



**Thesen Islands Homeowners Association**

# **ESTATE RULES & REGULATIONS**

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# 1. INTRODUCTION

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## PREAMBLE

According to our Vision, Objectives and Value Statement it is our duty to maintain and enhance Thesen Islands as a world-class secure, safe, environmentally aware and good-neighbourly maritime residential estate for the benefit of all members.

Living on Thesen Islands means being part of a community which shares a secure and high-quality lifestyle through an acceptable set of Rules and Regulations (“Rules”) and by which members, tenants and guests may live together, reasonably and harmoniously, without interfering with one another’s enjoyment, to the benefit of all. These Rules have been established to ensure this.

A condition of the Constitution and Title Deeds for Thesen Islands is that residential property owners automatically become members of the Thesen Islands Homeowners Association (“TIHOA”) and remain members for so long as they are the registered owners of their property.

The Rules are deemed to be reasonable, binding on and apply equally to all members as well as the family, visitors and tenants of the member. The Rules are considered to be neither restrictive, nor punitive, but rather as a judicious framework to safeguard and promote appropriate and fair interaction to the benefit of all.

Any act of commission or omission deemed a transgression of the Constitution or the Rules, whether indicated as a transgression and/or carrying a penalty or not, will be subject to the imposition of a penalty or other appropriate sanction at the discretion of the TIHOA. Persistent transgressions may result in higher penalties and/or legal action at the discretion of the TIHOA.

Any waiver, relaxation, extension of time, delay or failure (together “Relaxation”) by the TIHOA in exercising any right under these Rules shall not be construed as a waiver of that right and shall not operate as an estoppel against the TIHOA. The waiver of any right under these Rules shall be binding on the TIHOA only to the extent that the waiver has been reduced to writing and signed by the duly authorised representative(s) of the TIHOA.

The Constitution provides that these Rules may be passed by the TIHOA or the Trustees. It is envisaged that these Rules will be presented and ratified at each Annual General Meeting of the members. It is the responsibility of the Board of Trustees and management to implement and enforce the Rules as well as the penalties for breaches.

## LEGAL STATUS

- 1.1 These rules have been established by the Trustees in terms of the Constitution of the TIHOA.
- 1.2 All members (including family of the member), occupiers and entrants to Thesen Islands are obliged to comply with these Rules.
- 1.3 The registered member is responsible for ensuring that all members of his family, tenants, guests, visitors, employees, contractors, contractors’ subcontractors and any person visiting the property or rendering a service to the member/tenant also comply with the Estate rules.
- 1.4 The Trustees shall have the right, in the event of a breach of a rule by a member, his family, tenants, guests, visitors, employees, contractors, contractors’ subcontractors and persons visiting the property or rendering a service to the owner/tenant, to take such action against the defaulting owner as they deem fit on behalf of the TIHOA, including but not limited to:

- 1.4.1 Giving notice to the member concerned requiring him to remedy such breach within such period as the Trustees may determine; and/or
  - 1.4.2 Taking such steps as they may consider necessary to remedy the breach at the cost of the defaulting member; and/or
  - 1.4.3 Taking such other action as they deem necessary and which action may include the imposition of a penalty, or proceedings in court.
- 1.5 Any person entering Thesen Islands and utilising the roadways, verges, waterways, common property areas, buildings, sports facilities, etc, do so at their own risk. TIHOA shall not be liable for any loss, damage or accident that may occur on Thesen Islands.

## **INTERPRETATION**

- 1.6 Unless the context otherwise indicates, the words and phrases as used or referred to in these Rules shall bear the same meaning as ascribed to such words and phrases in the Constitution.
- 1.7 In interpreting or construing these Rules, unless the context indicates otherwise:
- 1.7.1 any reference to the singular shall include the plural and vice versa; and
  - 1.7.2 any reference to any gender shall include a reference to a legal or corporate person/entity and *vice versa*; and
  - 1.7.3 any reference to a natural person shall include a reference to a legal person/entity (whether incorporated or unincorporated) and *vice versa*; and
  - 1.7.4 paragraph headings are for reference purposes only and shall not be taken into account in interpreting or construing the import or tenor of these Rules or any clause or provision.
- 1.8 In the event of any conflict between the provisions of these Rules and the provisions of the Constitution, the provisions of the Constitution shall prevail.
- 1.9 Where the consent of the TIHOA is required for any purpose same shall, unless the context expressly indicates otherwise:
- 1.9.1 refer to the prior written consent of the TIHOA; and
  - 1.9.2 not be unreasonably withheld and in the event of the refusal or withholding of such consent the onus shall be on the member seeking same to prove that the refusal or withholding of the consent was unreasonable; and
  - 1.9.3 be deemed to include a reference to any consent, approval or permission which may be required of the TIHOA.
- 1.10 The terms, conditions, rights, promises, undertakings, covenants, restraints, obligations and provisions contained, conferred or imposed under these Rules (and all of which are for convenience referred to as “provisions”) are severable and divisible as to each provision, or part thereof, and should any provision be found to be invalid or unenforceable by a competent court, such a finding shall, subject to the order of such court, not affect the validity and/or enforceability of the remaining provisions or parts thereof.
- 1.11 These Rules replace and supersede all previous Rules issued and approved by the TIHOA and Board of Trustees; in this respect, the following applies:
- 1.11.1 Subject to the provisions of the Rules on and after the commencement date, anything which was done under a provision of the Rules in effect on the day immediately preceding the day on which the Rules come into effect and which could be done under a corresponding provision of the Rules, is deemed to have been done under that corresponding provision.
  - 1.11.2 The coming into effect of the Rules does not affect any rights, debts, obligations and/or any liabilities which existed on the day immediately preceding the day on which the Rules come into effect and such rights, debts, obligations and liabilities shall continue under the Rules on and after the commencement date and shall be deemed to have existed under, in terms of or by virtue of a corresponding provision of the Rules.

## **AMENDMENTS**

- 1.12 Rules may need to be added, amended or repealed in accordance with the evolving needs of members and the estate.

- 1.13 These rules are therefore subject to change from time to time, and the Trustees shall endeavour to add to, amend or repeal the rules as deemed necessary to protect the interests of the TIHOA, the members and the integrity of Thesen Islands as a whole.

### **MEMBER OBLIGATIONS**

- 1.14 Members shall diligently and promptly comply with the obligations imposed in terms of these Rules and shall take all reasonable steps to ensure compliance therewith by their families, employees, agents, contractors, tenants, visitors and guests.

### **DOMICILIUM**

- 1.15 Details as per the Constitution.

## **2. USAGE AND SERVICE**

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All facilities and common areas are for the shared use of all members of Thesen Islands, residents and guests and the use thereof needs to be controlled to limit abuse. A harmonious lifestyle is attained by the attitude towards the use of the shared and common areas including the roadways, verges, waterways, parks, ponds, trails, sport facilities, bird hide and the like. In accordance with clause 34 of the TIHOA Constitution any persons using any of the facilities and common areas do so entirely at their own risk.

### **TRAFFIC AND GENERAL USE OF ROADS AND PATHWAYS**

The TIHOA encourages a “village atmosphere” on Thesen Islands where members, residents and their guests can live and play in safety, so road users are asked to be vigilant and exercise caution. Adults walking and children playing on/in the roadways do so at their own risk and TIHOA accepts no liability for any mishaps or accidents.

#### *Rules:*

- 2.1 All persons are required to drive within Thesen Islands with the utmost care at all times. Whilst the roads within Thesen Islands are privately owned and controlled, all persons are required to use all roads and pathways within Thesen Islands with the same level of care and consideration for road safety and use as they are required to on “public roads” outside of the estate. No person shall use or drive any vehicle anywhere on Thesen Islands in such manner that would, if such road were a public road within the Republic of South Africa, constitute a contravention of the National Road Traffic Act 93 of 1996 (or its successors). No person shall use any road, pathway or common area within the township in such a manner as to constitute a nuisance or danger to any other person within Thesen Islands. Without limiting the generality of the aforesaid, no person may use or drive any vehicle other than on designated roads and pathways, no person may use or drive any vehicle while under the influence of intoxicating liquor or drugs and all road/traffic signs displayed within Thesen Islands must be adhered to by all persons at all times.
- 2.2 A maximum speed limit of 30 km/h applies to all roads except for where lesser limits are signposted, such as over two-way bridges and around traffic circles where the speed limit is 20 km/h and single lane bridges where the speed limit of 15 km/h applies. The reason for the different speed limits is to extend the life of the bridge. The impact on the superstructure of the bridge imparts a horizontal load on the pile cap underneath the bridge which in turn places a horizontal load on the piles that support the structure itself. The piles are not designed to accommodate these loads, hence the speed restrictions. A concrete truck (14 tons), you can imagine, will hit the curved beams with much force, but an SUV will also cause damage in the long term.

- 2.3 No person shall drive or allow to be driven or control any motorised vehicle (including but not limited to a motor vehicle, a motorcycle or motorised scooter), unless the driver is issued with a valid drivers licence.
- 2.4 No unlicensed vehicle, or a vehicle that is not capable of being licensed in terms of the national, provincial or local authority laws, by-laws or regulations, such as quad bikes, golf carts or stand-on scooters, are allowed to be driven on Thesen Islands without the written consent of the TIHOA. Any unauthorised unlicensed vehicle as set out above may be escorted off Thesen Islands or may be wheelclamped by the security personnel. TIHOA may, at its discretion, procure the vehicle's removal from Thesen Islands by such lawful means as are available to it and recover any costs incurred as a result from the member or individual concerned. Such costs shall be deemed to be an additional levy raised against such member and will be recovered from the member in terms of the Constitution of the TIHOA.
- 2.5 White-bordered yellow diamonds at single lane bridges (outgoing traffic) indicate "right of way" to traffic. Red-bordered white triangles at single lane bridges (incoming traffic) indicate "give way".
- 2.6 Persons using the roads do so at their own risk and must obey the Rules of the road and adhere to all road signs. Persons who use roller-skates, skateboards, rollerblades or similar equipment on the roadways and bridges do so entirely at their own risk and recognising that licensed motor vehicles have right of way. Children under the age of 5 years using the roads must be accompanied by an adult.
- 2.7 Pedestrians have right of way on all footpaths but not on the roadways, other than at designated crossings. Cyclists must remain on the roads always except on the clearly marked pavement on Avocet Island that is a shared pedestrian/cycle path to the sliding gate for both pedestrians and cyclists.
- 2.8 Members and tenants are required to park their vehicles in their garages or at least on the member's Erf and/or Unit (or such area within any applicable sectional title scheme available to the relevant Unit for parking purposes) Occasional overflow parking for visitors will be permitted on the verges or external parking area, provided always that no vehicle may encroach into the road, onto the footpaths or into the flowerbeds or parkland. Occasional parking is defined as short term of duration - maximum one week. If a member is unable to comply with this rule then a written application for a concession must be submitted to the TIHOA General Manager, who will investigate the circumstances and make such ruling as he/she in his/her sole discretion deems appropriate.
- 2.9 No person shall park, leave unattended or store any commercial type vehicle, boat, caravan or trailer on any road, pavement, verge, parking area or parkland, within Thesen Islands except on the member's Erf and/or Unit (or such area within any applicable sectional title scheme available to the relevant Unit for parking purposes), without the written consent of TIHOA.

## BOATING

**The entire waterway system on Thesen Islands is a "No Wake Zone".** The management of the waterways, canal edges and ecobelt are crucial for the safety of members and for the protection/stability of the gabion structures, banks, beaches and slopes. These waterways and gabion structures form an integral part of the eco structure for the breeding of various species, including our endangered estuarine seahorse. Boating at very low tides is not encouraged as the stirring up of the sediment and chopping of the vegetation can be harmful to marine life, especially the seahorses. Persons who use the waterways, jetties and slipways do so at their own risk.

### *Rules:*

- 2.10 The rule in Thesen Islands' waterways is "Dead Slow – No Wake". This rule applies to the entire Thesen Islands waterway system and extends from the property boundary and the two breach points in the access canals for approximately 100 and 150 metres to the Ashmead and Main Channels of the Knysna Lagoon. This is in accordance with the "Access Right Agreement" entered into between TIHOA and the South African National Parks ("SANParks") that permits members, visitors and tenants to access the Knysna Estuary.
- 2.11 Members are reminded that the laws regarding the consumption of alcohol and/or drugs also apply to piloting boats.
- 2.12 Water-skiing, jet-skis and kite boarding in the waterways is not permitted. Special areas are available in the Knysna Estuary for these activities.

- 2.13 The towing of surf boards or inflated tubes and devices is restricted to short (10-metre) tow lines in the waterways and the “No Wake Zone” rule must be strictly adhered to. No passengers are allowed on these devices.
- 2.14 Power boating activities are prohibited within the vicinity of communal beaches.
- 2.15 Boats must always yield to swimmers and anglers.
- 2.16 Power-driven boats must give way to wind- and human-powered vessels, including small sailing dinghies, rowing boats, paddle/peddle boats and canoes.
- 2.17 To avoid oil pollution, owners must ensure that their boat engines are environmentally friendly. All boat engines are required to meet the EPA (Environmental Protection Agency) 2006 standards.
- 2.18 Small battery-operated or electric outboard motors are permitted.
- 2.19 Boats may only be launched and retrieved from slipways between sunrise and sunset. Slipways must be kept clear when boats are not being launched/retrieved.
- 2.20 No trailers may be left at slipways, on public open areas, verges or roadside at any time. When not in use on the water, boats kept on trailers must be stored in the boat port, garage, designated boat parking at the member’s residence or off-site.
- 2.21 The use of boat lifts and/or floats is strictly controlled and permission to build or use same is given by the Design Review Panel.
- 2.22 Fenders at jetties must conform to the mooring system specified by TIHOA and are to be kept in good condition.
- 2.23 Boats, dinghies and canoes may not be left along the embankment but must be tied up to members’ jetties.

*Visitors*

- 2.24 A member, whose visitor wishes to enter the waterways by boat, must make prior arrangements with the gatehouse security. They may only tie up at the jetty of the member they are visiting and only one visiting boat is permitted at the jetty alongside that of the member, provided it does not impede other boat traffic.
- 2.25 Visitors who bring their boats onto Thesen Islands must advise TIHOA through their Rental Agent or the relevant member of the arrival and Security will then issue a temporary decal to the visitor. If the visitor does not pay for the decal at the office by the next business day it will automatically be invoiced to the member’s account for payment. The decals must be affixed to the port and starboard sides of the boat.
- 2.26 The maximum size boat allowed on communal jetties is 5.5 metres x 2.3 metres and 7.5 x 3 metres on private jetties.

*Legislation and TIHOA requirements*

- 2.27 Any vessel over 3m in length must have a valid certificate of competency and be issued with a registration number by an authorised agency. All safety requirements, such as life jackets or personal buoyancy aids for each person on the boat, fire extinguishers, anchors and paddles, etc. must be met.
- 2.28 All persons in control of a power-driven boat of more than 15hp must be in possession of a valid skipper’s certificate of competency issued by the South African Maritime Safety Authority.
- 2.29 No person under the age of 12 may be in control of a power-driven boat.
- 2.30 All motor-powered boats must have a Thesen Islands decal displayed on the port and starboard side with the stand reference number clearly visible. These decals are sold by the TIHOA Office or will be made available from one of the registered Service Providers that manage boats.
- 2.31 Before the launching of a boat, the owner must have a valid “Garden Route National Park Vessel Permit” available from the SANParks office in Thesen Harbour Town. It should be noted that this applies to any self-propelled device such as canoes or stand-up paddle boards when the apparatus leaves the waterways into the Knysna Estuary.
- 2.32 The “Small Vessel Certificate of Fitness” is available from any representative of the South African Small Craft Association (our administration office can assist with contact details).
- 2.33 No vessel of any kind is allowed on the waterways between sunset and sunrise without displaying the internationally accepted lights as follows:
  - 2.33.1 A red light on the port (left) side
  - 2.33.2 A green light on the starboard (right) side
  - 2.33.3 A white stern-light

- 2.34 The following international “rules of the water” must be observed by all persons in control of a boat on the waterways:
- 2.34.1 Power-driven vessels meeting head-on must alter course to starboard (right) to pass with the other vessel on the port (left) side.
  - 2.34.2 All power-driven vessels must endeavour to keep to the starboard (right-hand side) of the waterways.
  - 2.34.3 Any overtaking vessel (whether powered or not) gives way to another. Always overtake another vessel with the other vessel on the port (left-hand side).
  - 2.34.4 When another vessel gives way to you, you are obliged to maintain your course and speed.
  - 2.34.5 When two power-driven vessels are crossing with risk of collision, the vessel with the other on its starboard (right) side must keep out of the way and avoid crossing ahead of the other.

## **SWIMMING**

Persons swimming in the waterways do so at their own risk and need to keep a lookout for boats in case the person piloting the boat does not see them. Brightly coloured swim caps are recommended.

- 2.35 Swimming in the waterways is restricted to public and private beaches and from private jetties.
- 2.36 Swimming is not permitted off communal jetties because of the higher boating traffic. Swimming is also not permitted at night or in the 2 main access points either side of Thesen Islands.
- 2.37 Because of potential danger, diving or jumping off road or pedestrian bridges and gantries into the waterways is forbidden.

## **COMMON PROPERTY**

The Common Property gardens have been established and are maintained at considerable cost to TIHOA. These gardens are for the enjoyment of everyone on Thesen Islands so members, tenants, visitors and contractors should refrain from damaging, removing, taking cuttings or picking plants and flowers from Common Property. The Common Property includes the parklands, reed beds, wetlands, public beaches, roadways and road verges.

### *Rules:*

- 2.38 The Common Property is maintained by the TIHOA but if individual homeowners wish to maintain their own verges they may arrange to do so through the TIHOA office. A yellow marker will be issued to these members for display, subject to TIHOA terms and conditions. No plant pots may be placed on verges and/or common property.
- 2.39 The Bird Reserve is fenced and access to the hide can only be gained at the designated entrance. Please ensure that the gates are kept closed, birds are not disturbed and dogs are kept out.
- 2.40 No loud music or other intrusive sound is permitted in the Common Property.
- 2.41 The maze is intended for the enjoyment of residents and users, in particular children. Users of this facility are requested not to destroy the creepers or fruit growing in the maze.
- 2.42 No dogs are allowed on the beaches at any time.
- 2.43 Fires may not be made in the Common Property, other than in designated places, e.g. the fire pit at the main beach.
- 2.44 No glass containers are allowed on the beaches. Only plastic drinking glasses and plastic bottles may be taken onto any beaches.
- 2.45 All litter must be placed in the bins provided.

## **SQUASH COURTS**

- 2.46 Only members and residents along with their guests may play.
- 2.47 No activity other than squash may be conducted on the courts whatsoever.
- 2.48 Minors under 16 are only allowed to play squash under adult supervision.
- 2.49 Only proper squash equipment (racquets and balls) may be used on the court.



- 2.50 Only clean, light-soled and non-marking squash shoes are allowed on the court.
- 2.51 Bookings can be done directly with the security at the entrance.
- 2.52 Lights to be switched off when not in use and all taps and windows to be closed.
- 2.53 NO skateboards, rollerblades or similar devices are allowed on the squash court.

### **TENNIS COURTS**

- 2.54 Only members and residents along with their guests may play.
- 2.55 No activity other than tennis or basketball may be conducted on the courts whatsoever.
- 2.56 Appropriate non-marking footwear must be worn on the tennis courts at all times.
- 2.57 Bookings can be done in a book at the tennis court gazebo.
- 2.58 Lights are on a timer and should switch off automatically. If not, please contact security.
- 2.59 NO skateboards, rollerblades or similar devices are allowed on the tennis courts.

### **TRAILER PARK**

A limited number of bays are available in the trailer park. These are charged for annually in advance and allocated on a “first come, first served” basis. It remains the member’s responsibility to arrange storage off-site if there are insufficient storage facilities at their residence or if the trailer park is fully utilised. TIHOA can be contacted to have their name put on the waiting list. The trailer park is used at own risk.

#### *Rules:*

- 2.60 All trailers are to be clearly marked with the owner’s name, house number and telephone number.
- 2.61 Only trailers and or boats on trailers may be stored in the trailer park.
- 2.62 No fuel may be stored on any boat while in the trailer park.
- 2.63 The trailer park is locked from 19h00 to 07h00 Monday to Friday and from 19h00 Friday to 07h00 Monday. If a trailer is required to be moved during these times, security will unlock the gate.
- 2.64 Members are required to keep within the boundaries of the parking bay allocated to them. Any incorrectly parked or unmarked trailers will be removed from the trailer park and stored off-site at the owners’ risk. TIHOA reserves the right to recover costs for removal and storage.

### **COMMUNAL JETTY BERTH RULES**

A comprehensive set of the Communal Jetty Berth Rules is attached and which shall constitute the terms and conditions governing all relevant members/Berth Holders berthing rights in addition to the rules set out below.

#### *Rules:*

- 2.65 TIHOA grants to the Berth Holder the Berthing rights for the period subject to the terms and conditions set forth in the Communal Jetty Berth Rules.
- 2.66 TIHOA, at its absolute discretion, may see to the maintenance and repair of the Berth and the Jetty which will be undertaken by a contractor appointed by the TIHOA and by no other person.
- 2.67 The Berth Holder will, upon request made by the TIHOA, pay to the TIHOA the Berth Holder's proportionate share of the cost of all expenses such as insurance, maintenance and repairs together with the TIHOA's reasonable administrative cost in connection therewith. The Berth Holder’s proportionate share is the total of all such costs divided by the number of Berths comprising the Jetty.
- 2.68 The Berth Holder, provided he is in good standing, is entitled to transfer the Berthing Rights with the prior written consent of the TIHOA which consent shall not unreasonably be withheld, provided the proposed transferee in respect of the Berthing Rights is the owner of an Erf.
- 2.69 If a Berth Holder ceases to be a member of the TIHOA, its right to the Berthing rights automatically ceases.

## **3. ENVIRONMENT**

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The entire Knysna Estuary is located within the greater Garden Route National Park. The Knysna Estuary is one of the most sensitive areas on the South African Coast and is home to many marine species including the Knysna Seahorse.

As per our Environmental Policy, the TIHOA is committed to protecting and reducing its impact on the environment and behaving in a sustainable manner. TIHOA and its members occupy land within the Garden Route National Park and will ensure that all regulations are effectively complied with. The entire area falls under the control of SANParks. All members and their visitors must accept the responsibility of living within a sensitive environmental area. Thesen Islands waterways have become an important breeding ground for marine life such as seahorses, fish, crustaceans, etc, and are extremely environmentally sensitive so must be respected and protected.

Thesen Islands has been awarded ongoing Blue Flag Marina status since November 2013. This is monitored and renewed on an annual basis. To ensure compliance with the Blue Flag Status, many rules and guidelines have been incorporated into these Rules, to guide all members, tenants and visitors as to the requirements.

Environmental factors of community living, including energy, water and waste management as well as focussed projects and joint efforts are the responsibility of all who live on Thesen Islands. It is a key responsibility of the Board and management to comply with environmental legislation such as the removal of alien species both on private and common property.

The Board supports environmental and energy efficient policies that recognise and respect both the legislative framework and the contractual obligations of Thesen Islands as the best mechanism to enact sustainable environmental policies.

## **WATERWAYS**

Members are encouraged to sign the Blue Flag Rules with regards to boating as a commitment to upholding environmentally friendly practices. Forms are available at the office.

### *Rules:*

- 3.1 Members are responsible for the maintenance of the waterway edge along their property. In addition, no objects such as bottles, paper, plastic, liquid or any other foreign matter, including stones, wood or steel, may be deposited or thrown into the waterways.
- 3.2 No mooring to, parking boats on, nor walking on the gabion structures is permitted.
- 3.3 Loud music, rowdiness and shouting or any other disturbance from boats is prohibited.
- 3.4 Boat motors may not be serviced or worked on (including but not limited to repairs, maintenance and the like) within the waterways, save for emergency repairs reasonably required.
- 3.5 Spillage of fuel from boats is extremely harmful to the ecosystem of the waterways. When filling boats, only a spill proof system is allowed.
- 3.6 Pumping out of bilges and depositing of detergents within the waterways is prohibited.
- 3.7 Emptying of toilets in the waterways or Estuary is prohibited.
- 3.8 No overnight occupation of a boat moored at a jetty is permitted.
- 3.9 Anchors are not permitted to be dropped or thrown within the waterways or at the access points to the waterways or at communal jetties.

## **PRIVATE AND COMMUNAL JETTY MAINTENANCE**

- 3.10 TIHOA do routine inspections of both private and communal moorings, both fixed and floating jetties, (communal moorings on foot and private moorings by boat) at spring low tides. Members are requested to do their own inspections for safety sake from time to time.
- 3.11 Problems i.e. damaged fenders, faulty floating devices or gribble poles are recorded.

- 3.12 E-mail correspondence with a deadline for response is sent to the member informing them of any issues along with a quote for repair costs if remedial work needs to be carried out.
- 3.13 Once confirmation is received from the member concerned TIHOA will action the remedial work which needs to be done. If no feedback is received from the member concerned TIHOA will action the remedial work once the deadline has passed.
- 3.14 When all remedial work is finalised contractors are paid and members billed via their monthly statements.
- 3.15 In case of an emergency, TIHOA will action any work which needs to be done and thereafter correspondence will be sent to members regarding the costs for which they are liable.
- 3.16 Members who own boat lifts remain responsible for any maintenance work, repairs etc. thereof.
- 3.17 If a member wishes to do remedial work on their jetty, whereby the soil in the canals might be disturbed, a permit is first required from the office. This is in accordance with our agreement with SANParks and allows any seahorses in the vicinity to be removed to safer locations.
- 3.18 TIHOA purchase a stock of pre-treated poles which are used to replace the old or damaged poles when necessary.

### **ECOBELT AND GABIONS**

Specialised salt marsh vegetation has been planted on the ecobelt and gabions and this must not be disturbed. The gabions have been built at considerable cost to preserve the banks of the waterways; they must therefore be protected. The major cause of damage to the ecobelt and the gabions is motorboat wash, hence the total waterway system on Thesen Islands is a “No Wake Zone”, which must be adhered to and strictly enforced. The ecobelt is the embankment that runs alongside each waterway. Furthermore, the eco belt (embankment which runs alongside each waterway) may not be physically altered in any way without planning approval from TIHOA.

#### *Rules:*

- 3.19 The growth of mussels, oysters and other sea creatures protects and solidifies the gabions so the creatures should not be removed.
- 3.20 The galvanised-wire PVC-coated baskets of the gabions must not be disturbed or damaged and therefore walking on them, using them to tie up boats or removing stones from the structure is prohibited. No furniture, pots or any other hardscape materials i.e. rocks, pebbles etc. may be placed on the gabions.
- 3.21 No cycling on or mooring of boats or canoes on the ecobelt and gabions is permitted.
- 3.22 TIHOA should be advised immediately of any structural damage to the gabions so that this can be examined and rectified.
- 3.23 The ecobelt must be maintained with the natural salt marsh vegetation.
- 3.24 None of the salt marsh vegetation, including that on private beaches, may be removed or replaced with other plants.
- 3.25 No dogs, even on leads, are allowed on the eco-walk on the north-west side of the Island.

### **INTERTIDAL WETLANDS (SALT MARSHES)**

Salt marshes are extremely sensitive areas, providing feeding and breeding grounds for a multitude of lagoon organisms, and are vital to the wellbeing of the lagoon. The salt marsh areas surrounding Thesen Islands, outside the sea wall, are controlled by SANParks as the major beneficiary of this pristine area, members of the TIHOA are encouraged to recognise the sensitivity and importance of the salt marshes.

#### *Rules:*

- 3.26 Walking or cycling on the salt marshes is not allowed.
- 3.27 Bait may only be collected in certain areas designated by the authority responsible for the Knysna Estuary and members must not exceed the number and size of bait stipulated.
- 3.28 A large variety of birds breed and feed on the salt marshes. Strict control over dogs is therefore required to prevent them from disturbing these birds. No dogs, not even on a leash, are allowed on the salt marsh.
- 3.29 Salt marsh vegetation is very specific and self-sustaining and may not be removed. No foreign vegetation whatsoever is permitted to be planted in these areas.

- 3.30 Boats, dinghies and canoes may not be pulled across, beached or parked on the salt marshes.
- 3.31 Refuse and plant material may not be dumped on the salt marshes or in the waterways and members are encouraged to assist with the maintenance of this pristine environment by collecting any non-biodegradable material and disposing of it with their refuse.
- 3.32 No fires may be made on the salt marshes.

## **FISHING**

Permits to fish in the estuary and waterways are required. These are obtainable at the Post Office.

### *Rules:*

- 3.33 Fishing is only permitted from private jetties. No fishing is permitted from bridges, beaches, boats in the waterways, gabions or the ecobelt along the waterways.
- 3.34 Thesen Islands encourages the “catch and release” procedure for fish and squid in the waterways and Estuary.
- 3.35 The use of circular hooks is promoted. Unwanted fishing lines must be disposed of responsibly. Pipes for disposal have been placed in strategic areas.
- 3.36 Spear fishing, harpooning or gaff fishing and the use of throw nets in the waterways from boats, embankments and beaches or from jetties is prohibited.
- 3.37 No live bait (including mud prawn, bloodworm, mussel worm, etc.) is to be removed from waterways, embankments, beaches and off jetties/floats.
- 3.38 Fish are not to be cleaned on the communal jetties.
- 3.39 Fishing in the freshwater ponds on Thesen Islands is strictly forbidden.

## **4. AESTHETICS**

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We have our own unique theme in respect of design, layout, materials used and colour. These rules are contained in the Design Guidelines.

Rules pertaining to the maintenance of the intended look and feel has a direct impact on the value of the properties. Further, the rules and regulations relating to building standard, alterations and fences ensure a balance in maintaining the quality of lifestyle for existing residents and the need to complete buildings according to plan. The placement of external structures, including air-conditioners, satellite dishes, solar panels, water tanks etc all affect the aesthetics of Thesen Islands and are in place to ensure the sustainability of property value.

If despite written demand by the TIHOA, a member fails or refuses to comply with any aspect of the Constitution, Design Guidelines, and Rules, or fails to maintain an Erf owned by that member in a state of good repair and that failure materially prejudices the interests of the TIHOA, its members or occupiers of Erven generally, the TIHOA may remedy the member’s failure and recover the reasonable cost of doing so from that member; provided that in the case of an emergency, no demand or notice need be given to the member concerned.

### **EXTERIOR OF HOMES**

- 4.1 Homes must be kept neat and tidy and in a state of good repair.
- 4.2 Gardens must be established and maintained to a standard acceptable to TIHOA.
- 4.3 Members are required to ensure that the painted exterior of their homes, roofs, fences as well as driveways and gardens are maintained to a high standard and should accept the intervention of TIHOA Management and Trustees if they do not comply.
- 4.4 Members shall keep their properties free of invasive alien trees and plants, termites, borer, mice, rats and other vermin and harmful insects in an environmentally friendly manner.

- 4.5 Externally located washing-lines, entrances to outside toilets, refuse and waste containers, etc. must be screened from view of the roads and waterways.
- 4.6 No alterations or changes to the exterior may be undertaken unless a full set of plans in accordance with the TIHOA Design Guidelines and Constitution have been submitted and approved by the Design Review Panel and the local authority.
- 4.7 Members need to ensure that their boundary dividing walls and fences do not obstruct neighbours' and other members' views.
- 4.8 Similarly, planting of trees and shrubs must take neighbours' and other members' views into consideration.
- 4.9 Trees and shrubs must be kept trimmed to minimise the obstruction of neighbours' and other members' views.
- 4.10 No towels, clothing, blankets, sheets or laundry may be hung over balcony railings, windows, fences/walls or clothes lines/windy driers that are visible from the roads or waterways or other properties in Thesen Islands.
- 4.11 Members must ensure that all drains on their property are kept in a sanitary condition. The Knysna Municipality has specifically requested that members do not flush rags or cloths down the waste system as the sewer pumps are often damaged by these items.
- 4.12 No electricity-generating plant, windmill, or similar equipment may be used without the consent of TIHOA.
- 4.13 No boreholes, spikes or wells may be sunk on the private erven of members.
- 4.14 Artwork/sculptures/pottery visible to the public realm:
  - 4.14.1 must be consistent with the Thesen Islands architectural vernacular;
  - 4.14.2 be restrained in quantity, placement, theme and colour and
  - 4.14.3 the scale/size not to exceed 1m.
- 4.15 Visible devices such as rotating mirrors/sun guns for controlling birdlife are not allowed and may not be installed on properties on Thesen Islands.

## 5. CONDUCT

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People are entitled to expect reasonable levels of privacy, peace and tranquillity within Thesen Islands. The Rules relating to the general behaviours of all residents sets a minimum standard of conduct.

### DOMESTIC PETS

#### *Rules:*

- 5.1 The maximum number of dogs permitted per property is governed by the local authority by-law (as at 11 September 2015 the by-law stipulated one dog to be kept in or at a dwelling with an erf size of 500 square metres or less or two dogs to be kept in or at a dwelling within an erf of more than 500 square metres).
- 5.2 Other pets permitted per household is: two cats and two birds. Prior written consent is required from TIHOA for more than this number and for any other type of animal.
- 5.3 No livestock and or wild animals may be kept on a member's property.
- 5.4 Pets must be restrained from leaving their owners' property unattended and must not be allowed to constitute a nuisance to other members.
- 5.5 Dogs must be restrained by a leash at all times, other than in the member's own property or when released in the dog-run.
- 5.6 A separate fenced dog-run is available in the parkland area. Apart from member's premises, this is the only area on Thesen Islands where dogs can run free off a leash. Members need to take caution if they have an aggressive breed of dog and rather not let the dog run free in the dog-run or elsewhere if it may attack other dogs, people or birds.
- 5.7 Dogs and cats must be fitted with collars and a disc reflecting the stand number, owner's name and telephone number.
- 5.8 Dogs are not permitted on the public beaches, bird-hide, waterways or on the salt marshes
- 5.9 Contractors and service providers are not permitted to bring their dogs, cats or any other animals to Thesen Islands.

- 5.10 Visitors and short-term tenants for periods of up to sixty (60) nights are not permitted to bring their dogs, cats or any other animals to Thesen Islands as the foreign environment invariably causes disturbance and disruption and the property may not be suitably fenced for dogs.
- 5.11 The owner of any animal is responsible for picking up and removing any form of animal matter deposited by the said animal. This rule is to be strictly adhered to and owners walking their pets are requested to carry a plastic bag with them for disposal purposes.
- 5.12 Persistent barking of dogs, caterwauling of cats or any other disturbance by pets is not allowed and must be controlled by the owner.
- 5.13 Should any animals create a frequent or persistent disturbance or become a nuisance to any other member, TIHOA will request the owner or tenant to ensure that the noise and/or actions cease. Failing compliance, TIHOA may, at its discretion, impose a penalty or require the member or resident/tenant to permanently remove the animal. If this request is not complied with, TIHOA reserves the right to seek an order of court compelling compliance with their requirements and to recover any costs incurred by TIHOA from the member or owner/tenant concerned.

## **HOUSEHOLD AND GARDEN REFUSE**

### General

- 5.14 All refuse must be placed in the appropriate bags as specified by the Knysna Municipality from time to time.
- 5.15 The bags must be placed inside the refuse bin which must be stored in the designated area of a member's stand.
- 5.16 No refuse may be left on the pavement or verge area at any time except on the day of collection.
- 5.17 All refuse is collected by the Knysna Municipality.
- 5.18 Members must ensure that refuse is kept in a hygienic and dry condition in an acceptable container and does not cause inconvenience to other members.

### Recyclable Refuse

- 5.19 TIHOA strongly supports the recycling of all recyclable waste.
- 5.20 In terms of our Blue Flag Marina status, we are obliged to recycle.
- 5.20.1 Recycled waste must be placed in see-through or clear refuse bags which are available free of charge from the Clubhouse.
- 5.20.2 Recyclable waste must include clean and dry plastic, glass, paper, cardboard, and cans. Recyclable material must not include foil, cling-wrap, polystyrene and serviettes / tissues and this waste should be included in the household refuse.

### Batteries and Globes

- 5.20.3 Batteries and globes must not be placed in recyclable clear bags. These items should be placed in special receptacles available in Knysna town.

### Household Refuse

- 5.20.4 General decomposable household refuse, in addition to non-recyclable refuse such as foil, polystyrene, soiled paper and certain hard plastics, must be placed in black bags.

### Garden Refuse

- 5.20.5 Garden refuse must be placed in blue bags obtainable from the Municipality.
- 5.20.6 Members are limited to two bags per household per week.
- 5.20.7 Larger quantities of garden refuse in excess of the two bag per household limit must be disposed of by the member or occupier at the municipal location specifically made available for this purpose.

- 5.20.8 Garden service providers must be registered as contractors with TIHOA for security purposes and may only operate from Monday to Friday between 08h00 and 17h00. Only registered garden service providers will be allowed access to Thesen Islands.
- 5.20.9 No garden refuse may be left on the verge overnight for collection.

### **HOBBIES / ENTERTAINMENT**

- 5.21 Hobbies or other activities that produce unreasonably excessive noise, unpleasant odours or cause any nuisance to other members and tenants are not allowed.
- 5.22 Persistent or disturbing noise which can be constituted as a nuisance, whether through loud music, partying or shouting, is not permitted and all noise is to be restricted within reasonable limits and should not be offensive to other members or tenants.
- 5.23 No helicopter is permitted to land anywhere on Thesen Islands, other than in emergency circumstances.
- 5.24 Drones, remote controlled speed boats or similar products may not be used on Thesen Islands as they are noisy and invade privacy. If a commercial operator wishes to use a drone for photographing the estate or homes on the estate, permission must be obtained from the General Manager first before official permission will then be obtained from SANParks.
- 5.25 Fireworks, firecrackers, Chinese lanterns and similar items are forbidden on Thesen Islands.
- 5.26 Private parties on Public Beaches and other areas, including private homes, must terminate at 22h00 as per a Knysna Municipality bylaw as it could be constituted as a nuisance.
- 5.27 The use of guns, including BB guns and pellet guns, is prohibited on the Islands.
- 5.28 In the event of annoyance, aggravation, nuisance or any other complaints occurring between members, tenants or visitors, the parties concerned should attempt to settle the matter between themselves with consideration and tolerance. Should this not be possible, security can be contacted and if the problem persists or the problem cannot be resolved, the matter may be brought to the attention of TIHOA in writing, for an interpretation of the Rules or Constitution but TIHOA shall not otherwise be obligated to intervene to resolve any complaints. Parties unable to achieve amicable resolution of any matters between themselves are then at liberty to pursue legal avenues to resolve the dispute including, but not limited to, the right to refer the dispute to the Community Schemes Ombud Service.

### **VANDALISM AND THEFT**

The TIHOA has a zero-tolerance approach to vandalism (damage) and theft of property.

#### *Rules:*

- 5.29 A member remains responsible for his family, tenants, guests, visitors, employees, contractors, contractors' subcontractors and persons visiting the property or rendering a service to the owner/tenant. The following action will be taken against the perpetrators of vandalism or theft of TIHOA property: All damages will be restored at the perpetrator's expense, or his or her parents or legal guardians' expense in the case of the perpetrator being a minor. An administration fee shall also be recoverable, and a penalty imposed at the discretion of the Trustees which shall be recoverable from the member concerned and if not paid upon demand will be invoiced to the member's levy account.
- 5.30 Should damage be caused to the property of any member or resident within Thesen Islands, the TIHOA will provide the member or resident with all the information at its disposal with regards to such damage upon the production of a valid subpoena issued to the TIHOA. Any legal action will then be at the discretion of the member.
- 5.31 Any person guilty of theft by their own admission or having been found guilty by a competent authority, will not be permitted to work on Thesen Islands.

### **LETTING OF PROPERTY**

The Board supports a balanced approach to the rights of tenants and landlords on Thesen Islands, while protecting real property rights. The Board supports reasonable regulation of transient occupancy, tenant compliance with Thesen Islands' standards and the integration of tenants into the community on an equal

basis, while recognising the contractual agreement is between the HOA and the member. Due to the introduction of a Biometrics System, access procedures need to be specifically adhered to.

*Rules:*

- 5.32 Members who wish to let their property must register with TIHOA as a “Letting Member”. TIHOA will assist the “Letting Member” by providing the necessary documentation and procedures to ensure that the properties are let in terms of the Constitution and Rules and Regulations.
- 5.33 If a member lets their property while they are not in residence in Knysna, they are required to appoint a letting agent or responsible person (as per the rental property registration register) to manage their properties and tenants. This agent or responsible person must attend induction and be fully informed of the documentation required and the procedures.
- 5.34 The TIHOA office must be advised in writing at least twenty-four (24) hours prior to the arrival of the tenant.
- 5.35 The member, rental agent or the responsible person must meet new arrivals (short and long term tenants) at the main entrance to assist with registration before escorting them to the rental property. A Biometric form must be signed by the tenant and must follow all relevant biometric registration procedures in place from time to time, including the scanning of fingerprints, before being granted access. The Biometric form will ensure that tenants have been made aware that they are bound by the Constitution and Rules and Regulations. All tenants over the age of 18 need to provide proof of identify. The tenant will need to produce proof of identity and follow all relevant biometric registration procedures in place from time to time, including the scanning of fingerprints, before being granted access. Members are to ensure that the Constitution and Rules are communicated to the tenants prior to arrival to avoid unnecessary security related issues.
- 5.36 No member shall be permitted to conduct a guesthouse, bed and breakfast (B&B) establishment or any other form of accommodation facility from a residence situated on any Erf or from a Unit on Thesen Islands.
- 5.37 A house may not be rented out to multiple tenants.
- 5.38 Sub-letting by tenants is not permitted.
- 5.39 Tenants and their visitors are the responsibility of the member concerned and members are therefore liable for any penalties incurred and / or damages or breakages caused by tenants or visitors to any property, infrastructure or amenities of Thesen Islands.
- 5.40 Any letting to a single tenant group for a period of up to sixty (60) nights is defined as short-term rental. Any letting for a period longer than sixty (60) nights to the same single tenant group is defined as long-term rental.
- 5.41 The use of garages as sleeping quarters is not permitted.
- 5.42 Members must ensure that their tenants and visitors are duly informed of all applicable Rules and without prejudice to generality of the aforesaid obligation must also ensure that they are aware that motor vehicles, boats and trailers must be accommodated on the member’s premises and not in open or public areas. Trailers that cannot be accommodated within the member’s property must be stored off Thesen Islands. Boats and trailers may not be parked on the roadside, verges or occasional parking areas.
- 5.43 Short-term rental tenants are not permitted to bring their dogs and/or animals to Thesen Islands as the foreign environment invariably causes disturbance and disruption.
- 5.44 Neither the TIHOA nor the security gate will accept any keys for collection or deposit by tenants and tenants will not be permitted access to Thesen Islands if not escorted by the member, registered letting agent or responsible person.

## **6. SECURITY RULES**

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The Board supports the implementation of the highest security standards within budgetary constraints and supports the principle that homeowners are responsible for their own home security. The Board opposes the use of unregistered service providers as well as any groups challenging the rights of how the Board applies these standards and encourage the implementation of standard operating procedures and emergency procedures.



Right of Admission to Thesen Islands Residential Estate is reserved and controlled by the TIHOA.

## **VISITORS**

TIHOA is empowered on behalf of members to control access to Thesen Islands.

### *Rules:*

- 6.1 All visitors are bound by the security procedures and members are required to follow the procedures as described in the Access Procedures approved by the Trustees from time to time and which are to be read as if incorporated herein.
- 6.2 Visitors to Thesen Islands are the responsibility of the member or tenant concerned. The member / tenant is therefore responsible for the conduct of their visitors and liable for any disturbance, damage or breakages caused by visitors to any infrastructure, plants, assets or amenities on Thesen Islands as well as for any other breaches by them of the Constitution and with the Rules in place from time to time
- 6.3 Members or tenants must ensure that their visitors have been made aware of, understand and comply with the TIHOA Constitution and with the Rules in place from time to time.
- 6.4 Members or tenants should be aware of the number of visitors that can comfortably be accommodated in each house without causing inconvenience to others or placing undue strain on services such as sewerage, electricity, refuse collection, security, and parking, both on-site and in public areas. The number of tenants or visitors accommodated in a Member's house shall not exceed 2 persons per bedroom.
- 6.5 Visitors may not bring dogs and/or animals onto Thesen Islands.
- 6.6 Thesen Islands is both a residential estate for permanent residents and a holiday destination and members are expected to respect the entitlement of all members and their tenants.

## **BIOMETRIC FINGERPRINT ACCESS**

- 6.7 It is mandatory for everybody working or residing on Thesen Islands to be enrolled on the Biometric Access System in order to have access through the electronic booms and turnstiles. Only people who are approved to reside, operate and work on Thesen Islands are entitled to be enrolled.
- 6.8 All registered domestic and garden staff are to be issued with an access card and lanyard which incorporates facial photograph.
- 6.9 Should it not be possible to register a fingerprint for a person for any valid reason, such person will be issued with a non-transferable access card.
- 6.10 Any "Access Card" that is lost will be replaced for a fee. The person who was responsible for the lost card must inform the security office immediately so that the card can be cancelled.

## **ELECTRONIC BOOMS**

- 6.11 The vehicle entry lanes are each equipped with electronic booms. Each person entering need to scan their fingerprints using the scanner which is available at each entry and exit lane.
- 6.12 People using the lanes must take care not to idle too long in front of a boom and should proceed immediately once the boom is open.
- 6.13 No tailgating is allowed.

## **CLOSE CIRCUIT TELEVISION VIEW (CCTV)**

- 6.14 Security surveillance cameras, with sound recording, are installed at various places within Thesen Islands and on its perimeter and which are monitored from the Security Control Room. This includes the movement of all vehicles and people entering and exiting through the access points.
- 6.15 All persons working or residing on or visiting Thesen Islands must take care that they conduct themselves circumspectly when on common property as any or all their actions may be recorded on the CCTV and to which they consent as a condition of being granted access to Thesen Islands.

## **ELECTRIC FENCING**

- 6.16 Thesen Islands has a section of high voltage electric fence coupled with an intrusion detection system which is monitored from the security control centre. The electric fence is open on the inside of Thesen Islands and is equipped with sufficient warning signs to warn people to stay away. People working or residing on Thesen Islands must take note that the fence is live at all times.

## **BURGLAR ALARM**

- 6.17 Burglar alarms must be in a sound working condition and comply with any regulations which the TIHOA may make with regard thereto from time to time. Related sirens must not disturb neighbours (i.e. be silent to the outside environment).
- 6.18 Outside armed response will be limited to the names on the TIHOA's list of registered and approved suppliers.

## **GENERAL**

- 6.19 All incidents that compromise, or have the tendency to compromise, security must be reported to the Security Manager or the TIHOA General Manager as soon as practicable.
- 6.20 There is a 24-hour access control service at the entrance to Thesen Islands. The landline telephone number is 044-382 2469 and Intercom numbers 1901, 1902 or 1903.
- 6.21 Members must install the intercom system to facilitate smooth communication with security personnel and the security gatehouse. Faults on the intercom system need to be reported immediately for repairs.
- 6.22 Members expecting visitors are requested to inform the security personnel at the gatehouse of the visitors' details in advance of arrival to ensure entry is not delayed. If you are in residence on Thesen Islands, the only means of advising the security gate of expected visitors, vendors or contractors, is via the intercom or in person. All visitors must report their arrival and departure to the security.
- 6.23 Members' employees are required to visibly display their special identification on a lanyard while on common property.
- 6.24 TIHOA reserves the right to search vehicles and individuals on good cause. TIHOA also reserves the right to photograph the contents of vehicles.
- 6.25 Between the hours of midnight and 05h00, the access gates at the monorail onto Saffron Island as well as Bridge 5 onto Hammock Island will be locked.

## **7. DISCIPLINARY ACTIONS**

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- 7.1 In the event of any breach of the Constitution and/or Rules by a member, resident, visitor, occupants, contractor, subcontractor, estate agent or any other person (the "defaulting party"), the TIHOA shall be entitled to:
- 7.1.1 request the defaulting party to provide an explanation, or apology in writing; and/or
  - 7.1.2 issue a reprimand (orally or in writing) and request such defaulting party to remedy such breach within a prescribed time period; and/or
  - 7.1.3 impose a penalty; and/or
  - 7.1.4 withdraw any previously given consent applicable to the particular matter to which such default pertains; and/or
  - 7.1.5 take any such further action, including legal action, as the TIHOA may deem fit in order to enforce the provisions of the Constitution and Rules.
- 7.2 Should the TIHOA impose a penalty in respect of any transgression and where the defaulting party is a member, such penalty shall be added to the levy account.
- 7.3 In the event of an imposition of a penalty and where the defaulting party is not a member, such penalty shall be payable on demand failing which it will be added to the member's levy account for collection
- 7.4 The TIHOA shall be entitled to take such action and impose such penalties in terms of these Rules as deemed in the best interest of Thesen Islands.

- 7.5 In the event of repeated breaches by a defaulting party, the TIHOA shall be entitled to escalate the penalties which may be imposed in respect of such breach in terms of the Schedule of Penalties on each and every occasion that such breach re-occurs.
- 7.6 The decision of the TIHOA regarding the enforcement of the Constitution and Rules and the imposition of any sanctions in terms of the Constitution and Rules shall be final and binding.
- 7.7 Members acknowledge that they are responsible for the acts and omissions of their family, employees, contractors, subcontractors, visitors and invitees, including payment of penalties in respect of any of the aforementioned, and that the exercising by the TIHOA of any rights insofar as any offending party (who is not a member) is concerned shall not relieve the affected member from his obligations, nor abrogate from the rights of the Trustees to exercise any right or enforce any remedies against such member arising from the offending breach of the Constitution and Rules.

## **8. DISPUTE RESOLUTION**

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The Board recognises the need for and supports the use of internal dispute resolution mechanisms to resolve disputes, including breaches of the Constitution, Rules and Regulations and Design Guidelines.

- 8.1 TIHOA is a registered community scheme (“the Scheme”) with the Community Schemes Ombud Services (“CSOS”) under the Community Schemes Ombud Services Act, no 9 of 2011 (“CSOS Act”). For the purpose of this clause, “dispute” refers to any dispute, disagreement or claim which may arise between interested parties in the Scheme, as that term is defined in the CSOS Act (hereinafter the “Parties” or “Party”).
- 8.2 To the extent that CSOS has jurisdiction to adjudicate any dispute in the administration of the Scheme between Parties in terms of Section 39 of the CSOS Act, such jurisdiction is acknowledged. It is furthermore recorded that the CSOS Act empowers the Ombud to require of interested parties to exhaust internal dispute resolution mechanisms prior to a matter being referred to conciliation or adjudication in terms of the CSOS Act.
- 8.3 If a dispute arises between the Parties, whether in relation to the administration of the Scheme or not, the Parties shall endeavour to resolve the dispute by negotiation.
- 8.4 A Dispute may be raised by any Member by submitting such in writing to the General Manager (GM) detailing the following –
  - The nature of the dispute
  - A motivation for the dispute to be considered
  - The request for the action the applicant deems appropriate
- 8.5 The GM has 14 days to consider the dispute and make a decision. The GM will use all reasonable endeavours to investigate the facts pertaining to the dispute (including requesting such additional information as may be required from the applicant, liaising with other involved Members TIHOA staff or third parties and conducting on-site inspections) and advise the applicant of the decision in writing. The Member shall confirm in writing acceptance or otherwise of the decision.
- 8.6 In the event of any Member escalating a dispute to the Board, via the General Manager, an ad hoc committee comprising of 3 (three) Trustees, will be appointed by the Chair for this particular dispute. A meeting including all parties will be held to discuss the issue at such time and in such manner and according to such procedure as the Chair may direct. The decision taken will be communicated to the applicant in writing.
- 8.7 ONLY If the dispute has/is not (been) resolved by agreement between the Parties then either one of the Parties may approach CSOS for relief in the form of Conciliation and/or Adjudication.
- 8.8 Proceedings will take place without legal representation.
- 8.9 For purposes of the enforcement of any of the Rules, the Trustees may take or cause to be taken such steps as they may consider necessary to remedy the breach of the Rules of which a member, tenant or guest may be guilty, and the TIHOA may take such action, including court proceedings, as it may deem fit.
- 8.10 Notwithstanding the foregoing, and in line with Clause 16.4 of the Constitution the Trustees may in the name of the TIHOA enforce the provisions of any Rules or the Constitution by proceedings in a court of

competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit. In the event of TIHOA incurring any legal or other costs as a result of any breach then TIHOA shall be entitled to recover all such costs from such member on an attorney and own client scale (alternatively the highest permissible scale of legal fees) in full whether or not legal action is actually instituted. Such costs shall be payable on demand and may be added to the Members levy account. <sup>1</sup>

## **9. SCHEDULE OF TRANSGRESSIONS AND PENALTIES**

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The TIHOA Management and Trustees do not intend to raise penalties to increase revenue but rather to ensure that Thesen Islands is and remains a residential estate of choice where all residents, young or old, permanent or visitors, can enjoy their lifestyle in a secure, peaceful and safe environment, through adherence to the Constitution, the Rules and Regulations, and the Design Guidelines.

- 9.1 If any member or any of their family members, or tenant, employee, guest, service provider or contractor, or any other person, contravenes or fails to comply with any of the provisions of the TIHOA Constitution, the Rules and Regulations or the Design Guidelines, such person shall be liable to be penalised by the Trustees or TIHOA management. The amount of the penalty/s shall be determined by the Trustees from time to time and will vary depending on the severity of the contravention. A penalty thus imposed by TIHOA shall be deemed to be an additional levy raised and will be payable by and recoverable from such member, in terms of the Constitution of the TIHOA.
- 9.2 Repeat offenders will attract penalties of escalating quantum as decided upon by the Trustees.
- 9.3 Please find below the schedule detailing the transgressions and penalties.

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<sup>1</sup> See 35.7 in the TIHOA Constitution as approved at the 23<sup>rd</sup> AGM 29 December 2023

## 9. SCHEDULE OF TRANSGRESSIONS AND PENALTIES

A penalty of R500 will apply to all contraventions not specifically listed below without prejudice to TIHOA's right to impose a daily financial penalty of R250 in the case of continuing transgressions.

Description of Transgressions	1st Offence	2nd Offence	3rd Offence
<b>TRAFFIC</b>			
<b>Disobeying Traffic rules</b>			
Reckless or drunken driving	R1 000	R2 500	R5 000
Driving without a valid license or driving unlicensed motorised vehicles	R500	R1 000	R1 000
Travelling wrong way around a traffic circle	R500	R750	R1 000
Skipping stop signs	R250	R500	R1 000
Exceeding the appropriate speed limit	R500	R500	R500
Driving a vehicle in an off-limit area (beach, golf course, parkland etc.)	R1 000	R2 500	R5 000
Tailgating through the security booms	R1 000	R2 000	R5 000
Parking or storing a boat, trailer, commercial vehicle or caravan in any public open space, verge or parkland longer than 24 hours	R500	R750	R1 000
<b>BOATING</b>			
<b>Boat Decals</b>			
Not displaying the required TIHOA decals	R500	R750	R1 000
Creating Motorboat Wake	R1 000	R2 500	R5 000
Entering "No Boating Areas" with motorboats	R5 000	R5 000	R5 000
Water-skiing in waterways	R5 000	R5 000	R5 000
Motorboats towing a boat or inflatable device in waterways on towlines causing a wake (emergencies exempted)	R1 000	R2 500	R5 000
Motorboats towing person/s on a boat or inflatable device in waterways on towlines (emergencies exempted)	R500	R1 000	R1 500
<b>Swimming</b>			
Diving or jumping off road or pedestrian bridges into waterways	R500	R1 000	R1 500

If not rectified within three days R1,000 per day

AESTHETICS			
Exterior of Home			
Building or alterations without prior TIDRP approval of plans	Written request to obtain plan approval within 30 days and thereafter penalty imposed to 5 times submission fee. Penalty will be not less than R2 000 and not more than R5 000 whereafter fines would be imposed at the discretion of TIHOA at R1 000 per day until compliant. Penalty will be levied monthly until matter is resolved to satisfaction of DRP and Trustees.		
Working without an approved permit, obtainable from the TIHOA	R1 000	R2 000	R3 000
Laundry visible from road, walkways or waterways or other properties	R500	R750	R1 000
Exterior of house not maintained to TIHOA standard	Written request to rectify within 60 days thereafter R1 000 per month for next three months	R1 500 per month for next three months	Thereafter the member gets handed over for an interdict at the Member's expense
Garden not maintained to TIHOA standard	Written request to rectify within 30 days and thereafter R1 000 per month for next two months	R1 500 per month for next three months	Thereafter written quote from a contractor appointed by TIHOA for costs of bringing maintenance of garden up to standards as determined by Trustees.

Without prejudice to TIHOA's right to seek permission from Member to appoint contractor and enter property to address the exterior. Member will be charged for cost of contract plus management handling fee of R2 000

TIHOA will seek permission from Member to appoint contractor and enter property to address the garden. Member will be charged for cost of contract plus management handling fee of R2 000

<b>Conduct</b>			
<b>Domestic Pets</b>			
Exceeding permissible number of dogs and two cats per erf	R500		
Dogs outside dog run not on a leash	R500	R1 000	R1 000
Unattended or wandering dogs	R500	R1 000	R1 000
Dogs on beaches	R1 000	R2 000	R2 000
Dogs on Enviro-walk or salt marsh	R1 000	R2 000	R2 000
Persistent barking of dog/s	R500	R1 000	R2 000
Failure to pick up and dispose of dog fouling in public areas	R500	R500	R500
<b>Household and Garden Refuse</b>			
Non removal of refuse due to volume, not being placed out early enough for removal etc.	R500	R750	R1 000
Dumping of rubble, refuse or building material anywhere in the estate	R1 000	R2 500	R5 000
Littering	R250	R500	R1 000
Illegal connections of storm water to the sewerage system.	R5 000 per month until rectified		
<b>Hobbies and Entertainment</b>			
Unauthorised use of Drones, remote controlled speed boats or similar products on Thesen Islands	R1 000	R2 500	R5 000
Letting off fire-crackers on Thesen Islands	R2 000	R2 000	R2 000
Releasing of Chinese lanterns on Thesen Islands	R5 000	R5 000	R5 000

If not rectified within three days R500 per day

Thereafter dog/s to be removed from Thesen Islands at the cost of the owner

Plus cost of removal

Persistent or continuous noise nuisance and or disturbance from residents	R500	R1 000	R2 000	Up to R5 000
<b>Vandalism and Theft</b>				
Vandalism to communal (TIHOA) property	Cost of repairs plus management handling fee of 100% up to a maximum of R5,000	R2 500	R5 000	
Undermining or damaging gabions in any way	R1 000	R2 500	R5 000	
<b>Letting of Property</b>				
Exceeding the number of occupants (2 per bedroom) per day	R2 500	R2 500	R2 500	
Running a guesthouse, Bed & Breakfast or similar establishment	R5 000	R5 000	R5 000	
<b>Security</b>				
Disregarding of security officer's instructions and or abuse of security officers	R1 000	R2 000	R3 000	
<b>Visitors</b>				
Residents allowing any person into the estate without following designated access procedures	R1 000	R2 000	R3 000	
<b>Biometric Fingerprint Access</b>				
Unauthorised use of access cards by any person	R1 000	R2 000	R3 000	
Transporting of labour onto or off the estate without following designated access procedures	R1 000	R2 000	R3 000	
Deliberate obstruction of access/egress to/from the estate	R5 000 per incident			
<b>General</b>				
Unauthorised advertising on the estate	R1 000	R2 500	R5 000	
Encroachment onto communal property - written warning (7 days to comply), thereafter	R5 000 per month			



Wendy houses, shacks and other structures in contravention of the Rules and Regulations - written warning (14 days to comply), thereafter	R3 000 per month for the first two months	R5 000 per month from month 3
Causing damage to any flora and fauna on private or public open spaces	R1 000	R2 500

# THESEN ISLANDS COMMUNAL JETTY BERTH RULES

These **RULES** are to be read in conjunction with the **CONSTITUTION** of the **TIHOA** and shall constitute the terms of the agreement between the **TIHOA** and relevant member in each instance.

## 1. DEFINITIONS

- 1.1 **BOAT**, a vessel not to exceed the maximum size of length 5.5m and width 2.3m as determined by the **DEVELOPER**, unless agreed to in writing by the **TIHOA**.
- 1.2 **BERTH** means the jetty berth identified by number and further identified on the attached plan marked "Annexure A".
- 1.3 **BERTH HOLDER** means the **PARTY** recorded as such by the **TIHOA**.
- 1.4 **BERTHING RIGHTS** means the sole right to the use and occupation of the **BERTH** subject to the obligations pertaining thereto in terms of these **JB RULES**. Only **MEMBERS** of **TIHOA** are entitled to **BERTHING RIGHTS**. **CONSTITUTION** means the **CONSTITUTION** in respect of the **TIHOA** which is binding upon all **MEMBERS** of the **TIHOA**.
- 1.6 **RULES and REGULATIONS** means the **RULES and REGULATIONS** in respect of the **TIHOA** which are binding on all **MEMBERS** of the **TIHOA**.
- 1.7 **DEVELOPER** means Thesen Islands Development Company (Proprietary) Limited (Registration No. 1998/006645/07), a private company registered in accordance with the laws of the Republic of South Africa, who, in terms of the **CONSTITUTION**, handed over and ceded all jetty berth rights and benefits to the **TIHOA**.
- 1.8 **ERF** means an erf, being portion of erf 16435, Knysna in the development known as Thesen Islands.
- 1.9 **TIHOA** means the Thesen Islands Homeowners Association.
- 1.10 **JB RULES** means the Rules specific to this agreement that are not covered in the general **RULES and REGULATIONS**
- 1.11 **JETTY** means the jetty depicted on Annexure "A" of which the **BERTH** forms a part.
- 1.12 **OCCUPATION DATE** means the later of: the signature date, or the date of registration of transfer of an **ERF** into the name of the **BERTH HOLDER**, or the date of completion of the **BERTH**.
- 1.13 **PARTIES** means the **TIHOA** and the **BERTH HOLDER** and **PARTY** means either of them.
- 1.14 **PERIOD** means the period of time commencing as from the **OCCUPATION DATE** and terminating on 31 December 2101, unless earlier terminated by virtue of the breach of the provisions of these **JB RULES** by the **BERTH HOLDER**
- 1.15 **VAT** means Value-Added Tax as levied from time to time in terms of the Value-Added Tax Act No. 89/1991, as amended.
- 1.16 **WATERWAYS** means all constructed water channels and channel edges traversing erf 16435, Knysna.

## 2. DURATION

The **BERTH HOLDER**'s right to the **BERTHING RIGHTS** commences with effect from the **OCCUPATION DATE** and shall terminate upon expiry of the **PERIOD**.

## 3. BERTHING RIGHTS

The **TIHOA** hereby grants to the **BERTH HOLDER**, who hereby accepts, the **BERTHING RIGHTS** for the **PERIOD** subject to the terms and conditions set forth in these **JB RULES** and the **RULES and REGULATIONS**.

## 4. CONSIDERATION PAYABLE

- 4.1 Means the consideration payable, if any by the **BERTH HOLDER** for the **BERTHING RIGHTS**, inclusive of **VAT**.
- 4.2 The **DEVELOPER** provided the **JETTY** which, upon completion, became the property of the **TIHOA** and is to be administered by the **TIHOA**. The said consideration was payable to the **DEVELOPER** by the **BERTH**

**HOLDER** free of all charges. If any **JETTY** becomes available the **TIHOA** will be entitled to sell these **BERTHING RIGHTS** on a first-come first-served basis.

**5. CONSTITUTION, RULES and REGULATIONS and JB RULES**

The **BERTH HOLDER** shall, for as long as the **BERTH HOLDER** enjoys **BERTHING RIGHTS**, comply with all applicable provisions of the **CONSTITUTION** and observe and abide by **such RULES and REGULATIONS**, as well as **JB RULES**, as are formulated from time to time by the **TIHOA** in respect of the **WATERWAYS**, including **JETTIES** on such **WATERWAYS** and, without detracting from the generality of the foregoing, with particular reference to safety.

**6. MAINTENANCE AND REPAIRS**

- 6.1 The maintenance and repair of the **BERTH** and the **JETTY** will be undertaken by a contractor appointed by the **TIHOA** and by no other person.
- 6.2 The **BERTH HOLDER** will, upon request made by the **TIHOA**, pay to the **TIHOA** the **BERTH HOLDER'S** proportionate share of the cost of all such maintenance and repairs together with the **TIHOA'S** reasonable administrative cost in connection therewith. The **BERTH HOLDER'S** proportionate share is the total of all such costs divided by the number of **BERTHS** comprising the **JETTY**.
- 6.3 The **BERTH HOLDER** undertakes to notify the **TIHOA** of any defects in the **JETTY**.
- 6.4 The **TIHOA** shall in its absolute discretion be entitled to undertake maintenance and repair of the **JETTY** as it deems necessary.
- 6.5 In the event of a dispute as to the amount of the **BERTH HOLDER'S** "proportionate share" or any amount payable in terms of the foregoing, the dispute shall be referred by the **TIHOA** to an independent auditor for summary decision and such decision shall be final and binding on the **TIHOA** and the **BERTH HOLDER** who will, in equal shares, bear the costs incurred with the said auditor in implementing the provisions of this sub-clause.

**7. ELECTRICITY AND INSURANCE**

The cost of electricity consumed in lighting the **JETTY** together with the cost of insurance premiums paid in respect of the **JETTY** shall be borne by the **BERTH HOLDERS** in respect of the **JETTY** and payable upon request in the proportion calculated in terms of clause 6.2 hereof. If the electricity supplied to the **JETTY** for lighting is not separately metered a reasonable assessment as to the cost thereof will be made by the **TIHOA** and the **BERTH HOLDER** will be bound by the amount so determined.

**8. REINSTATEMENT OF JETTY**

In the event of the **JETTY** or any part thereof being damaged or destroyed by fire or any other cause the insurance proceeds will be utilised to re-instate the **JETTY** and the **BERTH HOLDER** will have no claim of whatsoever nature against the **TIHOA** pending such reinstatement or for any shortfall if the insurance proceeds are less than the total reinstatement costs.

**9. USE OF BERTHS**

- 9.1 The **BERTH HOLDER** specifically acknowledges that the **BERTH HOLDER**:
  - 9.1.1 will not be entitled to use the **BERTH** and the **WATERWAYS** until the **BERTH HOLDER** has
    - 9.1.1.1 procured registration of his **BOAT** with the relevant Authority/Authorities, and
    - 9.1.1.2 obtained an annual permit from the Authority within whose jurisdiction Knysna lagoon falls
    - 9.1.1.3 obtained a decal, displayed on the **BOAT**, with the stand number, from the **TIHOA**, and
  - 9.1.2 may not use or permit the use of the **BERTH** for any purpose other than the berthing of a **BOAT** not exceeding the maximum size specified in the definitions above and the motor/s whereof shall be of a type approved by the **TIHOA**;
  - 9.1.3 will not carry on or allow the carrying on upon the **JETTY** of any trade or business whatsoever;

- 9.1.4 will be responsible for any damage to the **JETTY** and/or **WATERWAYS** (including the walls and structures therein) arising from the acts or omissions of the **BERTH HOLDER** and/or its invitees or guests;
- 9.1.5 may not alter, add to or in any manner modify the **JETTY**, without the written approval of the Design Review Panel acting on behalf of the **TIHOA**.
- 9.2 The **BERTH HOLDER**'s exercise of the **BERTHING RIGHTS** during the **PERIOD** is conditional upon the **BERTH HOLDER** abiding by the provisions of these **JB RULES**.
- 10. TRANSFER OF BERTHING RIGHTS**
- 10.1 The **BERTH HOLDER**, provided he is in good standing, is entitled to transfer the **BERTHING RIGHTS** with the prior written consent of the **TIHOA** which consent shall not unreasonably be withheld, provided the proposed transferee in respect of the **BERTHING RIGHTS** is the owner of an **ERF**.
- 10.2 The **BERTH HOLDER** may not transfer the **BERTHING RIGHTS** other than to a **MEMBER** of the **TIHOA** who is in good standing.
- 10.3 If a **BERTH HOLDER** ceases to be a **MEMBER** of the **TIHOA**, its right to the **BERTHING RIGHTS** automatically ceases.
- 10.4 If the **BERTH HOLDER** fails to transfer the **BERTHING RIGHTS** prior to the **BERTH HOLDER**'s membership of the **TIHOA** ceasing then the successor-in-title to the **BERTH HOLDER**'s **ERF** shall upon registration of such **ERF** in the name of the **BERTH HOLDER**'s successor automatically become the **BERTH HOLDER** for the remainder of the **PERIOD** subject to the provisions hereof, unless the **TIHOA** are notified in writing that the new **MEMBER** does not wish to secure the **BERTHING RIGHTS**.
- 10.5 Save for a transfer of the entire **BERTHING RIGHTS**, the **BERTH HOLDER** shall not cede, assign or transfer a portion of the **BERTHING RIGHTS** or allow any other person to use the **BERTH** without the prior written consent of the **TIHOA** first being had and obtained which consent, if granted, may be upon terms and conditions determined from time to time by the **TIHOA**. **BERTH'S** are for the exclusive use of **MEMBERS** and residents. **BERTHING RIGHTS** may not be rented out, ceded to, or made available to non-**MEMBERS** or non-residents.
- 11. NO CLAIMS BY BERTH HOLDER AND INDEMNITY**
- Arising out of the **BERTH HOLDER**'s implementation of the **BERTHING RIGHTS** and the **BERTH HOLDER**'s use of the **WATERWAYS**, the **BERTH HOLDER** acknowledges that the **BERTH HOLDER**:
- 11.1 acts entirely at the **BERTH HOLDER**'s own risk and that it has no claim against the **TIHOA** for loss or damage howsoever arising;
- 11.2 indemnifies the **TIHOA** against any claim that may be made against the **TIHOA** by any person whoever for any loss, damage or injury suffered in or on the **JETTY** and/or **WATERWAYS** arising from any act or omission by the **TIHOA**, its servants, agents or employees or arising from any defects in the **JETTY** and/or **WATERWAYS** or the **JETTY** and/or **WATERWAYS** being in a state of disrepair or arising from a failure to effect any repair or other work timeously or at all or arising directly or indirectly from any action by any person or persons as a result of these **RULES**;
- 11.3 is mindful of the fact that utilizing the **BERTHING RIGHTS** and the **WATERWAYS** could be dangerous and undertakes to ensure that at all times the **BERTH HOLDER**, the **BERTH HOLDER**'s suppliers, agents and invitees take adequate precautions and the necessary care in order to observe general safety standards especially in the case of children and novices

so as to prevent injury, damage or loss;

- 11.4 will inform the **BERTH HOLDER's** suppliers, agents and invitees that they enter upon the **JETTY** and **WATERWAYS** at their own risk.

**12. ACCESS**

The **TIHOA**, its representatives, servants and contractors are entitled to free and uninterrupted access to the **JETTY** and/or **BERTHS** and in particular to enter the **BERTHS** for the purpose of inspection, repair and maintenance at all reasonable times.

**13. BREACH**

- 13.1 In the event of the **BERTH HOLDER** failing to pay on due date the consideration as stipulated in clause 8 and persisting in such failure for a period of 5 (five) days after dispatch of written notification calling upon the **BERTH HOLDER** to remedy the failure, the **TIHOA** shall be entitled either:

13.1.1 to terminate the **BERTHING RIGHTS**; or

13.1.2 to require the **BERTH HOLDER** to fulfill the **BERTH HOLDER's** obligations in terms of these **JB RULES**.

- 13.2 Should the **TIHOA** terminate this **AGREEMENT** in terms of clause 13.1.1 the **TIHOA** shall be entitled to obtain immediate re-possession of the **BERTH** together with the right to claim damages.

- 13.3 Should the **TIHOA** require the **BERTH HOLDER** to fulfill the **BERTH HOLDER's** obligations in terms of clause 13.1.2 the **TIHOA** shall be entitled to claim such damages as the **TIHOA** may have suffered by reason of the **BERTH HOLDER's** default in addition to any other remedies that the **TIHOA** may have in terms of these **JB RULES**.

- 13.4 Should the **BERTH HOLDER** fail to pay any other amount due in terms hereof in full on due date and/or commit a breach of any other term or condition of these **JB RULES** and fail to pay such monies and/or remedy such breach within 14 (fourteen) days of dispatch of written notice to the **BERTH HOLDER** so to do or breach any term or condition of these **JB RULES** on 2 (two) or more occasions in any period of 12 (twelve) months or commit any act of insolvency or in the event of a judgment being obtained against the **BERTH HOLDER** by another creditor which remains unsatisfied for 10 (ten) days (save that such judgment shall not be deemed to be unsatisfied pending proceedings for the rescission of such judgment or pending an appeal against such judgment) or should the **BERTH HOLDER** be sequestrated, liquidated and/or be placed under judicial management (as the case may be) whether provisionally or finally and whether compulsorily or voluntarily then the **TIHOA** shall have the right to terminate these **BERTHING RIGHTS** and re-take possession of the **BERTH** without prejudice to any claim which the **TIHOA** may have for payment of any outstanding monies due and/or damages.

- 13.5 Notwithstanding anything to the contrary herein contained the **BERTH HOLDER** remains liable for all obligations in terms hereof arising up to the date upon which the **TIHOA** retakes possession of the **BERTH**.

- 13.6 Should the **TIHOA** take steps against the **BERTH HOLDER** pursuant to a breach of these **JB RULES** by the **BERTH HOLDER**, the **TIHOA** shall, in addition to the rights aforementioned, be entitled to recover from the **BERTH HOLDER**, which shall be liable to the **TIHOA** for payment of the **TIHOA's** legal costs incurred on the scale as between attorney and own client.

- 13.7 Upon cancellation of the **BERTHING RIGHTS** the **TIHOA** shall in its discretion have the right to cancel the **BERTH HOLDER's** permit to use the **WATERWAYS** and shall be entitled to require the **BERTH HOLDER** to remove from the **WATERWAYS** any boat owned or controlled by the **BERTH HOLDER**. If the **BERTH HOLDER** fails to remove such boat the **TIHOA** shall be entitled

to remove and store such boat and the **BERTH HOLDER** will be liable for all storage, removal and incidental costs so incurred.

**14. CO-OPERATION**

The **BERTH HOLDERS** and the **TIHOA** undertake to co-operate with each other so as to give proper and due effect to the terms and conditions and intent and purpose hereof.

**15. SOLE CONTRACTUAL RELATIONSHIP**

The **BERTH HOLDERS** and the **TIHOA** acknowledge that these **JB RULES** contains the terms between them and that no other conditions, stipulations, warranties and/or representations whatsoever have been made by either **PARTY** or their agents other than as set forth in these **JB RULES**.

**16. VARIATION**

No variation of these **JB RULES** shall affect the terms hereof unless such variation shall be reduced to writing.

**17. LATITUDE / EXTENSION**

No extension of time or indulgence granted shall be deemed in any way to affect, prejudice or derogate from the rights in these **JB RULES**, nor shall it in any way be regarded as a waiver of any rights hereunder or a novation of these **JB RULES**.

**18. NOTICES AND DOMICILIUM**

18.1 The **PARTIES** choose as their *domicilia citandi et executandi* for all purposes under these **JB RULES**, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following addresses:

18.1.1 **TIHOA**: Long Street, Thesen Islands, Knysna, 6571, Telefax: (044) 382 2190, Email : tihoa@tihoa.co.za

18.1.2 **BERTH HOLDER**: the physical address, telefax number and e-mail as recorded in the records of the **TIHOA**.

18.2 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing but it shall be competent to give such notice or communication by e-mail.

18.3 Any notice:

18.3.1 sent by pre-paid registered post in a correctly addressed envelope to its *domicilium citandi et executandi* shall be deemed to have been received on the 5th day after posting (unless the contrary is proved);

18.3.2 delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

18.3.2.1.1 sent by e-mail to the e-mail address in clause 18.1.1 or clause 18.1.2 (as applicable) during normal working hours shall be deemed to have been received by the addressee 4 (four) hours after the time of transmission or within 12 (twelve) hours of transmission where it is transmitted outside business hours.

18.3.3 Either **PARTY** may by notice to the other **PARTY** change its physical address chosen as its *domicilium citandi et executandi* to another physical address within the Republic of South Africa or its telefax number provided that the change shall become effective on the 5th day from the deemed receipt of the notice.

18.4 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a **PARTY** shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its *domicilium citandi et executandi*.