

Cape St. Martin

PRIVATE NATURE RESERVE

(BRITANNIA BAY)

CONTRACTOR'S CODE OF CONDUCT

(March 2014)

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1. PREAMBLE

Code of Conduct for Builders/Contractors.

The purpose of the Contractor's Code of Conduct is to facilitate the implementation of these requirements over any person or entity engaging in construction and related activities at Cape St Martin Private Nature Reserve. Any party engaging in such activities is obliged to comply with the Contractor's Code of Conduct and to acknowledge acceptance and to sign agreement thereto prior to the commencement of any work. This document forms an addendum to the Cape St Martin Home Owners' Constitution and is to be read in conjunction with documents pertaining to:

- Conduct Rules;
- Architectural Design Guidelines (Incorporates Plant List);
- Any other rules and regulations Cape St Martin's Home Owners' Association may issue from time to time.

The latest versions of the above are available on request from the ASSOCIATION / RESERVE MANAGER.

The Trustees of the ASSOCIATION reserve the right to make amendments and/or additions to the Contractor's Code of Conduct as they deem fit.

2. PARTIES

The parties to this agreement are:

- 2.1 The Cape St Martin Home Owners' Association;
- 2.2 The person/partnership/company/close corporation/trust (as applicable) recorded as the Owner in the Signatories and Records attached hereto;
- 2.3 The person/partnership/company/close corporation/trust (as applicable) recorded as Contractor in the Signatories and Records attached hereto;

The parties agree as set out below.

3. INTERPRETATION

- 3.1 The Table of Contents and clause headings are for convenience and shall be disregarded in construing this Agreement.
- 3.2 Unless the context clearly indicates a contrary intention:
 - The singular shall include the plural and vice versa;
 - A reference to any one gender shall include the other gender;
 - A reference to natural persons includes legal persons and vice versa.
- 3.3 Words and expressions defined in any sub-clause shall, for the purpose of the clause to which that sub-clause forms part and in subsequent clauses, unless inconsistent with the context, bear the meaning assigned to such words and expressions in such sub-clause.
- 3.4 When any number of days is prescribed in this Agreement, the same shall be

reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

- 3.5 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 3.6 If any provision of this Agreement is in conflict or inconsistent with any Law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 3.7 If any provision in a definition in the Agreement is a substantive provision conferring rights or imposing obligations on any of the parties hereto then, notwithstanding that it is only in the definition clause of this Agreement, effect shall be given to it as it were a substantive provision in the body of this agreement.
- 3.8 The Schedule and annexures to this agreement are deemed to be incorporated in and form part of this agreement.

4. DEFINITIONS

In these Rules, unless the context indicates a clear contrary intention, the following words and expressions have the meaning:

Agreement means this Agreement and any annexure/s thereto.

Approved Building Plans means building plans as defined under Building Plans which have been formally approved by the Architectural Committee and the Local Authority for construction.

Architect means the firm of architects appointed to carry out the design of the Works.

Association means CAPE ST MARTIN HOME OWNERS' ASSOCIATION established for the management of all aspects of the Private Nature Reserve known as Cape St Martin.

Architectural Guidelines means the Cape St Martin design guidelines prepared for the Development. All designs shall strictly comply with the guidelines as set down, which may be amended from time to time in compliance with instructions and revisions issued by the relevant authority, or improvements and clarifications set down by the Association.

Building Plans means drawings and specifications for the construction of any new structure, as well as any alterations, additions or renovations thereto, and for the erection of any ancillary structure such as, but not limited to, fencing, walling, retaining structures, pergolas, carports, swimming pools and the laying of paving or landscaping of gardens. Building Plans must carry final approval of Architect.

Building Site means any property in Cape St Martin on which building activities take place.

Construction Vehicle means any vehicle used by the Contractor, his sub-contractors, suppliers or agents in the process of construction, and shall include motor cars, LDV's, trucks, compressors, excavation plant, cranes and the like.

Contractor is any person who engages in the process of the construction/erection or provision of services related to new dwellings, the alteration, addition or renovation to existing structures, the erection of fencing, walling, retaining structures, pergolas, carports, swimming pools, the laying of paving and landscaping of gardens, etc., and shall include sub-contractors, suppliers or agents employed by the party who has contracted to provide such services on behalf of an Owner or a Resident.

The Cape St Martin Private Nature Reserve (hereafter 'The Reserve') shall mean the Area previously known as Portions 6 & 7 of the Farm Cape St Martin No 6 excluding the Public Road;

Controlling Architect: – Architectural Practice appointed for a period of 12 months to be a member of the Architectural Committee.

Erf or Erven means any erf or erven resulting from any subdivision of the Reserve.

External Practical Completion Certificate is the certificate issued by the Controlling Architect certifying that the site levels are satisfactory and that the dwelling complies with the plans approved and that landscaping may commence.

External Works Completion Certificate means the certificate issued by the Controlling Architect after the landscaping and all other site works have been satisfactorily attended to and made good.

Health and Safety Act means the Occupational Health and Safety Act, No 85 of 1993.

Local Authority means the Saldanha Bay Municipality.

Neighbour means any Resident adjacent to a Building Site, whether separated by an adjacent vacant Erf or not.

NHBRC means the National Home Builders Registration Council.

Owner means the registered owner of a single residential property in Cape St Martin Private Nature Reserve, and the party who has entered into a building contract with the Contractor.

Reserve Manager means the Trustee Committee representative responsible for ensuring building controls as per this document.

Resident means any person residing in Cape St Martin, whether an Owner or a tenant, or a member of the household or a visitor of an Owner or a tenant.

Schedule means any annexure herein listed under the heading "SCHEDULES" which forms part of this Agreement.

Vehicle means any mode of transport, whether for private or construction use, including but not limited to a motorcar, motorcycle, LDV, truck, caravan, golf cart, quad bike, caravan, trailer or boat.

Works means any construction related outcome of activities related to the construction/erection of new dwellings, public or utility structures, the alteration, addition or renovation to existing structures, the erection of fencing, walling, retaining structures, pergolas, carports, swimming pools, the laying of paving and landscaping of gardens, and the like.

5. CONTRACTOR QUALIFICATION

5.1 Qualification of Contractors

Contractor shall comply with the following minimum requirements:

- 5.1.1 Be a member in good standing of the Master Builders Association, Western Cape.
- 5.1.2 Be registered with the NHBRC and within the limit of building units allowed to be constructed in terms of such registration, and to submit proof that any non-compliances issued by the NHBRC inspectorate to the Contractor have or are in the process of being rectified.
- 5.2.3 Be registered in terms of Workers Compensation requirements.
- 5.2.4 Be compliant with the local Building Bargaining Council conditions and, where applicable, registration.
- 5.2.5 Sign a letter of undertaking to comply with the conditions of this agreement and all conditions, statutory or otherwise, related thereto.
- 5.2.6 Provide proof that adequate insurance is or can be provided, including Contractors All Risk cover equal to the value of the building work plus 10%, Public Liability cover of R10,000,000 (Ten million rand), SASRIA cover, and fully comprehensive motor Vehicle insurance for Vehicles gaining access to the Development Site.
- 5.2.7 Provide credentials of the company principal and the responsible person/site agent.

6. GENERAL COMPLIANCE

6.1 General Requirements and Reserve Rules

6.1.1 Architectural Guidelines

The Contractor and Owner undertake that throughout the process of construction they will not knowingly deviate from the provisions of the Architectural Guidelines. The Association reserves the right to amend these guidelines from time to time, and undertakes to keep the relevant parties informed of such updates in writing.

- 6.1.2 Precedence Documentation controlling the design and building process have priority in the following order: the Architectural Guidelines; this Agreement; the building contract concluded between the Owner and the Contractor. Where provisions in the documentation are in conflict, the higher order document will take precedence.

6.1.3 No variation

The Contractor shall, in respect of the improvements, at all times work strictly in accordance with the provisions of the approved plans or approved variations thereof as submitted and approved in terms of the Architectural Guidelines and by the Controlling Architects and the Local Authority, and the Contractor shall in no way deviate from such provisions and approvals.

6.1.4 Co-operation

The Owner undertakes to co-operate fully with the Contractor, the Architect and the Association to ensure compliance with the spirit and intent of this Agreement. The Owner acknowledges that he has employed the Contractor and is responsible to ensure compliance with this Agreement, the Architectural Guidelines and any rules made in terms thereof from time to time.

6.1.5 Action against non-compliance

The Association reserves the right to take action against parties who do not comply with the requirements of this Agreement. This action shall include but not necessarily be limited to the imposition and levying of penalties and fines, removal of personnel from the building site, barring of personnel or companies from Cape St Martin, or legal action.

6.1.6 Penalties and fines

(i) A Contractor or sub-contractor in breach of the provisions and regulations set down in terms of this Agreement may have penalties and fines imposed and levied against them in terms of the Schedule included under ANNEXURE A of this Agreement.

(ii) An Owner in breach of the provisions and regulations of this Agreement and/or the other documents referred to in the pre-ambles above, may have penalties and fines imposed and levied against them as more fully set out in ANNEXURE C of this Agreement.

Penalties and fines are payable immediately upon the issuing thereof in writing, and the offending party will be denied access to the Site pending payment thereof.

The party upon whom a penalty or fine has been imposed in terms of this Agreement may, after payment thereof, appeal against the decision in writing to the Association within 7 (seven) days of the issuing of such penalty. Such appeal must be accompanied by a detailed report stating the grounds for the appeal. On receipt of an appeal, the Association will instruct the Architectural Committee to conduct an investigation of the incident within 21 (twenty one) days, and to submit a written report to the Association with a recommendation. The Association shall issue its final decision within 7 (seven) days after receipt of the Architectural Committee's report and recommendation. The subsequent decision by the Association shall be final.

6.1.7 Privacy and rights of residents

The Contractor shall ensure that building activities are performed in a manner that will not cause damage to neighbouring property and with

a minimal disturbance or inconvenience to Neighbours. This includes noise, dust and waste control, and the careful storage of materials. Where building activity takes place immediately adjacent to an existing dwelling, the Contractor shall make every possible effort to respect the privacy of the Neighbours, including the provision of adequate screening opposite window and door openings of the adjacent property, in accordance with clause 8.9.

6.1.8 Working hours

Working hours and hours for the delivery of materials are set as follows:
Monday – Friday: 07h00 to 18h00

The Contractor shall plan his work that adequate time is allowed for daily closure to ensure that personnel are off the Site by the close-of-work time stipulated.

The Contractor may submit a written request to the RESERVE MANAGER for permission to work outside of these standard working hours. Such request must be lodged with the Reserve Manager at least 2 (two) working days prior to the intended extra work period and shall include a detailed schedule of the scope of works to be undertaken.

No work or deliveries shall be permitted on Sundays, public holidays, and the period between 16 December and 2 January (both days inclusive).

6.1.9 Reserve communal and private facilities

The Contractor shall not make use of any of the Private Nature Reserve communal or private home facilities, such as water supply points, ablution facilities, rest places, etc.

6.1.10 Lunch and tea breaks

Personnel shall not leave their area of work for lunch or tea breaks.

Where a Contractor is building a number of units in close proximity to each other a common eating area may be established, provided that it is located on a Building Site under the control of the Contractor.

6.1.11 Fires and fireworks

No explosives, crackers, fireworks or items of similar nature may at any time be exploded, lit or operated on any part of the Private Nature Reserve.

6.1.12 Liquor, illegal substances and firearms

Liquor, illegal substances and firearms are not permitted on any part of the Private Nature Reserve.

6.1.13 Watchmen

No Contractor, watchmen or employees will be allowed to remain on site outside of working hours. Only watchmen from approved Security Companies will be allowed.

6.1.14 Vehicles

Due to the road surfacing, limited road widths and radii, the following restrictions are placed on Vehicles entering the Reserve.

Only non-articulated Vehicles without trailers of the following specifications will be allowed:

Maximum length: 9,1m

Maximum width: 2,6m

Maximum gross mass: 20,000kg

Maximum axle weight: 8,000kg

Only roadworthy, licensed Vehicles will be allowed onto the Reserve.

Vehicles may not be parked in such a position that they cause an obstruction to other road users.

6.1.15 Deliveries - General

When placing orders, the Contractor is to ensure that the supplier includes the Erf number on the delivery note.

Once a delivery is completed, the Contractor is to ensure that delivery Vehicles leave the Private Nature Reserve immediately.

The Contractor will pre-brief delivery Vehicle drivers on the rules governing deliveries.

Contractors will at all times be responsible for delivery Vehicles and attendant personnel while on site.

All delivery Vehicles are subject to Vehicle size restrictions regulations.

All deliveries will be limited to the times as defined under clause 6.1.8.

Deliveries to the Building Sites will only be permitted from the street frontage of the site.

The Contractor's appointed responsible person must be in attendance to receive and supervise deliveries to the site, and take responsibility therefore.

6.1.16 Deliveries – Heavy duty

This includes, but is not limited to, the delivery of ready-mix concrete, bricks and pavers, pre-cast concrete slabs and roof trusses.

Heavy duty deliveries have the potential of causing serious damage to the road surfacing, kerbs and verges, and vegetation. It is therefore important that these deliveries are conducted with due care.

Drivers of heavy duty delivery vehicles must be fully pre-briefed on the conditions imposed by this document. It is recommended that the Contractor also advise the delivery company management of these requirements to ensure that drivers are supported by their superiors in adhering to these rules.

6.1.17 Washing off of ready-mix concrete delivery vehicles

The washing or rinsing off of ready-mix concrete delivery vehicles must take place within the confines of the Building Site, and such washing or rinsing must be limited to the small discharge chute only. All spillage and runoff is to be contained within the Building Site and dealt with as specified under clause 6.2.6. Washing or rinsing off of any other part of the Vehicle may only take place off site.

Care must be taken not to spill or discharge concrete or rinse water onto the road surface or drainage channels. The Contractor will be held liable for the cost repairs.

6.1.18 Site storage

The Contractor will be allowed to erect storage facilities similar to one standard six (6) meter container (approved by RESERVE MANAGER) within the Building Site boundary. The position of such storage facility will be dictated by the Erf size and house layout, and the Contractor shall submit a proposed layout of the storage facility on the Building Site for approval by the RESERVE MANAGER prior to erection thereof.

6.1.19 Site neatness and verge/kerb/road protection

Contractors shall ensure that the road in front of their Building Site is kept clean at all times. Waste materials, nails and the like cause serious damage to the road surface and to Vehicles and the Contractor shall be liable for repairs relating to any damage so caused.

Contractors must ensure that the kerbs, sidewalks and landscaping in front of their Building Site are at all times adequately protected from damage caused by building operations.

Building material shall be stored within the Building Site boundary. Due to the size of erven, this may not always be feasible, in which case suitable alternative arrangements must be agreed with the RESERVE MANAGER.

6.1.20 Control of personnel

Throughout the process of construction the Contractor will remain responsible for the discipline and control of his employees, sub-contractor labour, supplier personnel, representatives, technicians, etc. and will be liable for any damage caused to any part of the Private Nature Reserve or private property by such personnel. It is the Contractor's responsibility to ensure that any such personnel understand and acknowledge the provisions of this Agreement and any amendments hereto issued from time to time.

Contractor personnel must be transported by Vehicle from the entrance gate to the relevant Building Sites, or between Building Sites. Pedestrian movement of labour over the general Cape St Martin Private Nature Reserve is not permitted, and the ASSOCIATION and RESERVE MANAGER reserve the right to remove such personnel from the Reserve. No temporary accommodation of Contractor employees is permitted on site.

No employees of the Contractor shall be allowed to remain on site outside of permitted working hours, except where special permission has been granted in terms of clause 6.1.8.

6.1.21 General security provisions

It is the responsibility of the Contractor's responsible person to ensure that visitors are briefed on the key aspects of this Agreement prior to access.

The RESERVE MANAGER, reserve the right to carry out ad-hoc checks of personnel and Vehicles to ensure that liquor, illegal substances, firearms, and the like are not brought onto the site, and that goods or materials are not illegally removed from the site. Persons found in contravention of these rules shall be permanently banned from the Site, and the employer/Contractor fined.

6.1.22 Traffic control

Unless specifically stated otherwise in these rules, the normal statutory traffic laws apply in the Reserve. A speed limit of 30km/h applies to all Vehicles in the Reserve.

Construction Vehicles must at all times be operated with the utmost care on the Reserve and may not be operated anywhere other than on the roads on the Reserve. Private driveways may not be used for the turning or parking of Construction Vehicles.

Vehicles that, in the opinion of the RESERVE MANAGER, are not fully roadworthy, or produce excessive noise or have evident oil leaks, will be prohibited from entering or being operated on the Reserve.

Unlicensed Vehicles and unlicensed drivers are not authorized to enter the Reserve.

6.1.23 Co-ordination meetings

The ASSOCIATION/RESERVE MANAGER reserves the right to convene site co-ordination meetings from time to time. The key objective of these meetings is to disseminate information, share mutual concerns on the site, deal with contravention issues, and provide an update on anticipated activity.

6.1.24 Advertising and commercial activities

No unauthorised advertising boards may be displayed or erected anywhere on the Reserve.

Boards so erected shall be removed, and a fine levied on the party who is in breach.

The Contractor must erect the approved construction board on the front boundary of the Building Site. The board must be erected before commencement of site clearance, and must be removed no later than the issuing of the CA Final Completion Certificate. No commercial activity is permitted on the Development Site.

6.1.25 Right to stop work

Any construction work, renovations or alterations executed in a poor and un-workmanlike manner, or in violation of, or inconsistent with the plans approved in terms of the Architectural Guidelines and the Local Authority by-laws, may without prior notice be stopped by the Architectural Committee or the RESERVE MANAGER, or the Architect appointed in terms of the Architectural Guidelines, and work may only re-commence after the Architectural Committee has been satisfied that adequate action has been taken to rectify the breach, and reports same in writing to the ASSOCIATION.

6.1.26 Payment of wages

The Contractor shall not conduct wage pay outs to labour or sub-contractors on the Site.

6.2 Environmental Compliance

6.2.1 Compliance with the ROD and EMP

The Contractor acknowledges that he is working in an environmentally sensitive Reserve which is strictly controlled and monitored and agrees to conform to all environmental and other controls specified from time to time as applicable to the Development.

6.2.2 Environmentally protected areas

It is recorded that Cape St Martin as a Nature Reserve is regarded as environmentally sensitive, and must under all circumstances be conserved. In this regard general access to and through the Reserve may only be via formal paved roadways. No access, pedestrian or by Vehicle, is permitted through natural or re-established indigenous vegetation.

In addition, the trapping, shooting, harassing, interfering, or in any way harming any of the animal or birdlife on the Private Nature Reserve is an offence. Use of the beaches is out of bounds, and may not be used for any recreational activity.

Any person found in breach of the above rules shall be removed from the Site, and barred from future access to the site. The employer of the offending party will be fined in terms of the penalty Schedule.

6.2.3 Material storage, building rubble and waste management

Storage of any materials or stock-piling of rubble must be confined to the Building Site boundaries and the Contractor shall ensure that quantities of materials or stock-piles are managed so as to ensure compliance herewith. Materials or stock-piles may not be stored on the road verge.

Contractors must ensure that all waste is removed from the works on a weekly basis (as a minimum) or as otherwise instructed by the RESERVE MANAGER.

Contractors must ensure that the site is neat and free of any litter or other unsightly waste at all times.

A standardised waste skip, must be provided for waste.

Refuse, litter and waste may not be burnt on the Building Site.

6.2.4 Anti-pollution measures

The Contractor shall take all reasonable steps to prevent pollution of surface and groundwater. Such pollution could result from release, accidental or otherwise, of chemicals, paint, oils, fuels, sewage, construction materials or waste products.

Refuelling of on-site machinery, to a maximum of ten (10) litres, shall take place with adequate spill prevention measures, such as trays, to prevent fuel leakages from polluting the ground. Any spillage into trays and the like shall be immediately removed from the site to prevent accidental spreading of the waste. Where accidental spillage takes place, this must be reported to the RESERVE MANAGER immediately, and remedial action agreed to and implemented without delay.

6.2.5 Concrete and mortar

No mixing of mortar or concrete is permitted on the road surface, or on the natural ground. Mixing may take place within the building perimeter or on protective trays within the Building Site area. For plastering or building purposes mortar boards must be used.

These boards must be adequate for the purpose and no spilling may occur. Where mechanical mixing is used, care must be taken that waste material is not spilled on discharge. In the event of this occurring, the spillage shall be cleaned up immediately, and stockpiled with the building waste for removal from site.

Used and unused cement bags must be stored in water proof containers or areas so as not to be affected by rain or runoff.

Bulk cement silos and storage areas must be properly lined/screened/contained to prevent windblown cement dust or pollution of water during rain events.

Washing of ready-mix concrete chutes as contemplated under clause 6.1.17 shall be carried out in a manner so as to confine the residual waste and to place same on the building waste stockpile for later removal from site.

Adequate leak proof cleaning pits are to be installed at strategic points being the future hard paved area to facilitate washing of all cement, ready-mix concrete chutes and painting equipment. A functional, non-leaking, water point must be installed at each pit. The clean top water may be allowed to discharge on the immediate area adjacent to the pit on condition that the runoff is confined to the future paved area. The remaining sludge must be placed on the building waste skip for later removal from site.

6.2.6 Washing down and cleaning of vehicles and equipment

Washing down of Vehicles and equipment within the confines of the Private Nature Reserve is not permitted.

6.2.7 Energy saving devices

The Contractor shall ensure that all temporary work operations are conducted in such a manner that the use of energy sources and water is kept to a minimum, and that equipment used is classified as energy saving devices.

6.3 Health and Safety Compliance

6.3.1 Compliance with the Occupational Health and Safety Act

The Owner and the Contractor are obliged to comply with the conditions of the Occupational Health and Safety Act, No. 85 of 1993, and regulations related thereto.

Where construction takes place without compliance to the above, work will be immediately stopped by the Architectural Committee or RESERVE MANAGER, non-compliance reported to the Department of Manpower, and a fine levied against the Contractor in terms of the penalty Schedule.

The Contractor shall ensure that at site operational level all aspects of the requirements of the Occupational Health and Safety Act, and the

safety plan for the particular site, are complied with, including but not limited to the wearing of safety gear and equipment, erection of safety signage, proper erection of scaffolding, use of proper ladders, maintenance of equipment, completion of required registers, and the general safety of the site, which includes tidiness.

Particular care must be taken in the provision and maintenance of electrical supplies.

6.3.2 Ablution facilities

The provision of adequate and properly maintained ablution facilities is of particular concern, as this may impact on the use of permanent facilities by personnel in partially completed or completed buildings, or the illegal pedestrian traffic from site where alternative facilities are sought.

The Contractor shall provide suitable and properly operational waterborne or chemical toilets (approved by the RESERVE MANAGER) on the Building Site, based on a population count of one toilet for every ten workers. The Contractor shall ensure that the toilets are maintained at all times and kept in a neat and hygienic condition. Sanitary waste from chemical toilets must be removed weekly. Toilet doors are to be properly latched, and kept closed at all times.

Toilets are to be established and be fully operational prior to the commencement of site clearance and site establishment.

7. PRE-CONSTRUCTION QUALIFICATIONS

Prior to gaining access to the Building Site, the Contractor and his sub-contractors are obliged to comply with the following requirements, which shall be recorded and signed off by the RESERVE MANAGER per the Site Access Checklist per ANNEXURE B of this Agreement.

7.1 Construction deposit

The Contractor and Owner (with whom full responsibility is vested) shall between them in terms of the constitution, before commencing any work on a Building Site, pay to the account of the ASSOCIATION an amount of R20,000 (Twenty thousand rand) whether it be for new work or alterations to existing structures. This non-interest bearing deposit shall constitute a security deposit for any damage to the Reserve or private property, including but not limited to, damage to roads, kerbs, trees, vegetation, landscaping, private or public spaces and motor Vehicles, which may be caused by the Contractor in the execution of the work.

7.2 Building plans and programme

The Contractor shall ensure that a copy of the approved building plans, signed off by the Owner, Architect, Architectural Committee and the Local Authority, is lodged at the RESERVE MANAGER site office and is available for inspection by the ASSOCIATION, RESERVE MANAGER, the Local Authority building inspector and NHBRC representative.

Any variations to the approved building plans must comply with the Architectural Guidelines, and shall be submitted to the Architectural Committee.

Once work has commenced on the Building Site it must be continued to completion, without unreasonable interruption or stoppage.

7.3 Insurance

The Contractor shall, prior to commencing work on the Building Site provide the RESERVE MANAGER with proof from his insurers or insurance broker that insurance cover as contemplated under clause 6.2.6 is in place. Each Contractor will also supply proof of Workman's Compensation cover.

8. CONSTRUCTION RULES AND COMPLIANCE

After access to the Building Site has been given to the Contractor he shall ensure compliance with the following conditions during the process of construction up to final completion and demobilisation from the site.

8.1 Approved building plans

A copy of the building plans, and updated variations thereto, as approved by the Architectural Committee and Local Authority, shall be kept on the Building Site at all times from the date of construction commencement until the issuing of the Controlling Architects Works Completion Certificate.

"Construction commencement" is deemed to be when site clearance has been done and setting-out of the building is due to commence.

8.2 Survey beacons

The Contractor shall employ a registered professional land surveyor to indicate the Building Site boundary pegs, and the closest survey beacons established as part of the infrastructure construction. A copy of the land surveyor's certificate confirming that this has been done is to be submitted to the RESERVE MANAGER office prior to the issuing of the Site Access Certificate by the RESERVE MANAGER.

8.3 Site clearance

Site clearance may only commence after a plan has been submitted to the RESERVE MANAGER office showing the extent of the area to be cleared. This will require approval by the RESERVE MANAGER.

The objective is to limit the area to be cleared (usable site area), and this will be dictated by the building footprint and position, and the minimum requirement for access around the building and for the erection of scaffolding. A maximum distance of 3m from the building footprint is allowed to be cleared for construction.

Site clearance must only take place when the commencement of building work is imminent to avoid the unnecessary generation of windblown dust. Where premature site clearance has taken place, or where construction has been delayed, the Contractor shall provide ground stabilisation as set down in the EMP.

8.4 Setting out

Setting out of the building shall be carried out by a competent surveyor. The Contractor shall notify the RESERVE MANAGER office once the setting out has been completed.

The RESERVE MANAGER reserves the right to have the setting out independently checked. If the setting out is found to be incorrect, the cost of such an independent check will be for the Contractor's account, and paid for directly, or deducted from the Contractor's construction deposit.

8.5 Existing services

The Contractor shall familiarise himself with existing services on the Reserve and in particular those related to the Building Site prior to the commencement of construction. This relates to water supply, sewage lines and manholes, electrical services and telephone/communication cables, ducts and manholes. The Contractor must have in his possession (for each site) "as built" drawings for all existing services prior to commencement of any work on site.

The Contractor shall remain responsible for the protection of existing services until demobilisation from the Building Site. Any costs to repair damage caused by the Contractor to the existing services will be for the Contractor's account. Connection of permanent services from the new building into the existing services shall be carried out by qualified and certified artisans.

8.6 Provision of labour, plant and materials

The Contractor shall ensure that the provision of all labour, plant and materials are compliant with the National Building Regulations, the NHBC guidelines, the approved specifications, and the guidelines specifically set down for the Development by the Architectural Guidelines and instructions issued by the ASSOCIATION based on statutory approvals and environmental restrictions issued from time to time.

8.7 Temporary services

The Contractor shall make application for temporary services required for the construction of the building.

Water application shall be made to the Local Authority, and carried out by a qualified plumber.

Electrical supply shall be in accordance with the requirements set down for the Local Authority, in strict compliance with the Health and Safety Act specification. Cost of installation will be for the Contractor's account, and payable directly to the electrical Contractor. The electrical Contractor is responsible to ensure that the installation of the temporary supply is maintained in a safe way and remains compliant with regulations governing electrical installations, and will conduct inspections on a regular basis. Costs for remedial work will be for the Contractor's account and payable directly to the electrical Contractor.

Ablution facilities shall be provided as set down in clause 6.3.3. Where water-borne facilities are provided, these shall be installed by a qualified plumber.

8.8 Site access control

Access to the Building Site shall be in strict accordance with the requirements set down Section 6 of this agreement.

8.9 Barricades and fencing

Street frontage Association boarding is not a requirement for the building site. The remaining sides of the usable building site must be fenced, with a

minimum of a 1,5m high green shade net fencing. Such fencing shall be kept in good condition and appearance at all times.

Cost of such fencing and installation will be for the Contractor's account. Where the building site is adjacent to an existing residence the requirements in terms of clause 6.1.7 shall be complied with.

Fines will be levied against the Contractor for non-compliance, and the work stopped until rectification.

8.10 Storage facilities

Storage facilities must be erected as provided for under clause 7.1.18.

8.11 Permissible signage

RESERVE MANAGER approved construction board shall be erected as provided for under clause 6.1.24.

8.12 Waste management

Building rubble and general waste shall be controlled as required under clause 6.2.3.

8.13 Protection of natural vegetation and dust control

The Contractor shall implement appropriate measures, to the satisfaction of the RESERVE MANAGER, to avoid damage to existing vegetation and to minimise the generation of dust or windblown sand resulting from the building activities.

The Contractor is referred to requirements related to site clearance per clause 8.3.

During periods of high wind conditions the Contractor shall cease dust generating activities.

Where a notice for non-compliance has been issued by RESERVE MANAGER and no remedial action taken by the Contractor within twenty four hours after the issuing of such notice, the ASSOCIATION reserves the right to take action to remedy the breach. Costs in this regard will be for the Contractor's account, and a fine will be levied against him.

8.14 Erosion control

The Contractor shall be responsible for providing and maintaining protection against wash away and erosion damage throughout the duration of the construction Works.

The Contractor undertakes to effect adequate measures to prevent any soil erosion by waste or storm water on or around the Building Site for the duration of the contract. No undermining of existing paved areas or roads are allowed. All excavation must be adequately backfilled and compacted.

Where a notice for non-compliance has been issued by the RESERVE MANAGER and no remedial action taken by the Contractor within twenty four hours after the issuing of such notice, the ASSOCIATION reserves the right to take action to remedy the breach.

Costs in this regard will be for the Contractor's account, and a fine will be levied against him.

8.15 Excavation

Foundation or service trench excavation adjacent to existing buildings or paved surfaces must be undertaken with due care to avoid damage to the existing Works. Where necessary, the Contractor shall provide adequate protection of the existing Works. Any damage caused to existing Works must be made good by the Contractor immediately the damage becomes evident. All foundation excavations must be tested for compaction and be certified by a structural engineer prior to the placing of concrete.

9. POST-CONSTRUCTION SIGNING OFF

After completion of the Works, the following shall be complied with prior to the Contractor being released from his obligations in terms of this Agreement.

9.1 Practical completion

On achieving practical completion and external patent defects have been attended to by the Contractor, the site must be cleared of all rubble and waste material, and generally levelled to receive landscaping. Thereafter the Controlling Architect must approve and sign off final level as well as certify that the dwelling complies with the plans approved by the Architectural Committee. Once all the above have been signed off the Contractor shall obtain an External Practical Completion Certificate from the Controlling Architect and issue a copy thereof to the RESERVE MANAGER office.

Landscaping may only take place after the above certificate has been issued and the external work items on any defects list have been attended to so as to avoid damage to the planted areas.

9.2 Works completion

After the landscaping has been satisfactorily completed in terms of the rules and guidelines set down for the ASSOCIATION, the Contractor shall obtain an External Works Completion Certificate from the Controlling Architect and issue a copy thereof to the RESERVE MANAGER office.

The ablution facilities and the waste skip bin may only be removed from the site after an External Works Completion Certificate has been issued. Where the Contractor has provided water borne ablution facilities connected to the permanent services, this must be removed after practical completion and a chemical toilet provided for the duration of remedial work being carried out in terms of the practical completion defects list.

Temporary water and electrical installations must be disconnected and removed from site as soon as practically possible, but in any event prior to the issuing of an External Works Completion Certificate.

9.3 Statutory certificates

The Contractor shall obtain an electrical compliance certificate from the electrical Contractor and issue a copy of the certificate to the RESERVE MANAGER office.

The Contractor shall obtain an occupation certificate for the dwelling from the Local Authority prior to occupation being granted to the Owner, and issue a copy of the certificate to the RESERVE MANAGER Site office.

9.4 Making good of damage

The Contractor shall make good any damage to existing roads, gates, paving, kerbs, sidewalks, services, adjacent building structures, etc. prior to demobilisation and moving off the site. Where the Contractor fails to do so, the RESERVE MANAGER shall issue a notice of noncompliance.

Failure to commence remedial work within seven (7) days of the issuing of the notice will constitute a breach on the part of the Contractor. The ASSOCIATION reserves the right to carry out necessary repairs to the existing works in the event of such a breach, and costs incurred will be for the account of the Contractor. The Contractor will be liable for net direct costs plus 25% to cover supervision and administration charges.

9.5 Inspection and signing off

After the issuing of an External Works Completion Certificate (in terms of clause 9.2), as well as the statutory certificates and the satisfactory completion of remedial work to damaged existing services or infrastructure, the RESERVE MANAGER, and the Controlling Architect shall conduct an inspection of the site and if satisfied that all the required conditions have been complied with, sign a clearance certificate for the Building Site.

Occupation of the dwelling will only be permitted after the issuing of the clearance certificate to the Owner and the Contractor.

9.6 Construction deposit

After the landscaping has been satisfactorily completed in terms of the rules and guidelines set down for the Reserve, the Contractor shall obtain an External Final Completion Certificate from the Controlling Architect and issue a copy thereof to the RESERVE MANAGER office.

The RESERVE MANAGER shall carry out a reconciliation of the construction deposit account within thirty (30) days after the receipt of the External Final Completion Certificate by the Controlling Architect.

Any claim arising as contemplated under clause 7.1 is not limited to the amount of the deposit and the ASSOCIATION shall be entitled to recover from the Owner and Contractor, in addition to the deposit, the amount by which the costs of reinstatement resulting from such damage exceeds the said deposit.

The cost of any damage attributable to the Contractor shall be quantified by the ASSOCIATION and the amount so determined shall be final and binding on the Owner and Contractor.

Where the ASSOCIATION rules that the Contractor or Owner or any of their agents, whether by way of commission or omission, have caused any damage to any portion of the Reserve then the Owner and Contractor shall be presumed to be jointly and severally liable for such damage.

If the Owner or the Contractor fails to dispute any claim made in terms of this clause within seven days of receiving notice thereof, they shall be deemed to have accepted liability for such damage and for payment of the costs related thereto.

If the claim is disputed and satisfactory resolution cannot be achieved within twenty one days of the written notice of such dispute, the matter shall be referred to arbitration as allowed for under clause 12.

Any balance of the construction deposit account will only be released after all disputes have been satisfactorily resolved.

10. DOMICILIUM/NOTICES

- 10.1 The parties choose as their domicilium citandi et executandi for all purposes under this Agreement, whether in respect of legal and court process, notices or other documents or communications of whatsoever nature, the addresses as set out in the attached schedule.
- 10.2 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing but it shall be competent to give such notice or communication by facsimile or e-mail.
- 10.3 Notices shall be deemed to have been delivered on the date of signed receipt of delivery, if delivered by hand, or on the fourth (4th) day after the date of posting, if sent by pre-paid courier mail within the Republic of South Africa, to the domicilium aforesaid, or, if successfully transmitted by facsimile or e-mail, be deemed to have been received by the addressee on the first day after the day of dispatch.
- 10.4 Any of the parties referred to in clause 2 may, by notice in writing to the other parties, alter its address set out in the schedule to another address in the Republic of South Africa provided such other address may not be a post office box or post restante and provided that such alteration shall not be effective until seven (7) days after it has been received.
- 10.5 Notwithstanding anything to the contrary herein contained, a written notice or communication personally received by a party shall be an adequate written notice or communication to such party notwithstanding that it was not sent to or delivered at the domicilium citandi et executandi.

11. BREACH

Without detracting from any rights which the ASSOCIATION may have in terms of this Agreement, and in the event of the Owner/Contractor breaching any of the provisions of this Agreement and persisting in such failure for a period of seven (7) days after dispatch of written notification calling upon them or either of them to remedy the same, the ASSOCIATION shall be entitled to all or any of the following relief:

- 11.1 To deny the Contractor access to the Development;
- 11.2 To appoint an independent Contractor to rectify the breach and recover the remedy cost from the Contractor with a minimum R250 administration fee or 25% of the cost, whichever is the greater;
- 11.3 To appoint an arbitrator in terms of clause 12 hereunder;
- 11.4 To cancel this Agreement, in which event the Contractor shall not be entitled to continue or complete construction on the Erf. Should the Contractor make acceptable representation to the ASSOCIATION within seven (7) days' notice from the date contemplated under this clause 11 the ASSOCIATION shall review the Contractor's undertakings to abide by the terms and conditions of this Agreement and in his absolute discretion decide to stand by his decision of breach, or grant the Contractor relief subject to conditions set down by the ASSOCIATION;
- 11.5 To hold the Owner and Contractor jointly and severally liable for such breach and to claim from them the cost of reinstatement of any damage caused by them within the Reserve, as determined in terms of this Agreement;

- 11.6 Should the ASSOCIATION take steps against the Owner or Contractor pursuant to a breach of this Agreement, the ASSOCIATION shall be entitled to recover from the Owner and/or Contractor any legal costs incurred in the action against such breach;
- 11.7 Where access to the Reserve is denied to the Contractor in terms of the above, whether the matter is resolved in law or by arbitration to the benefit of any party, neither the Contractor nor the Owner shall have any claim against the ASSOCIATION and/or the Controlling Architect arising from such denial of access.

12. ARBITRATION

- 12.1 Any dispute, question or difference arising at any time between parties to this agreement, out of or in regard to:
any matter arising out of this Agreement, or
the rights and duties of any of the parties mentioned in this Agreement, or
the interpretation of this Agreement,
may, at the instance of any one of the parties to this Agreement, be submitted to and decided by arbitration on notice given to the other parties who are contractually affected by in the matter in question.
- 12.2 Arbitration shall be held at Cape St Martin at a venue set down by the ASSOCIATION and otherwise in terms of the provisions of the Arbitration Act No. 42 of 1965 (as amended), it being intended that if possible it shall be held and concluded within ninety (90) working days after it has been demanded. The parties hereto undertake and agree to provide all necessary co-operation to achieve resolution of any dispute within this time.
- 12.3 Save as otherwise specifically provided herein, the arbitrator shall be independently appointed by the President of the South African Institute of Architects, and where this cannot be confirmed within seven working days, the selection shall be referred to the Arbitration Forum, Waalburg Building, Wale Street, Cape Town for the selection of an arbitrator.
- 12.4 The arbitrator shall make his award within seven working days after completion of the arbitration proceedings and his decision will be final and binding on the parties, including the allocation of costs thereto. After such decision no further representation or legal recourse shall be allowed, provided that all correct procedures have been followed in terms of the law.

13. INDULGENCES

No extension of time or indulgence granted by the ASSOCIATION to the Contractor and/or the Owner shall be deemed in any way to affect, prejudice or derogate from the rights of the ASSOCIATION or the in any respect under this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder or a novation of this Agreement.

14. SCHEDULES

The following Schedules are attached as annexures to this Agreement, and form part thereof as defined under clause 4:

ANNEXURE A

Schedule of penalties and fines which shall be levied against the Owner or his Contractor for non-compliance in terms of this Agreement.

ANNEXURE B

Site Access Checklist in terms of clause 7 of this Agreement.

ANNEXURE C

Penalties and fines imposed in terms of clause 6.1.6 (ii) and clause 7.2.

15. SIGNATORIES AND RECORDALS

THUS DONE AND SIGNED by the parties upon the dates and at the places specified below:

CAPE St MARTIN OWNERS' ASSOCIATION

Represented by and duly authorised as signatory for and behalf of the ASSOCIATION:

NAME: SIGNED:

DATE: PLACE:

OWNER

Represented by and duly authorised as signatory for and on behalf of the OWNER:

NAME: SIGNED:

DATE: PLACE:

CONTRACTOR

Represented by and duly authorised as signatory for and on behalf of the CONTRACTOR:

NAME: SIGNED:

DATE: PLACE:

SCHEDULE OF DETAILS

Erf No. :

Anticipated programme

Estimated construction commencement date :

Estimated construction completion date :

Domicilium citandi et executandi and contact information

Cape St Martin Owners' Association

Domicilium:

Facsimile Email

Contact person

Cape St Martin Reserve Manager

Domicilium:

Facsimile Email

Contact person

Owner

Domicilium:

Facsimile Email

Contact person

Contractor

Domicilium:

Facsimile Email

Contact person

ANNEXURE A

SCHEDULE OF PENALTIES AND FINES

The following clause numbers refer to the Agreement. Fines set down are maximum fines, and the ASSOCIATION reserves the right to establish the fine levied at his sole discretion.

NOTES

1. Fines are levied over and above the penalty action taken.
2. Fines are absolute and applied for non-compliance or non-performance at the sole discretion of the ASSOCIATION/RESERVE MANAGER. Claims for ascertained and liquidated damages, or consequential loss, may be recovered in addition to the fine(s) levied.
3. Other terms are the same as Section 4 - DEFINITIONS of the Agreement.
4. Notices are issued to the responsible person on site, or the management representative at the Contractor's office, and must be in writing.
5. "Removed from site" means removal by the RESERVE MANAGER.
6. Fines, on repeated offenses, relate to a fine per incident.
7. Fines are cumulative.

SECTION 6: GENERAL COMPLIANCE

CLAUSE NO. 6.1.7: Privacy and rights of residents Refer also clause 8.9

Breach:

Contractor executes his work in such a manner to cause a nuisance, either reported by a Resident or other affected party, or observed and recorded by the RESERVE MANAGER.

Remedy:

A notice is issued to the Contractor by the RESERVE MANAGER, and the Contractor immediately ceases unacceptable behaviour, and rectifies any physical breach within forty-eight hours.

Penalty:

Work is stopped until rectification takes place and the fine is paid. Where no action is taken to rectify any physical breach within forty-eight hours the RESERVE MANAGER may do so and costs plus a 25% administrative charge will be for the Contractor's/ Owner's account.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.1.8: Working hours

Breach:

Contractor is on site out of the working hours stipulated.

Remedy:

The Contractor is escorted off site, or personnel removed from site.

Penalty:

Repeat offenders barred from site.

Fine:

Maximum fine of R500 (Five hundred rand) plus R100 (One hundred rand) per offending employee.

CLAUSE NO. 6.1.9: Private Nature Reserve communal and private facilities

Breach:

Contractor uses Private Nature Reserve communal or private Resident facilities illegally.

Remedy:

The Contractor is cautioned by the RESERVE MANAGER, and the Contractor immediately ceases unacceptable behaviour.

Penalty:

Repeat offenders barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.1.10 : Lunch and tea breaks

Breach:

Personnel are in non-designated areas for tea or lunch breaks.

Remedy:

The Contractor is cautioned by the RESERVE MANAGER, and the Contractor immediately ceases unacceptable behaviour.

Penalty:

Repeat offenders barred from site.

Fine:

Maximum fine R500 (Five hundred rand) per offending employee.

CLAUSE NO. 6.1.11 : Fires and fireworks

Breach:

Contractor lights a fire or discharges fireworks on site.

Remedy:

Fires/fireworks immediately extinguished and the area cleared. Offending party/parties removed from site.

Penalty:

Related materials confiscated and offending party/parties barred from site.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.1.12 : Liquor, illegal substances and firearms

Breach:

Offending goods found on site.

Remedy:

Liquor confiscated and destroyed; illegal substances handed over to SAP with details of offender; firearms removed by offender and report made to SAP; offending personnel removed from site.

Penalty:

Offending personnel barred from site.

Fine:

Maximum fine R5,000 (Five thousand rand).

CLAUSE NO. 6.1.13 : Watchmen

Breach:

Contractor watchman/watchmen found on site/building site out of working hours.

Remedy:

Personnel removed from site.

Penalty:

Offending personnel barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.1.14 : Vehicles

Breach:

Contractor attempts to parks so as to cause obstruction.

Remedy:

Vehicles causing obstruction to be moved immediately.

Penalty:

Repeat offenders barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.1.15 & 6.1.16: Deliveries

Breach (1):

General non-compliance to regulations.

Remedy:

Immediate rectification.

Penalty:

Repeat offenders barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

Breach (2):

Delivery over adjacent site without authorization.

Remedy:

Activity to be ceased immediately on notice and offending party/parties removed from site. Damage to adjacent site made good within twenty four hours. Where no action is taken to rectify any physical breach within twenty-four hours the RESERVE MANAGER may do so and costs plus a 25% administrative charge will be for the Contractor's/ Owner's account.

Penalty:

Offenders barred from site

Fine:

Maximum fine R2,000 (Two thousand rand)

CLAUSE NO. 6.1.17 : Washing off of ready-mix concrete delivery vehicles Refer to clause 6.2.7

Breach:

General non-compliance with regulations.

Remedy:

Affected areas cleaned up and made good within twenty four hours. Where no action is taken to rectify any physical breach within twenty four hours the RESERVE MANAGER may do so and costs plus a 25% administrative charge will be for the Contractor's/ Owner's account.

Penalty:

Repeat offenders will be barred from site.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.1.18 : Site storage

Refer to clause 6.2.4

CLAUSE NO. 7.1.19 : Site neatness and verge/kerb/road protection

Breach (1):

General untidiness, and/or waste on verge/kerb/road.

Remedy:

Work stoppage and site tidied, and verge/road cleaned up.

Penalty:

No work may proceed until the site, verge and road is cleaned and tidied to the RESERVE MANAGER's satisfaction.

Fine:

Maximum fine R500 (Five hundred rand).

Breach (2):

Damage to kerbs, roads, etc.

Remedy:

As contemplated under Clause 10.4.

Penalty:

As contemplated under Clause 10.4.

Fine:

Maximum fine R2,000 (Two thousand rand).

Breach (3):

Material stored on verge. Refer clause 6.2.4

CLAUSE NO. 6.1.20 : Control of personnel

Breach (1):

Personnel pedestrian movement on the Private Nature Reserve.

Remedy:

Personnel removed from site.

Penalty:

Repeat offenders will be barred from site.

Fine:

Maximum fine R500 (Five hundred rand) per offending employee.

Breach (2):

Employees remaining on site without authorization.

Remedy:

Personnel removed from site.

Penalty:

Repeat offenders will be barred from site.

Fine:

Maximum fine: Company fine of R500 (Five hundred rand) plus R100 (One hundred rand) per offending employee.

CLAUSE NO. 6.1.21 : General security provisions

Breach (1):

Personnel found in possession of banned substances, or materials to be removed from site.

Remedy:

Liquor confiscated and destroyed; illegal substances handed over to SAP with details of offender; firearms removed by offender and report made to SAP; offending personnel removed from site.

Penalty:

Offending personnel barred from site.

Fine:

Maximum fine R5,000 (Five thousand rand)

Breach (2):

Animals brought onto site.

Remedy:

Personnel and animal removed from site.

Penalty:

Repeat offenders barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.1.22 : Traffic control

Breach (1):

Exceeding the speed limit. This is based on a reasonable evaluation of speed, and not "proven" speed. General non-compliance to statutory traffic laws.

Remedy:

Offending party stopped and warned.

Penalty:

Repeat offender fined; continued infringement will result in being barred from site.

Fine:

Maximum fine R500 (Five hundred rand) for repeat offender.

Breach (2):

Reckless, negligent or careless driving.

Remedy:

Offender warned and removed from site for twenty four hours.

Penalty:

Repeat offender barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

Breach (3):

Construction Vehicle parked or maneuverers in private driveway.

Remedy:

Driver warned; parked vehicle moved.

Penalty:

Repeat offender barred from site.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.1.24 : Advertising and commercial activities

Breach (1):

Illegal advertising board displayed.

Remedy:

Board removed

Penalty:

Board confiscated by RESERVE MANAGER

Fine:

Maximum fine R500 (Five hundred rand).

Breach (2):

Owner/Architect/Contractor's board erected that does not comply with guidelines.

Remedy:

Remove board and replace with approved board.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

Breach (3):

Owner/Architect/Contractor's board not erected.

Remedy:

Approved board to be erected immediately.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand) on repeat offense.

Breach (4):

Commercial activities undertaken.

Remedy:

Activities to cease immediately.

Penalty:

Offender barred from site.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.1.25 : Right to stop work

Breach:

General non-compliance.

Remedy:

As per the clause detail.

Penalty:

Work stoppage as per the clause detail.

Fine:

Maximum fine R5,000 (Five thousand rand).

CLAUSE NO. 6.1.26 : Payment of wages

Breach:

Wage/sub-contractor etc. payments on site.

Remedy:

Stopped immediately and personnel removed from site.

Penalty:

On repeat non-compliance the personnel/sub-contractor being paid may be barred from site.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.2.2: Environmentally protected areas

Breach (1):

Access into or via out-of-bound areas.

Remedy:

Removal of offending part from site.

Penalty:

Offending party barred from site.

Fine:

Maximum fine R5,000 (Five thousand rand).

Breach (2):

Trapping, shooting or harassing animal or birdlife.

Remedy:

Removal of offending part from site.

Penalty:

Offending party barred from site.

Fine:

Maximum fine R10,000 (Ten thousand rand).

CLAUSE NO. 6.2.3: Material storage, building rubble and waste management Refer to Clauses 6.1.18 and 8.12

Breach (1):

Material stored on verge without authorization.

Remedy:

Move material to within the boundaries of the building site.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

Breach (2):

Inadequate removal of waste from site; inadequate bins.

Remedy:

A notice is issued to the Contractor by the RESERVE MANAGER, and the Contractor rectifies breach within twenty-four hours.

Penalty:

Work is stopped until rectification takes place and the fine is paid. Where no action is taken to rectify any physical breach within twenty-four hours the RESERVE MANAGER may do so and costs plus a 25% administrative charge will be for the Contractor's/ Owner's account.

Fine:

Maximum fine R2,000 (Two thousand rand).

Breach (3):

Burning of waste on site – refer clause 7.1.11.

Remedy:

Fire immediately extinguished and the area cleared. Offending party removed from site.

Penalty:

Repeat offender barred from site.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.2.4: Anti-pollution measures

Breach:

Ground pollution by spillage or refuelling.

Remedy:

Area cleaned up, contaminated material removed from site.

Penalty:

Repeat offender barred from site.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.2.5: Concrete and mortar mixing

Breach:

Mixing on road surface or natural ground.

Remedy:

Area cleaned up, and residue placed on stockpile.

Penalty:

Work stopped until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.2.6: Washing down and cleaning of vehicles and equipment

Breach:

Vehicle washing down on site or in roadway.

Remedy:

Area cleaned up, and residue placed on stockpile.

Penalty:

Work stopped until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 6.3.1: Compliance with the Occupational Health and Safety Act

Breach (1):

Starting work without approved Safety Plan and complete Site safety file.

Remedy:

Supply safety plan 1 week before commencement.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 6.3.2: Ablution facilities

Breach:

No, or inadequate, or non-compliant toilets provided.

Remedy:

Provide acceptable facilities; remove inadequate facilities.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

SECTION 8: PRE-CONSTRUCTION QUALIFICATIONS

CLAUSE NO. 7.1: Construction deposit

Breach:

Construction Deposit not paid or payment thereof not cleared via the nominated bank account, prior to commencement of construction.

Remedy:

Pay Deposit as required.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R5,000 (Five thousand rand).

CLAUSE NO. 7.2: Building plans

Breach:

Approved building plans and/or programme not submitted prior to commencement of construction.

Remedy:

Submit plans and or programme as required.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 7.3: Insurance

Breach:

Proof of insurance not submitted, or found to be inadequate.

Remedy:

Provide proof of insurance as required.

Penalty:

Work stoppage until satisfactory proof provided.

Fine:

Maximum fine R1,000 (One thousand rand).

SECTION 8: CONSTRUCTION RULES AND COMPLIANCE

CLAUSE NO. 8.1: Approved building plans

Breach:

Approved building plans not available on site.

Remedy:

Provide plans to be in the possession of a designated responsible person on site while work is in progress, or with the site-based responsible person during work stoppage.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 8.2: Survey beacons

Breach:

Work commenced without submission of beacon certificate.

Remedy:

Submit certificate as required.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 8.3: Site clearance

Breach:

Work commenced without submission of site clearance plan.

Remedy:

Submit plan as required.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 8.4: Setting out

Breach:

Work commences without confirmation of setting out issued.

Remedy:

Confirm setting out with written report from competent person.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 8.5: Existing services

This is covered by the requirement to issue completion/statutory certificates, and claims in the case of damage as contemplated under clause 9.4.

CLAUSE NO. 8.7: Temporary services

Breach:

Illegal provision of services.

Remedy:

Comply with clause conditions.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R1,000 (One thousand rand) for electrical; R500 (Five hundred rand) for other.

CLAUSE NO. 8.9: Barricades and fencing Refer to clause 6.1.7

Breach:

General environmental fencing not provided.

Remedy:

Erect correct fencing.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R1,000 (One thousand rand).

CLAUSE NO. 8.10: Storage Facilities

Refer to clauses 6.1.18 and 6.2.3

CLAUSE NO. 8.11: Permissible signage

Refer to Clause 6.1.24

Breach:

Safety signage not provided.

Remedy:

Erect safety signage per the Health & Safety Act, and signage guidelines.

Penalty:

Work stoppage until remedied.

Fine:

Maximum fine R500 (Five hundred rand).

CLAUSE NO. 8.12: Waste management

Refer to clause 7.2.3

CLAUSE NO. 8.13: Protection of natural vegetation and dust control

Refer also clause 8.3

Breach:

Non-compliance.

Remedy:

A notice is issued to the Contractor by the RESERVE MANAGER, and the Contractor rectifies any physical breach within twenty-four hours.

Penalty:

Work is stopped until rectification takes place and the fine is paid. Where no action is taken to rectify any physical breach within twenty-four hours the RESERVE MANAGER may do so and costs plus a 25% administrative charge will be for the Contractor's/ Owner's account.

Fine:

Maximum fine R2,000 (Two thousand rand).

CLAUSE NO. 8.14: Erosion control

Breach:

Erosion emanating from the Building Site to adjacent properties.

Remedy:

A notice is issued to the Contractor by the RESERVE MANAGER, and the Contractor rectifies any physical breach within twenty-four hours.

Penalty:

Work is stopped until rectification takes place and the fine is paid. Where no action is taken to rectify any physical breach within twenty-four hours the RESERVE MANAGER may do so and costs plus a 25% administrative charge will be for the Contractor's/ Owner's account.

Fine:

Maximum fine R2,000 (Two thousand rand).

CLAUSE NO. 8.15: Excavation

Breach:

Damage to existing works.

Remedy:

Recovery as contemplated under clause 9.4.

SECTION 9: POST-CONSTRUCTION SIGNING OFF

CLAUSE NO. 9.1: Practical completion

Breach:

Practical Completion Certificate not issued, and levels not signed off by Controlling Architect.

Remedy:

Submit certificate and confirm levels with Controlling Architect.

Penalty:

Landscaping may not commence.

Fine:

Maximum fine R1,000 (One thousand rand) if landscaping has commenced.

CLAUSE NO. 9.2: Works Completion

Breach:

Works Completion Certificate not issued.

Remedy:

Submit certificate prior to removal of bin and toilet, and disconnection/removal of other temporary services.

Penalty:

ASSOCIATION's clearance certificate will not be issued.

Fine:

Maximum fine R1,000 (One thousand rand) if bin and toilet removed.

CLAUSE NO. 9.3: Statutory certificates

Refer to clause 9.6

Breach (1):

Submission of electrical compliance certificate.

Remedy:

Provide a registered electrician's certificate.

Penalty:

ASSOCIATION's clearance certificate will not be issued.

Fine:

Maximum fine R1,000 (One thousand rand) if owner takes occupation.

Breach (2):

Submission of local authority occupation certificate.

Remedy:

Provide occupation certificate.

Penalty:

ASSOCIATION's clearance certificate will not be issued.

Fine:

Maximum fine R1,000 (One thousand rand) if owner takes occupation.

CLAUSE NO. 9.5: Inspection and signing off

Breach:

Occupation of dwelling, including the placing of moveable furniture (not fixed blinds, cupboards, etc.), prior to an ASSOCIATION clearance certificate being issued.

Remedy:

Vacate premises until remedied.

Penalty:

The ASSOCIATION reserves the right to deny access to the property.

Fine:

Maximum fine R1,000 (One thousand rand).

ANNEXURE B

SITE ACCESS CHECK LIST

1. Contractor
 - 1.1. MBA membership certificate,
 - 1.2. NHBRC enrolment certificate,
 - 1.3. Workers Compensation registration,
 - 1.4. Building Bargaining Council registration,
 - 1.5. Insurance:
 - 1.5.1. Contractors All Risk and
 - 1.5.2. Public Liability
2. Approved safety plan.
3. Deposit: Proof of payment.
4. Signed Contractor's Code of Conduct.
5. Approved plans (by Owner, Architectural Committee & Local Authority).
6. Building Site boundary pegs certificate from land surveyor.
7. Approved Site Plan
 - 7.1. Site Storage 6.1.18
 - 7.2. Waste Skip 6.2.3
 - 7.3. Ablution 6.3.3
 - 7.4. Vegetation clearance 8.3
 - 7.5. Barricades and fencing 8.9
8. Signage erected 7.1.24
9. Ablution facilities delivered to site 6.3.3
10. Standard Waste Skip delivered to site 6.2.3
11. Tap and half drum

Authorised by RESERVE MANAGER

Signature: Date:

ANNEXURE C

PENALTIES AND FINES IMPOSED IN TERMS OF CLAUSE 6.1.6 (ii)

The Owner and Contractor agreed that:

"Once work has commenced on the Building Site it must be continued to completion, without unreasonable interruption or stoppage."

NOW THEREFORE the parties agree, record and confirm as follows:

1. Notwithstanding any provisions to the contrary in the Building Agreement concluded between the Owner and Contractor, the parties shall be obliged to complete the works within twelve (12) months after commencement of the Building operation.
2. Prior to or within three months after the commencement of the building operation, the Owner may apply in writing to the ASSOCIATION for an extension of the above mentioned period for the completion of the works, which application shall be duly supported by written motivation and having regard to the size of the proposed dwelling and the complexity of the building operation. The ASSOCIATION shall have the sole and absolute discretion to grant or refuse an extension in time for the completion of the works.
3. Should the building operation and construction of the dwelling not be completed within twelve (12) months after commencement of the building operation, or such extended period for completion of the building work as may be granted by the ASSOCIATION in terms of 2 above, the ASSOCIATION shall be entitled to impose a fine on the Owner in the sum of R5 000,00 (Five Thousand Rand) per month pro rata calculated from the first day following the completion date referred to hereinabove, until the actual date of completion of the building work. The above fine/s shall be payable immediately upon receipt of an invoice or written notification thereof by the Owner. No clearance certificate or completion certificate of any nature whatsoever shall be issued to the Owner by the Controlling Architect or otherwise until the above fine/s have been paid to the ASSOCIATION.
4. The abovementioned fine/s shall be in addition to and totally separate from and unrelated to the penalties referred to in the recitals above.
5. The above provisions shall be deemed to have been incorporated into the Building Agreement concluded between the Owner and Contractor as if the same initially formed part of such agreement on the date of conclusion thereof.