

“ANNEXURE A”

RENTAL POOL SCHEME RULES

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1. INTERPRETATION AND PRELIMINARY

The headings of the clauses in these Rental Pool Scheme Rules are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of the Rental Pool Scheme Rules nor any clause hereof. Unless a contrary intention clearly appears:-

1.1 words importing:-

1.1.1 any one gender include the other two genders;

1.1.2 the singular include the plural and *vice versa*; and

1.1.3 natural persons include created entities (corporate or unincorporated) and the state and *vice versa*;

1.2 the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely: –

1.2.1 “**the Act**” means the Sectional Titles Act No 95 of 1986 and any amendment thereof and includes the regulations promulgated thereunder from time to time;

1.2.2 “**the Attorney**” means Maurice Phillips|Wisenberg, 20th Floor, 2 Long Street, Cape Town, 8001;

1.2.3 “**the Body Corporate**” means the controlling body as contemplated in terms of section 36 of the Act;

1.2.4 “**the Buildings**” means the buildings to be constructed on the Property substantially in accordance with the Drawings which will comprise the Sectional Title Scheme;

- 1.2.5 “**Business Day**” means any day other than a Sunday, Saturday or Public Holiday;
- 1.2.6 “**Commencement Date**” means the date of registration of transfer of a Unit;
- 1.2.7 “**the Common Property**” means such parts of the Property which do not form part of a Section, including Buildings and parking as depicted on the Sectional Plan;
- 1.2.8 “**the Completion Date**” means the date upon which the Unit is sufficiently complete for beneficial use as certified by the architect;
- 1.2.9 “**Developer**” means Mountainside Investment Trust (Master’s Reference No. IT 759/2008) and includes its successors in title or assigns;
- 1.2.10 “**the Development**” means the sectional title real estate development, of which the unit forms part;
- 1.2.11 “**the Drawings**” means the drawings and the design specifications, all of which are available from the Seller upon request;
- 1.2.12 “**Income Participation Share**” shall be a percentage expressed to four decimal places and arrived at by dividing the floor area of the Unit by the floor area of all the Participating Units in the Rental Pool Scheme;
- 1.2.13 “**Month**” means a calendar month;

- 1.2.14 “**Managing Agent**” means a managing agent appointed to control, manage and administer the common property and the Rental Pool Scheme in the Sectional Title Scheme;
- 1.2.15 “**Net Rental Income**” means gross profit derived under the Rental Pool Scheme Rules, including all collected revenue and income of any nature derived from Participating Units, together with all collected revenue and income attributable to the sale of ancillary items, less value added taxes thereon; less all other operational expenses, including but not limited to insurance, rates and taxes, and cost of sales;
- 1.2.16 “**Owner**” means the registered owner of a Unit;
- 1.2.17 “**Owner’s Share**” means the amount due to the Owner of a Participating Unit at the end of each calendar month calculated by the Net Rental Income multiplied by the Income Participation Share relating to the Unit less any amounts due by the Owner in terms of the Rental Pool Scheme Rules;
- 1.2.18 “**Participating Unit**” means a Unit which forms part of the Rental Pool Scheme;
- 1.2.19 “**the Property**” means Erf 31206, Paarl (Drakenstein Municipality) in extent 1,9105 hectares;
- 1.2.20 “**Rental Pool Scheme**” means the Scheme conducted on the Property in terms whereof Participating Units are let and income shared as specified in the Rental Pool Scheme Rules;

- 1.2.21 “**Rental Pool Scheme Rules**” means the rules in terms of which the Managing Agent shall conduct the Rental Pool Scheme;
- 1.2.22 “**the Section**” means the proposed section in the Sectional Title Scheme comprising of specific storage facilities as described in the Annexure “B” annexed to the Agreement of Sale read together with the Sectional Plan depicting the Subject Matter of this sale;
- 1.2.23 “**Sectional Plan**” means the sectional plan as will be approved by the Surveyor General and registered by the Registrar of Deeds for the Sectional Title Scheme;
- 1.2.24 “**the Sectional Title Scheme**” means the sectional title scheme to be registered on the Property;
- 1.2.25 “**the Sectional Title Scheme Rules**” means the management and conduct rules prescribed by the Act and as may be amended from time to time by the Seller or by the Body Corporate and any other rules as are formulated from time to time by the Seller, Body Corporate or Managing Agent;
- 1.2.26 “**Seller**” means the Developer;
- 1.2.27 “**Signature Date**” means the date of the last signature hereof;
- 1.2.28 “**the Unit**” means the Section together with its undivided share in Common Property apportioned to the Section in accordance with its participation quota determined in terms of Section 32(1) of the Act;

- 1.3 when any number of days is prescribed in the Rental Pool Scheme Rules, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be next succeeding Business Day;
- 1.4 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 1.5 any reference to the Owner, the Developer and the Managing Agent shall include their respective successors in title or assigns;
- 1.6 headings are included for convenience only and are not to be used in construing or interpreting the Rental Pool Scheme Rules.

2. **RECORDAL**

- 2.1. The Developer is the registered owner of Erf 31206 Paarl (a consolidation of Erven 2872 and 8443 Paarl) measuring 1,9105 (one comma nine one nought five) hectares (“the Property”).
- 2.2. The Owner and the Developer have entered into an Agreement of Sale as attached hereto.
- 2.3. The Owner has identified the Rental Pool Scheme as a suitable investment with income producing potential.

3. **APPOINTMENT, PERIOD AND TERMINATION**

- 3.1. The Owner hereby elects to participate in the Rental Pool Scheme and agrees to appoint the Managing Agent or his nominee as his agent to utilise the unit as a Participating Unit subject to the terms and conditions set out herein.

- 3.2. Notwithstanding the Signature Date the Rental Pool Scheme Rules shall be effective from the Commencement Date and shall continue indefinitely.
- 3.3. The Owner undertakes that in the event that a Participating Unit is sold or otherwise alienated that the sale shall be subject to the terms and conditions of the Rental Pool Scheme Rules.
- 3.4. Should the Owner mortgage the Participating Unit he shall advise the mortgagee of the terms and conditions of the Rental Pool Scheme Rules.

4. **MANAGEMENT OF UNITS AND RENTAL POOL SCHEME**

The Body Corporate shall appoint a Managing Agent to attend to the general management of the Rental Pool Scheme.

5. **RENTAL PAYABLE TO OWNER**

- 5.1. The calculation of the Owner's Share shall be made by the Body Corporate at the end of each calendar month.
- 5.2. The Body Corporate shall account and pay the Owner's Share due to the Owner by not later than 15 (fifteen) days after the end of each calendar month and when doing so, shall furnish the Owner with a statement setting out how the distribution to the Owner is calculated.
- 5.3. The Owner's Share shall be paid to the Owner without deduction, set off or demand at such place or address as the Owner may furnish in writing to the Body Corporate from time to time provided that the Body Corporate shall be entitled to deduct *inter alia* any outstanding sectional title levies and operational expenses due by the Owner and make payment thereof to the Body Corporate, and further may deduct any amounts due to the Developer in terms of the Rental Pool Scheme Rules.

- 5.4. The Body Corporate shall cause the Rental Pool Scheme to be audited annually and shall be available to the Owner upon request.
- 5.5. The annual financial year end shall be on the last day of February.

6. **DUTIES AND OBLIGATIONS OF THE MANAGING AGENT**

- 6.1. The Managing Agent shall have the right to utilise a Participating Unit for the purpose of generating income and may in its sole discretion determine rental rates. The Managing Agent shall use its best endeavours to maximise rental income.
- 6.2. For the duration of the Rental Pool Scheme the Managing Agent or its nominee is entrusted with the control and management of units and is responsible *inter alia* for:-
- 6.2.1. the control and management of the Rental Pool Scheme;
 - 6.2.2. the control of all persons making use of the facilities and the enforcement of the Sectional Title Scheme Rules;
 - 6.2.3. the control and management of all staff;
 - 6.2.4. undertaking an adequate and ongoing marketing campaign with the aim of ensuring reasonable levels of use of the units;
 - 6.2.5. ensuring adequate public liability insurance cover;
 - 6.2.6. the provision of adequate security, including but not limited to access control to be introduced and implemented in conjunction with the Body Corporate.

7. **DUTIES AND OBLIGATIONS OF THE OWNER**

The Owner shall be obliged:-

- 7.1. to pay when due, all levies, accounts and other charges in relation to the Participating Unit. In the event of the Owner failing to pay any such amounts due by him, the Body Corporate may effect payment and be entitled to deduct the amount so paid from the Owner's Share due to the Owner in terms of the Rental Pool Scheme Rules;
- 7.2. not to make any alterations to the Participating Unit for the duration of the Rental Pool Scheme Rules.

8. **ACKNOWLEDGMENT AND UNDERTAKING BY OWNER**

- 8.1. The Owner acknowledges and agrees that:-
 - 8.1.1. he shall not be entitled to interfere in any way whatsoever with the control and management of the Rental Pool Scheme;
 - 8.1.2. he shall not have any claim whatsoever and however so arising, whether directly or indirectly out of the Rental Pool Scheme Rules against any Owner in the Development;
 - 8.1.3. the only claim that the Owner has upon the income received by the Managing Agent from the letting and hiring of the Participating Unit is the amount which is due to him as the Owner's Share in terms of the Rental Pool Scheme Rules;
 - 8.1.4. he shall not have any claim or cause of action against the Body Corporate and/or the Developer and/or the Managing Agent other than as set out in the Rental Pool Scheme Rules, arising out of:-
 - 8.1.4.1. the letting of Participating Units to the Managing Agent and its subletting to third parties;

- 8.1.4.2. the letting of the Unit to tenants;
- 8.1.4.3. the failure by the Managing Agent to let the Unit;
- 8.1.4.4. any other cause howsoever arising;
- 8.1.5. during the operation of the Rental Pool Scheme Rules, the Owner shall not be entitled to let or otherwise confer rights of occupation in and to Units in any manner whatsoever.
- 8.2. The Owner undertakes:-
 - 8.2.1. at all times to comply with the Sectional Title Scheme Rules of the Body Corporate;
 - 8.2.2. not to advertise or let (other than in terms of the Rental Pool Scheme Rules) or in any other way make available to any other person the unit for any form of reward.

9. **CESSION AND ASSIGNMENT**

- 9.1. The Owner shall not, without the consent of the Body Corporate and subject as required by a sale of a Unit, cede, transfer, make over and/or assign any rights or the obligations in relation to the Unit.
- 9.2. The Body Corporate shall be entitled to cede its right, title and interest in the Sectional Title Development and the Rental Pool Scheme and may assign any of its obligations created in terms hereof to a third party in its sole and unfettered discretion. The Owner by his signature hereto consents to such cession and/or assignment.