1. CONSTITUTION OF THE VICTORIA & ALFRED WATERFRONT MARINA RESIDENTIAL HOME OWNERS ASSOCIATION

2. MANAGEMENT AND CONDUCT RULES OF THE HOME OWNERS ASSOCIATION

3. SECURITY ACCESS CONTROL RULES OF THE HOME OWNERS ASSOCIATION
   (Amended 22 September 2004)

4. ESTATE RULES OF THE HOME OWNERS ASSOCIATION
   (Amended 27 October 2005)

THESE DOCUMENTS REFLECT ALL AMENDMENTS UP TO THE 8 OCTOBER 2006.
CONSTITUTION

OF THE

VICTORIA & ALFRED WATERFRONT
MARINA RESIDENTIAL
HOME OWNERS ASSOCIATION
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1. DEFINITIONS

In this Constitution and unless inconsistent with the context the following words and expressions shall have the meanings hereby assigned to them:

1.1 "alienate" means to alienate any portion of land created by subdivision of the Development and includes the alienation of a Unit, whether by way of sale, exchange, donation, deed, intestate succession, will, cession, assignment, court order, insolvency or liquidation, irrespective of whether such alienation is subject to a suspensive or resolutive condition and "alienation" shall have a corresponding meaning.

1.2 "Association" means V&A Waterfront Marina Residential Home Owners Association which is bound by the provisions of this Constitution.

1.3 "Architectural Guidelines" means the Architectural Guidelines embodied in the Precinct Plan in respect of the Development approved by the Local Authority, as it may be amended from time to time, read together with the Architectural Design Controls referred to in 1.4 below;

1.4 "Architectural Rules" means, in respect of any particular Erf, the Architectural Rules drawn up by the Developer for and applicable to the Sectional Title Scheme established in terms of that Erf and incorporated in the management rules applicable to each Body Corporate, which shall include inter alia the Architectural Design Controls hereto annexed marked annexure "A";

1.5 "Auditors" means the auditors of the Association from time to time;

1.6 "Body Corporate" means a Body Corporate established for a Sectional Title Scheme in terms of the provisions of the Sectional Titles Act;

1.7 "Building" means every building constructed or to be constructed that comprises a Sectional Title Scheme;

1.8 "Canal" means the water body within the Upper Basin Area described as "canal" on the plan Annexure "B", which water body shall be defined by the figure formed by the back of quay edge coping approximately 500mm from edge of water and shall include all bridges over such water body and lock facilities;

1.9 "Chairman" means the Chairman for the time being of Exco;

1.10 "common property" means such portion of an Erf and such parts of a Building that will be designated as common property on the Sectional Plan in question pursuant to the provisions of the Sectional Titles Act;

1.11 "Common Areas" means –

1.11.1 all Erven and Units that are transferred by the Developer to the Association to be held and maintained by the Association for the benefit of the Members, such as security offices, main power supply room, chiller/air conditioning rooms, IT rooms, refuse rooms, etc.; and

1.11.2 all common property such as roads, walkways, communal gardens, visitors parking areas, swimming pools and storage areas, including the entire parking basement area of every Building, access thereto and egress therefrom, security doors, external security, fencing etc., but excluding the following common property which is the responsibility of the Bodies Corporate - tiled foyers, lobbies, lift foyers and passageways within the security areas, external facades, roofs and terraces and further excluding common property which is delineated as exclusive use areas on the sectional plan in respect of an Erf;

1.12 "Common Services" means all bulk services including services in respect of the provision of water, sewerage, electricity, drainage, telecommunications, refuse removal, fire fighting, security, transport and all such other utilities and amenities serving the Common Areas, Units and Erven;

1.13 "Constitution" means the constitution of the Association embodied in this document with the annexures hereto, amended as it may be in terms hereof from time to time;

1.14 "Deed of Sale" means an agreement of sale and purchase in terms of which any party has purchased a Unit in a Sectional Title Scheme;

1.15 "Developer" means V&A Waterfront Marina (Pty) Limited, registration number 1999/005596/07, or its successor-in-title as the Owner of the Remainder;

1.16 "Development" means Erf 158576 Cape Town, a subdivision of Erf 149294 Cape Town, which forms part of the V&A Waterfront but which does not include the Canal, and upon which residential sectional title developments are being undertaken;

1.17 "Entity" means any company, close corporation, other association or body of whatever nature that has legal personality, and any trust or partnership (only natural persons being excluded);

1.18 "Estate Rules" means the house rules established by the Association to provide for the use and enjoyment of Units and the common property by and to promote the harmonious co-existence of all Owners and occupiers in the Development, which rules are annexed hereto marked annexure "C", and which may be amended, substituted or added to by Exco from time to time;
1.19 **Exco** means the Executive Committee for the time being of the Association appointed in terms of this Constitution;

1.20 **“Exco Members”** means the members of Exco from time to time;

1.21 **“Erf”** means every erf in the Development created by the subdivision of the whole or any portion of the Development and “Erven” means all the erven in the Development and the Remainder collectively;

1.22 **“HOA Levy”** means the Home Owners Association levy raised by the Association and collected by Bodies Corporate from Members on the Association’s behalf, and which is to be distinguished from levies raised by the various Bodies Corporate for their own purposes upon their respective members, as more fully set out in clause 12 below;

1.23 **“Improvements”** means any structure of whatever nature constructed or erected or to be constructed or erected on an Erf or the Remainder;

1.24 **“Local Authority”** means the City of Cape Town or any local authority that may succeed it as the local authority which has jurisdiction over the Development from time to time;

1.25 **“LUPO”** means the Land Use Planning Ordinance No. 15/1985 (as amended) and includes any superseding legislation;

1.26 **“Managing Agent”** means any person or Entity appointed by the Association as an independent contractor to undertake any of the functions of the Association;

1.27 **“Member”** means every person identified in 7.1 below, and “membership” shall have a corresponding meaning;

1.28 **“Membership Quota”** means, in respect of each Member, the percentage that the total floor area of all residential sections registered in the name of such Member at the time, as recorded in the participation quota schedule/s applying to the Body Corporate/s in question, constitutes of the total floor area, collectively, of all residential sections reflected on the Sectional Plans that have been registered in respect of Buildings in the Development at the time, as recorded in the participation quota schedules relating to the various Bodies Corporate in question, on the basis that whenever there is an increase in the total number of residential sections in the Development pursuant to the establishment of a further Building/Body Corporate, there shall be a resultant decrease in the Membership Quota of every current Member;

1.29 **“Ordinary Member”** means any Member of the Association other than the Developer and the owner of the Canal;

1.30 **“Office”** means the administrative office of the Association;

1.31 **“Owner”** means the registered owner of an Erf and/or Unit.

1.32 **“Prime Rate”** means the publicly quoted basic rate of interest per annum at which ABSA Bank lends monies in South African Rand on unsecured overdraft to first class corporate borrowers in general from time to time, on the basis that such interest is compounded monthly in arrears and calculated on a 365 (three hundred and sixty five) day year factor, irrespective of whether or not the year is a leap year (and which said rate of interest is at times also referred to as the prime commercial overdraft rate of interest), as certified by any officer of ABSA Bank whose appointment and authority it shall not be necessary to prove;

1.33 **“Proxy”** means a person duly appointed by a Member in terms of the provisions of the Constitution to represent him at any meeting or resumption of any meeting which has been postponed;

1.34 **“Remainder”** means the remainder of the Development left over from time to time after the subtraction therefrom of portions thereof that are transferred out or in respect of which certificates of registered title have been issued;

1.35 **“Review Committee”** means, until the development of the whole Development has been completed, the Developer acting alone, and after such completion a committee of at least three persons appointed by Exco;

1.36 **“Sectional Plan”** means the sectional plan to be drawn in respect of any Erf and Building in terms of the provisions of the Sectional Titles Act and approved by the Surveyor General;

1.37 **“Sectional Titles Act”** means the Sectional Titles Act No. 95 of 1986, as amended from time to time;

1.38 **“Sectional Title Scheme”** means any sectional title scheme established in terms of the Sectional Titles Act on any Erf;

1.39 **“Unit”** means a section (as defined in the Sectional Titles Act No. 95/1986) in any Sectional Title Scheme on any Erf together with such section’s undivided share in the common property of such Sectional Title Scheme;

1.40 **“V&A Waterfront”** means the Victoria & Alfred Waterfront development located in the Port of Cape Town;

1.41 **“year”** means a financial year of the Association.

2. **INTERPRETATION**

   In this Constitution:

   2.1 the clause headings are for convenience and shall be disregarded in construing this Constitution.

   2.2 unless the context clearly indicates a contrary intention

   2.2.1 the singular shall include the plural and vice versa;

   2.2.2 a reference to any one gender shall include the other genders; and

   2.2.3 a reference to natural persons includes legal persons and vice versa.
2.3 words and expressions defined in any clause herein shall, for the purpose of that clause and in subsequent clauses, unless inconsistent with the context, bear the meaning assigned to such words and expressions in the clause in question.

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

2.5 where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.

2.6 If any provision of this Constitution is in conflict or inconsistent with any law of the Republic of South Africa, the invalidity of any such provision shall not affect the validity of the remainder of the provisions of this Constitution.

2.7 if any provision in a definition in this Constitution is a substantive provision conferring rights or imposing obligations on any of the Members then, notwithstanding that it is only in the definition clause of this Constitution, effect shall be given to it as if it were a substantive provision in the body of this Constitution.

2.8 the annexures to this Constitution are deemed to be incorporated in and form part of this Constitution.

3. COMMENCEMENT DATE

The Association, as contemplated in terms of section 29 of LUPO, comes into existence simultaneously with registration of the first transfer of an Erf from the Developer to an Owner.

4. STATUS

4.1 The Association shall:

4.1.1 have legal personality, and be capable of suing and being sued in its own name; and

4.1.2 not operate for profit for the benefit of the Members.

4.2 No Member in his personal capacity shall have any right, title or interest to or in the funds or assets of the Association which shall vest in and be controlled by the Exco Members.

5. OBJECTS

5.1 The Association shall have the following objects:

5.1.1 to act as a Home Owners Association established in terms of Section 29 of LUPO for the V&A Waterfront Residential Marina which is being developed on the Development, and in particular to procure that the matters referred to in Sections 29(2)(b) and (c) of LUPO be adhered to and complied with;

5.1.2 to take transfer of those portions of the V&A Residential Marina that are designated by the owner thereof as common areas that are to be owned by the Association for the benefit of its members;

5.1.3 to enter into agreements of servitude in its favour over portions of land within the V&A Waterfront Residential Marina for the benefit of its members;

5.1.4 to administer, manage, oversee, maintain and control the Common Areas;

5.1.5 to manage, oversee and control all security aspects of the V&A Waterfront residential Marina;

5.1.6 to enter into agreements for the provision of services, inter alia including the provision of water, electricity and sewerage services to the Association and where required to supply such services to the various Bodies Corporate within the V&A Waterfront Residential Marina;

5.1.7 to administer and enforce the Architectural Guidelines, the Architectural Rules and the Estate Rules;

5.1.8 to control the registration of transfer of Erven and Units in the Development and ensure compliance within the V&A Waterfront Residential Marina with all conditions imposed by the Local Authority when approving the Upper Basin Precinct Plan in respect of the V&A Waterfront Residential Marina;

5.1.9 to enter into reciprocal agreements with the owner of the Canal to govern the use of the Canal, the rights of access of the Ordinary Members to the Canal and to the pedestrian bridges crossing over it.

5.2 Without limiting the generality of 5.1.1 or detracting from the specific objects set out in 5.1.2 to 5.1.9 above, the Association shall in general:

5.2.1 oversee, maintain and control the Development, ensure in general that high standards are adhered to and to regulate and control the harmonious development of the Development;

5.2.2 administer the common facilities within the Development;

5.2.3 promote, advance and protect the V&A Waterfront Residential Marina and the interests of the Association and all Members.

5.3 the Association, through Exco, shall have all the powers that are necessary to accomplish the fulfillment of the foregoing objects including, but not restricted to, the powers specifically contained in this Constitution.

6. CONTROL OF ASSOCIATION BY DEVELOPER

It is recorded that, having regard to the objects, purpose and aim of the Association set out in clause 5 above, it is considered imperative for the successful execution and implementation of the Development that the Developer should retain effective control of the Association until the whole of the Development has been fully developed.

7. MEMBERSHIP:

7.1 The Members of the Association shall be:

7.1.1 the Developer;
7.1.2 every Owner provided that where an Owner comprises more than one person, such person shall be deemed jointly to be one Member of the Association and shall be jointly and severally liable to comply with their obligations as a Member;

7.1.3 every Body Corporate;

7.1.4 the owner of the Canal, represented by the Harbour Master or such other person designated by the owner of the Canal from time to time;

7.2 An Owner of an Erf and/or a Unit shall become a Member of the Association upon registration of transfer of the Erf or Unit into his name.

7.3 When a Member is no longer the registered owner of any Erf or Unit he shall ipso facto cease to be a Member of the Association.

7.4 The rights and obligations of the Members shall rank in accordance with the provisions of this Constitution.

7.5 Anything to the contrary hereinafter contained or implied notwithstanding, the cessation of his membership shall in no way release a Member from any obligation undertaken by him prior to the cessation of his Membership pursuant to:

7.5.1 any provision of the Constitution of the Association; or

7.5.2 any further or ancillary guarantee, commitment or obligation which such Member may have undertaken.

7.6 Membership shall be personal to the natural persons or Entities in question and may not be assigned or transferred by them to any other natural person or Entity.

7.7 The Association shall maintain at the Office a register of Members, which shall be open to inspection by Members.

7.8 Exco may by regulation provide for the issue of a membership certificate, which certificate shall be in such form as may be described by Exco;

7.9 Exco may by regulation further prescribe appropriate application documentation including inter alia the following:

7.9.1 an application to register as a Member of the Association;

7.9.2 an undertaking by a proposed Member to comply with all the obligations imposed on Members in terms of the Constitution, which undertaking must be signed by the proposed Member and deposited with the Association prior to the Association issuing a clearance certificate or consent to transfer a Unit or Erf in favour of such a proposed Member from any existing Member, provided always that this paragraph 7.9.2 will not apply in respect of the transfer or alienation by the Developer of an Erf or Unit in favour of a proposed Member.

8. LAYOUT

8.1 The Developer shall, in its absolute discretion, be entitled to apply and submit for the approval of the Local Authority, the layout and/or zoning and/or size and/or boundaries of Erven and/or the extent and position of streets and Common Areas comprising the Development, and/or for any variation of any of the aforesaid, and Members shall be bound thereby and shall have no claims of whatever nature against the Developer arising therefrom. Insofar as the consent of a Member is formally required for any of the aforesaid, the Developer (represented by any one of its authorised representatives) is irrevocably granted a power of attorney to grant any/all such consents on behalf of Members, as may be required.

8.2 In particular it is recorded that the Association does not have the power or capacity in any way to interfere with, object to, restrict or in any way provide an obstacle of any nature to the Developer with the planning, implementation or construction of any part or aspect of the Development or any improvements thereon.

8.3 Notwithstanding any provisions to the contrary set out elsewhere in this Constitution, there will be no restriction on the Developer to develop, transfer, sell, lease or alienate the whole or any portion of the Development, nor will the Developer be obliged to obtain any consent or clearance of whatsoever nature from the Association or its Members in respect of the construction of any Improvements on any part of the Development.

9. MEMBERS' OBLIGATIONS:

9.1 Every Member is obliged to comply with:

9.1.1 the provisions of this Constitution and any regulations passed by the Association in terms hereof;

9.1.2 the provisions of the Architectural Guidelines, the Architectural Rules and the Estate Rules;

9.1.3 any agreement concluded by the Association insofar as such agreement may directly or indirectly impose obligations on a Member in its capacity as a Member;

9.1.4 any directive given by Exco in enforcing the provisions of this Constitution.

9.2 The rights and obligations of a Member are not transferable and every Member shall to the best of his ability further the objects and interests of the Association.

9.3 The Members shall be jointly liable for expenditure incurred in connection with the Association as more fully later
referred to herein. If a Member consists of more than one person such persons shall be jointly and severally liable in solidum for all obligations of a Member in terms of this Constitution.

9.4 An Ordinary Member shall not sell, alienate or give transfer of an Erf or Unit unless:

9.4.1 the proposed transferee has irrevocably bound himself to become a Member of the Association and to observe the provisions of the Constitution for the duration of his ownership of the Erf and/or Unit;

9.4.2 the Association acting through Exco or the Managing Agent has issued a prior written clearance that all outstanding levies and all amounts of whatever nature owing to the Association by such Member have been paid and that the Member is not in breach of any of the provisions of this Constitution; and

9.4.3 the proposed transferee acknowledges that upon the registration of transfer of the Erf and/or Unit into his name, he shall ipso facto become a Member of the Association.

9.4.4 the conditions set out in 9.4.1 to 9.4.3 above are incorporated in the relevant Deed of Sale in terms whereof the transferee acquires the Erf or Unit in question.

For the avoidance of doubt it is recorded that the provisions of this clause 9.4 do not apply to the Developer, that there will be no restriction whatsoever on the ability of the Developer to pass transfer of any Erf or Unit and that accordingly the Developer does not need a clearance certificate from the Association before it will be entitled to alienate or transfer any Erf or Unit to any person or Entity.

9.5 An Ordinary Member shall not without the prior written consent of the Association, who in granting or refusing such consent shall act in its absolute discretion, apply to the Local Authority or any other relevant authority for the subdivision or rezoning of an Erf or Unit owned by the Member, or make application for any consent use or waiver or departure or any other dispensation whatsoever in respect thereof. For the avoidance of doubt it is recorded that this clause 9.5 does not apply to the Developer who does not need the consent of the Association in respect of the aforesaid or any other applications.

9.6 A Member is required to ensure that the occupant of his Erf or Unit, whether such occupation arises from an agreement of lease or otherwise, complies with all applicable provisions of this Constitution and the Regulations. Without detracting from the aforesaid the Member shall remain bound by this Constitution notwithstanding such occupation and be jointly and severally liable for the acts and omissions of the occupant and for fulfilling his obligations under this Constitution.

9.7 An Ordinary Member may not resign from the Association.

9.8 specifically to acknowledge that he has been apprised of the existence Each Member shall, if it leases out any Unit:

9.8.1 enter into a written lease with the tenant in which the tenant is required and ambit of the Estate Rules, and to give an undertaking that he will abide by the Estate Rules, and in which the tenant is required to report to the Association and register his full details for security reasons prior to the taking of occupation;

9.8.2 be responsible to ensure that the tenant does thus register himself with the Association prior to taking occupation.

10. ARCHITECTURAL GUIDELINES, ARCHITECTURAL RULES AND ESTATE RULES

10.1 The Architectural Guidelines, the Architectural Rules and the Estate Rules constitute an integral part of this Constitution. It is recorded that the Architectural Guidelines, the Architectural Rules and the Estate Rules, read together with the management rules of every Body Corporate, contain the procedures, requirements and guidelines to be adhered to by every Owner who wishes to effect improvements or alterations to or undertake any renovation of any Building or Unit.

10.2 All Improvements shall be of sound construction and shall comply with the provisions of the Architectural Guidelines and the applicable Architectural Rules that form part of the Rules of the Body Corporate in question.

10.3 No construction or erection of any Improvements or alterations to and no renovation of any Building or Unit that is undertaken by any party other than the Developer may commence prior to the due and proper approval of plans for such Improvements, alterations or renovation by both the Review Committee and, where required, the Local Authority, in accordance with the following provisions:

10.3.1 the Owner shall submit to the Review Committee for approval a full set of the proposed building plans or alteration plans which indicate both construction and design details;

10.3.2 the Owner shall be liable for payment of the reasonable cost of professional scrutinising and examination of such plans by the Review Committee;

10.3.3 after the approval of such plans by the Review Committee the plans shall be submitted to the Local Authority for approval. No plan shall be submitted to the Local Authority unless it bears the endorsement of approval of the Review Committee, clearly dated, certifying that the plan complies with both the Architectural Guidelines and the Architectural Rules.

10.4 When effecting the Improvements or alterations or renovations contemplated in 10.3 the Owner shall at all times comply strictly with the Architectural Guidelines and the Architectural Rules as well as all conditions and standards imposed by the Local Authority insofar as these may be additional to the provisions of the Architectural
11. SERVICES

11.1 Water

11.1.1 The Association shall supply each Body Corporate and each Erf with water at the cost thereof to the Association, which shall include all costs of and incidental to such supply including the cost of installation, maintenance and servicing of pipelines, pumps, metres, equipment and materials.

11.1.2 The Body Corporate and all Owners of Units therein shall be liable for and shall pay the Association on demand all charges arising from water supplied to or consumed in or on an Erf and the Building thereon and the common property comprising a Sectional Title Scheme.

11.1.3 The liability of a Body Corporate and the Owners in question for such charges shall be in accordance with separate submeters serving the Sectional Title Scheme or Erf in question which the Association shall be entitled to install at the cost of such Body Corporate or Owner, as the case may be.

11.1.4 Where water charges are calculated and payable in terms of this clause 11.1, any value added tax levied in respect of the supply of such water shall be paid by the Body Corporate or Owner in question.

11.1.5 The Association will be entitled to charge interest at the Prime Rate plus 3 percentage points on any charges payable by an Owner or Body Corporate in terms of this clause 11.1 which interest will be calculated from the due date on the balance of the charges owing from time to time until it has been paid in full.

11.2 Electricity

11.2.1 Lighting on Common Areas shall be supplied through separate electricity supply meters and the cost incurred by the Association in respect thereof shall be recovered from Members as part of the HOA Levies.

11.2.2 Electricity for consumption by Owners of Units shall be supplied in bulk by the Local Authority to the Association, and in turn distributed by Association through prepaid energy meters to individual Owners. Accounts in respect thereof shall be rendered to Owners by the Association.

11.2.3 Electricity for communal lighting on common property not forming part of Common Areas shall be purchased and paid for by the Body Corporate of the Sectional Title Scheme.

11.3 Security, Communications and TV

11.3.1 The Association shall vis-a-vis its Members be responsible for security, all internal communication (intercoms, gates, gate booms, etc) and the provision of TV signals within the Development and will take all the steps necessary to provide and maintain adequate security measures for the Development.

11.3.2 It is recorded that the Developer is providing a sophisticated security system for the entire Development and that the Association shall be obliged to enter into a security agreement with the Developer's nominated provider. The Developer shall be the security authority for the Development and be solely entitled, to the exclusion of any other party, to control all the security measures in respect of the Development until such time as the Developer owns no further Unit/Erf in the Development.

11.3.3 All Bodies Corporate shall co-operate with the Association to install and maintain security systems that will integrate the security systems of the Association with those of the various Bodies Corporate.

11.3.4 All Bodies Corporate shall allow the Association or its employees access to their common property to install, maintain and operate such security systems.

11.3.5 All Bodies Corporate shall be obliged to accept the established security infrastructure provided by the Developer and not be entitled to install any security systems such as access control systems, alarm systems, intercoms and closed circuit video systems which are incompatible and incapable of being integrated with the...
systems of the Association, and which have not been approved by the Association in writing.

11.3.6 It is recorded that the aforesaid provisions are incorporated as being of crucial importance for purposes of a cohesive and effective security system for the Development, and in the best interests of all Bodies Corporate and their Members. All Bodies Corporate shall accordingly be obliged to participate therein.

11.4 **Maintenance of Common Areas**

Landscaping and gardening and the on-going maintenance of Common Areas shall be the responsibility of the Association.

11.5 **Maintenance of Buildings**

11.5.1 If, in the opinion of Exco, a Body Corporate fails to maintain the common property which is its responsibility in keeping with the general standard of the other Sectional Title Schemes in the Development and such Body Corporate fails or refuses to do so despite reasonable notice from Exco to undertake such maintenance, the Association shall be entitled, at the cost of such Body Corporate, to undertake such necessary maintenance and the Body Corporate shall, upon demand, be liable for payment of all costs so incurred.

11.5.2 The Association will be entitled to charge interest at the Prime Rate plus 3 percentage points on any amounts payable by a Body Corporate in terms of clause 11.5.1 which interest will be calculated from the due date on the balance of such amounts owing from time to time until it has been paid in full.

11.6 **Sewerage**

It is recorded that the Association shall be obliged to enter into a contract with the Developer's nominated provider for the provision of sewerage services and shall render an account to the Association in respect thereof. The Association will include in its levy account rendered to Bodies Corporate a contribution for sewerage along with e.g. security services, outside lighting, etc.

11.7 **General**

11.7.1 The Association shall have the right to convey water, electricity, sewerage, telephone information technology, telecommunication, security communication, and any other services over any Erf or Building or any other portion of the Development, whosoever is the owner thereof, and shall have the right of access to such premises for the purposes of installing, replacing and/or repairing such services.

11.7.2 The Owners and Bodies Corporate will allow reasonable access to employees or representatives of the Association into the Buildings or Units for purposes of maintaining any pipes or equipment or in general any of the systems necessary for the conveyance or provision of the services referred to in 11.7.1 above.

11.7.3 Furthermore and without derogating from the aforesaid all Members will be obliged to provide their co-operation and to allow reasonable access to employees or representatives of the Association to enable them to install, implement and maintain any pipes or other modes of conveyancing of the services referred to in 11.7.1 above.

11.7.4 The Developer shall have the right to register servitudes of right of way and/or servitudes for the conveyance of electricity, water, sewerage, telephone lines, information technology, security systems and any other type of services and/or servitudes of encroachment or servitudes in respect of any common walls or structural support or any other servitudes in respect of any other type of use over any Erf, Unit, Building or common property in any Sectional Title Scheme in favour of the Association or in favour of any adjoining Erf or any other part of the Development that in the opinion of the Developer is reasonably necessary for the proper functioning of the development of the whole or any part of the Development. In particular it is recorded that the servitudes of right of way will be registered in favour of the Association for the benefit of its Members over portions of the common property of any Sectional Title Scheme along routes that will be delineated by the Developer on any Sectional Plan or on other servitude diagrams, and specifically a servitude of vehicular right of way over portions of the common property in the basement of a Building. The Association accepts and shall be bound by and consents to registration of such reciprocal servitudes between Bodies Corporate and the Association as are provided for herein.

12. **LEVIES**

12.1 The Association shall establish and maintain a levy fund for the purposes of meeting all expenses of the Association in respect of:

12.1.1 the control, management and administration of the Development;

12.1.2 in general the attainment of its main objects as described in its Constitution;

12.1.3 the maintenance of Common Areas and the costs of services such as electricity, water and sewerage consumed or used on the Common Areas;

12.1.4 the supply of any services rendered by the Association;
12.4.1 The Association shall have a discretion in regard to approval of the level of services, and the cost thereof, that the Association requires in respect of e.g. cleaning, gardening, general maintenance, etc.

12.4.2 The Association shall have its annual general meeting at least [60] days prior to the financial year end of the Association and, subject to 12.4.1.1 above, decide on proposed increases of the HOA Levies and the amounts to be charged to Members in respect thereof.

12.4.3 Each Member shall, as consideration for the maintenance etc. of the Common Areas, common property and Common Services and the delivery of services by the Association to and on behalf of all its Members, as contemplated in clause 13 below, be levied with such proportion of the total HOA Levies resolved upon in terms of 12.4.2 as equates to the proportion between such Member's Membership Quota and the total Membership Quotas of all Members of the Association;

12.4.4 The Association shall notify the Bodies Corporate at least [45] days prior to their respective annual general meetings of the HOA Levies it has resolved to charge for the following year;

12.4.5 The Bodies Corporate must notify their members at least 28 days before their annual general meetings, in compliance with the Sectional Titles Act, and give them the details of the increases in the HOA Levies which have been resolved upon by the HOA annual general meeting and communicated to the Bodies Corporate in terms of this clause 12.4. above, and which must be included in the budgets of the Bodies Corporate that are tabled for approval;

12.4.6 At their annual general meetings the Bodies Corporate shall resolve to impose the following levies on their own members:

12.4.6.1 the HOA Levies imposed by the Association on the members in question, as communicated to the Bodies Corporate in terms of 12.4.4; and

12.4.6.2 the Body Corporate’s own levies as determined by its members in the meeting pursuant to the provisions of the Sectional Titles Act.

12.4.7 Each Body Corporate shall be responsible to collect on behalf of the Association the HOA Levies pertaining to the members of that Body Corporate.

12.5 The Association may, from time to time by a resolution adopted by Exco, make special levies upon Members effective from the date of passing of the applicable resolution in respect of such expenses referred to in clause 12.1 which have not been included in the HOA levies approved by the HOA annual general meeting in terms of 12.4, and such levies may be imposed and shall be payable in one sum or by such instalments and at such time or times as Exco may determine in its resolution. The

12.1.5 payment of all expenses necessary or reasonably incurred in connection with the management of the Association;

12.1.6 the costs of the provision of security to the Development; and

12.1.7 in general the cost of fulfilling any of the obligations of the Association.

12.2 Exco shall estimate the amount which will be required by the Association to meet the expenses referred to in 12.1 during each year, together with such estimated deficiency, if any, as shall result from the preceding year and may include in such estimate an amount to be held in reserve to meet anticipated future expenditure not of an annual nature;

12.3 The Association shall be entitled to require Members, in accordance with the procedures set out in 12.4, below, to make contributions to such levy fund (in the form of levies), for the purposes of satisfying the expenses referred to in clause 12.1.

12.4 The procedure for raising and collecting HOA Levies shall be as follows:

12.4.1 Exco shall submit the estimated expenditure referred to in 12.2 to the annual general meeting of the Association for consideration. It is recorded that:

12.4.1.1 the meeting shall be obliged to approve the following items of expenditure that are charged to the Association by outside third parties:

12.4.1.1.1 all rates and taxes payable by the Association to the Local Authority in respect of the Development;

12.4.1.1.2 the costs of the Developer's nominated provider of security services, including security guards, monitoring and surveillance;

12.4.1.1.3 the levies/contribution payable by the HOA to the owner of the Canal as agreed between them, the cost to be shared with other Canal users on a pro-rata basis;

12.4.1.1.4 the Precinct contribution payable by the Association to the owner of the V&A Waterfront in respect of entrance, security and access roads, which contribution shall be prorated with reference to the area that the Development constitutes of the entire V&A Waterfront;

12.4.1.1.5 the fee payable to any managing agent with whom the Association has entered into an agreement.

12.4.2 The Association shall notify the Bodies Corporate at least [45] days prior to their respective annual general meetings of the HOA Levies it has resolved to charge for the following year;
12.6 Any amount due by a Member by way of an HOA Levy shall be a debt due by him to the Association payable on such time or times as determined by Exco. Exco may determine that a levy is payable annually in advance in respect of the year for which it is calculated or in such monthly instalments as it may determine.

12.7 Until such time as a new HOA Levy pertaining to a forthcoming year has been determined pursuant to the provisions of this clause 12 above, every member of the Association shall continue to pay the existing HOA Levy currently in force, on account of the new HOA Levy yet to be determined.

12.8 The obligation of a Member to pay a levy shall cease upon his ceasing to be a Member save that he shall remain liable for all levies calculated up to the date upon which he ceases to be a Member.

12.9 No levies paid by a Member shall be repayable by the Association upon cessation of the Member’s membership.

12.10 A Member’s successor in title to a residential Unit shall be liable, as from the date upon which he becomes a member pursuant to registration of transfer of such Unit in his name, to pay the levies attributable to that residential Unit.

12.11 A Member shall be obliged to pay interest on any levy not paid on the due date at the Prime Rate plus 3 percentage points per annum calculated on the levies due from time to time from the due date until the date that the arrear levies have been paid in full to the Association.

12.12 The Body Corporate shall be entitled to require a Member to sign a debit order authority to allow such Body Corporate or its authorised agent to collect levies directly from an operating bank account.

12.13 If any Member fails to make payment on due date of levies and/or other amounts payable by such Member including interest, the Association may give notice to such Member requiring him to remedy such failure within such period as the Association may determine and should he fail timeously to make such payments, the Association may institute legal proceedings against such Member without further notice and such Member will be liable for and shall pay all legal costs on the scale as between attorney and own client together with collection commission and any other expenses and charges incurred by the Association in recovering such amounts.

12.14 No Member shall (unless otherwise determined by Exco) be entitled to any of the privileges of Membership including:

12.14.1 his right of access to and use of any of the Common Areas;

12.14.2 his right to vote

until he shall have paid every levy and interest thereon and any other amount which may be due and payable by him to the Association.

12.15. The Association shall not be entitled to undertake on behalf of its Members any permanent works of major capital nature without the sanction of a resolution of the Members adopted during a general meeting of Members. In this sub-clause “works of a major capital nature” means works that will cost more than R50 000 (fifty thousand Rand) (excluding Value Added Tax).

13. MAINTENANCE AND ADMINISTRATION OF COMMON AREAS, COMMON SERVICES AND COMMON PROPERTY

13.1 The Association shall maintain, repair and keep in good order and condition all Common Areas and where necessary refurbish same.

13.2 The Association will provide, administer and maintain all Common Services.

13.3 The Association shall not be obliged to maintain any common property which is not part of the Common Areas as defined. Those portions of the common property shall be administered and maintained by the Bodies Corporate of the Sectional Title Schemes in question in accordance with the provisions of this Constitution and the Sectional Titles Act.

14. AUTONOMY WITHIN THE DEVELOPMENT

The Development shall be developed as a linked development, it being the intention that, subject to the provisions of this Constitution:

14.1 each Erf or Sectional Title Scheme on an Erf will be autonomous;

14.2 each Sectional Title Scheme established or to be established within the Development will be an autonomous legal Entity with its own sectional plan, rules and Body Corporate;

14.3 every Owner and his guests and authorised occupiers of Units will be entitled to use the Common Areas;

14.4 each Body Corporate or registered Owner of an Erf will be responsible for the cost of maintaining its common property
15. **WATER AREAS**

15.1 It is recorded that the water areas adjacent or in close proximity to the Development are:

15.1.1 the water area of the proposed Upper Basin and Canal (referred to in this clause as the "UBWA"); and

15.1.2 the water area of the existing New Basin (referred to in this clause as the "NBWA");

(as shown on the plan hereon annexed as Annexure "D". (Where used collectively in this clause, the UBWA and the NBWA are referred to as the "Water Marina")

15.2 It is recorded that the water area in the UBWA and the water area in the NBWA between the Cape Grace Hotel, the Aquarium and Bascule Bridge (as indicated on annexure "B") form an integral part of a working harbour which is managed and controlled on behalf of the owner of the V&A Waterfront by the appointed V&A Harbour Master.

15.3 The policy concept for the management of these waterways is to provide opportunities for the water area to be maximised within the culture of a working harbour both for pleasure and commercial activities while recognising the presence of residential apartments, the public visitornship and the uniqueness of the environment.

15.4 Facilities in the Water Marina for small craft will consist of:

15.4.1 limited mooring sites catering for a wide selection of craft in the Canal of the UBWA;

15.4.2 floating tidal pontoon berths that are available in the NBWA.

15.5 It is recorded that:

15.5.1 the areas of the Water Marina are not under the control or jurisdiction of the Association or any Body Corporate and that neither the Association nor any of its Members nor any Body Corporate will have any rights of ownership to the Water Marina or any portion thereof;

15.5.2 all aspects of the use to be made of and the gaining of access to the water area in the UBWA by any Owner of a Unit in any Sectional Title Scheme or any resident of a scheme or any visitor to any premises situated within the Development shall be subject to and determined and governed by agreements and/or servitudes to be entered into between the Developer, or its successor-in-title as the owner of the Water Marina, and the Association and which may be registered in favour of the Association by the owner of the Water Marina.

15.6 It is recorded that all Members have been and are hereby again specifically alerted thereto that no person shall by virtue of his ownership of any Unit in any Sectional Title Scheme have any right to any mooring facility in either the UBWA or the NBWA, and that no tenant or other occupier of any premises in or any visitor to any Sectional Title Scheme or any other person whatsoever shall have any right to any mooring facility in either the UBWA or the NBWA otherwise than in terms of a written mooring lease or other written agreement entered into between the owner of the Water Marina and the lessee under such lease or party to such other agreement.

15.7 It is recorded that in any use made of the Canal in the UBWA by any person, cognisance will have to be taken of the obligations imposed on the owner of the Development regarding public access on the water, as embodied in the Local Authority’s conditions of approval of the Precinct Plan for the Upper Basin Precinct of the V&A Waterfront (contained in Council Report 0/99 dated 11 August 1999), as set out below:

"2.1.1 On completion of the lock between the New and Upper Basins, public access to the Marina, shall be by means of the water bodies of the Marina, on vessels licensed by the Victoria and Alfred Waterfront (Pty) Ltd or its legal successors to operate water transportation concessions on such water bodies. The owner and/or Victoria and Alfred Waterfront (Pty) Ltd will grant such concessions in such number and under such conditions as shall be reasonable and appropriate to the circumstances prevailing from time to time, regard being had, inter alia to the demand by the Public for such transportation services and the integration of such services, where applicable, with other modes of transport serving the Victoria and Alfred Waterfront (Pty) Ltd. The granting of such concessions will not be unreasonably withheld by the said companies.”

16. **THE EXCO**

16.1 The Exco of the Association shall be constituted as follows:

16.1.1 The number of Exco members shall be as follows:

16.1.1.1 initially the Developer, the Owner of the Canal and every Body Corporate shall each be entitled to appoint two Exco members;

16.1.2 once the Exco members exceed 12 (twelve) in total pursuant to the coming into existence of further Body Corporates from time to time, the number of Exco members shall be reduced with effect from the first annual general meeting of the HOA after such occurrence. Thereafter the Exco shall be comprised of only one appointee by each of the Developer, the Owner of the Canal and each respective Body Corporate.

16.1.2 Every Body Corporate shall at its Annual General Meeting appoint its nominated Exco member/s for the Association.
16.2 An Exco Member shall, by accepting his appointment as such, be deemed to have agreed to be bound by the provisions of this Constitution.

16.3 Each Exco Member shall continue to hold office until the annual general meeting of the Body Corporate following his appointment, at which meeting such Exco Member shall be deemed to have retired from office but will be eligible for re-election at such meeting.

16.4 An Exco Member shall be deemed to have vacated his office as such upon

16.4.1 his estate being sequestrated, whether provisionally or finally or upon his surrendering his estate.

16.4.2 him making any arrangement or composition with his creditors.

16.4.3 his conviction for any offence involving dishonestly.

16.4.4 him becoming of unsound mind or being found lunatic.

16.4.5 him resigning from such office in writing.

16.4.6 his death.

16.4.7 him being removed from office by a resolution of Exco Members.

16.4.8 his being disentitled to exercise a vote in terms of his Constitution.

16.5 Notwithstanding the fact that a Exco Member shall be deemed to have vacated his office as provided in clause 16.4 anything done by such Exco Member in the capacity of a Exco Member in good faith shall be valid until the fact that he is no longer a Exco Member has been recorded in the Minute Book of the Exco Members. Should the office of a Exco Member fall vacant prior to the next annual general meeting of the Body Corporate to which he belongs, the Chairman of that Body Corporate shall in the interim ex officio take the place of the Exco Member on the Board.

16.6 The Developer shall appoint the first Chairman who shall hold office until the first annual general meeting provided that such office shall ipso facto be vacated by the Exco Member who was appointed Chairman upon his ceasing to be an Exco Member for any reason.

16.7 Within 7 (seven) days of the holding of each annual general meeting of the Association the Exco Members shall meet and shall elect from their own number the Chairman who shall hold office until the annual general meeting held next after his appointment, provided that the office of Chairman shall ipso facto be vacated by the Exco Member holding such office upon his ceasing to be Exco Member for any reason. In the event of any vacancy occurring in the aforesaid office the Exco Members shall meet as soon as reasonably possible to appoint one of their number as a replacement in such office.

16.8 Save as otherwise provided in this Constitution, the Chairman shall preside at all meetings of the Exco Members and all general meetings of the Association and shall perform all duties incidental to the office of Chairman and such other duties as may be prescribed by the Exco Member or by Members and shall allow or refuse to permit guests to speak at any such meetings, provided that any such guest shall not be entitled to vote at any meetings.

16.9 If the Chairman vacates the chair during the course of a meeting or is not present or is, for any other reason, unable to preside at any meeting, the Exco Members present at such meeting shall choose another Chairman for such meeting.

16.10 If any Chairman vacates his office as Chairman or no long continues in office for any reason, the Exco Members shall elect another Chairman who shall hold office as such for the remainder of the period of offices of the first mentioned Chairman.

16.11 An Exco Member shall be disqualified from voting in respect of any contract or proposed contract or any litigation or proposed litigation of any dispute, with the Association, by virtue of any interest he may have therein save with the approval of the remaining Exco Members after full disclosure of such interest.

16.12 No contract concluded on behalf of the Exco Members shall be valid and binding unless it is signed by the Chairman and one Exco Member, the latter specifically appointed as authorised signatory in terms of the Resolution of Exco Members whereby the Exco Members bind the Association.

16.13 Exco Members shall be entitled to be repaid all reasonable and bona fide expenses incurred by them in or about the performance of their duties as Exco Members and/or Chairman, as the case may be, but save as aforesaid, shall not be entitled to any other remuneration, fees or salary in respect of the performance of such duties.

16.14 Exco Members may not make loans on behalf of the Association to Members or to themselves.

17 FUNCTIONS, POWERS AND DUTIES OF EXCO MEMBERS

17.1 Subject to the express provision of this Constitution, the Exco Members shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs, including the right of appointment and dismissal of any Managing Agent, may exercise all such powers of the Association and do all such acts on behalf of the Association which are within the objects of the Association.

17.2 Save as specifically provided in this Constitution, the Exco Members shall at all times have the right to engage on behalf of the Association the services of accountants, advocates, attorneys, auditors, architects, engineers, land surveyors, managing agents, town planners or any other professional firm or person or other employees whatsoever for any reason deemed necessary by the Exco Members on such terms as the Exco Members shall decide.

17.3 The Exco Members shall have the right to vary, cancel or modify any of their decisions and resolutions from time to time.

17.4 The Exco Members shall have the right to co-opt any person or persons chosen by them. A co-opted Exco Member shall enjoy all the rights and be subject to all the obligations of the Exco Members provided that such co-opted Exco Member shall only serve until the next annual general meeting.

17.5 The Exco Members may, should they so decide, investigate any suspected or alleged breach by any Member or Exco Member of this Constitution in such reasonable manner as they shall decide from time to time.
17.6 The Exco Members may make regulations and rules not inconsistent with this Constitution.

17.6.1 as to the resolution of disputes generally;

17.6.2 for the furtherance and promotion of any of the objects of the Association;

17.6.3 for the better management of the affairs of the Association;

17.6.4 for the advancement of the interest of Members;

17.6.5 for the conduct of Exco Members at meetings of Exco and meetings of the Association.

17.6.6 to levy and collect contributions from Members in accordance with clause 12;

17.6.7 to levy and recover from Members moneys which are necessary to defray the necessary expenses of the Local Authority in the event of the Local Authority imposing any levies and impost against the Association.

17.6.8 to assist in administering and governing its activities generally.

17.7 Without in any way limiting the powers granted, the duties and powers of Exco Members shall further specifically include:

17.7.1 the determination of what constitutes appropriate maintenance, repairs, additions to and Improvements of all Erven and Units in the Development in strict accordance with the provisions of the Architectural Guidelines. The Exco Members shall be entitled to require any Owner, who shall be obliged, to repair or renovate any Building or Unit if in the reasonable opinion of the Exco Members such Building or Unit requires essential repairs or has become dilapidated;

17.7.2 the entering into of agreements with third parties on behalf of the Association for any purposes of the Association.

17.7.3 the employment on behalf of the Association of agents, servants and any other party and the payment of such persons.

17.7.4 the taking of steps in all matters of common interest in respect of the Association and, without detracting from the generality thereof, such as common sewage, electricity supply, landscaping, maintenance of private roads, refuse facilities and removal of refuse.

17.7.5 the institution or defence of actions in the name of the Association and to appoint legal representatives for such purpose.

18.4 An Exco Member may, provided he has the support in writing of 3 (three) other Exco Members, at any time convene a meeting of Exco Members by giving to the other Exco Members not less than 14 (fourteen) days written notice of a meeting proposed by him, which notice shall specify the reason for calling such a meeting, provided that in cases of urgency, such shorter notice as is reasonable in the circumstances may be given.

18.5 A resolution in writing signed by all the Exco Members shall be valid and effectual as if it had been passed at a meeting of Exco Members duly called and constituted.

18.6 The quorum necessary for the holding of any meeting of Exco Members shall:

18.6.1 in the circumstances set out in 16.1.1.1, consist of 2 (two) persons;

18.6.2 in the circumstances set out in 16.1.1.2, consist of 6 (six) persons provided that at all times at least one of them must be an appointee of the Developer.

If no quorum is present within 15 (fifteen) minutes after the time for commencement of the meeting than it shall stand adjourned for the same time and place on the following day which is not a Saturday, Sunday or public holiday and, if at such adjourned meeting, a quorum is not present within 30 (thirty) minutes after the time appointed for the meeting, the Exco Members then present shall be a quorum.

18.7 Any resolution of the Exco Members shall be carried by a simple majority of all votes cast.

18.8 The Chairman shall preside as such at all meetings of Exco Members provided that, should at any meeting of Exco Members the Chairman not be present within 15 (fifteen) minutes after the time appointed for the holding thereof, those present of the Exco Members shall vote to appoint a Chairman for the meeting who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.

18.9 An Exco Member may be represented at a meeting of Exco Members by a proxy provided such proxy is an Exco Member.

18.10 The instrument appointing a proxy shall be in writing and signed by the Exco Member concerned but need not be in any particular form. The proxy shall be deposited with the Chairman at any time before the time appointed for the commencement of a meeting and shall be valid only for such meeting or any adjournment thereof.

18.11 The Exco Members shall

18.11.1 ensure that minutes are taken of every meeting of Exco Members, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting has closed and shall then be certified correct by the Chairman of the meeting.

18.11.2 cause such minutes to be kept of all meetings of the Exco Members in a minute book of meetings of Exco Members kept for that purpose.

18.11.3 keep all books of meetings of Exco Members in perpetuity.

18.11.4 on the written application of any Member, make all minutes of their proceedings available for inspection by such Member.
18.12 All resolutions recorded in the minutes of any meeting of Exco Members shall be valid and of full force and effect as therein recorded within effect from the passing of such resolutions and until varied or rescinded, but no resolution or purported resolution of Exco Members shall be of any force or effect or shall be binding upon the Members or any of the Exco Members unless such resolution is competent within the powers of the Exco Members.

18.13 Save as otherwise provided in this Constitution, the proceedings at any meeting of Exco Members shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

19 MANAGING AGENT

19.1 The Developer shall for as long as it remains a Member of the Association, be entitled to appoint a Managing Agent to administer the Association, at a market related fee in terms of a written appointment agreement. Thereafter the managing agent shall be appointed by Exco.

19.2 The Exco Members shall ensure that there is included in the contract of appointment of a Managing Agent, a provision to the effect that if the Managing Agent is in breach of any of the provisions of his contract or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, the Exco Members may, without notice, cancel such contract of employment and the Managing Agent shall have no claim whatsoever against the Exco Members and/or the Association as a result of such cancellation.

19.3 Upon cessation of the Developer's membership of the Association, the Exco Members shall have the power, in addition to the powers contained herein, to appoint a Managing Agent in terms of a written contract from time to time, to control, manage and administer the Development and to exercise such powers and duties as may be entrusted to the Managing Agent, including the power to collect levies, provided that a Managing Agent shall be appointed for a year at a time.

19.4 Unless the Developer or the Exco Members, as the case may be, notify the Managing Agent to the contrary, such appointment will be automatically renewed from year to year.

20 GENERAL MEETINGS OF THE ASSOCIATION

20.1 The Association shall, within 12 (twelve) months of the date of commencement of the Association hold a general meeting as its first annual general meeting. Thereafter, within 3 (three) months of the financial year end of the Association it shall hold second and subsequent annual general meetings.

20.2 Such annual general meetings shall be held at such time and place, subject to the foregoing provisions, as the Exco Members shall decide from time to time.

20.3 The Exco Members may, whenever they deem fit, convene a general meeting and a special general meeting shall also be convened on a requisition made by not less than 25 % (twenty five per centum) of Members for the purposes of adding to, amending, substituting or repealing the provisions hereof or should the Exco Members fail to do so such meetings may be convened by the requisitionists themselves provided that notice thereof be given in terms of clauses 21.1 and 21.2.

21. NOTICE OF MEETINGS

21.1 An annual general meeting shall be called by not less than 21 ((twenty one) days notice and a special general meeting by not less than 14 ((fourteen) days notice, as provided in clause 18.4. The notice shall specify the place, the day and the hour of the meeting and, in the case of special business in addition to any other requirements contained in this Constitution, the general nature of that business and the reasons for it shall be give in the manner hereafter mentioned or in such other manner, if any, as may be prescribed by the Exco Members to such notices from the Association, provided that a special general meeting or an annual general meeting of the Association shall notwithstanding that it is called by shorter notice than that specified in this Constitution, be deemed to have been duly called if it is agreed to by not less than 60 % (sixty per centum) of Members having a right to attend and vote at the meeting.

21.2 Notice of the annual general meeting and/or a general meeting shall be send by registered mail, fax or e-mail to Members and placed in 1 (one) issue of the "Die Burger" and 1 (one) issue of "Argus" newspapers and in the event that either or both of those newspapers is no longer published in 1 (one) issue of the highest circulation English language daily newspaper and 1 (one) issue of the highest circulation Afrikaans language daily newspaper distributed in Cape Town.

22. PROXIES

22.1 A Member may be represented at an annual general meeting and/or special general meeting by a Proxy who must be a Member of the Association.

22.2 The instruments appointing a Proxy shall be in writing signed by the Members concerned or his duly authorised agent in writing but need not be in any particular form provided that where a Member is more than one person any one of those persons may sign the instrument appointing a Proxy on such Member's behalf. Where a Member is a company, the proxy may be signed by any person authorised by resolution of the board of directors of the company or by its secretary and, where a close corporation, by any member of such close corporation and, where an association of persons, by the secretary thereof and, where a trust, by a person duly authorised by the Trustees of such trust.

22.3 The instrument appointing a Proxy and the power of attorney (if any) under which it is signed or a notarially certified copy thereof shall be lodged with the Association at least 24 (twenty four) hours before the scheduled time for the commencement of the meeting or adjourned meeting concerned. The instrument appointing a proxy shall be valid only for the specific meeting or the adjournment thereof.

22.4 Notwithstanding the foregoing, the Chairman of the meeting may agree to accept a proxy tendered at any time before or during the meeting.

23. QUORUM

23.1 No business shall be transacted at any annual general meeting or special general meeting unless a quorum is present when the meeting proceeds to transact business and when any Resolution is to be passed. The quorum necessary for the holding of any
meeting shall be Members having 25 % (twenty five per centum) of the total voting rights allocated in terms of clause 26 to Members entitled to attend and vote thereat.

2.3 If, within 30 (thirty) minutes after the time appointed for the commencement of the meeting, a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved, in all other cases, the meeting shall stand adjourned to the same day in the next week at the same place and time and, if at such adjourned meeting, a quorum is not present, the Members present shall constitute a quorum.

24. AGENDA AT MEETINGS

In addition to any other matters by legislation or by this Constitution to be dealt with at any annual general meeting, the following matters shall be dealt with at every annual general meeting:

24.1 the consideration of the Chairman's report;

24.2 the election of Exco Members;

24.3 the consideration of the financial statements of the Association for the last financial year of the Association preceding the date of such meeting;

24.4 the consideration of the budget as presented by the Exco Members and consideration of levies as currently levied by the Exco Members.

25. PROCEDURE AT MEETINGS

25.1 The Chairman shall preside as such at all meetings provided that if he is not present within 15 (fifteen) minutes after the time appointed for the holding thereof, then the Members present at such meetings shall vote to appoint a Chairman for the meeting who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.

25.2 The Chairman may, with the consent of any meeting at which a quorum is present (and if so directed by the meeting), adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business that might have been transacted at the meeting from which the adjournment took place. No notice need be given of the adjourned meeting save for an announcement at the meeting of the date, time and venue of the adjourned meeting unless the meeting is to be adjourned for 30 (thirty) days or more, in which event notice is to be given in the same manner as for the original meeting. Only business left uncompleted at the original meeting may be transacted at the adjourned meeting.

26. VOTING

26.1 At every annual general meeting or special general meeting of the Association every Member present in person or by proxy and entitled to vote shall, subject to 26.7.1, be allocated 1 (one) vote per residential Unit that such Member owns. Where a residential Unit is registered in the name of more than one person or Entity, they shall jointly enjoy 1 (one) vote.

26.2 Save as expressly provided for in this Constitution, no person other than a Member duly registered and who shall have paid every levy and other sum (if any) which shall be due and payable to the Association in respect of or arising out of his membership and who is not under suspension, shall be entitled to be present and to vote on any question either personally or by proxy.

26.3 At any annual general meeting or general meeting a resolution put to the vote at the meeting shall be decided on an ordinary majority of votes represented by Members entitled to attend and vote thereon present in person or by proxy.

26.4 Voting on any question of adjournment shall be decided on an ordinary majority of votes represented by Members entitled to attend and vote thereat present in person or by proxy.

26.5 Every resolution for the addition to, amendment, substitution or repeal of any provision hereof, and every amendment of a resolution proposed for adoption by a general meeting, shall be seconded at the meeting and, if not seconded, shall be deemed not to have been proposed.

26.6 Unless any Member present in person or by proxy at a meeting shall, before closure of the meeting, have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted and an entry in the minutes without a record of the number of votes recorded in favour of or against such motion shall be conclusive evidence of the resolution so recorded if such entry confirms with the declaration made by the Chairman of the meeting as to the result of the voting at the meeting.

26.7 A resolution put to the vote of the meeting of Members shall be decided on a show of hands, unless a poll is (before or on the declaration of a result of the show of hands) demanded by the Chairman of the meeting or by the Developer or any other Member and unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or negatived and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn. In the event of:

26.7.1 voting by a show of hands, every Member will have one vote, provided that a proxy or an authorised representative of an Entity shall have only one vote irrespective of the number of Members that he represents;

26.7.2 voting on a poll, every Member, whether personally present or represented by proxy or authorised representative, shall have one vote.

27. MINUTES OF MEETINGS OF THE ASSOCIATION

27.1 The Exco Members shall:
27.1.1 Ensure that minutes are taken of every meeting of the Association, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting has closed and shall be the certified correct by the Chairman of the meeting.

27.1.2 The Exco Members shall keep all minute books of meetings of the Association in perpetuity.

27.1.3 On the written application of any Member the Exco Members shall make all minutes of the proceedings and/or meetings of the Association available for inspection by such Member.

27.1.4 All resolutions recorded in the minutes of any meetings of the Association shall be valid and of full force and effect as therein recorded, with effect from the passing of such resolutions, and until varied or rescinded, but no resolution or purported resolution of the Association shall be of any force or effect, or shall be binding upon the Members or any of the Exco Members, unless such resolution is competent within the powers of the Association.

27.1.5 Save as otherwise provided in this Constitution, the proceedings at any meeting of the Association shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

28 FINANCIAL YEAR END

The financial year end of the Association is the last day of February of each year.

29 ACCOUNTS

29.1 The Exco Members shall cause proper books of account and records to be kept so as fairly to explain the transactions and financial position of the Association including:

29.1.1 A record of the assets and liabilities of the Association.

29.1.2 A record of all sums of money received and expended by the Association and the matters in respect of which such receipt and expenditure occurred.

29.1.3 A register of Members showing in each case their addresses.

29.1.4 Individual ledger accounts in respect of each Member.

29.2 On the application of any Member the Exco Members shall make all or any of the books of accounts and records available for inspection by such Member.

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

29.4 The Exco Members may from time to time make reasonable regulations concerning the time (within normal business hours) and manner in which Members shall be allowed to inspect the accounts and books of the Association, or any of them, and the accounts and books of the Association shall be open to inspection accordingly.

29.5 At each annual general meeting the Exco Members shall lay before the Association financial statements for the immediately preceding financial year of the Association or, in the case of the first period since the date of commencement of the Association, made up for that period. Such financial statements shall be drawn up in accordance with generally accepted accounting practice and shall be accompanied by such additional reports as may be necessary at the discretion of the Exco Members.

30 DEPOSIT AND INVESTMENT OF FUNDS

30.1 The Exco Members shall cause all moneys received by the Association to be deposited to the credit of an account or accounts with a registered commercial bank in the name of the Association and, such moneys shall be withdrawn only for the purpose of payment of the expenses of the Association or investment.

30.2 Any funds not immediately required for disbursements may be invested in a savings or similar account with any financial institution or any other registered deposit receiving institution approved by the Exco Members from time to time.

30.3 Interest on moneys invested shall be used by the Association for any lawful purpose in the interest of the Association.

31 AUDIT

31.1 Once at least in every year, the accounts of the Association shall be examined and the correctness of the income and expenditure account and balance sheets ascertained by the Auditors.

31.2 The duties of the Auditors shall be regulated in accordance with general practice and applicable professional standards.

32 INDEMNITY

32.1 All the Exco Members are indemnified by the Association against any liabilities bona fide incurred by them in their capacities as such and in the case of the Chairman in his capacity as Chairman, as well as for all costs, losses and expenses (including travelling expenses) which they may incur or become liable for by reason of any authorised contract entered into, or any authorised act or deed done, in the discharge of any of their duties and, without detracting from the generality thereof, whether defending any proceedings, civil or criminal or otherwise in which relief is granted by a court.

32.2 An Exco Member shall not be liable for the acts, or omission of the Auditors or of any of the other Exco Members whether in their capacities as Exco Members or as Chairman or for any loss or expense sustained or incurred by the Association through the insufficiency or deficiency of any security in or upon which moneys of the wrongful act of any person with whom any moneys, securities or effects are deposited or for any loss or damage occasioned by any error or judgement or oversight on his part or for any loss, damage or misfortune of whatsoever nature occurring in the execution of his duties or in relation thereto unless occurring as a result of mala fides, breach of duty or breach of trust.

33 DEFAMATION PRIVILEGE

Every Member of the Association and every Exco Member shall be deemed by virtue of his membership or, as the case may be, his holding office as an Exco Member, to have waived as against every other Member, the Chairman, every other Exco Member, and everybody else engaged to perform the function or duty on behalf of or for the benefit of the Association or the Exco Members or any sub-committee, all claims and rights of action which such Member or the Exco Members might otherwise have had in law arising as a result of any statement, report, complaint or notice of or concerning such
Member or Exco Member, or any reference to such Member or Exco Member, made at any meeting of Exco Members, or otherwise in the performance or exercise of any right, function, duty, power or trust, within the ambit of this Constitution, being a statement, report, complaint, notice or reference defamatory of such Member or Exco Member, or otherwise injurious to the dignity, reputation, business or financial interest of such Member or Exco Member, whether such statement be true or false.

34 ARBITRATION

34.1 Should any dispute, question or difference arise between Members or between a Member and Exco or between Member and the Association out of or in regard to:

34.1.1 the interpretation of;

34.1.2 the effect of;

34.1.3 their respective rights or obligations under;

34.1.4 a breach of (but subject to 34.2)

this Constitution, such dispute shall be decided by arbitration in the manner set out in this clause 34.

34.2 Notwithstanding 34.1.4, in respect of any claim arising from non-payment of levies or any other amount due by a Member to the Association in terms of this Constitution, the Association and Exco Members shall continue to enjoy common law rights and shall not be required to proceed to arbitration and shall not be precluded from instituting proceedings in any court of competent jurisdiction.

34.3 The arbitration referred to in clause 34.1 shall:

34.3.1 be conducted in an informal summary manner on the basis that it shall not be necessary to observe or carry out either the usual formalities or procedures relating to pleadings or discovery or the strict rules of evidence; and

34.3.2 commence as soon as reasonably possible after it is demanded and with a view to its being completed within 30 (thirty) days after it is demanded; and

34.3.3 be held under the provisions of the Arbitration act of the Republic of South Africa (as amended or replaced from time to time) except insofar as the provisions of this arbitration clause shall apply.

34.4 The arbitrator shall be appointed by agreement between the parties to the arbitration within 7 (seven) days of being called upon to make such appointment and failing agreement on such appointment within 7 (seven) days period, appointed by the Chairman of the Cape Bar Council or the successor to that body.

34.5 The arbitrator shall in giving his award have regard to the principles contained in this Constitution and he shall decide the matter as submitted to him according to what he considers just and equitable in the circumstances and, therefore, the strict rules of law need not be observed or be taken into account by him in arriving at his decision. The arbitrator’s decision shall be presented within 10 (ten) days after the completion of the arbitration in a written document and he shall state the reasons for his decision therein. The arbitrator may determine that the cost of the arbitration be paid either by one or other of the disputing parties or by the Association as he in his sole discretion may deem fit.

34.6 Each of the parties to the arbitration irrevocably agree that the decision of the arbitrator made at such arbitration proceedings;

34.6.1 shall be final and binding on each of them; and

34.6.2 shall be carried into effect immediately; and

34.6.3 may at the instance of the parties be made an order of any Court to whose jurisdiction the parties are subject.

34.7 Notwithstanding anything to the contrary contained in this clause 35, the Exco Members shall be entitled to institute legal proceedings on behalf of the Association by way of application, action or otherwise in any Court having jurisdiction for the purposes of restraining or interdicting breaches of any of the provisions of this Constitution, including the annexures hereto.

35 DOMICILIUM

35.1 The Exco Members shall from time to time determine the address constituting the domicilium citandi et executandi of the Association, subject to the following:

35.1.1 such address shall be the address of the Chairman or of a resident Exco Member nominated by the Exco Member or the address of any duly appointed Managing Agent;

35.1.2 The Exco Members shall give notice to all Members of any change of such address.

35.2 The domicilium citandi et executandi of each Member shall be the street address of the Member's Erf or Unit.

35.3 It shall be competent to give notice by telefax where the Member's telefax number is recorded with the Exco Members.

35.4 A Member may by notice in writing to the Exco Members alter his domicilium provided such new address may not be a post office box or opst restante and provided such address is within the Republic of South Africa and shall not be effective until 14 (fourteen) days after receipt of such notification.

35.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Member notwithstanding that it was not sent to or delivered at his domicilium citandi et executandi shall be adequate written notice or communication to such Member.

35.6 Any notice to a Member

35.6.1 sent to him by prepaid registered post in a correctly addressed envelope at his domicilium citandi et executandi shall be deemed to have been received on the 7th (seventh) day after posting (unless the contrary is proved); or

35.6.2 delivered by hand to a responsible person at his domicilium citandi et executandi shall be deemed to have been received on the day of delivery; or

35.6.3 successfully transmitted by telefax to his chosen telefax number shall be deemed to have been received on the 1st (first) day after the date of transmission, unless the contrary is proved.

36 AMENDMENT
36.1 No amendment of whatever nature to this Constitution shall be effected without the prior consent in writing of the Local Authority.

36.2 Notwithstanding the provisions of clause 36.3, the Developer shall, for as long as any portion of the Development remains undeveloped have the right to amend this Constitution with the prior approval of the Local Authority in terms of clause 36.1, and shall further have the right to veto any proposed amendment of this Constitution if there is a reasonable apprehension that such amendment could detrimentally affect the Developer's ability to complete the Development in accordance with its development plans. Notwithstanding the provisions of this clause 36.2 above, the Developer shall not have the right to vary the provisions relating to qualification for membership of the Association, the proportionate liability of Ordinary Members for the payment of HOA Levies or the voting rights of Members.

36.3 Subject to the provisions of clauses 36.1 and 36.2 above, every amendment of this Constitution of whatever nature including any addition thereto, deletion therefrom or substitution thereof (but excluding amendments to the Architectural Rules and the Estate Rules, which are governed by clauses 10.7 and 10.8 above) shall require the approval of at least 75% (seventy-five per centum) of the total number of votes allocated to Members of the Association as provided for in clause 26.1 above, which majority shall be expressed at a general meeting called specifically for such purpose and the notice of such meeting shall, in addition to comply with the requirements for the convening of a meeting, set out in specific terms the proposed amendment.
1. **INTRODUCTION:**

The Management Rules contained herein will apply mutatis mutandis to each body corporate and should be read in conjunction with the Constitution of the V & A Waterfront Marina Residential Home Owner’s Association (The HOA).

2. **INTERPRETATION**

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

(a) "Act" means the Sectional Titles Act, 1986 (Act 95 of 1986), as amended from time to time, and any regulations made and in force thereunder;

(b) "accounting officer" means a person who in terms of section 60(2) of the Close Corporation Act, 1984 (Act 69 of 1984), is qualified to perform the duties of an accounting officer;

(c) "auditor" means an auditor qualified to act as such under the Public Accountant’s and Auditors’ Act, 1951 (Act 51 of 1951);

(d) "registered mortgagee" means any mortgagee of whom the body corporate has been notified in writing as contemplated in section 44(1)(f) of the Act;

(e) "trustee" includes an alternate trustee;

(f) words and expressions to which a meaning has been assigned in the Act, shall bear the meanings so assigned to them;

(g) words importing -

(i) the singular number only shall include the plural, and vice versa;

(ii) the masculine gender shall include the feminine, and neuter genders and the neuter gender shall include the masculine and feminine genders;

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

3. **DOMICILII CITANDI ET EXECUTANDI**

(1) The trustees shall from time to time determine the address constituting the domicilium citandi et executandi of the body corporate as required by section 37(1)(m) of the Act, subject to the following:

(a) Such address shall be situated in the magisterial district in which the scheme is situated and shall be the address of the chairman or other resident trustee duly appointed in general meeting or in the magisterial district in which the offices of any duly appointed managing agent are situated being the address of such managing agent;

(b) no change of such address shall be effective until written notification thereof has been received by the registrar;

(c) the trustees shall give notice to all owners of any change of such address.

(2) The domicilium citandi et executandi of each owner shall be the address of the section registered in his name: Provided that such owner shall be entitled from time to time to change the said domicilium but that any new domicilium selected shall be situated in the Republic, and that the change shall only be effective on receipt of written notice thereof by the body corporate at is domicilium.

### TRUSTEES OF THE BODY CORPORATE

Qualifications; appointment and election; tenure of office; remuneration; indemnity.

4. (1) The number of trustees shall be determined from time to time by the members of the body corporate in general meeting, provided that there shall be not less than two trustees.

(2) With effect from the date of the establishment of the body corporate, all owners shall be trustees who shall hold office until the first general meeting of the members of the body corporate as contemplated in rule 50(1) whereupon they shall retire but shall be eligible for re-election.

(3) The chairman of the trustees referred to in rule 4(2) shall be the developer concerned or his nominee, who shall hold office until the general meeting referred to in the said rule, when he shall retire as a trustee and as chairman, but shall be eligible for re-election in terms of rule 18.

Qualification

5. Save for the provisions of rule 4(2), a trustee or alternate trustee shall not be required to be an owner or the nominee of an owner who is a juristic person, in order to qualify for office as a trustee: Provided that -

(a) the majority of the trustees are owners, or spouses of owners; and

(b) the managing agent or any of his or her employees or employee of the body corporate may not be trustee unless he or she is an owner.

(c) the manager in that capacity, may not be a trustee.

Election of trustee

6. Save for the provisions of rule 4(2), the trustee shall be elected at the first general and each subsequent annual general meeting and shall hold office until the next succeeding annual general meeting, but shall be eligible for re-election.

### Nominations

7. Nominations by owners for the election of trustees at any annual general meeting shall be given in writing, accompanied by the written consent of the person nominated, so as to be received at the domicilium of the body corporate not later than 48 hours before meeting: Provided that trustees are also capable of being elected by way of nominations with the consent of the nominee given at the meeting itself should insufficient written nominations be received to comply with rule 4(1).

### Vacancy in number of trustees

8. The trustees may fill any vacancy in their number. Any trustee so appointed shall hold office until the next annual general meeting when he shall retire and be eligible for re-election as though he had been elected at the previous annual general meeting.

### Alternate trustees

9. (1) The trustees may appoint another person, whether or not he be the owner of a unit, to act as an alternate trustee during the absence or inability to act of a trustee.

(2) An alternate trustee shall have the powers and be subject to the duties of a trustee.

(3) An alternate trustee shall cease to hold office if the trustee whom he replaced, ceases to be a trustee, or if the alternate’s appointment is revoked by the trustees.
Indemnity

10. (1) Unless otherwise determined by a special resolution of the owners, trustees who are owners shall not be entitled to any remuneration in respect of their services as such: Provided that the body corporate shall reimburse to the trustees all disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.

(2) The body corporate may remunerate trustees who are not owners at such rate as may be agreed upon between the body corporate and such trustees, and such trustees shall further be entitled to have refunded to them any disbursements and expenses incurred by them in the circumstances envisaged in the proviso to sub-rule (1) of this rule, provided always that an alternative trustee appointed by the trustees, who is not an owner, shall claim his remuneration, if any, from the trustee whom he replaced and not from the body corporate, unless the body corporate has been instructed in writing by such trustee to pay any portion of his remuneration to such alternate trustee.

Validity of acts of trustees

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

Indemnity

12. (1) Subject to the provisions of sub-rule (2), every trustee, agent or other officer or servant of the body corporate shall be indemnified by the body corporate against all costs, losses, expenses and claims which he may incur or becomemirable to by reason of any act done by him in the discharge of his duties, unless such costs, losses, expenses or claims are caused by the male fide or grossly negligent act or omission of such person.

(b) It shall be the duty of the trustees to pay such indemnity out of the funds of the body corporate.

(2) The indemnity referred to in sub-rule (1) shall not apply in favour of any managing agent appointed in terms of rule 46.

DISQUALIFICATION OF TRUSTEES

Removal from Office

13. A trustee shall cease to hold office as such -

(a) If by notice in writing to the body corporate, he resigns his office;

(b) If he is or becomes of unsound mind;

(c) If he surrenders his estate as insolvent, or if his estate is sequestrated;

(d) If he is convicted of an offence which involves dishonesty;

(e) If by resolution of a general meeting of the body corporate, he is removed from his office, provided that the intention to vote upon the removal from office has been specified in the notice convening the meeting;

(f) If he is or becomes disqualified in terms of section 218 or 219 of the Companies Act, 1973, from being appointed or acting as a director of a company.

Replacement

14. The body corporate may at a general meeting appoint another trustee in the place of any trustee who has ceased to hold office in terms of rule 13, for the unexpired part of the term of office of the trustee so replaced.

MEETING OF TRUSTEES

Quorum; chairman; voting

When to be held and notice

15. (1) Subject to the provisions of sub-rule (2) and (3) hereof, the trustees may give notice convening meetings, meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. It shall not be necessary to give notice of a meeting to any trustee for the time being absent from the Republic, but notice of any such meeting shall be given to his alternate, if he has appointed one, where such an alternate is in the Republic.

(2) A trustee may at any time convene a meeting of the trustees by giving to the other trustees and all first mortgagees in the circumstances referred to in sub-rule (3) hereof, not less than seven days written notice of a meeting proposed by him, which notice shall specify the reason for calling such a meeting: Provided that in case of urgency such shorter notice as is reasonable in the circumstances may be given.

(3) Any mortgagee holding first mortgage bonds over units shall, if he so requires of the trustees in writing, be entitled to receive reasonable notice of all meetings of the trustees.

(4) The nominee of any such first mortgagee shall be entitled to attend and speak at all meetings of the trustees but shall not, in his capacity as such, be entitled to vote thereat.

Quorum

16. (1) At a meeting of the trustees, 50 percent of the number of trustees but not less than two, shall form a quorum.

(2) If the number of trustees falls below the number necessary to form a quorum, the remaining trustees may continue to act, but only for the purpose of appointing or co-opting additional trustees to make up a quorum or for the purpose of convening a general meeting of owners.

Chairman

18. At the commencement of the first meeting of trustees after an annual general meeting, at which trustees have been elected, the trustees shall elect a chairman from among their number, who shall hold office as such until the end of the next annual general meeting of the members of the body corporate and who shall have a casting as well as a deliberative vote, save where there are only two trustees.

19. The trustees at a trustees meeting or the body corporate at a special meeting, in respect of either of which notice of the intended removal from office of the chairperson has been given, may remove the chairperson from his or her office.

20. If any chairman elected in terms of rule 18 vacates his office as chairman or no longer continues in office by virtue of the provisions of rule 19, the trustees shall elect another chairman who shall hold office as such for the remainder of the period of office of the first-mentioned chairman, and who shall have the same rights to voting.
21. If any chairman vacancies the chair during the course of a meeting or is not present or is for any other reason unable to preside at any meeting, the trustees present at such meeting shall choose another chairman for such meeting who shall have the same rights of voting as the chairman.

Voting

22. All matters at any meeting of the trustees shall be determined by a majority of the votes of the trustees present and voting.

23. A trustee shall be disqualified from voting in respect of any contract, or any litigation or proposed litigation, with the body corporate, by virtue of any interest he may have therein.

24. A resolution in writing signed by all the trustees for the time being present in the Republic and being not less than are sufficient to form a quorum, shall be as valid and effective as if it had been passed at a meeting of the trustees duly convened and held.

THE FUNCTIONS, POWERS AND DUTIES OF TRUSTEES

General

25. The duties and powers of the body corporate shall, subject to the provisions of this Act and these rules and to any restriction imposed or direction given at a general meeting of the owners of sections, be performed or exercised by the trustees of the body corporate holding office in terms of these rules.

Powers

26. (1) Subject to any restriction imposed or direction given at a general meeting of the body corporate, the powers of the trustees shall include the following:

(a) To appoint for and on behalf of the body corporate such agents and employees as they deem fit in connection with -

(i) the control, management and administration of the common property; and
(ii) The exercise and performance of any or all of the powers and duties of the body corporate;

(b) to delegate to one or more of the trustees such of their powers and duties as they deem fit, and at any time to revoke such delegation.

(2) The trustees may not make loans on behalf of the body corporate to owners of units or to themselves.

Signing of instruments

27. No instrument signed on behalf of the body corporate shall be valid and binding unless it is signed by a trustee and the managing agent, referred to in rule 46, or by two trustees or, in the case of a certificate issued in terms of section 15B(3)(ii)(a) of the Act, by two trustees or the managing agent.

DUTIES OF TRUSTEES

Statutory and general duties

28. (1) Without detracting from the scope of the additional duties specified in rules 29 to 45, inclusive, and subject to the provisions of such rules, the trustees shall perform the functions entrusted to them by sections 37 and 39 of the Act.

(2) The trustees shall do all things reasonably necessary for the control, management and administration of the common property in terms of the powers conferred upon the body corporate by section 38 of the Act.

(3) The trustees shall do all things reasonably necessary for the enforcement of the rules in force.

Insurance

29. (1) (a) At the first meeting of the trustees or so soon thereafter as is possible, and annually thereafter, the trustees shall take steps to insure the buildings, and all improvements to the common property, to the full replacement value thereof against -

(i) fire, lightning and explosion;
(ii) riot, civil commotion, strikes, lock-outs, labour disturbances or malicious persons acting on behalf of or in connection with any political organisation;
(iii) storm, tempest and flood;
(iv) earthquake;
(v) aircraft and other aerial devices or articles dropped therefrom;
(vi) bursting or overflowing of water tanks, apparatus or pipes;
(vii) impact with any of the said buildings or improvements by any road vehicle, horses or cattle;
(viii) housebreaking or any attempt thereto;
(ix) loss of occupation or loss of rent in respect of any of the above;
(x) such other perils or dangers as the trustees or any holder of first mortgage bonds over not less than 25% in number of the units in the scheme, may deem appropriate.

(b) The trustees shall at all times ensure that in the policy of insurance referred to in paragraph (a) above -

(i) there is specified the replacement value of each unit (excluding the owner's interest in the land);

(i-a) initially (but subject to the provisions of subparagraph (cc)) in accordance with the trustees estimate of such value;

(bb) after the first annual general meeting (but subject to the provisions of subparagraph (cc)) in accordance with the schedule of values as approved in terms of paragraph (cc) as required at any time by any owner in terms of paragraph (d).

(ii) any "average" clause is restricted in its effect to individual units and does not apply to the building as a whole;

(iii) there is included a clause in terms of which the policy is valid and enforceable by any mortgagee against the insurer notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured unless and until the insurer on not less that thirty days' notice to the mortgagee shall have terminated such insurance.

(c) Before every annual general meeting, the trustees shall cause to be prepared schedules reflecting their estimate of -

(i) the replacement value of the buildings and all improvements to the common property; and
(ii) the replacement value of each unit (excluding the owner's interest in the land), the aggregate of such values of all units being equal to the value referred to in subparagraph (i) above,

and such schedules shall be laid before the annual general meeting for consideration and approval in terms of rule 56.

(d) Any owner may at any time increase the replacement value as specified in the insurance policy in respect of his unit: Provided that such owner shall be liable for payment of the additional insurance premium and shall forthwith furnish the
body corporate with proof thereof from the insurer.

(e) The trustees shall, on the written request of a mortgagee and satisfactory proof thereof, record the cession by any owner to such mortgagee of the owner’s interest in the application of the proceeds of the policies of insurance effected in terms of rule 29(1)(a).

(2) At the first meeting of the trustees or as soon thereafter as is possible, the trustees shall take all reasonable steps -

(a) to insure the owners and the trustees and to keep them insured against liability in respect of:

(i) death, bodily injury or illness; and
(ii) loss of, or damage to, property,

occurring in connection with the common property, for a sum of liability of not less than one hundred thousand rand, which sum may be increased from time to time as directed by the owners in general meeting; and

(b) to procure to the extent, if any, as determined by the members of the body corporate in a general meeting, a fidelity guarantee in terms of which shall be refunded any loss of moneys belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by any insured person being any person in the service in the service of the body corporate and all trustees and persons acting in the capacity of managing agents of the body corporate; and

(3) The owners may by special resolution direct the trustees to insure against such other risks as the owners may determine.

Contributions and liability in terms of section 37(1) and 47 of the Act

30. It shall be the duty of the trustees to levy and collect contributions from the owners in accordance with the provisions set forth in rule 31.

31. (1) The liability of owners to make contributions, and the proportions in which the owners shall make contributions for the purposes of section 37(1) of the Act, or may in terms of section 47 of the Act be held liable for the payment of a judgement debt of the body corporate, shall with effect from the date upon which the body corporate comes into being, be borne by the owners in accordance with a determination made in terms of section 32(4) of the Act, or in the absence of such determination, in accordance with the participation quotas attaching to their respective sections.

(2) At every annual general meeting the body corporate shall approve, with or without amendment, the estimate of income and expenditure referred to in rule 36, and shall determine the amount estimated to be required to be levied upon the owners during the ensuing financial year.

(3) Within fourteen days after each annual general meeting the trustees shall advise each owner in writing of the amount payable by him or her in respect of the estimate referred to in subrule (2) whereupon such amount shall become payable in instalments, as determined by the trustees.

(4) The trustees may from time to time, when necessary, make special levies upon the owners or call upon them to make special contributions in respect of all such expenses as are mentioned in rule 31(1) above (which are not included in any estimates made in terms of rule 31(2) above), and such levies and contributions may be made payable in one sum or by such instalments and at such time or times as the trustees shall think fit.

(5) An owner shall be liable for and pay all legal costs, including costs as between attorney and client, collection commission, expenses and charges incurred by the body corporate in obtaining the recovery of arrear levies, or any other arrear amount due and owing by such owner to the body corporate, or in enforcing compliance with these rules, the conduct rules or the Act.

(6) The trustees shall be entitled to charge interest on arrear amounts at such rate as they may from time to time determine.

Record of rules and their availability

32. (1) The trustees shall keep a complete record of all rules in force from time to time.

(2) The trustees shall on the application of -

(a) an owner of a unit;
(b) an occupant of a unit;
(c) the prospective purchaser of a unit;
(d) the holder of any registered sectional mortgage bond;
(e) the managing agent; and
(f) the auditor or the accounting officer,

supply to any such person a copy of all rules in force, and may require them to pay a reasonable charge therefor.

Architectural Rules and Guidelines

33. (1) The Management Rules, the Estate Rules as well as the Constitution of the H.O.A. apply in respect of improvements, alterations or renovations to common property or to units.

(2) No improvement or alteration or renovation shall be effected, unless with the prior written approval of the Review Committee issued pursuant to the provisions of the Constitution of the H.O.A.

(3) The following procedures and conditions will apply in addition to the provisions of the Constitution of the H.O.A.

Luxurious improvements

(4) The trustees may, if the owners by unanimous resolution so decide, effect improvements of a luxurious nature on the common property.

Non-luxurious improvements

(5) (a) Should the trustees wish to effect any Improvements to the common property, other than luxurious improvements referred to in subrule (1), they shall first give written notice of such intention to all owners such notice shall -

(i) indicate the intention of the trustees to proceed with the improvement upon the expiry of a period of not less than thirty days reckoned from the date of posting such notice; and
(ii) provide details of the improvement as to -

(aa) the costs thereof; and
(bb) the manner in which it is to be financed and the effect upon levies paid by owners; and
(cc) the need, desirability and effect thereof.

(b) The trustees shall at the written request of any owner convene a special general meeting in order to discuss and to deliberate upon the proposals contained in the notice referred to in paragraph (a), at which meeting the owners may veto, amend or approve such proposals by way of special resolution.

(c) In the event of such a special general meeting being called, the trustees shall not proceed with their proposals until the holding of such meeting, whereupon the shall be bound by any special resolution ensuing therefrom.
35. Books of account and records

(1) The trustee shall cause proper books of account and records to be kept so as fairly to explain the transactions and financial position of the body corporate, including -

(a) a record of the assets and liabilities of the body corporate;

(b) a record of all sums of money received and expended by the body corporate and the matters in respect of which such receipt and expenditure occur;

(c) a register of owners and of registered mortgagees of units and of all other persons having real rights in such units (insofar as written notice shall have been given to the trustee by such owners, mortgagees or other persons) showing in each case their addresses; and

(d) individual ledger accounts in respect of each owner.

(2) On the application of any owner, registered mortgagee or of the managing agent the trustees shall make all or any of the books of account and records available for inspection by such owner, mortgagee or managing agent.

(3) The trustee shall cause all books of account and records to be retained for a period of six years after completion of the transactions, act or operations to which they relate: Provided that minute books shall be retained for so long as the scheme remains registered.

Annual financial estimate, financial statement and report

36. (1) Before every annual general meeting, the trustees shall cause to be prepared an itemised estimate of the anticipated income and expenses of the body corporate during the ensuing financial year, which estimate shall be laid before the annual general meeting for consideration in terms of rule 56(6) hereof.

(2) The estimate of expenses referred to in sub-rule (1) shall include a reasonable provision for contingencies.

37. The trustee shall cause to be prepared, and shall lay before every annual general meeting, for consideration in terms of rule 56(6), a financial statement in conformity with generally accepted accounting practice, which statement shall fairly present the state of affairs of the body corporate and its finances and transactions as at the end of the financial year concerned.

38. The trustees shall further cause to be prepared and shall lay before every annual general meeting a report signed by the chairman reviewing the affairs of the body corporate during the past year, for consideration in terms of rule 56(6).

Audit

39. (1) The trustees shall cause copies of the schedules, estimate, audited statement and report referred to in rules 29(1)(c), 36, 37 and 38 to be delivered to each owner, and to any mortgagee which has advised the body corporate of its interest, at least fourteen days before the date of the annual general meeting at which they are to be considered.

(2) Delivery under the last preceding sub-rule shall be deemed to have been effected if the documents referred to are sent by prepaid post addressed to the owner at his domicile referred to in rule 3(2), and to any mortgagee as aforesaid at the address of such mortgagee as reflected in the records of the body corporate.

Deposit and investment of funds

41. The trustees shall cause all moneys received by the body corporate to be deposited to the credit of an account or accounts with a registered commercial bank or building society in the name of the body corporate and, subject to any direction given or restriction imposed at a general meeting of the body corporate, such moneys shall only be withdrawn for the purpose of payment of the expenses of the body corporate or investment in terms of rule 43.

42. The trustees may authorise the managing agent to administer and operate the account referred to in rule 41 and 43: Provided that where the managing agent is an estate agent as defined in the Estate Agents’ Act, 1976 (Act 112 of 1976), the trustees may authorise such managing agent to deposit moneys contemplated in rule 41 in a trust account as contemplated in section 32(2) of the Estate Agents’ Act, 1976, which moneys shall only be withdrawn for the purposes contemplated in rule 41.
43. Any funds not immediately required for disbursement may be invested in a savings or similar account with any registered building society or bank approved by the trustees from time to time.

44. Interest on moneys invested shall be used by the corporate body for any lawful purpose.

No refunds or distributions of profits or assets

45. (1) The owner shall not be entitled to a refund of contributions lawfully levied upon them and duly paid by them.

(2) No portion of the profits or gains of the body corporate shall be distributed to any owner or any person except upon destruction or deemed destruction of the building, or where such profit or gain is of a capital nature.

The appointment, powers and duties of a managing agent

46. (1) Notwithstanding anything to the contrary contained in rule 28, and subject to the provisions of section 39(1) of the Act, the trustees may from time to time, and shall require that a registered mortgagee of 50% of the units or by the members of the body corporate in general meeting, appoint in terms of a written contract a managing agent to control, manage and administer the common property and to exercise such powers and duties as may be entrusted to the managing agent, including the power to collect levies and the power to appoint a supervisor or caretaker: Provided that a managing agent shall be appointed for a period of one year and unless the body corporate notifies the managing agent to be contrary such appointment will be automatically renewed from year to year. Further provided that if the agreement has not been reduced to writing within thirty days of conclusion, it shall be voidable at the instance of either party.

(2) The trustees shall ensure that there is included in the contract of appointment of all managing agents a provision to the effect that if he is in breach of any of the provisions of his contract, or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, the trustees may, without notice, cancel such contract of appointment, and that the managing agent shall have no claim whatsoever against the body corporate or any of the owners as a result of such cancellation.

(b) Any one or more of the owners or mortgagees of sections in the building may, if the managing agent is in breach of the provisions of his contract or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, require the trustees to cancel the managing agent's contract in terms of paragraph (a). The foregoing provisions shall in no way detract from the trustees' rights to cancel the managing agent's contract.

(c) Any owner or mortgagee who required the trustees to cancel the managing agent's contract in terms of paragraph (b) shall furnish the trustees with such security as they in their discretion may determine for the payment of and shall indemnify the trustees and the body corporate against -

(i) all litigation costs reasonably incurred by the trustees in enforcing such cancellation against the managing agent, and

(ii) all other costs and damages arising out of such cancellation, purported cancellation or litigation for which the trustees or the body corporate might be liable up to the time such owner or mortgagee formally notified the trustees that he no longer requires them to pursue the action.

(d) The trustees shall not be required to cancel the contract of appointment of the managing agent unless and until the owner or mortgagee requiring cancellation in terms of paragraph (b) has furnished them with the security and indemnity as specified in rule 46, paragraph (2)(c).

47. The contract with the managing agent shall further provide for the appointment to be revoked, and such managing agent shall cease to hold office, if -

(i) where the managing agent is a juristic person, an

(ii) where the managing agent is a natural person, he applies for the surrender of his estate as insolvent or his estate is sequestrated either provisionally or finally or, where the managing agent is a company, it is placed under judicial management; or

(ii) the managing agent is convicted of an offence involving an element of fraud or an element of dishonesty or, where the managing agent is a company or close corporation, any of its directors or members is convicted of an offence involving an element of fraud or an element of dishonesty, or where the managing agent is a close corporation, any of its members is convicted of any offence, or

(iii) a special resolution of the members of the body corporate is passed to that effect: Provided that in such event the managing agent so removed from office shall not be deprived of any right he may have to claim compensation or damages for breach of contract.

48. The managing agent shall keep full records of his or her administration and shall report to the body corporate and all holders of registered sectional mortgage bonds who have notified the body corporate of their interest in terms of rule 54(1)(b) of all matters which in his or her opinion detrimentally affect the value or amenity of the common property and any of the sections.

49. (1) The trustees shall give reasonable prior notice to the managing agent of all meetings of the trustees and he may with the consent of the trustees be present thereat.

(2) The trustees shall form time to time furnish to the managing agent copies of the minutes of all meetings of the trustees and of the body corporate.

MEETINGS OF OWNERS

General meetings

When to be held

50. (1) The first meeting of owners shall be held within sixty days of the establishment of the body corporate, at least seven days' notice of which shall be given in writing, and which notice shall be accompanied by a copy of the agenda of such meeting and details of the items referred to in sub-rule 2.

(2) The agenda for the meeting convened under sub-rule (1), shall comprise at least the following:

(vi) The election of the trustees:

(i) the consideration, confirmation or variation of the insurances effected by the developer or the body corporate;

(ii) the consideration, confirmation or variation of an itemised estimate of the anticipated income and expenses of the body corporate for the ensuing financial year;

(iii) the consideration and approval, with or without amendment, of the financial statement relating to the management, control and administration of the building from date of establishment of the body corporate to the date of notice of the meeting referred to in sub-rule 1;

(iv) the taking, subject to section 47(2) of the Act, of cession of such contracts relating to the management, control and administration of the building as may have
been entered into by the developer for the continual management, control and administration of the building and the common property and in respect of which the developer shall be obliged to submit such contracts to the meeting:

(v) the appointment of an auditor or, where applicable, an accounting officer;
(vii) any restrictions or directions to be given in terms of section 39(1) of the Act; and
(viii) determination of the domicilium citandi et executoriandi of the body corporate.

51. (1) An annual general meeting shall be held within four months of the end of each financial year.

(2) Unless otherwise decided at a general meeting or by the trustees, the financial year of the body corporate shall run from the 1st day of March in each year to the last day of February of the following year.

52. All general meetings other than the annual general meeting shall be called special general meetings.

53. The trustees may whenever they think fit and shall upon a request in writing made either by owners entitled to 25 per cent of the total of the quotas of all sections or by any mortgagee holding mortgage bonds over not less than 25 per cent in number of the units, convene a special general meeting. If the trustees fail to call a meeting so requested within fourteen days of the request, the owners or mortgagee concerned shall be entitled themselves to call the meeting.

Notice of general meetings

54. (1) Unless otherwise provided for in the Act, at least fourteen days' notice of every general meeting specifying the place, within the magisterial district where the scheme is situated, or such other place determined by special resolution of members of the body corporate, the date and the hour of the meeting and, in the case of special business, the general nature of such business, shall be given -

(a) to all owners;
(b) to all holders of registered mortgage bonds over units who have advised the body corporate of their interest; and
(c) to the managing agent.

(2) The holders of registered mortgage bonds and the managing agent referred to in sub-rule (1), shall have the right to attend the meeting herein referred to and to speak at such meeting, but shall not, in their respective capacities as such, be entitled to vote thereat.

(3) The notice referred to in sub-rule (1)(a) shall be deemed to have been sufficiently given and delivered if delivered in accordance with rule 39(2).

(4) The notice referred to in sub-rule(1) shall be accompanied by the documents referred to in rule 39(1), except in the case of a meeting contemplated in rule 50(1) or a special general meeting.

(5) Inadvertent omission to give the notice referred to in sub-rule(1) to any person entitled to such notice or the non-receipt of such notice by such person shall, save in the case of the person contemplated in sub-rule(1)(a), not invalidate any proceedings at any such meeting.

(6) A general meeting of the body corporate may be called on shorter notice than that specified in sub-rule (1) hereof, provided it is so agreed by all persons entitled to attend.

(7) A special general meeting for the purpose of passing a unanimous or special resolution may be convened for a date 30 days or less after notice has been given to all the members of the body corporate if, in the opinion of the trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter to convene the meeting with such shorter period of notice.

PROCEEDINGS AT GENERAL MEETINGS

Ordinary and special business

55. All business at any general meeting other than business referred to in rule 56(a),(b),(c), and (d), shall be special business.

Annual general meeting

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

(a) The consideration of the financial statement and report referred to in rules 37 and 38;
(b) the approval with or without amendment of -
(i) the schedules of replacement values referred to in rule 29(1)(c); and
(ii) the estimate of income and expenditure referred to in rule 36;
(c) the appointment of an auditor or an accounting officer;
(d) the determination of the number of trustees for the ensuing year;
(e) the election of trustees for the ensuing year;
(f) any special business of which due notice has been given in terms of rule 54;
(g) the giving of directions or the opposing of restrictions referred to in section 39(1) of the Act; and
(h) the determination of the domicilium citandi et executoriandi of the body corporate.

Quorum

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

(2) A quorum at a general meeting shall be -

(a) the number of owners holding at least 50 per cent of the votes, present in person or by proxy or by representative recognised by law and entitled to vote, in schemes where there are ten units or less;
(b) the number of owners holding at least 35 per cent of the votes, present in person or by proxy or by representative recognised by law and entitled to vote in the case of schemes with less than 50 but more than 10 units; and
(c) the number of owners holding at least 20 per cent of the votes present in person or by proxy or by representative recognised by law and entitled to vote, in the case of schemes with 50 or more units.

58. If within half-an-hour from the time appointed for a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time, and if at the adjourned meeting a quorum is not present within half-an-hour of the time appointed for the meeting, the owners present in person or by proxy and entitled to vote shall form a quorum.
59. (1) The chairman, if any, of the trustees shall preside as chairman at every general meeting of the body corporate, unless otherwise resolved by members of the body corporate at such meeting.

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

VOTING AT GENERAL MEETINGS

Poll

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

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

(3) A demand for a poll may be withdrawn.

VOTES

61. A poll, if demanded, shall be taken in such a manner as the chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

No vote in certain circumstances

62. On a show of hands the owner or owners of a section, or if the owner is a juristic person, its proxy, shall have one vote: Provided that the chairman shall be entitled, in his discretion to change the manner of voting to one by poll and not by show of hands.

63. For the purpose of a unanimous or special resolution (with or without a ballot) or on a poll the value of the vote of the owner or owners of a section shall be reckoned in accordance with a determination made in terms of section 32(4) of the Act or, in the absence of this determination, in accordance with participation quotas.

64. Except in cases where a special resolution or unanimous resolution is required under the Act, an owner shall not be entitled to vote at any general meeting if:

(a) any contributions payable by him in respect of his section and his undivided share in the common property have not been duly paid or

(b) he persisted in breach of any of the conduct rules referred to in section 35(2)(b) of the Act, notwithstanding written warning by the trustees or managing agent to refrain from breaching such rule: Provided that any mortgagee shall be entitled to vote as such owner's proxy at any general meeting, even though paragraph (a) or the foregoing provisions of this paragraph may apply to such owner.

Voting by trustee for beneficiary

65. Where an owner of a section is as such a trustee for a beneficiary, he shall exercise the voting rights in respect of the section to the exclusion of persons beneficially interested in the trust and such person shall not be entitled to vote.
Owner's failure to maintain

70. If an owner -

(a) fails to repair or maintain his section in a state of good repair as required by section 44(1)(c) of the Act; or

(b) fails to maintain adequately any area of the common property allocated for his exclusive use and enjoyment, and any such failure persists for a period of thirty days after the giving of written notice to repair or maintain (given by the trustees or the managing agent on their behalf), the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner.

71. (1) Any dispute between the body corporate and an owner or between owners arising out of or in connection with or related to the Act, these rules or the conduct rules, save where an interdict or any form of urgent or other relief may be required or obtained from a Court having jurisdiction, shall be determined in terms of these rules.

(2) If such dispute arises, the aggrieved party shall notify the other interested party or parties in writing and copies of such notification shall be served on the trustees and managing agents, if any. Should the dispute or complaint not be resolved within 10 days of such notice, either of the parties may demand that the dispute or complaint be referred to arbitration.

(3) Having regard to the nature and complexity of the dispute or complaint and to the costs which may be involved in the adjudication thereof, the parties appoint an arbitrator who shall be an independent and suitably experienced and qualified person as may be agreed upon between the parties to the dispute.

(4) If the parties cannot agree as to the arbitrator to be appointed in terms of subrule (3) within three days after the arbitrator has been demanded, the registrar of deeds for the deeds registry in which the scheme is registered or his or her nominee shall upon written application and subject to payment of the prescribed fee, in writing appoint an arbitrator within 7 days after he or she has been required to make the appointment so that the arbitration can be held and concluded without delay.

(5) Arbitration shall be held informally or otherwise as the arbitrator may determine. The arbitrator shall have the right to demand that the party demanding the arbitration furnish the arbitrator with security for payment of the costs of arbitration in such amount and form as the arbitrator may determine, failing which the arbitration shall not be proceeded with. Where possible the arbitration shall be concluded within 12 days after the matter has been referred to for arbitration in terms of subrule (2) or security for the costs has been furnished.

(6) The arbitrator shall make his or her award within 7 days from the date of the completion of the arbitration and shall in making his or her award, having regard to the principles laid down in terms of these rules. The arbitrator may determine that the costs of the arbitration be paid by any one of the disputing parties or any of them jointly or in such shares as he or she may determine and as he or she in his or her discretion, may deem appropriate having regard to the outcome of the arbitration.

(7) The decision of the arbitrator shall be final and binding and may be made an order of the High Court upon application of any party to be affected by the arbitration.
CONDUCT RULES

(Section 35(2)(b) of the Sectional Titles Act, 1986)

ANIMALS, REPTILES AND BIRDS

1. (1) An owner or occupier of a section shall not, without the consent in writing of the trustees, which approval may not be unreasonably withheld, keep any animal, reptile or bird in a section or on the common property.

(2) When granting such approval, the trustees may prescribe any reasonable condition.

(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. (1) An owner or occupier of a section shall -

(a) maintain in an hygienic and dry condition, a receptacle for refuse within his section, his exclusive area or on such part of the common property as may be authorised by the trustees in writing;

(b) ensure that before refuse is placed in such receptacle it is securely wrapped, or in the case of bins or other containers, completely drained;

(c) for the purpose of having the refuse collected, place such receptacle within the area and at the times designated by the trustees;

(d) when the refuse has been collected, promptly return such receptacle to his section or other area referred to in paragraph (a).

VEHICLES

3. (1) No owner or occupier shall park or stand any vehicle upon the common property, or permit or allow any vehicle to be parked or stood upon the common property, without the consent of the trustees in writing.

(2) 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) Owners and occupiers of sections shall ensure that their vehicles, and the vehicles of their visitors and guests, do not drip oil or brake fluid on to the common property or in any other way deface the common property.

(4) No owner or occupier shall be permitted to dismantle or effect repairs to any vehicle on any portion of the common property, an exclusive use area or in a section.

DAMAGE ALTERATIONS OR ADDITIONS TO THE COMMON PROPERTY

4. (1) 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.

(2) Notwithstanding sub-rule (1), an owner or person authorised by him, may install -

(a) any locking device, safety gate, burglar bars or other safety device for the protection of his section; or

(b) any screen or other device to prevent the entry of animals or insects:

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

APPEARANCE FROM OUTSIDE

5. The owner or occupier of a section used for residential purposes shall not place or do anything on any part of the common property, 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.

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 any rubbish, including dirt, cigarette butts, food scrap or any other litter whatsoever.

LAUNDRY

8. An owner or occupier of a section shall not, without the consent in writing of the trustee, 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 building 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. All tenants of units and other persons granted rights of occupancy by any owner of the relevant unit are obliged to comply with these conduct rules, notwithstanding any provision to the contrary contained in any lease or any grant of rights of occupancy.

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, replacements of 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.
V&A WATERFRONT
MARINA RESIDENTIAL
HOME OWNERS’ ASSOCIATION

SECURITY ACCESS CONTROL RULES

(Amended 22 September 2004)
SECURITY ACCESS CONTROL RULES

CONTENTS

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   • Class 6: Visitors
   • Class 7: HOA Service Providers
   • Class 8: Deliveries & Taxis
   • Class 9: Estate Agents
   • Class 10: Accredited Letting Agents
1. **SECURITY STANDARD OPERATING PROCEDURES**

1. The Home Owners Association (HOA) controls access to the property. All persons entering and exiting must be in possession of a security disc.

2. **No disc no entry or exit.**

3. Discs are not transferable. A specific disc may only be used by the person to whom it was issued. Only one disc may be issued per person.

4. Security discs will be issued on the following basis where approved by the HOA i.e. entry class defines as to where access is allowed, when access is allowed, validity period of access disc, etc.

   - **CLASS 1:** OWNERS/TENANTS (> 3 months duration)
   - **CLASS 2:** MAIDS
   - **CLASS 3:** V&A MANAGEMENT & STAFF
   - **CLASS 4:** CASUAL TENANTS (< 3 months duration)
   - **CLASS 5:** FAMILY MEMBERS
   - **CLASS 6:** VISITORS
   - **CLASS 7:** HOA SERVICE PROVIDERS
   - **CLASS 8:** DELIVERIES & TAXIS
   - **CLASS 9:** ESTATE AGENTS
   - **CLASS 10:** ACCREDITED LETTING AGENTS

5. Schedule A details the conditions of entry applicable to each security disc class.

6. Schedule B details the authorization required for each security disc class.

7. Where Schedule B indicates, “Sign in”, the owner or agent must accompany the person who is to be issued with a disc to security to sign them in on entry.

8. Where the word “Specified” appears in Schedule B there may be conditions applicable to the use of the security disc e.g. a maid may only work on Tuesdays and Thursdays between 09:00 and 12:00, and only in Parama, and no vehicle permitted.

9. All discs will be required to be revalidated periodically. This will entail a verification of the disc holder against the information in the computer i.e. photograph, ID etc. This will take place at security on entry on the designated day.

10. Lost access cards will attract a fee (R100-00, as amended by the HOA) and will be charged to the owner of the apartment who authorized the disc.

11. A standard indemnity statement will be posted at all entrances.
ESTATE RULES
(Amended 27 October 2005)

V&A WATERFRONT
MARINA RESIDENTIAL

INTRODUCTION

In order to maintain the quality and maintain and enhance the value of the property for all concerned and above all, meet security needs which are of the utmost importance of the V&A Residential Development, House Rules have been established.

The Estate Rules were prepared in terms of the Constitution of the HOA and they bind the members and all persons occupying any Unit of the V&A Residential Development or their guests.

In the event of any conflict between these Estate Rules and the Sectional Title Act or the registered Management or Conduct Rules, the Act followed by the Management and Conduct Rules shall be paramount.

The Estate Rules may be amended, substituted or added to by Exco from time to time.

1. MOTOR VEHICLES AND DRIVEWAYS

1.1 Entrances
See the provisions under paragraph 12 with the heading "Security".

1.2 Road Signs
Road signs, should any be erected in the complex, must be observed by all motorists driving on the property.

1.3 Parking Areas
Cars may only be parked in the parking area specifically demarcated for that purpose and in such a way that the flow of traffic is not obstructed. One car should not occupy two parking bays. Garages and allocated parking bays may only be used by, or with the express consent of the owners to whom they are allocated. Specifically no parking is allowed in the drive-in lane to the garages.

1.4 Car Washing
Residents are requested not to wash cars in the basement garage due to the accumulation of dirt that is difficult to wash away.

1.5 Speed
Vehicles shall not exceed the indicated speed limits within the Development.

1.6 Vehicle Repairs
Repairs to vehicles, motorcycles, trucks, caravans etc. shall not be carried out on the common property or in the parking bays.

1.7 Trucks, Caravans, Trailers, Motorcycles, Etc.
No trucks, caravans, trailers, motorcycles, boats or heavy vehicles shall be parked on the common property or in the parking bays without the written consent of Exco.

1.8 Hooters
Hooters shall not be sounded within the Development.

1.9 Parking
Owners and Tenants must park in the designated parking bays for the unit they occupy. Vehicles parked incorrectly will be towed away or clamped. No Bluff parking is permitted on the Peninsula, and vice versa.

2. WASHING
Washing shall only be hung out to dry within sections where it is not visible from the roadway or to other residents.

APPENDIX "C" (to HOA Constitution)

obstructed. One car should not occupy two parking bays. Garages and allocated parking bays may only be used by, or with the express consent of the owners to whom they are allocated. Specifically no parking is allowed in the drive-in lane to the garages.

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1.6 Vehicle Repairs
Repairs to vehicles, motorcycles, trucks, caravans etc. shall not be carried out on the common property or in the parking bays.

1.7 Trucks, Caravans, Trailers, Motorcycles, Etc.
No trucks, caravans, trailers, motorcycles, boats or heavy vehicles shall be parked on the common property or in the parking bays without the written consent of Exco.

1.8 Hooters
Hooters shall not be sounded within the Development.

1.9 Parking
Owners and Tenants must park in the designated parking bays for the unit they occupy. Vehicles parked incorrectly will be towed away or clamped. No Bluff parking is permitted on the Peninsula, and vice versa.

2. WASHING
Washing shall only be hung out to dry within sections where it is not visible from the roadway or to other residents.
3. **SANITARY SERVICES**

3.1 Garbage in bags should not be left outside service entrances or in the passages of apartments.

4. **NOISE**

4.1 Quiet
Quiet shall be observed at all times but particularly between 23h00 and 7h00 nightly and between 14h00 and 16h00 on Saturdays and Sundays and Public Holidays.

4.2 Radios etc.
Radio's, CD's, tapes, television/DVD sets, musical instruments, etc. shall not be played in such a manner as to cause a nuisance to adjoining sections.

Residents to please bring the above to the attention of their domestics, contractors and guests.

5. **SWIMMING POOLS ON COMMON PROPERTY**

5.1 Use
Pools are for the use of residents, their friends, and authorized guests only.

5.2 Radios etc.
Radio's/ Tapes/ CD Players/ musical instruments etc. are not permitted within the pool areas unless used with earphones.

5.3 Rowdy and boisterous behavior and excessive noise, including ball games, parties and braaing (barbequing) are not permitted in the pool areas.

5.4 Suitable swimming attire is to be worn at all times.

5.5 Toddlers, children under the age of 12 and people who cannot swim are permitted in the pool areas only if accompanied by an adult who is able to swim.

5.6 Animals, bicycles, motorcycles, tricycles, skateboards, etc. are not permitted in the pool areas, or on the common property, passages, basement parking areas, etc.

6. **PETS**

6.1 The keeping of pets is discouraged. Where a pet is permitted, the handler shall be responsible for immediately cleaning up after such pet.

7. **CHILDREN**

7.1 Supervision
Residents must supervise their children and those of their visitors to ensure that they comply with the rules especially in the observation of the "noise" rules 4.1 and 4.2.

7.2 Children may not play in passages, driveways, basement parking areas or lobbies.

8. **MOTORCYCLES, BICYCLES, SKATEBOARDS, SURFBOARDS, ROLLER SKATES, BALL GAMES, ETC.**

Above items may not be used on common property, driveways, walkways and garages.

9. **DOMESTICS / ARTISANS / SERVICE COMPANIES OR EMPLOYEES**

9.1 Owners and occupiers are responsible for the activities and conduct of their domestics and such artisans as they may employ from time to time, and must ensure that their domestics or such artisans understand and adhere to the Estate Rules.
9.2 Residents must ensure that their domestics and artisans do not loiter on the common property.

9.3 Residents must ensure that their domestics or artisans do not cause noise within their sections or on the common property.

9.4 Domestics and/or artisans of companies employed by owners or occupiers to carry out work or perform services may not have guests or friends as visitors at any time on the common property. Owners and occupiers are asked to ascertain that this rule is absolutely observed in the interests of security.

9.5 The rule of no visitors or guests also applies to temporary domestics or artisans. Such temporary domestics or artisans must be signed in and out by the relative owners or occupiers with full details of the temporary person/s on each respective day and the owners/occupiers are responsible for these persons observing the Estate Rules.

Artisans or domestics may not generally wander around the complex, have meals or rest breaks in passages, basement, and garages and at entrances to the development.

Their activities are to be restricted to within the unit of the employing owner/occupier.

9.6 All owners/occupiers to check references of any domestics and/or their companies employed either full time or part time in the interest of security for all concerned.

9.7 Only approved trolleys are to be used on the estate. Supermarket trolleys will not be permitted on the estate

9.8 Apartments may not be accessed through the pool area. The use of lifts is restricted and may not be used to move between adjacent floors.

9.9 No owners’ property may be removed from the estate unless the owner has signed an exit form.

9.10 Any damage to the common property caused by the service provider will be for the account of the authorizing owner.

10. SUNDRY PROVISIONS

10.1 Rubbish of any nature must not be dropped or left on the common property and must not be brushed down storm water drains.

10.2 Inflammable or other dangerous material in quantities which might constitute a danger or affect the insurance cover may not be brought into the sections or the common property and not stored in any form in the storeroom of owners or in the basement or parking garages.

10.3 No business or trade may be set up for conducting on the common property or in the section. A storeroom may not be used as a storage and/or distribution facility, except for the unit to which it belongs. A unit may also not be used as a distribution facility.

10.4 No auctions or jumble sales may be held on the common property or in the sections or outside the entrance to the property.

10.5 No advertisements or publicity material may be displayed on the common property or in the sections without the proper prior written permission of the Trustees and Exco.

10.6 The gardeners and staff employed by the V&A Marina Residential Development may not be employed during normal working hours to do any extra private work other than as allocated or authorised by the Exco of the Home Owners Association.
10.7 No hobbies or other activities may be conducted on the common property if they cause a nuisance to other occupiers.

10.8 No firearms or pellet guns or catapults, etc. may be discharged on the common property.

10.9 No stones or other solid objects may be thrown or propelled on the common property.

10.10 Should any damage of whatsoever nature be caused to the common property by an owner, an occupier or their family, domestics, employees, tenants or visitors, the respective owner or occupier shall be liable to reimburse the Body Corporate for the cost of repairing such damage.

10.11 Where an apartment (or the shares in a Company or members interest in a CC which owns an apartment) is sold or let, the owner must advise the HOA in writing of the name and address of the new owner or tenant, the effective date of transferoccupancy. A levy clearance certificate must be issued before the effective date.

10.12 Until such time as a building is completed and the sectional title register is open it is not a member of the HOA. Access to these buildings is under the control of the builder and permission to access the site must firstly be directed through the offices of the Developer, V&A Waterfront Marina (Pty) Ltd, and then access to the building is at the builder’s discretion.

10.13 No luggage or other personal effects are to be left in any common area. Security shall remove all such items as being unauthorized and possibly harmful.

10.14 All promotional photoshoots require HOA approval and will attract a fee (R2500-00, as amended from time to time). From this fee will be the cost of a dedicated security guard for the duration of the photoshoot. A list of names and ID numbers for all photo shoot personnel must be lodged with the fee.

11. **EXTERIORS**

11.1 Air conditioning Units/Aerials/Radio and Communication Equipment may not be installed where they are visible on the outside of the building or without the prior written consent of the Trustees and Exco.

11.2 Painting

No exterior painting, including the painting of the front doors and windows may be done without the prior written consent of the Trustees and Exco.

11.3 No alterations may be done and no fixtures or fittings may be installed to the exterior of the building without the prior written consent of the Trustees and Exco.

12. **SECURITY**

12.1 Automation

The drive-in and parking bay gates have been automated and may be used by residents with radio transmitters at any time for entrance and egress. No loaning of resident’s transmitters to be undertaken by residents to anyone, including their guests or friends. This is vital for security reasons.

12.2 Large vehicles/Trucks are generally discouraged from entering the property but special arrangements to admit them can be made with the Managing Agent for temporary loading or off loading only.

12.3 Residents, their families and/or guests are particularly requested not to call the security guards for any other purpose than a security need or an emergency related to security. To understand clearly that the security guards may not be called away from their posts to:

- Help with parcels
- Offload vehicles
 Residents and their domestics are requested not to hold long conversations with any person on the central intercom system, which is there for brief messages and emergencies only.

12.4 Security personnel must abide by the following rule: a minimum of one security guard to remain on duty at the main entrances at all times. The main entrances cannot be left unmanned to accompany owners, visitors, guests, contractors, service providers etc.

12.5 Vehicles parked incorrectly or in unauthorized bays will be clamped or towed away at the discretion of the security manager. Service providers to park in specified areas indicated by security.

12.6 The access control and procedures governing access as set out in the Security Access Control Rules appended hereto must be adhered to at all times.

12.7 Any transgression of the rules in terms of excessively loud music or noise levels between 23:00 and 07:00 will result in security calling the police, if necessary.

12.8 Security has the authority to conduct random searches of vehicles and people entering or exiting the estate.

12.9 Tipping of, and/or gratuities to, security staff is strictly forbidden.

12.10 Firearms are not permitted on the estate, unless authorized in writing by the HOA.

12.11 Security discs are not transferable. A specific disc may only be used by the person to whom it was issued. Persons found abusing this rule will have their discs cancelled with immediate effect. Only one disc will be issued per person.

12.12 When a security disc is issued by Security, the recipient must personally be available for photography and for providing identification and personal details.

13. **BBQ / BRAAI REQUIREMENTS**

13.1 No open fires to be lit, except in designated braai areas and subject to the prior written approval of Exco.

13.2 Only smokeless fuel or gas to be used in designed BBQ/braai areas on the common property as well as in exclusive use areas.

13.3 All residents/owners to ensure that any coal/fuel which may have been lit is properly extinguished and that the common property area is cleaned up after use and no litter is left lying around.

14. **LIABILITY FOR MAINTENANCE AND REPAIRS**

14.1 It is the duty of each owner or occupier to keep his/her section and those areas of the common property of which he/she has the exclusive use and occupation in good, clean, sanitary and habitable order and condition and to maintain all electrical plumbing and sewerage installations and services in good order and condition.

If an owner or occupier fails to repair or maintain his/her sections in a state of good repair, or fails to maintain adequately any areas of the common property allocated for his/her exclusive use and enjoyment, and such failure persists for a period of one month after written notice, the Body
Corporate is entitled in terms of the Rules to remedy the owner/occupier’s failure and to recover the reasonable cost of doing so from the owner/occupier.

14.2 It is the duty of the Body Corporate to properly maintain the common property and to keep it in a state of good and serviceable repair. This duty includes the responsibility to mow the lawns of garden areas reserved for the respective owner’s exclusive use, but excludes the responsibility allocated to each owner in respect of the exclusive use areas as detailed above.

Owners/occupiers are obliged at all reasonable times to grant access to the Body Corporate’s domestics and agents for the purpose of mowing the lawns and attending to emergency faults or problems affecting other owners.

15. ACCREDITATION OF LETTING AGENTS

15.1 These rules are designed to ensure the peaceful cohabitation of true residents and casual tenants (defined as people who lease a unit for a period of less than three months). An owner wishing to frequently let their own apartment on a casual basis will be required to adhere to these rules but will not be required to provide the guarantee in 15.2b below.

15.2 Where an agent/owner intends to let or advertise to let any apartment for a period of less than 3 months the following additional requirements, over and above the requirements for Real Estate Agents, must be met:

a. The agent/owner doing the letting must apply to the HOA for accreditation and the accredited agent will, on approval, be issued with a class 10 security disc.

b. The agent/owner must provide an irrevocable Bank guarantee for the sum of R50,000-00 in favour of the HOA to cover breakage or damage to common property by guests and their guests.

c. The agent/owner must provide to the HOA a copy of their public liability insurance cover in the sum of R5,000,000-00.

d. An agent seeking accreditation must be able to demonstrate that they have formal reception facilities in close proximity to the Waterfront and a 24-hour day responsible person empowered to handle guest arrivals and departures as well as security issues.

e. Security must be provided with the name of the owner’s local representative and responsible person who can be called. In the event of an incident involving a guest, the responsible person must have the authority to remove the guest from the property should the security manager so insist.

f. A copy of the standard lease agreement is to be lodged for perusal by the HOA when applying for accreditation. Such lease agreement must contain a clause allowing immediate removal from the property of a guest at the expense of the agent/owner should the security manager so insist.

g. Any contract between an agent, owner and tenant/guest is to stipulate that they abide by the rules of the HOA and each party is to sign for a copy of the rules, proof of which is to be given to the Managing Agent.

h. The Security Manager of the V&A Waterfront has the HOA authority to request the immediate removal of a guest who does not conform to the rules and regulations of the HOA.
specifically with respect to disturbance, noise or misuse of common property. The security personnel will in the first instance request that the guests conduct themselves appropriately. Should the guest persist in disturbing the residents or damaging property they will then be obliged to call the security manager.

i. Each letting agent shall pay to the Body Corporate an annual amount for each unit under his control (R1000-00/annum/unit, as amended from time to time by the HOA) to compensate for any additional costs related to short term letting. The amount payable shall be due in advance in March each year to co-incide with the Body Corporate’s financial year and is payable as a once off fee for the year, and shall be due irrespective of the duration of occupancy or of the duration for which a unit has been under his control. A Letting Agent must submit a consolidated occupancy report to the Managing Agent at the end of each month for the units under his control.

j. Accredited Agents will purchase de-activated access cards through the Managing Agent’s office at a cost which will be reviewed annually by the HOA.

k. The Home Owners Association will make available at the offices of the Managing Agent the names of the accredited agents.

l. Should an agent breach any of the Estate Rules, and/or the respective Body Corporate Rules, and/or the Security Access Control Rules, and/or the Accredited Letting Agents’ Conduct Rules, and/or the mooring rules, the agent shall be given written notification as to which rule(s) he has breached, whereafter the agent will be given 14 days to rectify such breach. Should the agent remain in default after the expiry of the said notice period, then the HOA reserves the right to withdraw the agent’s accreditation forthwith.

m. Maids must be registered at security and be issued with a Class 2-security disk and may only provide a service during normal working hours on the same basis as that of a domestic maid and not an hotel type service.

n. No luggage is to be left unattended in common areas and must be moved off the property to the reception/offices of the agent. Security has the authority to remove unattended items as if they were harmful.

o. With respect to the letting of apartments, only one commercial let will be permitted in any four-day period, with a maximum of seven lets in any calendar month.

p. Where an owner owns more than one unit, and lets more than one unit on a commercial basis, he/she shall be deemed to be a letting agent. Such an owner shall be required to obtain accreditation as a letting agent from the HOA, and the rules applicable to letting agents shall apply to such an owner.

15.3 Tenants will be required to complete a security access form class 4 in order to obtain an access disc. The form is to be lodged at security.

15.4 No advertising will be permitted on the property, the Waterfront will not allow agents pointer boards on verges etc. within the V&A Waterfront precinct and they will be removed. Agents may not leave business cards or advertising material at the security gates, distribute advertising material under doors or leave material in common areas.
15.5 The HOA reserves the right to object to any advertising material that it considers may be in conflict with the intentions of the above rules, and to take appropriate action.

16. **REAL ESTATE AGENTS**

16.1 Owners must advise the HOA that their property is for sale or to let and must advise the HOA of the agency details and the name of the agent who is marketing the property and complete a Class 9 security access form for a security disc to be issued to the agent.

16.2 The agent and prospective purchaser must comply with all security regulations.

16.3 Any contract between an agent, owner and tenant/guest is to stipulate that they abide by the rules of the HOA and each party is to sign for a copy of the rules, proof of which is to be given to the Managing Agent.

16.4 Show days will not be allowed and apartments must be viewed “by appointment only”.

16.5 Agents are required to complete security documents for each apartment they hold a mandate for and must advise security accordingly when a specific mandate is withdrawn or expires or the unit is sold or let.

16.6 The HOA reserves the right to request owners not to use any agents who abuse the use of access disks or breach these security rules, the rules and regulations of the HOA or Bodies Corporate.

16.7 Estate Agents must be registered and hold a valid fidelity fund certificate with the applicable professional body. The certificate number is to be provided to the Managing Agent.