

Credit Policy and Procedure for the Body Corporate of _____

1. Introduction

The Board of Trustees has on the _____ resolved to introduce the credit policy in respect of amounts due, owing, and payable to the Body Corporate to:

- ensure compliance by owners in respect of their obligations towards the Body Corporate,
- indicate to owners the way the Board of Trustees (represented by the Managing Agent) will conduct the collections and compliance process,
- set a standard of conduct which is equally applied to all owners without fear or favour,
- define the responsibilities of the Board of Trustees and the Managing Agent in such collections process,
- avoid disputes between owners, Trustees, and Managing Agent in respect of the collection of amounts due, owing, and payable to the Body Corporate,
- ensure that the collections process complies with the Sectional Titles Scheme Management Act and other applicable legislation.

This policy will be implemented from the following date: _____

This policy will be re-evaluated on the following date: _____

2. Definitions

- 2.1 **"Trustees"** means the elected representatives of the owners in this sectional-title scheme who are entrusted to manage the scheme in good faith and with its best interest in mind.
- 2.2 **"managing agent"** means the person or company appointed by the trustees to provide scheme management services to our body corporate for reward and in accordance with the written agreement entered into between the managing agent and the Body Corporate.
- 2.3 **"Member"** person in whose name the unit is registered at a deeds registry in terms of the Sectional Titles Act or in whom ownership is vested by statute, including the trustee in an insolvent estate, the liquidator of a company or close corporation which is an owner, the executor of an owner who has died, or the representative of an owner, who is a minor or of unsound mind, recognised by law, and "owned" and "ownership" has a corresponding meaning;
- 2.4 **"Deemed Knowledge"** means the knowledge of the content of an invoice and/or statement that the owner is deemed to have as he/ she would have discovered it by making the usual and proper inquiries from the managing agent;
- 2.5 **"Levies"** means the contributions payable by an owner in accordance with the applicable PQ in respect of the administrative and maintenance fund budgets as was approved by the AGM and levied by the trustees;

- 2.6 **"Special Levies"** means the contributions raised by the trustees of a sectional title scheme for an expense that is necessary and which was not budgeted for and approved by the owners at the previous AGM;
- 2.7 **"Utility payments"** means the amounts payable in respect of the supply of electricity, water, or sewerage and other utilities;
- 2.8 **"Amounts due"** includes all levies and special levies raised by the trustees, utility payments, interest, penalties, taxed or agreed to legal fees, and or other legally raised charges;
- 2.9 **"Invoice"** means the bill which lists the various amounts payable by owners to the body corporate in respect of levies, special levies, utility payments, fines, interest, and other payments;
- 2.10 **"Statement of Account"** means a document that reflects all transactions that took place between the Body Corporate and the unit owner for a given period of time;
- 2.11 **"Payment Date"** is the date on which the amounts raised against an owner is payable, which is the first day of the month to which the invoice is applicable;
- 2.12 **"Arrear amounts"** means monies that were due, owing, and payable to the body corporate by the payment date and which remains unpaid;
- 2.13 **"Interest resolution"** a resolution was taken by the trustees to charge interest monthly against arrears amounts;
- 2.14 **"Interest rate"** means the rate being charged on arrears monthly, calculated as a percentage of the arrear amount, in terms of the trustee's interest resolution and compounded monthly in arrears;
- 2.15 **"Legal Action"** means legal proceedings or a lawsuit instituted against the debtor by a legal practitioner on behalf of the body corporate;
- 2.16 **"Legal Fees"** means the fees payable to the legal practitioner for legal services rendered on behalf of the body corporate;
- 2.17 **"Penalties"** means a monetary punishment imposed by the trustees in accordance with the rules of the scheme for breaking such rules;
- 2.18 **"Due date"** means the date on which the payment of an invoice is payable;
- 2.19 **"Special Payment Arrangements"** means an arrangement between the Body Corporate and an owner for the payment of the arrear amounts over an agreed period in terms of the conditions of such arrangement;
- 2.20 **"Early Settlement Incentive"** is a discount afforded to owners on the early payment of yearly levies payable by such owner;
- 2.21 **"Letter of Demand"** is a formal demand for payment of the arrear amounts in accordance with the Sectional Title Schemes Management Act;
- 2.22 **"Delegation of Responsibilities"** refers to such delegation of authority and tasks by the Trustees for the time being to the Managing Agent in accordance with a decision made by the board of Trustees and recorded in a resolution dated _____ day of _____

3. Payments

All amounts due and owing shall be payable on the **first day of the month** for which the Managing agent has raised an invoice on behalf of the Body Corporate, and a statement has been issued, notwithstanding if such "invoice" or "statement of account" has been received by the "member" as it is deemed that the "member" in accordance with its "deemed knowledge" is aware of the "amounts due."

All payments by members must be received by the Body Corporate in their bank account on the first day of the month and shall be deemed in arrears if not so received. Any delay caused by the member or his or her bank or any other person shall not excuse the member from his or her obligation to have made a timeous payment which had to be received by the Body Corporate on the first day of the month.

4. Interest

All amounts due, owing, and payable which remain in arrear on the first day after the payment date shall attract interest at the rate as resolved by the Trustees from time to time, which shall be debited on the member account by the Managing Agent without further instructions by the Board of Trustees in accordance with the delegation of responsibilities.

The current interest rate applicable to arrears ar _____%

Interest shall be calculated monthly and compounded monthly in arrears.

5. Penalties

All amounts due owing and payable which remains in arrears on the first day after the payment date shall attract a penalty in accordance with Conduct Rule _____ as was adopted on the _____ day of _____ by way of a special resolution by the members and registered and approved by CSOS on the _____ day of _____, which shall be debited on the member account by the Managing Agent without further instructions by the Board of Trustees in accordance with the delegation of responsibilities.

6. Letter of Demand

A Letter of demand shall be sent to the member who remains in arrears on the 15th day of the month in which the amount has become due, owing, and payable. The Trustees has resolved that such letter by _____ {debt collectors/ Attorneys} on behalf of the Body Corporate and the Managing Agent is authorised in terms of the delegation of responsibility to instruct such debt collector / Attorney to proceed with such letter of demand. The cost of such letter shall on taxation be debited to the member's account by the Managing Agent in accordance with the delegation of responsibilities.

7. Legal Action

Legal Action shall be instituted against the member on the first day after the time period as was afforded to the member for making the payment, in the letter of demand has expired. The Trustees has resolved that such Action shall be taken by _____ debt collectors/ Attorneys on behalf of the Body Corporate, and the Managing Agent is authorised in terms of the delegation of responsibilities to instruct such debt collector/ Attorney to proceed with such Action.

The cost of such Action shall on taxation be debited to the member's account by the Managing Agent in accordance with the delegation of responsibilities.

8. Legal Fees

The member shall be liable for all legal fees on an Attorney and Client scale as well as cost and disbursements in respect of such collection process in accordance with Management Rule ___ as was adopted on the _____ day of _____ by way of a unanimous resolution by the members and registered and approved by CSOS on the _____ day of _____, which shall be debited on the member account by the Managing Agent without further instructions by the Board of Trustees in accordance with the delegation of responsibilities. *(See clause 7 above, where no rule amendment took place)*

9. Allocation of Payment and Legal Costs

All payments received by the Body Corporate from the member shall be allocated firstly towards the taxed cost, then interest and then the most recent amount due, and lastly towards the amounts due for which Legal Action has been instituted.

10. Special Payment Arrangements

In the event that a member is unable to pay the amounts due on the due date, then the member shall have an obligation to contact the Managing Agent and enter into a special payment arrangement for the payment of the amount due prior to the Legal Action process as described in clause 7 above has started. In accordance with the delegation of responsibilities, the Managing Agent shall be entitled to enter into a payment arrangement agreement over a period not exceeding six months for such due amount. All subsequent amounts owing, plus the payment arrangement amount, must be paid on the due dates. Failing which, all amounts outstanding shall immediately become due, owing, and payable, and the process described in clauses 6 and 7 shall immediately follow without any further delay.

Suppose the member's circumstances require leniency regarding the special arrangement over a period longer than six months. In that case, such request shall be referred to the trustees by the managing agent one day after such request was received for their decision, which will be given within nine days from such request.

The decision made by the trustees shall be final and binding until set aside by CSOS, and all actions taken by the trustees after such decision shall be regarded as taken in good faith in accordance with the fiduciary responsibility and in the interest of the Body Corporate as a whole.

11. Listing of owners on Credit Bureau

All defaulting members with arrear amounts due and owing more than 30 days from the due date will be listed on a credit bureau as delinquent members and shall only be removed on full payment of all arrear amounts.

Such listing will be done immediately by the Managing Agent after the expiration of the 30 day period mentioned above, on behalf of the Body Corporate in accordance with the delegation of responsibilities.

The cost of removing a member from the records of the credit bureau shall be for the account of the delinquent owner according to the rules of such bureau.

12. Early Settlement Incentives

The Trustees have on the _____ day of _____ resolved to afford a 10% discount on the yearly levies of all members who settle such yearly levies before the last day of the month in which such yearly levies has become due and payable. This is done to encourage the early payment of levies in full as to provide the Body Corporate with liquidity.

Thus done on this the _____ day of _____ 20 ____