



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

ENTERED INTO BY AND BETWEEN OUBAAI

HOMEOWNERS ASSOCIATION ("HOA")

AND

.....
("THE MEMBER")

AND

.....
("THE PRIMARY CONTRACTOR")

WORKING ON ERF:

1. PREAMBLE

- 1.1 This Agreement aims to ensure integration between residential living and control over building activities within the Estate with minimal environmental impact. The HOA reserves the right to make amendments and additions to this document from time to time.
- 1.2 Should a Member qualify to build his own home, it should be noted that the Member will be regarded as a Contractor for the duration of this Agreement.
- 1.3 No dwelling may be occupied unless all work is complete and the Association and Council have approved a Compliance Certificate and Occupation Certificate.
- 1.4 All Contractors must comply with the Occupational Health and Safety Act 85 of 1993. 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 **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 Compensation for Occupational Injuries and Diseases Act 130 of 1993 ("COIDA"),
 - Have submitted all returns of earnings as per section 82 of the COIDA,
 - Must be fully assessed as per section 83 of the COIDA,
 - Must have paid/ settled all outstanding debt per section 86 of the COIDA.
- 1.6 Provide Works Insurance and a minimum of 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 to 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 always responsible for their sub-contractors and employees while on the Estate.
- 2.4. Must submit proof that they are in good standing with the 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 that the house-building operations minimise the impact on the environment while allowing for efficient construction by Contractors. **Furthermore, it is the Contractor's responsibility to obtain a copy of the Estate Rules and adhere to such rules and regulations at all times.**

A penalty will be imposed when a Contractor is found to be in breach of the stated rules and regulations. The extent of the penalty is detailed below, as is 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 sub-contractors are aware of the rules, regulations, terms, and conditions.

Should the primary Contractor desire an Oubaai Homeowners Association representative 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 primary Contractor has done and understands all the rules and regulations.

The primary 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 primary 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 the primary Contractor and sub-contractor personnel must be briefed on the contractor's Code of Conduct. The primary Contractor must do these briefings before his staff is allowed to work on the Estate.

b. Breach

The Contractor will be fined R5 500 per transgression.

3.1.2. Vegetation search and rescue

a. Description

Before clearing the proposed building site, the Contractor will obtain a clearance certificate from the appointed landscape primary maintenance Contractor to testify that vegetation search and rescue have been completed. This operation is legally required to ensure that endangered plant species are transplanted before work commences.

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 how the house is being constructed, this can be requested from; the relevant Member through the HOA,

- (i) a request letter to the DRC. However, the Contractor will be responsible for screening the additional ground used (see 3.1.9 for clarification on materials and for breach).

b. Breach

- (i) The Contractor's work 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 at all times**. Building rubble must be removed from the site at intervals not exceeding **one week**, and litter must be removed daily. No litter may be stored or mixed in amongst building rubble. **The Contractor must provide plastic refuse drums to store waste until it is removed from the site by the Contractor.**

The Contractor is also responsible for ensuring 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 Contractor's Deposit will be refunded until the area is rehabilitated to an acceptable state and broken pavements are replaced.

b. Breach

- (i) Should a Contractor not comply with removing building rubble or litter not stored in the required refuse drums, the HOA will remove the debris and litter, and the Contractor will claim the costs.

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 Homeowners Association will withhold the Contractor's Deposit and not issue the Compliance Certificate.

3.1.5.Cleaning of vehicles/equipment

a. Description

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

b. Breach

The building Contractor will be fined a minimum of R1 500 per transgression.

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 transgression.

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

3.1.7.Ablution facilities

a. Description

Contractors must provide adequate temporary chemical toilets for their employees' use on the building site and ensure they use the facilities at all times. Consideration must be given to surrounding neighbours regarding the placement of the facility.

b. Breach

(i) The Contractor will be denied access to the Estate until the services are available.

(ii) The Contractor will also be fined a minimum of R1 500 per violation for any worker not using the facility.

(iii) If the employees do not use the facilities provided, the Contractor will be fined a minimum of R1 500 per transgression.

3.1.8.Spoil of excess Material and building rubble

a. Description

The Contractor must make adequate provision for removing 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 for the Contractor's account. In addition, the Contractor will be fined a minimum

of R1 500 per transgression.

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 long. 600mm of this 2.4m must be sunk into the ground and fixed with concrete.
3. Three evenly spaced Toprails, each a minimum of 70mm x 42mm, and middle and bottom rails, each 38mm x 38mm, with 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 Contractor has erected the nets, the HOA Representative must be informed, and he will inspect the site.
5. Construction may not commence until the HOA Representative has signed off on the screening of the construction site.
6. The screen must be kept neat throughout the 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 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 the 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, in addition to any other charges or penalties imposed on the HOA by different authorities.

3.1.11. Driveways

a. Description

- (i) No Contractor may interfere with the common property surrounding the erf.
- (ii) The primary Contractor must give the HOA at least two weeks'

notice before the driveway is constructed.

b. Breach

- (i) Should the Contractor proceed with construction of the driveway, the Contractor will be fined a minimum of R2 000 and liable for any costs arising out of damages caused.
- (ii) Should the HOA not be given a minimum of 2 weeks' notice, there is no guarantee that the necessary construction work will be in place on time.

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:

Weekdays 07h00-17h30 (Winter 1May – 31 Aug)
Weekdays 07h00 – 18h00 (Summer 1Sep – 30 Apr)
Weekends NONE
Public Holidays NONE
December Holidays
Friday closest to 15 December until Monday, nearest 15 January

c. Breach

- (i) Security will escort contractors from the Estate during private times and if there is no onsite supervision.
- (ii) the building Contractor will also be fined a minimum of R 1 500 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 HOA's written Permission, as these days are considered private time. Particular applications for Contractors to be present onsite during private times should be lodged with the HOA before the activity date.

The Estate will be closed to Contractors and Contractors for the Oubaai Contractor'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

3.2.3. Watchman

a. Description

No employees will be allowed to remain onsite 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 vehicles with rigid axle design 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 always be responsible for the delivery personnel.
- (ii) All delivery times will be limited to public hours 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.

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 to cause the most damage to the road surfacing and landscape vegetation. Therefore, it is important that these deliveries be handled in a particular way. The following rules relate specifically to concrete delivery vehicles.

a. Description

Drivers of concrete delivery vehicles must be briefed on this document. Concrete may not be spilt onto the road surface, and the Contractor will be held responsible for repairing the road if this occurs.

b. Breach

- (i) Drivers not briefed will not be allowed access to 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 held legally and financially responsible for any damage caused by the breach of this regulation.
- (iv) A penalty of R2 500 will be imposed on the primary Contractor per transgression.

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 R2 500 per transgression.

3.5. Storage Sheds/Huts

a. Description

The Contractor will be allowed a maximum of 2 green Valley storage containers within the boundaries of the building site, up 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 the site immediately.

b. Breach

The Contractor will be instructed to remove any structures that do not conform to this regulation and 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; 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 always adhere to the health, security and safety rules.
- (iii) Contractors and their sub-contractors of the Contractor must always possess an access card or have biometrics access, which the HOA will issue at a cost. The card may only be valid when the subcontractor is required to be on site.
- (iv) Personnel must be transported by vehicle to the relevant sites and cannot walk from one area to another. It is for safety and security reasons.
- (v) Once access control is in place, the Oubaai Golf Resort Security must sign in all Contractor vehicles entering the Estate.
- (vi) Contractor vehicles may be searched by security staff when entering and exiting the Estate.
- (vii) No firearms for whatever reason are permitted onto the Estate.

b. Breach

- (viii) Any Contractor staff member who does not adhere to this regulation will be removed from the site.
- (ix) Also, the Contractor will be fined a minimum of R5 500 per transgression.
- (x) The Contractor will be fined a minimum of R1 500 for any personnel 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) Vehicle parking 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 obstructs other traffic unless the Association request the Contractor to park elsewhere.
- (iii) None of the Contractor's vehicles entering the Estate will be allowed to be overloaded with material or personnel, and 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 a minimum of R1 500 per transgression. Continuous non-compliance will result in the Contractor's expulsion 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 always swept clean. It minimises damage and ensures** the longevity of the brick road surface.
- (ii) Contractors must ensure that the kerbs and sidewalks in front of their building site are adequately protected from damage by building operations.
- (iii) Building material must be stored on the construction erf.

b. Breach

The Contractor will be fined a minimum of R1 500 per transgression (i to iii)

- (i) The Contractor will be held financially and legally responsible for the damage to road surfaces and kerbs caused by his building operations.
- (ii) 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 Contractor'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 Contractor.
- (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 primary Contractor will be fined a minimum of R1 500 (not the subcontractor 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 is always 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 approve 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 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 R1 500 per transgression.

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

The Contractor confirms that, with effect from the date of signature of this Agreement, it has acquired complete control of the building premises. The Contractor agrees to comply with the OHSA 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 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 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 effects of whatsoever nature that may at any time be in or on the building premises shall be at the sole risk of the Contractor, 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 for acting according to any applicable ACT that is required and imposed by law.

Should this clause be interpreted by any forum, it is an express term hereof that the widest interpretation permissible by law shall be given hereto.

3.14. Insurance

- 3.14.1. The Contractor responsible as stated in the schedule shall affect and keep in force;
- 3.14.2. Contract works insurance from the date of signature until the time of completion;
- 3.14.3. Minimum R 5 million public liability insurance per site from the date of signature to the date of issue of the certificate of completion;
- 3.14.4. The Contractor shall make available to the HOA, before the commencement of the construction period, documentary evidence that insurance has been affected. A copy of the insurance policies shall be provided to them 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

If the Contractor fails to pay the fine in time, the Contractor will be denied access to the Estate.

5. MONTHLY BUILDING MANAGEMENT LEVY

a. Description

To cover expenses in administering the construction process, each building Contractor will be levied an amount determined by the HOA from time to time per building site per month payable to the HOA. The fee must be paid in advance by the 1st of every month. **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 city council issues the occupation certificate. If construction ceases for any reason, the fee will still be payable.

b. Breach

If the Contractor fails to pay the building levy in time, the Contractor will be denied access to the Estate.

6. PAVEMENT DEPOSIT

The building Contractor will have to pay a pavement deposit as determined by the Association per building site, payable to HOA. This deposit is held free of interest.

The Association will refund fifty Percent of this deposit on condition that the account is in good standing with the HOA and on issuing the Occupation Certificate.

No invoices will be issued for the deposits. However, a receipt will be issued by the Association.

Should any reticulation services (water, Telkom, sewer, electrical, fibre backbone etc) be damaged during construction, a penalty of R 7000.00 may be issued to the Contractor for each damaged service.

In addition, the HOA will restore the service, 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. If the Contractor fails to pay the cost, the Association may deny the Contractor access to the Estate.

7. CERTIFICATE OF COMPLIANCE

Please provide the HOA with all certificates per municipal regulations and Architectural guidelines before applying for a Compliance Certificate. Please refer to the Architectural Guidelines for additional clarification. Once the HOA has issued a Compliance Certificate, the Member may apply for an Occupation Certificate from the 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 from or relating to this Agreement shall be resolved in the High Court, Eastern Circuit Local Division, Thembalethu.

10. NO WAIVER

Any relaxation indulgence or waiver that the HOA may show to the Contractor will not 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 owing shall be construed as a waiver by the HOA of its rights under this Contract.

11. NO VARIATION

11.1. 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.

11.2. This Agreement and any Annexure initiated by the parties for identification constitute the whole Agreement between the parties.

12. PERSONAL LIABILITY

The Member 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 HOA MEMBER

NAME

SIGNATURE

WITNESS

WITNESS

OUBAAI HOMEOWNERS ASSOCIATION:

NAME

SIGNATURE

WITNESS

WITNESS

This is 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: _____

Please sign below to confirm that an HOA representative gave a general briefing on the Oubaai rules and regulations. As the primary contractor, I have read and understand all the Oubaai rules and regulations that will be implemented and applied by the Oubaai Homeowners Association.

Date: _____

Erf: _____

Signed by **Primary Contractor:**

NAME

SIGNATURE

WITNESS

WITNESS