



**ANNEXURE "D"**

**1 March 2023**

# **BUILDERS CODE OF CONDUCT**

## **ALTERATIONS AND ADDITIONS**

(Includes ALL changes to the *Exterior* part of a house, addition of pools, pergolas, windows etc)

### **UNDERTAKING BETWEEN OWNER, CONTRACTOR AND THE CHAPMAN'S BAY HOMEOWNER'S ASSOCIATION**

Member/Owner:

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Registration nr:

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Erf No:

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Contractor:

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Registration number:

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On behalf of the contractor:

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Identity Number:

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(Hereinafter referred to as the "Contractor")

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**1. DEFINITIONS**

The terms used in this Code of Conduct (herein after referred to as "The Code") shall be as defined in the Constitution of the Chapman's Bay Estate Homeowners' Association (herein after referred to as "The Association").

- 1.1 Owners and Contractors are reminded that Clause 9.10 of the Constitution allows for penalty levies, as determined by the Trustees Committee and payable to the Association, if a dwelling on the property is not completed within 3 (three) years from the date of transfer from the developer on the basis that construction of the dwelling should commence within 2 years from that date of transfer, and completed within 16 months from the date of commencement of such construction process, which shall be undertaken on a continuous basis, unless an extended time period is approved by the Design Review Committee, in its sole discretion, due to the complexity of the dwelling.
- 1.2 Any alterations and/or additions should be completed within 6 months.
- 1.3 A copy of the Constitution of the HOA is attached hereto marked as annexure "A" and will form part of this Code of Conduct

**Breach**

- 1.4 Penalty Levies over and above the Association's prevailing levy per property, per month, payable to the Association in respect of 1.1 and 1.2 above will be 1 times the prevailing levy per month until such time as a Completion Certificate is obtained from the Chapman's Bay Estate Management for the first year of noncompliance, thereafter 2 times the prevailing levy per month for the second year of noncompliance and thereafter 3 times the prevailing levy per month.

**2. PREAMBLE**

- 2.1 The purpose of this Code is to ensure integration between residential living and control over building activities within the Estate with minimal impact to the environment, hereinafter referred to as '**work**'). These terms and conditions of the Code of Conduct have been developed in terms of the best standard practice currently in place to achieve this goal. The Trustees Committee reserves the right to make amendments and additions to this document from time to time.
- 2.2 Members are bound jointly and severally with the relevant contractor by this Code of Conduct by virtue of their membership of the Association. It is however specifically recorded that the Builder's Deposit cannot be withheld by the Association if the retention thereof is solely as a result of any act or omission from the Member despite the Contractor fully complying with his obligations herein.
- 2.3 A contractor shall not be permitted to commence work on the Estate until such time as the Member has furnished the Association with a copy of the Builder's Code of Conduct, duly signed by the relevant building contractor. Upon such signature, the Builders' Code of Conduct shall constitute a binding agreement between the Association, the relevant contractor and the Member.
- 2.4 If the contractor is in partnership with another company and/or individual(s) (hereinafter referred to as "**Partners**"), the contractor in his personal capacity will together with its/his partners be liable for all the penalties incurred and will include a signed resolution to this agreement stating that all parties involved in the execution of this agreement will be liable to the HOA, jointly and severally, from date of signature to the completion of the work, in terms of this agreement.
- 2.5 The signatory on behalf of the contractor in the event of a company, Close Corporation or partnership will also be liable individually in his personal capacity jointly and severally together with the contractor and its/his partners and the member.
- 2.6 The member and contractor together with its partners will also be jointly and severally liable for all damages and/or penalties incurred by the contractor and/or any of its subcontractors and/or employees (even though the Code of Conduct only refers to the contractor)
- 2.7 The contractor must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992 or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this clause is a materials default which shall entitle the HOA to terminate this Agreement and the contractor will be barred from building on the estate.

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- 2.8 If the contractors fails to perform the duties as set out in this agreement and incurs debt or any other financial loss that causes any or all of the work, in terms of this agreement , to be paused or the completion thereof made impossible, the HOA attains the legal right awarded to it herein, to raise penalties against both the member on his levy account and the contractor, unit the work is completed.
- 2.9 In the event of a contractor’s failure to complete work on 1 (one) erf the contractor will be precluded from commencing work on another and/or adjacent erf. If said contractor has already commenced work on another and/or adjacent erf, then said contractor and/or builder will be liable for any debt or unpaid monies, that is due and payable, for the completion of the incomplete erf.
- 2.10 Copies of the following required pre-construction documentation must be issued to the Association before work can commence:
  - 2.10.1 Council Approved Building Plan. Printed A1 and electronic copy
  - 2.10.2 Proof of payment for all Pre-construction fees
  - 2.10.3 Site Plan indicating details of setting out site camp placement
  - 2.10.4 Proof that the induction manual and requirements for the environmental file have been received and understood and signed off by the Estate Manager prior to site access being permitted.
  - 2.10.5 **Breach**
  - 2.10.6 Should a contractor commence work before the pre-construction documentation has been delivered to the Association, the contractor will be fined R 2 000 per week and the HOA has a right to block the contractor and all its/his employees and/or agents from entering the estate. If the contractor is in breach, this clause/penalty will be implemented immediately, without any exceptions.

**3. PROTECTION OF PERSONAL INFORMATION ACT NO. 2 OF 2013 (POPIA)**

- 3.1 The parties agree to abide by and adhere to the POPIA and its amendments, at all times, as well as irrevocably agree and acknowledge that all information provided, whether personal or otherwise, may not be divulged and/or made use of and/or processed by the parties and/or its clients, employees, affiliated, holding, subsidiaries, companies, partners and/or shareholders, without his/her/it/their prior written consent.
- 3.2 Non-compliance with POPIA is an offence and in the event of a security compromise, either parties have to notify the Information Regulator (Ombudsman), as well as any parties whose personal information have been accessed or acquired by an unauthorised party.

**4. QUALIFICATION AND CONTRACTORS**

- 4.1 Only contractors who are registered and fully paid-up members of the NHBRC and who can furnish the Estate with at least 3 (three) references of prior building contracts will be allowed to build at the Estate.
- 4.2 Contractors are always responsible for their sub-contractors and employees whilst on the Estate. All building personnel must be restricted to their sites only. They should comply with all security measures imposed and be aware of the HOA Code of Conduct.
- 4.3 By signing this document, Owners and Contractors acknowledge that they comply with all Health and Safety requirements encapsulated in the Occupational Health and Safety Act and the Construction Regulations and indemnify the Association against any liability whatsoever and by whomsoever.

**5. RULES AND REGULATIONS**

- 5.1 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 impact to the environment is minimized by the house building operations yet allowing for efficient construction by contractors.
- 5.2 When a contractor is found to be in breach of the stated rules and regulations a penalty will be levied. The extent of the penalty is detailed below as per each rule and regulation . and the HOA will have the right to deny the contractor and its/his employees and/or agents from entering the estate. In the event that the contractor and/or its/his employees breach the estate’s rules and regulations on an ongoing basis the HOA has the right to place the contractor and/or any of its/his employees on a list and the contractor and/or any of its/his employees and/or directors may be barred from working in the estate in future on any other project within the estate.

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**5.3 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 the Construction Environmental Plan, to be revised from time to time. (See Construction Environmental Management Plan on [www.chapmansbay.co.za](http://www.chapmansbay.co.za))

**5.4 Environmental Education:**

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

**Breach**

5.4.1 Personnel who have not been briefed will not be allowed on the Estate.

**5.5 Limits of building activity:**

All activities relating to building, house alterations and/or additions must be confined to within the erf boundary where construction is taking place. However, if permission is obtained from the owner of the adjoining vacant erf, the site may be used for storage. It is the responsibility of the contractor to ensure that his personnel do not leave the confines of the erf.

**Breach**

5.5.1

- (i) Work by the contractor will be stopped by the Association until such time as the contractor's equipment has been moved to within the erf.
- (ii) The contractor will be fined R500 per transgression.

**5.6 Site presentation and spoiling of excess material:**

The contractor will be expected to always keep the appearance of his site neat and tidy. Building rubble and litter must be removed from the site by Friday of each week. Refuse drums or mini skips must be supplied for the purpose of storing litter until removed from site. Building rubble, litter and sand must at all times be neatly covered by shade netting **in one designated area**. No litter may be stored or mixed in amongst building rubble and/or sand. No material or building rubble shall be spoiled on the estate. Any litter/builders refuse within a 15m distance from all erf boundaries will be removed by the builder on that erf. No building rubble is to be buried on site or used as backfill material.

**Breach**

5.6.1 Should a builder fail to comply with the removal of building rubble and litter within a timeframe specified by the Estate's Building Controller, the rubble will be removed by an outside contractor. The costs thereof shall be paid by the Association and deducted from the Builder's Deposit. In addition to this the contractor will be fined R1000 per offence.

**5.7 Cleaning of vehicles / equipment:**

The washing of contractor's vehicles and equipment will not be allowed on the Estate and must be carried out elsewhere.

**Breach**

5.7.1 The contractor will be fined R500 per offence.

**5.8 Fires:**

No fires will be allowed on any part of the Estate. The contractor is to provide fully operational fire extinguishers which are to be always on site.

The contractor agrees to conform with all conditions set out in the Veld Fire Management Plan. (See Veld Fire Management Plan on [www.chapmansbay.co.za](http://www.chapmansbay.co.za)) and acknowledge receipt of and understanding of the Plan by his signature hereto.

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**Breach**

- 5.8.1 (i) The contractor will be fined R 1 000 per offence.
- (ii) The contractor will in addition be held legally and financially responsible for any damage caused by the breach of this regulation.

**5.9 Smoking & Liquor:**

No smoking will be permitted on the estate except in a designated smoking zone which must be within a five-meter radius of a portable fire extinguisher and a bin half filled with sand must be used for cigarette butts.

No liquor or drugs will be consumed or allowed on site at any time. (See Veld Fire Management Plan on [www.chapmansbay.co.za](http://www.chapmansbay.co.za))

**Breach**

- 5.9.1 The contractor will be fined R100 per offence.
- 5.9.2 The contractor will be fined R100 per offence should cigarette butts be found lying on or around a building site.

**5.10 Ablution facilities:**

The contractor shall provide temporary water-born or chemical toilets situated on the site for the use of their employees for the duration of the building period including, additions /alterations period. The toilet must be situated as discreetly as possible, kept level and the door should be fastened at all times. (See Construction Environmental Management Plan on [www.chapmansbay.co.za](http://www.chapmansbay.co.za))

**Breach**

- 5.10.1 (i) The contractor will be denied access to the Estate until such time as this regulation is complied with.
- (ii) In addition, the contractor will be fined R500 per violation.

**5.11 Screening of Building Sites:**

- 5.11.1 The building site shall be screened off by shade netting with the following specifications: 1700mm high (80% Green – Supplied by Knittex) fixed with 22mm x 44mm pine strips to 79mm x 125mm x 3000mm CTC gum poles. (40% shade cloth acceptable given high wind damage.)
- 5.11.2 Gum Poles to be planted securely.
- 5.11.3 Net to be kept in position with 3 horizontal, evenly spaced strands of 2.5mm wire.
- 5.11.4 Where permission has been granted for neighbouring sites to be used (see clause 4.3 above) these sites must also be screened off.
- 5.11.5 The prescribed shade netting must be always maintained.
- 5.11.6 A 6m wide gate constructed of the same netting material will be permitted but must be closed and secured properly after hours.

**Breach**

- 5.11.1.1 The contractor will be fined R 2 000 per week until such structures are in place.

**5.12 Hours of work:**

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

**Normal Working days 07:00 to 18:00**

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**Breach**

- 5.12.1 (i) Contractors will be escorted from the Estate by security during private times.
- (ii) In addition, the building contractor will be fined R500 per transgression.

**Breach**

5.12.3 As for 5.12.1.1 above.

**5.13 Vehicle Sizes Allowed, Roadworthiness and Parking:**

Due to the road surfacing and limited road widths and radii the following restrictions are placed on any vehicle entering the Estate:

- (i) Only fixed axle design vehicles will be allowed.
- (ii) Maximum length = 9.1m
- (iii) Maximum width= 2.6m
- (iv) Maximum gross mass = 20,000kg
- (v) Maximum axle weight = 8,000kg

Due to the steepness of certain roads, all heavy vehicles must use wheel blocks when parked. All vehicles entering the estate must be in possession of a vehicle roadworthy certificate.

**Breach**

- 5.13.1 Vehicles larger than above will be denied access to the Estate by the Association. If a vehicle is found not to be in possession of a valid roadworthy certificate the vehicle may be banned from entering the Estate.
- 5.14 Deliveries to Contractors
- 5.14.1 Contractors will at all times be responsible for the compliance of delivery personnel with the contents of this Agreement.

**Breach**

5.14.1.1 The contractor will be fined R500 per offence.

**5.14.2 Concrete deliveries**

Washing of premixed concrete delivery vehicles must take place within the confines of the building site and spillage and run-off contained within the site. Under no circumstances may concrete be spilled onto the road surface or outside the erf. The contractor will be held responsible for the repair to the road and/or rehabilitate vegetation if this occurs.

**Breach**

5.14.2.1 The contractor will be fined R 1 000 per offence and, in addition, will be held liable for the costs of repairing all and/or any damage caused by the breach of paragraph 4.14.2.

**5.15 Storage Sheds/Huts:**

The contractor will be allowed to erect storage sheds/huts within the boundaries of the site, to a maximum height of 2,4m high x 6m long containers. These may be placed on an adjoining vacant erf so long as

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permission has been granted in writing by the owner of that erf. The position of such structures must be indicated on the site diagram which must be approved by the Association in terms of item 4.17 (i) below.

**Breach**

5.15.1 The contractor will be instructed to remove any structures that do not conform to this regulation and will be fined R250 per day until he complies.

5.16 **Speed Limit and Safe Driving**

For security and safety reasons the speed limit on the Estate for all contractors' vehicles is 30km/h. The contractor shall ensure that his employees, sub-contractors, and delivery vehicles adhere to this rule. No staff shall sit on the edges of load boxes of a LDV or stand on the towbar hitches of vehicles when in motion. The speed shall be at the sole discretion of the Building Controller and/or the Estate Manager and/or Assistant Estate Manager

**Breach**

5.16.1 The contractor will be issued with a warning for exceeding the speed limit between 30 to 35km/h. A fine amount of R250 will be issued for exceeding the speed limit between 36 to 40km/h. A fine amount of R500 will be issued for exceeding the speed limit between 41 to 45km/h. A fine amount of R750 will be issued for exceeding the speed limit between 46 to 50km/h. A fine amount of R1500 will be issued for exceeding the speed limit by more than 51km/h. Repeat offenders will be denied access and could be banned permanently from the estate. Other breaches relating to standing on towbars etc., if the same driver allows staff to breach this regulation more than twice, the driver will be banned from driving on the Estate.

5.17 **Building Plan Controls:**

5.17.1

- (i) The contractor must ensure that the signed approved building plan is always available for inspection by the Association's representative.
- (ii) Any variations, alterations and/or additions to the approved building plan must be notified to the Association, approved by the Chapman's Bay Estate Design Review Committee, and approved by the Municipality.
- (iii) The Completion Certificate may be completed thereafter and certifies that the building, alterations and/or additions to the house comply with the approved plan as adequately assessed by the Chapman's Bay Estate Design Review Committee and approved by the Municipality. When this has been satisfactorily completed, the builder's deposit less any amount due can be repaid.
- (iv) A temporary Completion Certificate may be issued if a Rider Plan has been approved by the Estate Design Review Committee and submitted for approval to the to the Municipality.
- (v) Construction undertaken without approved plans will not be allowed and the Contractor asked to cease construction immediately. Construction with an approved plan and a notified variation to the Association will be permitted to continue unless the variation is clearly in violation of the Estate Architectural Guidelines.

**Breach**

5.17.2

- (i) The contractor will be R 500 for not having a signed and approved building plan available.
- (ii) The contractor may be required to remove and/or rectify any structures and/or architectural elements that do not, in the sole discretion of the Building Control Officer, conform to the approved plans or variations in conflict with the Architectural Guidelines.

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- (iii) Occupation of the house in question will be denied until the Occupation Certificate or Certificate of Use has been received by the Association. A fine of R 2 000 will be levied on the owner per week from the date of occupation if early occupation is taken up.
- (iv) Construction undertaken without an approved plan: Fine payable will be R 2 000.

**5.18 General Controls:**

One representative of each contractor is expected to attend a meeting at a place designated by the Estate Management to discuss general issues relating to work on the estate, when required.

**Breach**

- 5.18.1 The contractor will be fined an amount of R500 for not attending the site co-ordination meetings.
- 5.19 Roads and Road Verges:
  - 5.19.1 Contractors must ensure that the road in front of the erf is at all times kept clean. This is to minimize damage and ensure longevity of the brick road surface.
  - 5.19.2 Contractors must ensure that the curbs and sidewalks in front of their site are adequately protected from damage by the building operations.
  - 5.19.3 The contractor shall ensure that all building materials are stored on the site. Special permission may be obtained from the Association to neatly store material on the road verge directly in front of the building site.
  - 5.19.4 The contractor is liable to ensure that any oil spills caused to roads by either their own or delivery vehicles to their construction sites are remediated to the satisfaction of the Estate Manager.

**Breach**

- 5.19.5
  - (i) The contractor will be fined per offence for unclean roads.
  - (ii) The contractor will be held financially and legally responsible for the damage to road surfaces and curbs caused through his building operations.
  - (iii) The contractor will be fined R500 per offence.

**5.20 Stoppage of Building Activities**

- 5.20.1 These regulations apply to any form of stoppage of building activities, such as builders' holidays, insolvencies of owner and/or builder, municipality-ordered stoppages, stoppages ordered by the Association, disputes between owner and builder, any other disputes, etc.
- 5.20.2 The building site must be left in an orderly and secure state. All building materials must be placed within the site itself, all containers and toilets must be locked, all gates must be closed, and, where possible, access should be made difficult.

**5.21 Suspensive Condition**

The parties to this agreement want to have the following condition and statements added to this agreement:

- 5.21.1 The parties agree that they are both in their right-mind and therefore capable to enter into this agreement.
- 5.21.2 The contractor agrees to work being done on the Estate and Owner of the Estate agrees to work being done.
- 5.21.3 The sale is conditional to an occurrence, being that the contractor completes the work as agreed in this agreement.

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5.21.4 The work will commence on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ and be completed on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

5.21.5 If the work is not completed by close of business on the date specified above, the contractor will be in breach of the contract.

Breach of Clause 5.21: penalty

5.21.1 The contractor will be fined a penalty levy equivalent of 1 (one) month’s presiding general levy, at the time for every month or pro-rate thereof, if the work is not completed on time, whereafter the work must be completed, as agreed, and/or;

5.21.2 The Estate and/or its representative(s) can cancel the agreement, after giving 14 (fourteen) days written notice to the contractor and thereafter be entitled to recover damages

**6. MONTHLY BUILDING MANAGEMENT LEVY**

**6.1 Building Levies:**

To cover expenses in the administration and control of the building, alterations and/or additions process, each building contractor will be levied an amount equivalent to the Association’s prevailing levy per house per month payable to the Association until such time as a Completion Certificate or Temporary Completion Certificate is obtained from the Chapman’s Bay Estate Management. The Chapman’s Bay Estate Management will not withhold such certificate unreasonably. If minor items are outstanding and there is a signed agreement between the Association, the Owner and the Contractor with the Owner and Contractor assuming joint liability to complete same within a reasonable time, then consent will not be withheld. Should this agreement not be met then building levies will be reinstated retrospectively and billed to the Owner. Builders’ levies are invoiced monthly in advance and need to be settled by the 7<sup>th</sup> of each month. Any arrear levy amounts will be collected at that time.

**Breach**

6.1.1 Failure to pay levies timeously will result in the levy being deducted from the Builder’s Deposit and/or access denied to the Estate.

**6.1.2 Breach**

6.1.3 Failure to pay levies timeously will result in immediate access being denied to the Estate and interest will be levied on the outstanding amount from time to time at the prime interest rate plus 2% from date of default until the outstanding amount has been settled in full.

**7. PAYMENT OF FINES**

7.1 Outstanding fines will be payable on a monthly basis. The HOA reserves the right, if fines are unpaid, to request the contractor to “top up” the builder’s deposit to the original amount required at any time. Should a contractor dispute a fine levied by the Association he shall lodge his objection giving reasons for disputing the fine within 5 (five) working days of receipt of the notification of the fine. The dispute will be referred to the Trustee Committee for adjudication and the Trustee Committee’s decision will be final and binding. During the period of the dispute adjudication process, the contractor will not be denied access to the Estate.

**7.2 Breach**

7.2.1 In the event of the contractor failing to acknowledge or comply with the stipulations in 6.1 he/she will be denied access to the estate and interest will be levied on the outstanding amount from time to time at the prime interest rate plus 2% from date of default until the outstanding amount has been settled in full.

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**8. FORCE MAJEURE**

8.1 Neither party will be liable for any delay or failure in his/her/its performance under this agreement caused by events beyond the reasonable control of the party, including without limitation, terrorism, war, riots, labor strikes, interruption of utility services, fires, floods, earthquakes, **pandemics**, rebellion, revolutions and other natural disasters, in any country and beyond the reasonable control of the parties, provided that: -

- (i) the non-performing party is without fault in causing such default or delay; and;
- (ii) such default or delay could not have been prevented by reasonable precautions; and;
- (iii) such default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources or other means.

**9. NO CHANGE, MODIFICATION OR WAIVER**

9.1 No change, modification or waiver to this agreement will be effective unless in writing and signed by all the parties.

**10. RIGHTS AND REMEDIES CUMULATIVE**

- 10.1 Any enumeration of rights and remedies set forth in this agreement is not intended to be exhaustive. Any party's exercise of any right or remedy under this agreement does not preclude the exercise of any right or remedy.
- 10.2 All rights and remedies are cumulative and are in addition to any other right or remedy set forth in this Agreement, any other agreement between the parties, or which may now or subsequently exist at law or In equity, by statute or otherwise.

**11. INTERPRETATION**

11.1 This Agreement must be construed as if drafted jointly by the parties after meaningful negotiations. Any rule of construction that a document is to be construed against the drafting party may not be applied to this agreement.

**12. SUCCESSORS AND ASSIGNS**

12.1 This Agreement is binding on and is for the benefit of the parties to it, and it/their heirs, administrators, successors, and permitted assignment.

**13. BREACH**

Should either party breach any of the terms and conditions of this agreement, then the aggrieved party shall be entitled forthwith, if the defaulting party has failed to remedy such breach within a period of 14 (fourteen) days after receipt of written notice by the aggrieved party requiring to do so, to cancel this agreement against the defaulting party or to claim immediate payment and/or performance by all the defaulting party's obligations whether or not the due date for payment and/or performance shall have arrived, in either event without prejudice to the aggrieved party's right to claim damages or any other rights as the aggrieved party may have at law.

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Notwithstanding any other thing to the contrary, neither party shall be liable to the other for any indirect or consequential losses. All legal cost and/or fees shall be paid by the non-prevailing party on an Attorney and Client Scale.

**14. APPLICATIONS AND PRAYERS OF RELIEF**

Any person may make an application if such person is a party to or affected materially by a dispute, in terms of Chapter 3, Section 28 and 29 of the Community Scheme Ombud Service Act No.9 of 2011 (the 'Act').

Should it not be possible to settle the dispute(s), in terms of the Act, it may be settled in the appropriate Magistrate's Court of South Africa. The parties agree to the Jurisdiction of the Magistrate Court of Cape Town, Western Cape, to hear all dispute(s) and/or matters between the parties.

**15. NOTICE**

15.1 All legal and other notices or communications served and/or delivered pursuant to this agreement must be in writing and will be deemed effectively served and/or delivered upon the earlier to occur of actual receipt or:

- (i) upon personal delivery to the party to be notified;
- (ii) when sent by confirmed electronic mail if sent during normal business hours of the recipient, if not, then on the next business day;
- (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or;
- (iii) one (1) day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications must be sent to the respective parties at the addresses in clause 15 of this Agreement (or at such other addresses as may be specified by notice given in accordance with this clause).

15.2 The parties agree to email as it/their preferred manner of serving and/or delivery of all notices in this agreement.

**16. DOMICILIUM CITANDI ET EXECUTANDI**

16.1 The parties hereby nominate their respective address for servicing and/or delivery of all notices at the addresses set out in clause 19, below.

**17. COUNTERPARTS**

17.1 This Agreement may be signed by facsimile or electronic signature in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument.

17.2 The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart by electronic transmission in pdf format or by electronic mail (or any similar technology) is as effective as delivering the original.

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**18. ENTIRE AGREEMENT**

- 18.1 This Agreement constitutes the entire agreement, together with all Annexures, between the Parties, and supersedes any other agreements, representations, or understandings (whether oral, written, express, or implied) that contradicts the subject matter of this agreement(s).
- 18.2 The parties record that it shall not be necessary for the parties to initial each page of this agreement for this agreement to be effective, valid, and enforceable, provided that the parties fully sign the signature page(s) of this agreement.
- 18.3 The omission of initials to each page of this agreement shall in no way render this agreement invalid or unenforceable. All terms of this agreement that by their nature would survive termination or expiration do survive.

**19. ACKNOWLEDGEMENT AND CERTIFICATE OF UNDERTAKING**

Erf No: \_\_\_\_\_

**CONTRACTOR:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**OWNER:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Cell phone:** \_\_\_\_\_

**Email address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Cell phone:** \_\_\_\_\_

**Email address:** \_\_\_\_\_

**I/we, the undersigned, do hereby:**

1. Acknowledge and confirm having read and understood the Builder's Code of Conduct (herein after referred to as "The Code") of Chapman's Bay Estate Homeowner's Association, a copy of which is initialled by the undersigned and;
2. Irrevocably undertake to comply with each and every rule and regulation as set out in the Code as may be applicable to a contractor, the contractor's sub-contractor, supplier, service provider and/or any person and/or any entity undertaking work or services for and/or on behalf of the contractor at and/or on any premises situated within and/or on the Chapman's Bay Estate (hereinafter referred to as "The Contractor's Agents");
3. Irrevocably undertake to pay all fines and/or any of the fines levied by the Chapman's Bay Estate Homeowners' Association (hereinafter referred to as "The Association") against the undersigned for and/or in respect of any breach and/or transgression made by the undersigned as contemplated and/or provided for in this Code of conduct which fines will be deducted from the builder's deposit on completion of the project;

Initials: 

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Owner                      Builder                      HOA                      Erf No.

- 4. Irrevocably indemnify and hold the Association and/or the individual owners of property comprising the Chapman's Bay Estate (hereinafter referred to as "the Owners") harmless against all loss, liability, damage, and/or expense (including without limiting the generality thereof, any claims which may be brought against the Association and/or the Owners or any Owner) which the Association and/or the Owners may suffer as a result of the contractor and/or the Contractor's Agents presence on Chapman's Bay Estate and/or any building operations being conducted by the contractor on Chapman's Bay Estate and;
- 5. Acknowledge that it/he/she, together with any of it/his/her employees, sub-contractors and/or service providers may be denied access to Chapman's Bay Estate should it/he/she not pay any levies and/fines due to the Association timeously.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Witness

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Owner Signature

\_\_\_\_\_  
Witness

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Association's Signature

\_\_\_\_\_  
Witness

Initials: 

Owner	Builder	HOA	Erf No.

## PRE-CONSTRUCTION PAYMENTS FOR ALTERATIONS & ADDITIONS

### SCRUTINY FEES OF BUILDING PLANS

(Applicable to new homes, Alterations and Additions)

- MAJOR ALTERATIONS AND ADDITIONS (value of alterations R50,000 and above) R 1,500
- MINOR ALTERATIONS AND ADDITIONS (value of alterations below R50, 000) R 500

1. **Builder's Deposit:** R 10,000

Note: This Deposit or balance thereof will be refunded upon the issue of a Completion Certificate (For fines, refuse removal, repair of damaged infrastructure and any required restoration of the Verge)

2. **Monthly Fees (2022/2023)**

- a. **Builder's levy payable per month** R 3,667
- b. Where the construction period exceeds that of 6 months, pro-rata Builder's levies will be charged and if required, deducted from the Refundable Construction Deposit in (1) above

**TOTAL** R13,667

### Banking Details:

**Account Name:** Chapman's Bay Estate HOA  
**Bank:** Standard Bank  
**Account Number:** 072694750  
**Branch Code:** 031110  
**Reference:** Erf No \_\_\_\_\_

Initials:

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Owner

Builder

HOA

Erf No.

**POWER OF ATTORNEY**

I/we the (Registered the registered owner)

\_\_\_\_\_

ID: \_\_\_\_\_

the undersigned, nominate/ appoint my agent Mr./ Mrs:

\_\_\_\_\_

with the power of substitution to be my/our legal agent in my/our name/place and stead to apply for  
Erf: \_\_\_\_\_ and in general to effect the application and to do whatever I/we would do if I/we were present in person and acting in that matter; and we hereby ratify, allow and confirm promise and agree to ratify, allow and confirm everything my agent may do or may permit to be done legally in terms of this power of attorney:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Initials:

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Owner

Builder

HOA

Erf No.



### NEIGHBOUR(S) CONSENT

ERF NO: _____	Date _____
<b>TO WHOM IT MAY CONCERN</b>	
I/We, _____ owner of	
Erf _____ hereby grant permission to _____	
owner of Erf _____ to store building material on my stand for the duration of the construction of his/her house subject to the following conditions:	
<ul style="list-style-type: none"><li>• Under no circumstances may concrete be mixed on my site.</li><li>• to remove any material within 2 (two) weeks' notice and at own expense;</li><li>• to leave my stand in a clean and neat condition when building construction has been completed and to do so within 1 week after completion.</li></ul>	
Signed at : _____ on the _ of _____ 20	
SIGNATURE :	

Initials:

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Owner

Builder

HOA

Erf No.

ERF.

APPLICATION FOR REPAYMENT OF BUILDER DEPOSIT

**PART 1** DECLARATION BY OWNER

I herewith declare that:

- 1) Building activities have been completed in terms of the approved plan.
- 2) All rubble has been removed from the premises.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**PART 2** REPAYMENT OF DEPOSIT

Surname
ID
Address
Tel no.

**Banking details:**

Name Acc.
Bank
Acc. No.
Branch Code
Type Acc.
Fax no.

FOR OFFICIAL USE

**PART 3** PARTICULARS OF DEPOSIT REPAYMENT

Deposit	
Deductions Fines	
Balance paid	

**PART 4** INSPECTION

**REPORT**


\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Initials: 

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Owner      Builder      HOA      Erf No.

## **ANNEXURE “B”**

### **GREEN CORRIDORS AND VERGES HOA METHOD STATEMENT AND AGREEMENT**

#### Green Corridors/Verges:

In accordance with the Home Owner’s Code of Conduct, Point 5.4:

“All Member/Residents must maintain the road verge (road reserve directly alongside their erf boundaries) in a neat and tidy state always and shall be required to re-instate landscaping to the verge if destroyed or damaged during any form of construction on the property.”

In order to avoid unnecessary delays in finalising builder levy deductions this agreement provides a process and Method Statement to be followed.

- This agreement will ensure that planting will be done and completed within 6 months (rain dependent) after completion of the residence.
- The Certificate of Completion will be finalised post completion of construction and will not be delayed by the process of re-instating landscaping to the verge, if destroyed or damaged during construction, as stated in Clause 5.4 above.
- Failing to complete the restoration and rehabilitation of the green corridor and verge within the six (6) month period (rain dependent) will trigger the reinstatement of penalty levies. Method

#### Statement

- Plants to be used are to be strictly as per the approved list, planted in a fashion in keeping with the natural appearance of the current verges and the way nature grows.
- No formal lines and planting of block species will be permitted.
- As an eco-estate, it is of utmost importance that the landscape be as natural as possible.
- Ground modelling in these areas is to be discussed with the Estate Manager and/or Environmental Consultants prior to the planting process.
- Excess soil from the cut and fill construction process is to be removed from site.
- It is required that plants be apportioned as follows:
  - 10% of the verge and green corridor be comprised of trees or 10% tree-like shrubs or 30% shrubs
  - 50% low-shrub/groundcovers
- Mulching is a requirement to ensure that the sand is stabilised giving plants a chance to grow and seeds in the soil a chance to germinate.

Initials:

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Owner

Builder

HOA

Erf No.