



AGREEMENT FOR A CODE OF CONDUCT FOR BUILDING CONTRACTORS AND OWNER BUILDERS WITHIN OUBAAI GOLF RESORT ("THE ESTATE") FOR THE FIRST CONSTRUCTION ON AN ERF

ENTERED INTO BY AND BETWEEN

OUBAAI HOMEOWNERS ASSOCIATION

("HOA")

AND

.....
("THE OWNER")

AND

.....
("THE CONTRACTOR")

WORKING ON ERF:

1. PREAMBLE

- 1.1 The purpose of this agreement is to ensure integration between residential living and control over building activities within the Estate with minimal impact to the environment. The HOA reserves the right to make amendments and additions to this document from time to time.
- 1.2 Should an erf owner qualify to build his own home; it should be noted that, for the duration of this contract, the owner will be regarded as a contractor and not as a home owner.
- 1.3 No dwelling may be occupied unless all work is complete and a Compliance Certificate and Occupation Certificate has been approved by the Association and Council.
- 1.4 All contractors must comply with the Health and Safety Act. The primary contractor must nominate an onsite Health and Safety officer and have the required Health and Safety documentation ready for inspection at all times if requested by the HOA or their appointed representative.
- 1.5 The Primary Contractor must be registered with the Department of Labour and must **submit a Letter of Good Standing before the site is occupied**. It will require that as an Employer and Primary Contractor you must;
 - Registered with the Fund as per section 80 of the COID Act,
 - Have submitted all returns of earnings as per section 82 of the COID Act,
 - Must be fully assessed as per section 83 of the COID Act,
 - Must have paid/ settled all outstanding debt as per section 86 of the COID Act.
- 1.6 Provide Works Insurance and minimum Five Million Rands Public Liability Insurance per site for the duration of the contract.

2. QUALIFICATIONS OF CONTRACTORS

- 2.1 Only contractors who can furnish at least three references of prior building contracts will be allowed to build at Oubaai.
- 2.2 Contractors must have a current and valid NHBRC certification.
- 2.3 Contractors are at all times responsible for their subcontractors and employees while on the Estate.
- 2.4 Must submit proof that they are in good standing at Department of Labour.

3. RULES AND REGULATIONS

The rules and regulations described below are intended to ensure that the quality of life for residents in the Estate is not unduly compromised, and the house building operations minimise the impact on the environment, yet allowing for efficient construction by contractors. **Further, it is the responsibility of the Contractor to obtain a copy of the estate rules and to adhere to such rules and regulations at all times.**

When a contractor is found to be in breach of the stated rules and regulations, a penalty will be imposed. The extent of the penalty is detailed below the description of each rule and regulation or as the Trustees of the Association may determine. The onus is on the primary contractor to ensure that all subcontractors are aware of the rules, regulations, terms and conditions.

Should the primary contractor desire a representative of the Oubaai Home Owners Association to do the briefing, this arrangement will cost R100 per person briefed. Please direct the request to the Estate Manager. It will otherwise be tacitly understood that the main contractor has done and understand all the rules and regulations.

The main contractor should submit an updated form (attached) confirming the company name, staff names and ID numbers of the contractor and sub-contractors to the HOA.

3.1 *Environmental controls*

The contractor acknowledges that he is working in an environmentally sensitive development and agrees to conform to all environmental controls specified in this document and revised from time to time.

It should also be noted that these controls are part of the development required to be legally enforced. Presently these specifications include the following considerations:

3.1.1 Environmental Education

a. Description

All contractor and sub-contractor personnel will be required to be briefed on the Builders Code of Conduct. The main contractor must do these briefings before his staff is allowed to work on the Estate.

b. Breach

For any personnel violating this contract, the contractor will be fined R2 500 per transgression.

3.1.2 Vegetation search and rescue

a. Description

Before the commencement of clearing the proposed building site, the contractor will obtain a clearance certificate from the appointed landscape maintenance contractor testifying that vegetation search-and-rescue has been completed on the site. This operation is a legal requirement to ensure that any endangered plant species is transplanted before work commencing on the erf.

b. Breach

- (i) Work by the contractor will be stopped, and legal action could be taken against the contractor.
- (ii) Any building contractor who has already signed the Code of Conduct at any stage previously will be fined a minimum of R2 000 per transgression.

3.1.3 Limits of construction activity

a. Description

All activities relating to the house construction must be confined to within the erf boundary where development is taking place. This relates to the location of staff, placing of storage bins and material.

Should the contractor wish to use an empty site adjacent to the construction owing to the manner in which the house is being constructed, this can be requested from;

- a) the relevant homeowner through the HOA,
- b) a request letter to the DRC. However, it will be the responsibility of the contractor to screen the additional ground being used (see 3.1.9 for clarification on materials and for breach).

b. Breach

- (i) Work by the contractor will cease until the contractor's equipment/material has been moved to within the building site, or the necessary additional screening is in place.
- (ii) The contractor will be fined a minimum of R2 500 per transgression.

3.1.4 Site presentation

a. Description

The contractor will be expected to keep the appearance of the building **site neat and tidy at all times**. Building rubble must be removed from the site at intervals not exceeding **one week**, and litter must be removed from the site on a **daily basis**. No litter may be stored or mixed in amongst building rubble. **Plastic refuse drums must be provided by the contractor to store waste until removed from the site by the contractor.**

It is also the responsibility of the contractor to ensure that the pavement and surrounding areas are restored to their original state (i.e., grasses for mowing, stones and rubble removed, etc.). No portion of the Builder's Deposit will be refunded until the area is rehabilitated to an acceptable state and broken pavements replaced.

b. Breach

(i) Should a builder not comply with the removal of building rubble, or litter not stored in the required refuse drums, the debris and/or litter will be removed by the HOA and the costs thereof claimed from the builder.

The contractor will be denied access to the Estate until such costs have been paid in full. Also, there will be a fine of R1 500 per transgression.

(ii) Should the surrounding area not be rehabilitated, the Oubaai Home Owners Association will withhold the Builder's Deposit and not issue the Compliance Certificate.

3.1.5 Cleaning of vehicles/equipment

a. Description

Washing of vehicles and equipment will only be permitted within the confines of the building site. All spillage and runoff must be contained within site.

b. Breach

The building contractor will be fined a minimum of R1 500 per offence.

3.1.6 Fires

a. Description

No fires will be allowed on any part of the Estate including the building site.

b. Breach

(i) The construction contractor will be fined a minimum of R5 000 per offence.

(ii) The building contractor will, also, be held legally and financially responsible for any damage caused by the breach of this regulation.

3.1.7 Ablution facilities

a. Description

Contractors must make adequate provision for temporary chemical toilets situated on the building site for the use of their employees. The contractor must ensure that the employees use the facilities at all

times. Consideration must be given to surrounding neighbours with the placing of the facility.

b. Breach

- (i) The contractor will be denied access to the Estate until the services are available.
- (ii) Also, the contractor will be fined a minimum of R1 500 per violation for any worker not using the facility.
- (iii) Should the employees not use the facilities provided, the contractor will be fined a minimum of R1 500 per offence.

3.1.8 Spoil of excess material and building rubble

a. Description

The contractor must make adequate provision for removal of building debris and excess material. No material or building debris may be spoiled or stored outside of the building erf boundary or elsewhere on the Estate; irrespective of the ownership of land.

b. Breach

The Estate will remove all such material from the site. It will be for the contractor's account. In addition to this, the contractor will be fined a minimum of R1 500 per offence.

3.1.9 Screening of building sites

a. Description

The contractor will be required to screen off the site with a dark green shade-netting screen of a **minimum** density of 75%.

1. Anchor poles must be spaced not more than 3m apart.
2. Anchor poles must be 2.4m in length. 600mm of this 2.4m must be sunk into the ground and be fixed with concrete.
3. Three evenly spaced, Toprail a minimum of 70mm x 42mm and middle and bottom rail 38mm x 38mm pine branding must be attached to the anchor poles, to form a frame onto which nails or string must neatly fix nets.
4. After the builder has erected the nets, the HOA Representative must be informed, and he will inspect the site.
5. The building may not commence before the HOA Representative has signed off the screening of the construction site.
6. The screen must be kept in a neat condition and place and maintained for the entire building process. Old nets may not be used on new construction sites.

b. Breach

The contractor will be fined a minimum of R1 500 and work will be stopped until such structures are in place.

3.1.10 Blasting Activities

a. Description

- (i) The contractor must be a licensed blaster and must comply with all National rules and regulations.
- (ii) The contractor must notify the HOA in writing and Air Traffic Control at George Airport at least 48 hours before when blasting will take place. Proof from all local authorities must be submitted beforehand.
- (iii) The area must be cleared in advance.
- (iv) The contractor is responsible for any services disrupted by the blasting.

b. Breach

The contractor will be fined a minimum of R10 000 per transgression, as well as any other charges or penalties imposed on the HOA by other authorities.

3.1.11 Driveways

a. Description

- (i) No contractor may interfere with the common property surrounding the erf.
- (ii) The HOA must give given a minimum of 2 weeks notice before the construction of the driveway.

b. Breach

- (i) Should the contractor proceed with construction of the driveway, the contractor will be fined a minimum of R2 000; as well as be liable for any costs arising out of damages caused.
- (ii) Should the HOA not be given a minimum of 2 weeks notice, no guarantee is given that the necessary construction work will be in place timeously.

3.2 Hours of Work

3.2.1 Public/Private time

a. Description

Contractors may only be present on the Estate during the following open time hours:

Normal Weekdays	06H00 to 18H00
Saturdays	08H00 to 13H00
Sundays & Public Holidays	No access
December Holidays	Friday closest to 13 December until Monday nearest 13 January no contractors allowed.

b. Breach

- (i) Contractors will be escorted from the Estate by security during private times and if there is no supervision on site.
- (ii) Also, the building contractor will be fined a minimum of R 700 per transgression.

3.2.2 Permission to work during private times

a. Description

Contractors are not allowed on the Estate on Sundays and proclaimed public holidays without the written permission of HOA as these days are considered to be private time. Particular applications for contractors to be present on site during private times should be lodged with the HOA before the date of activity.

The estate will be closed to builders and contractors for the Oubaai builder's holidays over the festive season (December/January). Contact the HOA to establish closing and opening dates.

b. Breach

- (i) Contractors will be escorted from the Estate by security during private times.
- (ii) In addition, the building contractor will be fined a minimum of R1 500 per transgression
- (iii) Should contractors work over the stated hours and be requested to leave the sites by Security; it should be noted that the contractor will be denied access to the estate for the same amount of additional time on next entering.

3.2.3 Watchman

a. Description

No employees will be allowed to remain on site during private time.

b. Breach

- (i) Contractors and staff will be escorted from the Estate by security during private times.
- (ii) Also, the building contractor will be fined a minimum of R 1 500 per transgression

3.3 Vehicles

3.3.1 Vehicle Sizes Allowed

a. Description

Due to the road surfacing and limited road widths and roundabouts, the following restrictions are placed on any vehicle entering the Estate.

- (i) No vehicles with trailers will be allowed.
- (ii) Only rigid axle design vehicles will be authorised. No “horse and trailers” will be permitted on the Estate without written permission from HOA.
- (iii) Maximum length = 9.1m
- (iv) Maximum width = 2.6m
- (v) Maximum gross mass = 20,000kg
- (vi) Maximum axle weight = 8,000 kg

b. Breach

Vehicles larger than above will be denied access to the Estate.

3.4 Deliveries to Contractors

3.4.1 General deliveries

a. Description

- (i) Contractors will at all times be responsible for the delivery personnel.
- (ii) All delivery times will be limited to public hours as defined under 3.2 above.
- (iii) The size of delivery vehicles will be limited as described under 3.3 above.
- (iv) Deliveries to the building site will take place only from the street frontage of the site.

b. Breach

A minimum penalty of R 1 500 will be imposed on the primary contractor for the transgressions of the sub-contractor.

3.4.2 Concrete deliveries

The delivery of concrete has the potential of causing the most damage to the road surfacing and landscape vegetation. It is, therefore, important that these deliveries be handled in a particular way. The following rules relate specifically to the concrete delivery vehicles.

a. Description

Drivers of concrete delivery vehicles must be briefed on this document. Under no circumstances may concrete be spilt onto the road surface and the contractor will be held responsible for the repair to the road if this occurs.

b. Breach

- (i) Drivers not briefed will not be allowed access onto the Estate.
- (ii) Drivers found contravening the Estate rules and regulations will be escorted off the Estate and refused access to the Estate.
- (iii) The building contractor will be liable for penalties incurred and also be held legally and financially responsible for any damage caused by the breach of this regulation.

- (iv) A penalty of R1 500 will be imposed on the primary contractor for any offence.

3.4.3 Washing of concrete vehicles

a. Description

No washing off or rinsing of *Readymix* concrete delivery vehicles will be permitted.

b. Breach

The building contractor will be fined a minimum of R1 500 per offence.

3.5 Storage Sheds/Huts

a. Description

The contractor will be allowed max 2 x green storage containers within the boundaries of the building site and to a maximum height of 2.4m. All containers must be approved by the HOA. Any units that do not comply must be removed from site immediately.

b. Breach

The contractor will be instructed to remove any structures that do not conform to this regulation. The contractor will be denied access to the Estate until the structures have been removed.

3.6 Security

a. Description

- (i) The development is located in a secure and controlled environment, and therefore own guards will not be allowed on the Estate during private times.
- (ii) Security personnel control access to the Estate and the contractor must at all times adhere to the health, security and safety rules.
- (iii) Contractors and their subcontractors of the contractor must at all times be in possession of an access card, which will be issued by the HOA at a cost. The card may only be valid for the period that the subcontractor is required to be on site.
- (iv) Personnel must be transported by vehicle to the relevant sites and will not be allowed to walk from one area to another.
- (v) Once access control is in place, the Oubaai Golf Resort Security must sign in all contractor vehicles entering the Estate.
- (vi) These vehicles and personnel of the contractor will be subjected to be searched by security staff on entering and exiting the Estate.
- (vii) No firearms for whatever reason are permitted onto the Estate.

b. Breach

- (i) Any member of contractor's staff not adhering to this regulation will be removed from the site.
- (ii) Also, the contractor will be fined a minimum of R1 500 per transgression.

- (iii) The contractor will be fined a minimum of R1 500 for any personnel who are found walking from site to site on the Estate.

3.7 Traffic Controls

a. Description

- (i) For security and safety reasons the speed limit on the Estate for all contractors' vehicles is 40 km per hour.
- (ii) Parking of vehicles must be confined to within the boundaries of the building site if possible. No parking on other stands, sites, pavements, roads, verges, or anywhere else on the Estate will be permitted where it is obstructing other traffic..
- (iii) None of the contractor's vehicles entering the Estate will be allowed to be overloaded with material or personnel. No staff will be authorised to hang on to any moving vehicle or other equipment.
- (iv) The contractor is responsible for all his employees, subcontractors and delivery vehicles to ensure adherence to these rules.

b. Breach

The contractor will be fined an amount of a minimum of R1 500 per transgression. **Continuous non-compliance will result in the contractor being expelled from the site.**

3.8 Roads and Road Verges and Common Area

a. Description

- (i) Contractors must ensure that the roads in front of their building site **are at all times swept clean.** This is to minimise damage and ensure the longevity of the brick road surface.
- (ii) Contractors have to make sure that the kerbs and sidewalks in front of their building site are adequately protected from damage by the building operations.
- (iii) Building material must be stored on the construction erf.

b. Breach

- (i) The contractor will be fined a minimum of R1 500 per transgression (i to iii)
- (ii) The contractor will be held financially and legally responsible for the damage to road surfaces and kerbs caused by his building operations.
- (iii) **Continuous non-compliance with the rule will result in the contractor being denied access to the estate.**

3.9 Advertising

a. Description

- (i) The contractor or his subcontractors may place no promotional material on the Estate.
- (ii) The contractor may place an approved A1 size builder's board on the erf, only indicating the erf number, architect and contractor, for the duration of the construction period. It will be available from the HOA.

- (iii) The boards must be ordered well in advance, and the cost will be for the builder.
- (iv) **If the primary contractor must display a Health and Safety board and must be visible from the outside.**

b. Breach

- (i) Advertising material will be removed from the erf without notice. The main contractor will be fined a minimum of R1 500 (not the sub-contractor advertising).
- (ii) Any material confiscated by management will be discarded immediately.

3.10 Building Plan Controls

a. Description

- (i) The building contractor must ensure that a copy of the signed approved building plan must at all times be on site available for inspection by the homeowner's representative.
- (ii) **Any variations to the approved building plan must be submitted to HOA for written approval and may only be implemented once the DRC and City Council approved the proposed changes.**

b. Breach

- (i) The contractor will be denied access to the Estate until the above documentation is in place.
- (ii) **The contractor will be required to remove any structures that do not conform to approved plans.**

3.11 General Controls

a. Description

- (i) One representative of each building contractor is expected to attend a monthly site meeting to discuss general issues relating to work on the Estate.
- (ii) A representative from the contractor must be available on the building site during working hours to be able to receive all correspondence addressed to the contractor.

Responsible Person/s: _____

b. Breach

- (i) The contractor will be fined a minimum of R1 000 for not attending the site co-ordination meeting.
- (ii) Should a representative or appointed foreman, not be on site during working hours the contractor will be fined a minimum of R500 per transgression.

3.12 Occupational Health and Safety Act No 85 of 1993 (As Amended)

The Contractor confirms that with effect from the date of signature of this Agreement it has acquired full control in respect of the building premises. The Contractor agrees to full compliance with the Occupational Health and Safety Act and all local Municipal by-laws. The Contractor agrees to indemnify the HOA or any duly appointed Agent against any claims arising from the Building Contract for the non-compliance with the above requirements.

3.13 Limitation of Liability

The HOA shall not be responsible for any loss, injury, damages (including all consequential damages) or inconvenience that may be caused by the Contractor or Owner, its visitors or employees or any of its property for any cause, howsoever arising, and, without prejudicing the generality of the foregoing, whether arising from any defect, water and electrical supply or from fire, flooding, leakage or breakage of any water pipe, access to the premises, or from war, riots or other civil commotions, damages caused by the elements or fortuitous act, insects, whether or any living thing or any act of God.

All goods, property and effect of whatsoever nature, which may at any time be in or on the building premises, shall be at the sole risk of the Builder and the HOA shall not be liable for any loss or damage to it from any cause howsoever arising.

The contractor is responsible and accountable to act according to any applicable ACT that is required and imposed by law.

3.14 Insurance

- 3.14.1 The Contractor responsible as stated in the schedule shall affect and keep in force;
 - 3.14.1.1 Contract works insurance from date of signature until the time of completion;
 - 3.14.1.2 Minimum 5Million Public liability insurance per site from date of signature to the date of issue of the certificate of completion;
- 3.14.2 The Contractor shall make available to the HOA, before the commencement of the construction period, documentary evidence that insurances have been affected. A copy of the insurance policies shall be provided to the before the commencement of the construction period. Where required, the Contractor

responsible shall provide evidence of renewal to the HOA before the expiry of the current period of insurance.

4. PAYMENT OF FINES

a. Description

All monies owing to the HOA must be paid within 2 working days following the fine. All payments are to be made to the HOA.

b. Breach

In the event of the contractor failing to pay the fine in time, the contractor will be denied access onto the Estate.

5. MONTHLY BUILDING MANAGEMENT LEVY

a. Description

To cover expenses in the administration of the housing delivery process, each building contractor will be levied an amount determined by the HOA from time to time, per building site per month payable to HOA. **The fee must be paid by the 1st of every month and is paid in advance. Fees are adjusted every July of each year.** Thus, notwithstanding the start date, fees may increase.

The building fee is applicable for the entire month, regardless of when the Occupation Certificate is issued within the month.

The levy is payable until the Occupation Certificate is issued by city council. Should construction cease for any reason, the fee will still be payable.

b. Breach

In the event of the contractor failing to pay the building levy in time, the contractor will be denied access onto the Estate.

6. PAVEMENT DEPOSIT

The building contractor will have to pay a pavement deposit of R19 800.00 per building site, payable to HOA. This deposit is held free of interest.

R10 000 of this deposit will be refunded on condition that the account is in good standing with the HOA and on issuing of the Occupation Certificate.

R9 800.00 will be non-refundable and will be retained as a contribution to infrastructure repairs.

No invoices will be issued for the deposits.

Should any reticulation services (water, electrical, fibre backbone) be damaged during the process of construction a penalty of R5000.00 per damaged service will be applied.

Also the HOA will restore the function and the contractor will be accountable for the cost of repairing such a service. The penalty fees must be paid within 48 hours after issuing.

7. CERTIFICATE OF COMPLIANCE

Please provide the HOA with all certificates as per municipal regulations and Architectural guidelines before applying for the Compliance Certificate at the HOA. Please refer to the Architectural Guidelines for additional clarification. Once the HOA has issued a Compliance Certificate the owner may apply for an Occupation Certificate from Council.

8. HOUSE NUMBERING

The number of the house must be displayed. Please contact our office for the correct street number.

9. JURISDICTION

Except as otherwise provided herein, the parties agree that any dispute or controversy arising out of or relating to this Agreement shall be resolved in a proceeding in the High Court, Cape of Good Hope Provincial Division, in the Republic of South Africa.

10. NO WAIVER

Any relaxation indulgence or waiver which the HOA may show to the Contractor will not in any way prejudice or derogate from the HOA's rights regarding this Contract. More particularly no act of the HOA in accepting any amount after the due date or in accepting a lesser sum than the amount due shall be construed as a waiver by the HOA of its rights under this Contract.

11. NO VARIATION

10.1 No Agreement purporting to vary the terms and conditions of this Contract including this clause shall be of any force and effect unless reduced to writing and signed by the parties.

10.2 This Agreement and any Annexure initialled by the parties for identification constitute the whole agreement between the parties.

12. PERSONAL LIABILITY

The Owner of the erf on which the Contractor will erect the building bounds himself jointly and severally to the HOA for the due fulfilment of all the obligations of the Contractor towards the HOA in respect of this Agreement.

SIGNED AT _____ ON _____

THE CONTRACTOR:

NAME

SIGNATURE

WITNESS

WITNESS

THE HOME OWNER

NAME

SIGNATURE

WITNESS

WITNESS

OUBAAI HOME OWNERS ASSOCIATION:

NAME

SIGNATURE

WITNESS

WITNESS

To be completed by the Primary Building Contractor.

Name of Building Contractor: -----

Contact person: -----

Landline contact number: -----

Cellphone number: -----

Email address: -----

Postal address: -----

Physical address: -----

Sign below to confirm General Briefing of rules and regulations by an HOA representative and that the main contractor understands all the rules and regulations as implemented by the Oubai HOA.

Date: _____

Erf: _____

Signed by **Main Contractor:**

NAME

SIGNATURE