GOVERNMENT NOTICES

DEPARTMENT OF HUMAN SETTLEMENTS

No. R. .....

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SECTIONAL TITLES SCHEMES MANAGEMENT ACT, 2011 (Act No 8 of 2011)

SECTIONAL TITLES SCHEMES MANAGEMENT REGULATIONS

I, Lindiwe Nonceba Sisulu, MP, the Minister of Human Settlements, hereby in terms of section 19 of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011), and after consultation with Parliament, make the Regulations as set out in the Schedule hereto.

Lindiwe Nonceba Sisulu, MP

Minister of Human Settlements

SCHEDULE

ARRANGEMENT OF SECTIONAL TITLES SCHEMES MANAGEMENT REGULATIONS

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Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

(a) **"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

(b) **"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;

(c) **"scheme management service"** means any financial, secretarial, administrative or other service relating to the administration of a scheme; and

(d) **"the Act"** means the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011);

(e) **"these regulations"** includes the Annexures;

(f) **"utility section"** means a section which, in terms of local municipality by-laws, 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.

Minimum amounts for reserve fund

2.For the purposes of section 3(1)*(b)* of the Act, the minimum amount of the annual contribution to the reserve fund for a financial year being budgeted for, other than the

financial year budgeted for at the first general meeting referred to in section 2(8) of the Act, must be determined as follows:

(a) If the amount of money in the reserve fund at the end of the previous financial year is less than 25 per cent of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least 15 per cent of the total budgeted contribution to the administrative fund;

(b) if the amount of money in the reserve fund at the end of the previous financial year is equal to or greater than 100 per cent of the total contributions to the administrative fund for that previous financial year, there is no minimum contribution to the reserve fund; and

(c) if the amount of money in the reserve fund at the end of the previous financial year is more than 25 per cent but less than 100 per cent of the total contributions to the administrative fund for that previous financial year, the budgeted contribution to the reserve fund must be at least the amount budgeted to be spent from the administrative fund on repairs and maintenance to the common property in the financial year being budgeted for.

Other risks to be insured against

3. Other risks against which a body corporate may insure, in terms of section 3 (1)*(h)* of the Act, are—

(a) lightning, explosion and smoke;

(b) riot, civil commotion, strikes, lock-outs, labour disturbances or malicious

persons acting on behalf of or in connection with any political organisation;

(c) storm, tempest, windstorm, hail and flood;

(d) earthquake and subsidence;

(e) water escape, including bursting or overflowing of water tanks, apparatus or pipes;

(f) impact by aircraft and vehicles; and

(g) housebreaking or any attempt thereat.

Powers of a provisional *curator ad litem* and *curator ad litem*

4. For the purposes of section 9(5) of the Act, the powers of a provisional *curator ad litem* appointed in terms of section 9(3) of the Act or a *curator ad litem* whose appointment has been confirmed by a Court in terms of subsection 9(4) of the Act, in addition to any powers expressly granted by the Court, are—

(a) to attend, ask questions and speak, but not to vote, at meetings of the body corporate and of its trustees; and

(b) to inspect and make copies of any information about the affairs of the body corporate relevant to the curator's mandate.

Notifications

5. (1) The body corporate notification of its service address referred to in section 3(1)*(o)* of the Act must be substantially in accordance with Form A of Annexure 3.

(2) The body corporate notification of amendment of rules referred to in section 10(5)*(a)* of the Act must be substantially in accordance with

Form B of Annexure 3.

(3) The notification by a member to a body corporate of the appointment of a proxy must be substantially in accordance with Form C of Annexure 3.

Rules

6. (1) Rules, as prescribed and as amended by a body corporate in accordance with section 10 of the Act, must be considered to be and interpreted as laws made by and for the body corporate of that scheme.

(2) For the purposes of section 10(2)(a) and (b)-

(a) Subject to sub-regulations (3), (4), (5) and (6), management rules are as they appear in Annexure 1; and

(b) Conduct rules are as they appear in Annexure 2.

(3) when submitting an application for the opening of a sectional title register a developer may substitute, amend or withdraw management rules number 5(2) and (3), 7, 8(1) and (2) and 12 and may add management rules that are not inconsistent with any other management rule that appears in Annexure 1.

(4) If the schedule referred to in section 11(3) b of the Sectional Titles Act contains a condition restricting transfer of a unit without the consent of an association whose constitution stipulates that-

(a) All members of the body corporate and of the development scheme of which the unit forms part, must be members of that association and;

(b) The functions and powers of the body corporate must be assigned to that association; the developer may, when submitting an application for the opening of a sectional title register, substitute any management rule that appears in Annexure 1.

(5) If at the commencement of the Act the members of a body corporate are all members of an association whose constitution binds its members to assign the functions and powers of the body corporate to that association, the management rules contained in Annexure 1 do not apply.

(6) The management rules set out in Annexure 1 may be added to, amended or

repealed by unanimous resolution of the body corporate: Provided that no such addition, amendment or repeal made be made until such time as there are owners, other than the developer, of at least 30% of the units in the scheme save in the case of a body corporate which is established in a scheme which was approved in terms of the Sectional Title Act, 1971.

Broadly representative nature of Advisory Council

7. For the purposes of section 18(4)(b), persons nominated for consideration for appointment by the Minister to the Advisory Council must be broadly representative of females, males and, where possible, include people with disabilities.

Short title and effective date

8. These Regulations are called the Sectional Titles Schemes Management Regulations, 2016 and will come into operation on the date of publication in the Government Gazette.

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, 20015((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;

(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 by-laws, 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.

(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.

(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.

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.

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

(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.

(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.

(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:

(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 lodgment 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—

(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 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

(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;

(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 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.

(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.

(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 installments 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 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.

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 proxies 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;

(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 —

(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 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 —

(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.

ANNEXURE 2

CONDUCT RULES

Prescribed in terms of section 10(2)*(b)* of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011).

Keeping of animals, reptiles and birds

1. (1) The owner or occupier of a section must not, without the trustees' written consent, which must not be unreasonably withheld, keep an animal, reptile or bird in a section or on the common property.

(2) An owner or occupier suffering from a disability and who reasonably requires a guide, hearing or assistance dog must be considered to have the trustees' consent to keep that animal in a section and to accompany it on the common property.

(3) The trustees may provide for any reasonable condition in regard to the keeping of an animal, reptile or bird in a section or on the common property.

(4) The trustees may withdraw any consent if the owner or occupier of a section breaches any condition imposed in terms of sub-rule (3).

Refuse and waste disposal

2. (1) The owner or occupier of a section must not leave refuse or other materials on the common property in a way or place likely to interfere with the enjoyment of the common property by another owner or occupier.

(2) Unless the body corporate provides some other way to dispose of refuse, the owner or occupier of a section must keep a receptacle for refuse of a type specified by the trustees in a clean and dry condition and adequately covered in the section, or on a part of the common property designated by the trustees for the purpose.

(3) The owner or occupier of a section must—

(a) move the refuse receptacle referred to in sub-rule (2) to places designated by the trustees for collection purposes at the times designated by the trustees and promptly retrieve it from these places; and

(b) ensure that the owner or occupier does not, in disposing of refuse, adversely affect the health, hygiene or comfort of the owners or occupiers of other sections.

Vehicles

3. (1) The owner or occupier of a section must not, except in a case of emergency, without the written consent of the trustees, park a vehicle, allow a vehicle to stand or permit a visitor to park or stand a vehicle on any part of the common property other than a parking bay allocated to that section or a parking bay

allocated for visitors' parking.

(2) A consent under sub-rule (1) must state the period for which it is given.

Damage to common property

4. (1) The owner or occupier of a section must not, without the trustees' written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.(2) An owner or occupier of a section must be considered to have the trustees' consent to install a locking or safety device to protect the section against intruders, or a screen to prevent entry of animals or insects, if the device or screen is soundly built and is consistent with a design, colour, style and materials approved in writing by the trustees.

(3) The owner or occupier of a section must keep a device installed under sub-rule (2) in good order and repair.

Appearance of section and exclusive use area

5. (1) The owner or occupier of a section must not, without the trustees' written consent, make a change to the external appearance of the section or any exclusive use area allocated to it unless the change is minor and does not detract from the appearance of the section or the common property.

(2) The owner or occupier of a section must not, without the trustees' written consent—

(a) erect washing lines on the common property;

(b) hang washing, laundry or other items in a section or any exclusive use area allocated to it if the articles are visible from another section or the common property, or from outside the scheme; or

(c) display a sign, notice, billboard or advertisement if the article is visible from another section or the common property, or from outside the scheme.

Storage of flammable materials

6. (1) Subject to sub-rule (2), the owner or occupier of a section must not, without the trustees' written consent, store a flammable substance in a section or on the common property unless the substance is used or intended for use for domestic purposes.

(2) This rule does not apply to the storage of fuel or gas in—

(a) the fuel tank of a vehicle, boat, generator or engine; or

(b) a fuel tank or gas cylinder kept for domestic purposes.

Behaviour of occupiers and visitors in sections and on common property

7. (1) The owner or occupier of a section must not create noise likely to interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.

(2) The owner or occupier of a section must not obstruct the lawful use of the common property by any other person.

(3) The owner or occupier of a section must take reasonable steps to ensure that the owner or occupier's visitors do not behave in a way likely to

interfere with the peaceful enjoyment of another section or another person's peaceful enjoyment of the common property.

(4) The owner or occupier of a section is obliged to comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any other grant of rights of occupancy.

Eradication of pests

8. (1) The owner of a section must keep the section free of wood-destroying insects, including white ants and borer beetles.

(2) The owner or occupier of a section must allow the trustees, the managing agent, or their duly authorised representatives to enter the section on reasonable notice to inspect it and take any action reasonably necessary to eradicate any such pests and replace damaged woodwork and other materials.

(3) The body corporate must recover the costs of the inspection and replacement referred to in sub-rule (2) from the owner of the section.

ANNEXURE 3

Form A

Notification of change of body corporate address

Sectional Titles Schemes Management Act, 2011 – Section 3(1)(o)

Scheme Details:	
Name of Scheme:	
SS Number / year:	/ *(first number, if more than one)*
Local Municipality name:	

To:

1. Community Scheme Ombud Service
2. Local Municipality: *(insert name)*
3. Registrar of Deeds: _____ *(insert place)*

Address Details: *(insert below the body corporate's physical service address, its domicilium citandi et executandi)*

We, the undersigned trustees and *(where applicable)* managing agent of the body corporate of the above scheme give notice that, in accordance with the requirements of the Act and the rules of the scheme, the body corporate has changed its *domicilium citandi et executandi,* its address for service of any process, to the above address.	Effective date of address change: D D / M M / Y Y Y Y *(to be inserted by Service)*

To be signed by two trustees and any managing agent:

Name:	Capacity:
Signature:	D D / M M / Y Y Y Y
Name:	Capacity:
Signature:	D D / M M / Y Y Y Y
Name:	Capacity:
Signature:	D D / M M / Y Y Y Y

Confirmation of lodgment of notification:

For Chief Ombud – Community Scheme Ombud Service

Name:	Capacity:
Signature:	D D / M M / Y Y Y Y

FORM B

Notification of amendment of rules

Sectional Titles Schemes Management Act 2011 – Section 10(5)(a)

Scheme Details:	
Name of Scheme:	
SS Number / year:	/ *(first number, if more than one)*
Local Municipality name:	

To:

Community Scheme Ombud Service

We, the undersigned trustees and *(where applicable)* managing agent of the body corporate of the above scheme give notice that, in accordance with the requirements of the Act and the rules of the scheme and on the following date, the body corporate made the rules set out in the schedule attached to this notice and initialed by us for identification.	Date rules adopted: ☐☐/☐☐/☐☐☐☐ D D / M M / Y Y Y Y *(to be inserted before signature)*

To be signed by two trustees and any managing agent:

Name:	Capacity:
Signature:	☐☐/☐☐/☐☐☐☐ D D / M M / Y Y Y Y
Name:	Capacity:

Signature:	D D / M M / Y Y Y Y
Name:	Capacity:
Signature:	D D / M M / Y Y Y Y

Confirmation of lodgment of notification:

For Chief Ombud – Community Scheme Ombud Service

Name:	Capacity:
Signature:	D D / M M / Y Y Y Y

FORM C

Notification, appointment of proxy and acceptance of mandate

Note: In terms of section 6(5) of the Sectional Titles Schemes Management Act 2011 a member must be represented in person or by proxy at meetings of body corporate and a person may not act as a proxy for more than two members of the body corporate.

Scheme Details:	
Name of Scheme:	
SS Number / year:	/ *(first number, if more than one)*

To: The Body Corporate

I/We, the undersigned owner(s) and member(s) give notice to the body corporate of the above scheme that I/we appoint a proxy to speak and vote at the general meetings (including adjournments) and on the terms set out below.

Member name(s):	
Unit numbers:	
Proxy name *(insert one full name):*	

This appointment applies to: *(tick **one** of the following and complete as necessary)*

☐	The general meeting to be held on:	☐☐/☐☐/☐☐☐☐ D D M M Y Y Y Y
☐	All general meetings held before:	☐☐/☐☐/☐☐☐☐ D D M M Y Y Y Y
☐	All general meetings until and including the body corporate's next annual general meeting	

Special conditions or instructions to proxy: (if left blank, the appointment is unconditional)

Signature(s) of members giving mandate:

	D D / M M / Y Y Y Y

Signature of person accepting mandate:

	D D / M M / Y Y Y Y

Complaint Form

Annexure 4 to the regulations under the Sectional Title Schemes Management Act, No. 8 of 2011

STSM Ann. 4.1 (10/11)

Use this form to notify the Body Corporate and persons against whom you are making the complaint, who must be a unit owner, occupier or the managing agent.

Details of person making this complaint:

Full names:

Unit number(s) (if applicable) Section Address:

Name and number of Scheme

Province

Postcode

Postal address of Complainant (if different from above)

Which type are you? *(tick **one** box):*

Types: 1. Unit owner ❑ 2. Unit tenant ❑ 3. Other occupier ❑ 4. Managing agent ❑

Details of person(s) you are making the complaint against:

Person(s) name(s)	Address (include unit number, if applicable)	Type No.

Details of the relevant Rule, section of the Act or Regulation:

Identify which provision(s) is/are apparently being breached or not being complied with

Details of complaint/alleged breach:

Describe what the complaint/breach is about, including dates and times

Self-help action taken:

What has been done to try to resolve this complaint? Please describe what you have done, who you have talked to and what they offered to do

Proposed solution or action:

What remedy are you requesting? How do you want the problem to be solved?

Declaration and Signature of complainant:

I declare that the above information is true and correct to the best of my knowledge. I agree that the information I have given in this form may be used or disclosed by the body corporate to process and resolve this complaint.

Signature:

	D D / M M / Y Y Y Y

The complainant must deliver a copy of this completed and signed form to the body corporate and must keep a copy and proof of delivery.

Delivery method:

By post (name and postal address): **In person by:**

Contact telephone number for complaint(s):

Contact email address for complainant(s):

Date of Notice

Record of Body Corporate Decision

Annexure 4 to the regulations under the Sectional Title Schemes Management Act, No. 8 of 2011

STSM Ann. 4.2 (10/11)

From: Name and number of scheme

To: (person/s that made complaint and person/s who allegedly committed breach)

Person/s name/s	Address

Description of Complaint: (brief details of complaint/alleged breach)

Person/s name/s

Outcome of Internal Dispute Resolution Meeting: (description)

Decision of Body Corporate: (description and reasons for decision)

This Notice is served by:

Signature of person representing body corporate

Printed name

Position/Title

Address

Contact telephone number

Email address (if applicable)

Important Notice

- If any party to this dispute is not satisfied with the decision that party can make an application to the Community Schemes Ombud Service for assistance.