

NAMA NEWS

May 2018



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OF MANAGING AGENTS
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Unpacking Special Resolutions

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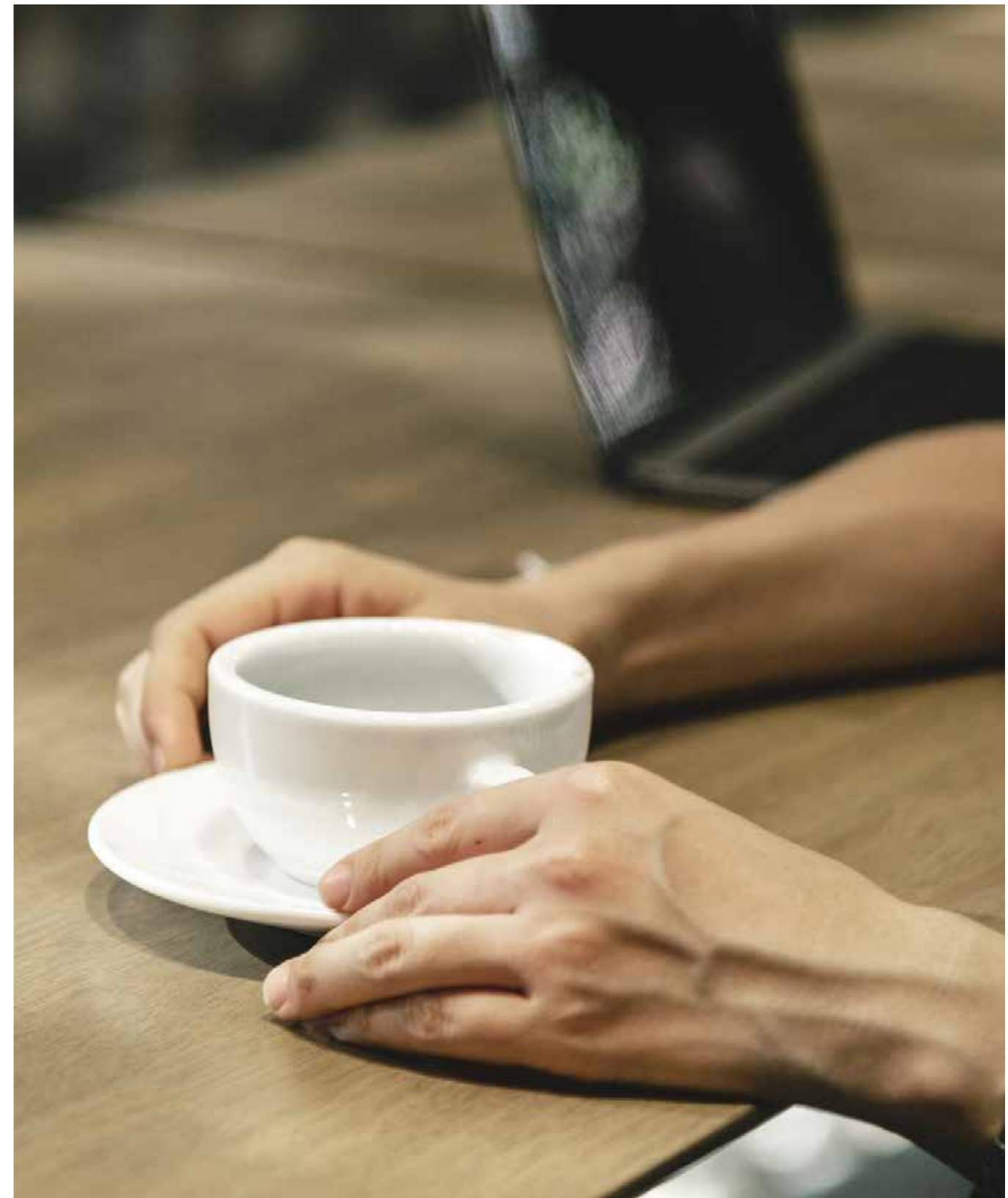
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Unpacking Special Resolutions

by Zerlinda van der Merwe - Paddocks

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In sectional title schemes, there are many different types of decisions that can be taken, and in each case, the requirements for such a decision or vote is different and often more complicated than the prior resolution. It is important in order for the proper administration and management of the scheme that the requirements for taking decisions are known, understood and applied.

This article looks at all the procedural requirements of special resolutions, as provided for by the Sectional Titles Schemes Management Act 8 of 2011 (“the STSMA”) and the Prescribed Management Rules (“PMRs”) of Annexure 1 of the Regulations to the STSMA.

Notice requirements for meetings where special resolutions are tabled

Special resolutions may be tabled for member approval, either at a special general meeting (“SGM”) or in writing, known as a round robin resolution. Should a SGM be convened, the notice calling the SGM must

contain the proposed special resolution, in terms section 6(2) of the STSMA and PMR 15(3), and be sent to all members thirty (30) days prior to the SGM.

In terms of section 6(3)(a) - (c) of the STSMA, the notice must be sent to all members via hand delivery, or pre-paid registered post to the members' sections, or pre-paid registered post to another address within South Africa, that the member has chosen in writing for the purpose of receiving notices. In addition **(but not as an alternative)** to one of the above methods of delivery, the notice can, in terms of section 6(4) of the STSMA, also be emailed or faxed to the members.

Quorum requirements for meetings where special

resolutions are passed

At the SGM, a quorum must be present or represented by proxy, provided that a person must not act as a proxy for more than two members, before the business of the meeting can be dealt with.

In terms of PMR 19(2)(b), a quorum in a scheme of more than four primary sections, for the purposes of passing a special resolution, will be the members (in attendance personally or represented by proxy) entitled to vote, and holding one third of the total votes of all the members of the scheme, in value (participation quota), provided that at least two persons (members or representatives) are present at the SGM.

In terms of PMR 19(4), if within thirty (30) minutes from the time appointed for a SGM, a quorum is not present, the meeting stands adjourned to the same day in the next week, at the same place and time.

Voting requirements to pass a special resolution

In order to be validly approved, the special resolution must be passed by at least seventy-five percent (75%) of the members, present personally or represented, at the SGM. These votes must be calculated both in value (participation quota) and in number, in accordance with section 1(1) of the STSMA.

In terms of section 6(6)(a) of the STSMA, when votes are calculated in value, the total participation quota of all sections registered in the name of a member is calculated. In terms of section 6(7) of the STSMA, when votes are calculated in number, each member has one vote, irrespective of the number of sections owned by that respective member.

In terms of PMR 20(9)(a), should the special resolution be passed at a SGM, where the quorum is less than 50% of the total value of all members in the scheme, the resolution cannot be implemented for a period of one week, allowing members to take the steps provided for in PMR 20(9)(b).

Round robin special resolutions

Should the special resolution be tabled for approval via a round robin process (in writing), as opposed to at a SGM, there is no requirement for a notice period. However, the members should be afforded a reasonable opportunity to consider, and vote on,

the proposed special resolution. In order to be validly approved, the special resolution would need to be passed by at least 75% of all the members of the scheme, calculated both in value and number.

A special resolution cannot be taken via a round robin process when it relates to the termination of the management agreement entered into between the managing agent and body corporate, in terms of PMR 29(2)(c), an improvement to common property, as contemplated in PMR 29(2), and the installation of pre-payment meters, in terms of PMR 29(4).

When special resolutions are needed

A special resolution is required to:

- sue the developer;
- insure against additional risks;
- purchase or otherwise acquire units, mortgage or sell units;

- borrow money;
- enter into short leases of common property to owners and occupiers;
- cancel registered exclusive use rights;
- approve servitudes or restrictive agreements;
- approve section extensions;
- make or change conduct rules;
- create and confer exclusive use rights in terms of a conduct rule;
- make rules altering vote values or contribution liability (which further requires written consent of any owner adversely affected);
- remunerate member trustees;
- hold general meetings outside of the municipal area of the scheme;
- appoint an executive managing agent;
- cancel a management agreement on two months' notice;

- approve a reasonably necessary improvement should a meeting be requested;
- approve body corporate installation of pre-paid meters on the common property.

As you can see, the outcome of special resolutions are far-reaching and so it's important that these types of votes are tabled, taken and recorded correctly.

Should you have any queries with regard to the topic of this article, or other types of votes in sectional title schemes, please contact the writer, Zerlinda van der Merwe, at Paddocks on 021 686 3950 or at consulting@paddocks.co.za, or a no obligation quote. If you would like to learn more about sectional title meetings, we have a UCT Sectional Title Meetings short course. Visit www.paddocks.co.za to learn more.



Nedbank partners with NAMA, offering a full range of banking solutions to unlock potential in the property sector



Nedbank is confident that its strong relationship-based banking model, along with solutions to enable business to succeed, will play a key role in the property sector, says Poovendran Naidoo, Nedbank, National Head: Transactional Banking, Global Trade and Investment Sales.

Optimism in the property sector has been fuelled by the announcement on 28 March 2018 of an interest rate cut of 25 basis points, along with Moody's decision to leave South Africa's credit rating unchanged at one notch above junk status and shift the outlook from negative to stable.

This is good news for the property market, in particular, the National Association of Managing Agents (NAMA), which has for the past four decades played a key role in educating its members on the laws, rules, regulations and terms and conditions that govern the property industry.

Nedbank is a supporter of the NAMA's goal to be recognised as an industry authority and is keen to help the organisation build, grow and sustain business in changing economic times.

"We understand it takes dedication to maintain product and service excellence, manage an enterprise and still turn a profit. Having the right partner who understands your needs and can journey with you on these goals is critical, says Naidoo.

At Nedbank, partnership is at the core of everything we do. "We believe in deep, lasting, value-adding relationships," he says.

Nedbank has **Whole-View Business Banking™** which provides a birds-eye view of your business and a different perspective on how your money needs to flow to match your goals. "Furthermore, we have effective ways to handle cash, card, and electronic, mobile and digital payments. **With a full view of your business we are able to craft integrated solutions that maximise your liquidity and keep the wheels of your business turning** through a range of payment options that enables you to make local and international payments easily and securely, and at your convenience," concludes Naidoo.

For more information, please email business@nedbank.co.za.



Poovendran Naidoo
National Head: Transactional Banking, Global Trade and Investment Sales

see money differently

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Whether you live in a Homeowners Association or a Body Corporate we have a solution for you.

Sectional Title Solutions is a solutions-driven consultancy business, focusing on delivering value-added products and services to Sectional Title Bodies Corporate and Homeowners Associations.

We aim to provide sustainable solutions that will benefit all unit owners and stakeholders, while reducing inefficient costs and generating much-needed revenue for Bodies Corporate and Homeowners Associations. Ultimately, we aim to ensure financial sustainability and protection of the unit's investment value for its owner.

Our value-added solutions include:

- state of the art Fibre-To-The-Home solutions
- innovative arrear levy and project funding solutions
- cost-saving energy efficiency and solar solutions
- revenue generating outdoor media and advertising solutions
- legal and levy advisory services

Our solutions-based approach, combined with our emphasis on a symbiotic working relationship with managing agents and their estates, is what adds real value to our clients.

Guided by this "win, win, win" philosophy, STS has partnered with several industry leaders as well as smaller niche specialist service providers, to provide our clients with the most effective value-added solutions, regardless of the size of the clients' unique project requirements.

Contact us on +27 11 977 1977 or info@stssolutions.co.za for more info.
www.stssolutions.co.za



SECTIONAL
TITLE
SOLUTIONS

how to communicate your value as a property manager



“One’s perception is one’s reality.”

It’s a common saying in life, and has a profound impact on the world of business as well.

Customers are only willing to pay a price for a product or service if it matches their perceived value of that item. This phenomenon is one of the biggest challenges that property managers face today, particularly when it comes to managing sectional title and HOA communities.

The significant amount of time that is spent on a community, and the value that is added by property managers to that community every month, is hardly ever understood by trustees, let alone individual property owners. The main reason

for this is the lack of proper reporting by property managers to their communities.

In most cases, property managers only report on the financial status of their community each month. This is, of course, one of the most important aspects of what is expected by the trustees, but there is so much more that property managers do – and so many more responsibilities that ultimately fall on trustees’ shoulders – that never get properly reported on. As a result, they never add to the perceived value of the property manager’s services.

The two main reasons for limited reporting are:

1. Property managers use multiple platforms to perform their functions, making it very difficult to compile a single, comprehensive report.
2. Compiling these reports manually is extremely time-consuming.



So, what should a property manager ideally include in their monthly report?

- Financials
 - Administrative actual vs. budget
 - Reserve fund actual vs. budget
 - Balance sheet
 - Debtors analysis
- Compliance
- Transfers conducted
- Warnings and penalties issued
- Any tasks performed by the property manager
- Payment approvals

Wouldn't it be great to be able to say, "Check your inbox – I just emailed all the details to you," or, "We provide that information via real-time reporting on the client portal"?

Unfortunately, if you're using multiple platforms to perform your property management functions, that's pretty much impossible. Thankfully, using multiple platforms isn't the only way to do things.

IPMS puts everything in one place.

IPMS is the most advanced end-to-end property management solution specifically designed for the management of sectional title and HOA communities. With a custom-built financial solution as a backbone, fully integrated with all the key workflows of sectional title and HOA management, managing agents are now fully empowered to manage their communities with one, effective, central solution.

Not only does IPMS enable all key departments to carry out their responsibilities with a single solution, it also empowers managing agents to report on all the key aspects of successful community management every month at the click of a button.

IPMS also allows trustees to log into a portal to view live reporting at any point in time.

With the increasing responsibilities laid on trustees, it's becoming more and more important to ensure complete transparency between them and their managing agent. It's equally important that clients, trustees and

homeowners have a complete understanding of their managing agent's value and the massive number of hours spent on their community every month.

The only way to effectively achieve this is to ensure your clients receive a comprehensive monthly report or, even better, have access to detailed live reporting functionality like that provided by IPMS.



Contact James at **weconnectu** today to find out how IPMS (Intelligent Property Management Software) can transform your business.

james@weconnectu.co.za

Tel: 086 999 0756

Cell: 084 500 0172

NAMA Report March 2018

EAAB MULTI STAKEHOLDERS MEETING [MSG]

The MSG was held on 12 March 2018 at the offices of the EAAB.

Amongst other, the following matters were discussed:

- Property Practitioners Bill
- Transformation
- Non-Compliant Agents [Including Managing Agents]



STAKEHOLDERS

Since end 2017 NAMA has attempted to engage with the office of the CSOS for an official meeting. Despite various written and telephone communications the meeting has yet to be confirmed. A letter was also sent to the office of the Minister, this has also not received a response.

TRAINING

NAMA had a successful meeting with the University of Pretoria and the planning on the NAMA and UP Course is well underway.

[CLICK TO VIEW FULL REPORT](#)

Events



WESTERN CAPE REGION

8 JUNE 2018 – Breakfast Seminar

Please contact Kate at namawc@nama.org.za for more information.

EASTERN CAPE REGION

8 JUNE 2018 – Golf Day, Port Elizabeth

25 JULY 2018 – Regional Meeting

Please contact Lizbé at namanorth@nama.org.za for more information.

GAUTENG EAST REGION

26 MAY 2018 – Trustee Training Seminar, Serengeti Golf Estate, Kempton Park

Please contact Isabella at namaeast@nama.org.za for more information.

GAUTENG NORTH REGION

1 JUNE 2018 – Golf Day, Centurion Golf Estate, Pretoria
26 JULY 2018 – Breakfast Seminar

Please contact Lizbé at namanorth@nama.org.za for more information.

GAUTENG WEST REGION

26 MAY 2018 – Trustee Training Seminar, Serengeti Golf Estate, Kempton Park

Please contact Meriechen at namawest@nama.org.za for more information.

FREE STATE REGION

Please contact Meriechen at namawest@nama.org.za for more information.

KWAZULU-NATAL REGION

25 MAY 2018 – Breakfast Seminar, Durban
2 JUNE 2018 – Trustee Training Seminar, Pietermaritzburg
22 JUNE 2018 – Breakfast Seminar, Port Shepstone
23 JUNE 2018 – Golf Day, Port Shepstone Country Club

Please contact Vanida at namakzn@nama.org.za for more information.





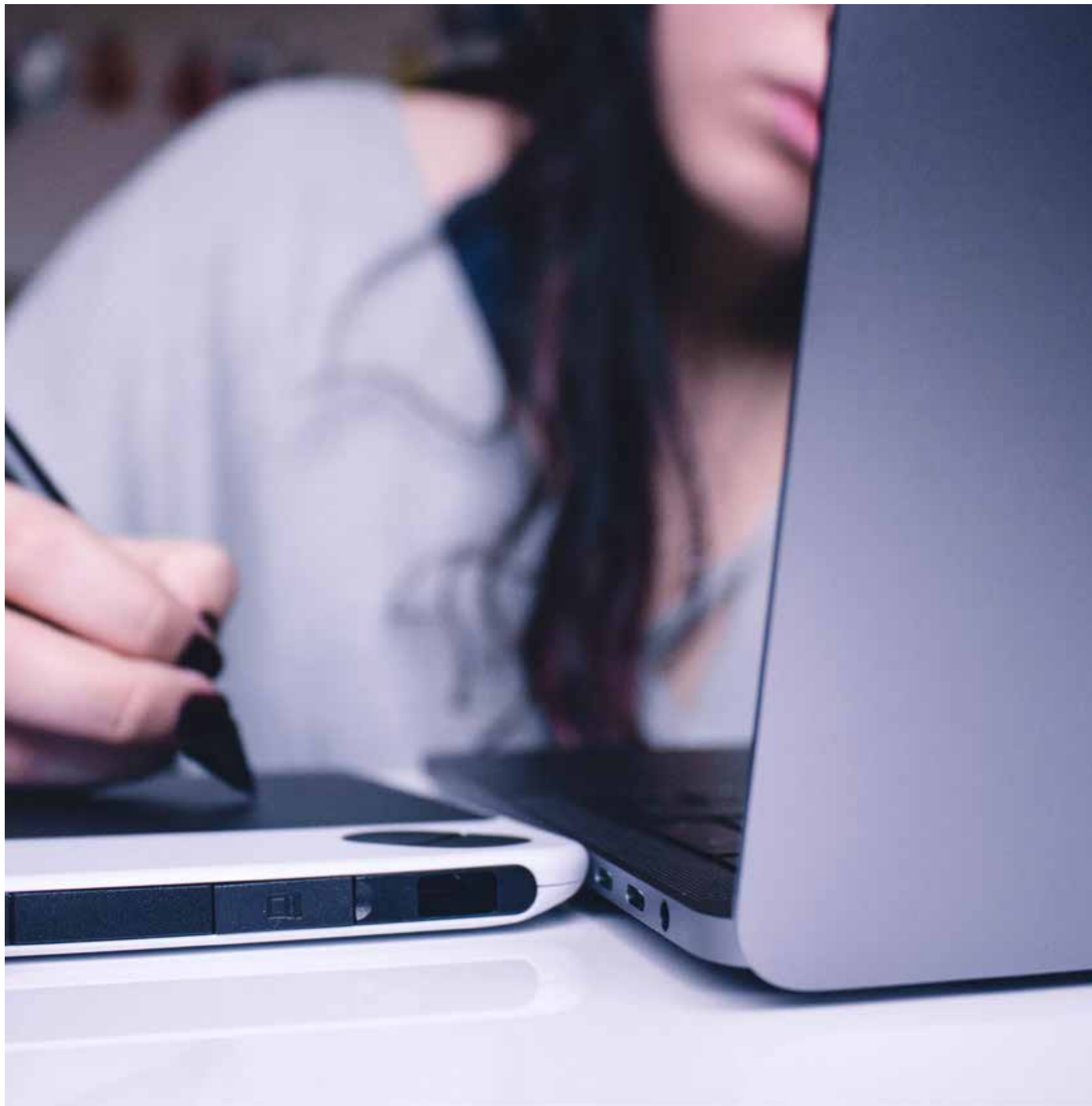
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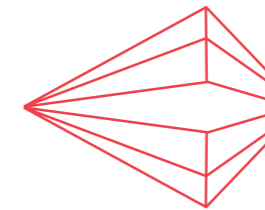
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