheme excluding Phase 2, Phase 3 and Phase 4), those expenses shall be shared by the owner of units in Phase 1 on the basis of the participation quota.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

- 29.2 Phase 2 (by which is meant the units in the building known as Pearl Sky excluding Section 3501 being the shopping centre – Phase 3), those expenses shall be shared by owners of units in Phase 2 on the basis of participation quota.
- 29.3 Phase 3 (by which is meant Section 3501 being the Shopping Centre and commercial premises), such expense shall be met by the owner of Section 3501.
- 29.4 Phase 4 (by which is meant Pearl Annex – as shown on the plan attached hereto marked Annexure “A”), such expenses shall be shared by owners of units in Pearl Annex on the basis of participation quota. The aforesaid expenses shall include, but not necessarily be limited to, the following:
1. Maintenance costs of the common property of the Scheme (including garden maintenance);
 2. Security costs;
 3. Costs of water and electricity utilised;
 4. Managing Agents costs (insofar as possible);
 5. Pest and hygiene control

The general expenses of the Body Corporate what are not attributable directly to either Phase 1, Phase 2, Phase 3 or Phase 4 (which shall include but, not be limited to, auditing fees, bank charges and post and petties) shall be shared by all owners in the Scheme in accordance with the participation quota.

The owners of units in Phase 2, Phase 3 and Phase 4 shall not be entitled to utilise the common facilities provided on Phase 1, save for permanent residents of section in Phase 2, which shall be entitled to utilise the common pool in Phase 1.

The Owners of units in Phase 1, shall not be entitled to utilise the common facilities provided on Phase 2, save for permanent residents of section in Phase 1, which shall be entitled to utilise the common facilities in Phase 2.

Notwithstanding anything contained above or elsewhere, to the extend that an Owner in Phase 1 incurs additional costs and increases directly as a result of Phase 2, Phase 3 or Phase 4, such costs shall be for the account of the owners of units in Phase 2, Phase 3 or Phase 4 as the case may be.

AD HOC

30. In no way detracting from the powers of the Trustees in terms of the Act, to manage the common property of the Scheme, it is specifically recorded that the Trustees may impose restrictions with regard to:
- 30.1 the holding of functions and gatherings on the common property of the Scheme.
 - 30.2 security, including, but in no way limited to, measures in respect of the ingress and egress to the common property of the Scheme and the mechanisms utilised by parties to obtain access to the common property.
 - 30.3 issues regarding health and safety and
 - 30.4 any other aspect in respect of the maintenance and use of and access to, the common property to the Scheme as the Trustees deem fit.

BODY CORPORATE OF PEARLS – MANAGEMENT AND CONDUCT RULES

BALCONY

31. No open fire, be they braais or otherwise, shall be permitted on any balcony or verandah (whether same constitutes part of a section or part of an exclusive use area) or on any part of the common property of the Scheme (and only gas braais shall be permitted). In addition, no furniture with glass components shall be permitted to be left outside on balconies and shall only be permitted on balconies when in use.

SIGNAGE

32. No signage may be erected anywhere on the common property of the Scheme save with the prior written consent of the Trustees provided that in respect of Phase 2 of the Scheme (known as Pearl Sky), no signage may be erected on the common property of the Scheme without the prior written consent of both the Trustees and, during the Development Period, the Developer.

LIFTS

33. (a) Children under the age of 12 years shall not be entitled to utilise the lifts unless accompanied by an adult.
- (b) Lifts may not be used for the purposes of transporting building materials and the like in the event of any section being improved or for the movement of furniture and the like, save with the prior written consent of the Trustees, who shall be entitled to impose conditions in respect of its approval, including conditions relating to the use and protection of the lift, the payment of a fee and the payment of a deposit by the Owner in question (to cover any damage that may be caused by such use).
- (c) In order to minimise inconvenience to other Owners the use of the lift for removal of furniture and building materials as aforesaid, shall be limited to the following times, namely:
- Week Days - 09H00 to 16H30
- Saturdays - 09H00 to 13h00

REMOVAL OF FURNITURE

34. (a) Prior to moving in or out of the Scheme such Owner shall apply to the Trustees and simultaneously lodge a deposit of R5 000.00, or other such amount as the Trustees may stipulate, from time to time, with the Trustees to be used towards any consequential damage to the Common Property and any electricity cost in respect of lifts.
- (b) Such deposit shall be refunded to the Owner within a reasonable time and the Trustees shall deduct from such deposit the costs of repair any damages (if any) as well as a reasonable administration fee as may be stipulated by the Trustees, from time to time.
- (c) The Trustees shall be entitled to increase the aforesaid deposit annually.