

## Annexure A to Architectural Guidelines

### BREAKWATER BAY THE BRINK CONTRACTOR'S CONDUCT AGREEMENT

AUGUST 2013 (Rev 4)

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

#### 1 PARTIES

1.1 The parties to this AGREEMENT are:

1.1.1 Breakwater Bay and The Brink Home Owners Association;

1.1.2 The entity recorded as OWNER in the SCHEDULE hereto;

1.1.3 The entity recorded as CONTRACTOR in the SCHEDULE hereto;

1.1.4 The entity recorded as ARCHITECT in the SCHEDULE hereto;

1.2 The parties agree as set out below.

#### 2 INTERPRETATION

2.1 The clause headings are inserted for convenience and shall be disregarded in interpreting this AGREEMENT;

2.2 Unless the context clearly indicates a contrary intention:

2.2.1 The singular shall include the plural and *vice versa*; and

2.2.2 A reference to any one gender shall include the other gender; and

2.2.3 A reference to natural persons includes legal persons and *vice versa*;

2.3 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;

2.4 When any number of days is prescribed in this AGREEMENT, the same shall be calculated as exclusive of the first and inclusive of the last day unless the last day falls on a Saturday, Sunday or 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;

- 2.5 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail;
- 2.6 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;
- 2.7 If any provision in a definition in this 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 if it were a substantive provision in the body of this AGREEMENT;
- 2.8 The SCHEDULE and addendum to this AGREEMENT are deemed to be incorporated in and form part of this AGREEMENT.

### **3 DEFINITIONS**

In this AGREEMENT, unless inconsistent with the context, the following words and expressions shall have the meanings hereby assigned to them:

- 3.1 AGREEMENT means this agreement with the addendum hereto;
- 3.2 APPROVED PLANS means approved by The Breakwater Bay and The Brink Home Owners Association in terms of the Building Guidelines and by the LOCAL AUTHORITY;
- 3.3 ARCHITECTS means the firm of architects referred to in clause 1.1.4 hereof and recorded as such in the SCHEDULE and "ARCHITECT" means any partner, director or principal of the ARCHITECTS (whose appointment it shall not be necessary to prove);
- 3.4 CONTRACTOR means the building contractor referred to in clause 1.1.3 hereof and recorded as such in the SCHEDULE and for purposes of any claim against the CONTRACTOR in terms hereof includes liability for any act or omission by any employee of the CONTRACTOR and/or sub-contractor employee of any sub-contractor and/or any person acting upon instructions received from the CONTRACTOR or in connection with the work to be undertaken by the CONTRACTOR such as persons effecting delivery of

- materials;
- 3.5 ENVIRONMENTAL OFFICER means any person designated as such by the HOA from time to time.
- 3.6 ESTATE MANAGER means a person or body appointed by the HOA.
- 3.7 DEVELOPMENT means certain immovable property being Erf 357(1) and 204(35) George/Herold's Bay which has been subdivided into a township known as Breakwater Bay The Brink in accordance with approval obtained from the LOCAL AUTHORITY;
- 3.8 ERF means certain immovable property being the erf, described as such, in the SCHEDULE upon which the OWNER and the CONTRACTOR propose to construct IMPROVEMENTS and/or alterations;
- 3.9 GUIDE means the architectural guidelines prepared for and applicable to the DEVELOPMENT, a COPY whereof has been handed to the OWNER who has, in turn, made such copy available to the CONTRACTOR and both the OWNER and the CONTRACTOR by their signatures hereto, confirm receipt thereof and acknowledge being fully conversant with all provisions thereof;
- 3.10 HOA means the Home Owners' Association, applicable to the DEVELOPMENT, constituted in terms of Section 29 of the Land use Planning Ordinance (Cape Ordinance No. 15 of 1985) as amended, in accordance with conditions imposed by the LOCAL AUTHORITY when granting approval of the DEVELOPMENT;
- 3.11 IMPROVEMENTS means any structure of whatever nature, already in existence, or to be erected or constructed on the ERF, and includes any changes or alterations of any nature whatsoever to a structure;
- 3.12 LOCAL AUTHORITY means GEORGE Municipality, Western Cape Province;
- 3.13 OWNER means the party referred to in clause 1.1.2 hereof and recorded as such in the SCHEDULE;
- 3.14 SCHEDULE means the addendum hereto headed "ADDENDUM 1".
- 3.15 MANAGING AGENTS means Status Mark or any other body as designated from time to

time.

#### **4 RECORDAL**

- 4.1 The OWNER has selected the CONTRACTOR as his building contractor of choice for the construction/erection of IMPROVEMENTS and the said CONTRACTOR has been approved by the HOA;
- 4.2 The OWNER has selected the ARCHITECT as his architect for the design and implementation of the IMPROVEMENTS;
- 4.3 The HOA wishes to ensure that the construction/erection of the IMPROVEMENTS is undertaken:
  - 4.3.1 Strictly in accordance with the approved plans and designs and so as to cause least possible damage to the infrastructure of the DEVELOPMENT and that, where any such damage occurs, provision is made for reinstatement as well as to ensure that such construction/erection;
  - 4.3.2 With due consideration to environmental factors and generally to ensure that such work is carried out in an orderly and harmonious manner.
- 4.4 To attain the aforesaid objectives, the OWNER and CONTRACTOR bind themselves jointly and severally for the obligations contained herein and the ARCHITECT undertake to use their best endeavours to monitor the provisions hereof and to forthwith report to the HOA any breach of any of such obligations.

#### **5 DEPOSIT**

- 5.1 The OWNER/CONTRACTOR shall, before commencing any work of whatever nature on the ERF, pay to the HOA an amount of R10 000,00 (TEN THOUSAND RAND) which shall constitute a security deposit for damage of whatever nature which may be caused by the CONTRACTOR to any portion of the DEVELOPMENT;
- 5.2 The OWNER/CONTRACTOR irrevocably authorises the HOA to invest the said amount of R10 000,00 (TEN THOUSAND RAND) on call with a bank or financial institution (determined in the discretion of the HOA) with interest accruing for the benefit of the HOA save that the deposit together with the accrued interest shall be available for payment of

- any claim as provided in this clause 5;
- 5.3 Any claim arising as contemplated in clause 5.1 is not limited to the amount of the deposit and accrued interest, and the HOA shall be entitled to recover from the OWNER and CONTRACTOR, in addition to the deposit, the amount by which the reasonable costs of reinstatement resulting from such damage exceeds the said deposit;
- 5.4 The cost of any damage attributable to the CONTRACTOR shall be quantified by a suitable professional (depending on the nature of the damage) appointed by the HOA and the amount so determined shall be final and binding on the OWNER and CONTRACTOR;
- 5.5 If the HOA alleges that the conduct of the CONTRACTOR, whether by commission or omission, is the cause of any damage to any portion of the DEVELOPMENT then the OWNER and CONTRACTOR shall be presumed to be liable unless they are able to prove the contrary;
- 5.6 If the OWNER/CONTRACTOR fails to dispute any claim made in terms of the foregoing clause within 10 (TEN) days of receiving notice thereof, they shall be liable for payment of the cost arising therefrom as determined by a suitable professional in terms of the foregoing;
- 5.7 If the claim is disputed, the HOA shall be entitled to forthwith institute proceedings against the OWNER/CONTRACTOR for recovery of the amount of the claim;
- 5.8 The OWNER/CONTRACTOR shall forthwith pay to the HOA the amount for which it is liable in terms of this clause in order to ensure that the deposit is maintained at the original amount. As appears from clause 5.3, the OWNER/CONTRACTOR shall remain liable to the HOA for payment of the amount (if any) by which the claim exceeds the deposit;
- 5.9 Upon final completion of all work by the CONTRACTOR on the ERF and provided there is no claim pending against the CONTRACTOR in terms of the foregoing, the OWNER shall be entitled to receive payment of refund of the deposit together with accrued interest thereon or the balance of the deposit and interest if any portion was appropriated for payment of a claim;
- 5.10 If a claim is made against the CONTRACTOR pursuant to the provisions of clause 6, the

HOA shall, in addition to the rights aforementioned, be entitled to recover from the OWNER / CONTRACTOR who shall be liable to the HOA for payment of all the HOA's legal costs incurred on the scale as between attorney and own client.

## **6 PENALTY SYSTEM**

- 6.1 The CONTRACTOR shall be responsible for all transgressions by sub-contractors and workers.
- 6.2 The ENVIRONMENTAL OFFICER AND ESTATE MANAGER shall have the right to fine all parties for transgressions. Such fines will be subtracted from the deposit and used for conservation purposes on the ESTATE.
- 6.3 Fines per transgression shall be adequate to act as deterrent.
- 6.4 Fines imposed by the HOA shall be as per Addendum 2.

## **7 ARCHITECTURAL GUIDELINES**

The CONTRACTOR undertakes that throughout the construction/erection of the IMPROVEMENTS he will not knowingly deviate from the provisions of the GUIDE or any further controls or instructions which may be introduced by the HOA and/or the committee referred to in the GUIDE. Wheresoever the provisions of the GUIDE and/or this AGREEMENT are contradictory and/or in conflict with the building contract concluded or to be concluded between the OWNER and the CONTRACTOR for the construction/erection of the IMPROVEMENTS, then the provisions of the GUIDE and/or this AGREEMENT (as the case may be) shall prevail.

## **8 SITE**

### **8.1 NO VARIATION**

The OWNER/ CONTRACTOR acknowledge that the HOA will, from time to time and at all times relevant, be entitled to enforce compliance with the GUIDE and any other instructions/regulations issued in terms thereof or in terms of the written Constitution of HOA with regard to the construction/erection of the IMPROVEMENTS. 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 GUIDE and by the LOCAL AUTHORITY and the CONTRACTOR shall in no way deviate therefrom.

## 8.2 AVAILABILITY OF PLANS

Prior to and during construction/erection of the IMPROVEMENTS, the CONTRACTOR shall ensure that a copy of the working drawings and plans in respect of the IMPROVEMENTS, as approved in terms of the GUIDE, is on site and available at all times to the CONTRACTOR'S employees, as well as being available for inspection by the HOA during all working hours.

## 8.3 SIGNAGE

Only one consultant's board as per the attached specification "Addendum 3" will be allowed on the building site. No other sub-contractor's signs or advertisements will be allowed on site. The approved board must be removed as soon as the project is completed.

## 9 ACCESS/ACCESS CONTROL/DELIVERIES

9.1 The HOA shall at any time be entitled to impose controls with regard to access to the DEVELOPMENT and to introduce such security arrangements as it considers necessary. The CONTRACTOR shall adhere to such security arrangements and if he fails to do so after receipt of written notice calling upon him to remedy his breach then the HOA shall, without prejudice to its further rights, be entitled to refuse the CONTRACTOR access to the DEVELOPMENT and the CONTRACTOR and the OWNER shall have no claim against the HOA arising therefrom. The HOA is required to give notice to the CONTRACTOR of any access control arrangements implemented.

9.2 All delivery vehicles shall leave the DEVELOPMENT once the delivery is complete.

9.3 Deliveries shall be effected only during the hours recorded in clause 10.2.

9.4 No building material shall be off-loaded or stored on any sidewalk, adjacent erf, greenbelt area or roadway within the DEVELOPMENT.

9.5 Delivery vehicles may not be parked unattended upon any paved roadway, sidewalk or parking bays in the DEVELOPMENT. Any concrete, diesel or oil spillage caused by any construction or delivery vehicle on any paved roadway or sidewalk shall immediately be

cleaned by the CONTRACTOR.

- 9.6 The mixing of building materials must occur within the confines of the ERF and only on areas which will be used for building purposes or paving. If any spillage of building material or soil occurs on any paved roadway or sidewalk in the DEVELOPMENT the CONTRACTOR is responsible for ensuring that such spillage is immediately cleaned.
- 9.7 Vehicles weighing more than 10 (TEN) tons are not permitted in estate, unless prior consent is obtained by the Estate Manager.

## **10 BUILDING HOURS**

10.1 No building activity shall be undertaken on Sundays, public holidays or outside of the hours referred to in clause 10.2 without the prior written consent of the Estate Manager, as well as the owners of the immovable properties adjoining the ERF where applicable; This restriction also applies to all sub-contractors working on the site and must be conveyed to them by the OWNER/CONTRACTOR.

10.2 Building activity on the ERF shall be confined to:

10.2.1 Weekdays 07h00 – 18h00

10.2.2 Saturdays 07h00 – 13h00

## **11 CONTROL OF LABOUR**

11.1 Throughout the construction/erection of the IMPROVEMENTS, the CONTRACTOR is responsible for the discipline and control of his employees and/or sub-contractors and is responsible for any damage caused to any part of the DEVELOPMENT by any supplier of materials or any other person instructed by or employed by the CONTRACTOR and/or sub-contractors in respect of the work undertaken on the ERF.

11.2 If, while the construction/erection of the IMPROVEMENTS occurs, there are existing dwellings on adjacent immovable properties, the CONTRACTOR shall make every endeavour to respect the privacy of the residents of such dwellings and generally to cause least inconvenience to such persons.

11.3 Only 1 (ONE) night watchman will be allowed on the ERF at any time during the construction/erection of the IMPROVEMENTS and no other person shall be permitted on



the ERF outside the permitted building activity hours detailed in clause 10.2. The CONTRACTOR shall be responsible for the behaviour and conduct of the night watchman. If, in the opinion of the HOA the night watchman has behaved in an unacceptable manner, the CONTRACTOR shall, upon notice from the HOA, forthwith permanently remove and replace the night watchman from the DEVELOPMENT.

## **12 WATER**

The CONTRACTOR will obtain water for the work to be undertaken on the ERF from the municipal water connection on the ERF. Application for connection is to be made through the LOCAL AUTHORITY.

## **13 SEWERS**

13.1 A sewer connection has been provided for ERVEN into which the CONTRACTOR is required to connect the sewer system for the IMPROVEMENTS.

13.2 The CONTRACTOR may not dispose of any building material, contaminated water or rubbish into the sewage system.

## **14 STORM WATER**

14.1 The CONTRACTOR shall make adequate provision for temporary storm water drainage during construction in consultation with the ENVIRONMENTAL OFFICER and shall re-instate any eroded areas to the satisfaction of the ENVIRONMENTAL OFFICER.

14.2 The CONTRACTOR may not dispose of any building material, contaminated water or rubbish into the storm water system, nor may the CONTRACTOR wash paint or cement based products into the storm water system or onto landscaped and paved areas.

14.3 The CONTRACTOR will provide the ENVIRONMENTAL OFFICER and the ESTATE MANAGER with a list of all chemicals including paints and solvents, to be used on site. Such chemicals shall be contained in suitable, safe containers and stored in a secure facility.

14.4 No discarded chemicals (even in diluted form) including concrete may be spilt or dumped or allowed to spill over or flow into the area outside the shade net screen. All discarded chemicals are to be removed from the property on a daily basis.

## **15 EXCAVATION/ RUBBLE/ LITTER**

- 15.1 Excavation for foundations and/or walls adjoining paved roadways and/or sidewalks must be undertaken with caution and, in particular, the paved roadway/sidewalk must be protected and supported during excavations. Any damage caused to the paved roadway/sidewalk must be repaired or replaced by the CONTRACTOR immediately the damage becomes evident. Excavation must be done, starting at the furthest point from the road, as no access will be allowed at a later stage from the adjacent ERVEN or green belt areas.
- 15.2 All refuse must be placed in bags or in waste bins (where applicable) supplied by the CONTRACTOR at the CONTRACTOR'S cost. Refuse must be removed from the DEVELOPMENT on a weekly basis. The waste bins must have hessian covers when not in use and must be regularly emptied. Without detracting from the generality of the foregoing, the CONTRACTOR specifically acknowledges that all empty cement bags, plastic and other loose material must be removed from the DEVELOPMENT so as not to contaminate same.
- 15.3 The CONTRACTOR shall ensure that all building rubble is removed on a weekly basis or as otherwise required by the DEVELOPER. No building rubble is to be used as filling material on the outside of the walls of the building.
- 15.4 The CONTRACTOR shall generally ensure that the ERF is at all times kept neat and free of litter or other unsightly waste.
- 15.5 If the CONTRACTOR fails to keep the ERF in an acceptably tidy state or to have the rubble removed then the HOA shall, without prejudice to its further rights, have the right at the cost of the CONTRACTOR to clean the site and/or remove the rubble which shall be deductions from the deposit made in terms of clause 5 hereof.
- 15.6 Under no circumstances will the dumping of any building material or rubble be permitted on any portion of the DEVELOPMENT and the CONTRACTOR is required to make his own arrangements for disposing of materials at a spoil site off the DEVELOPMENT.
- 15.7 Provision must be made for bulk-storage of building materials. The CONTRACTOR shall consult the ENVIRONMENTAL OFFICER or the ESTATE MANAGER about short-term storage of materials on site.

- 15.8 The CONTRACTOR shall ensure that bricks are delivered outside the Estate and brought in by smaller trucks.
- 15.9 Throughout the construction/erection of the IMPROVEMENTS effective dust control measures must be implemented.
- 15.10 No wood, poles, sand or any other building material may be stored, stacked or dumped against the shade net screen as specified in clause 18.2.

## **16 TOILET FACILITIES**

- 16.1 Prior to commencement of the construction/erection of the IMPROVEMENTS and throughout the duration of the work, the CONTRACTOR shall provide a suitable and properly operational water borne or chemical toilet on the ERF and shall ensure that such facility is at all times maintained in a clean, hygienic and neat condition. The toilet door must be kept closed at all times with the toilet door facing towards the building.
- 16.2 The CONTRACTOR will consult the ENVIRONMENTAL OFFICER or the ESTATE MANAGER about placement of chemical toilets and the designation of washing and eating areas.
- 16.3 Any worker (employee of the CONTRACTOR/sub-contractor/s or invitee) found relieving himself in any area other than the supplied toilet will, upon request by the HOA or the ARCHITECT be removed from the DEVELOPMENT by the CONTRACTOR and shall be barred from returning to the DEVELOPMENT.

## **17 USE OF ROADS**

- 17.1 Only existing roads shall be used and no articulated trucks will be allowed on site. Any damage to roads or adjacent areas will be for the CONTRACTORS' account.
- 17.2 The speed limit on all roads in the Estate is 30km/h.
- 17.3 Vehicle access to a site must be shown on site diagram. All accesses should be designed by an engineer to ensure that the construction vehicles do not damage the existing services when entering the sites, especially on very sloping areas. (See *proposed engineered designed entrances for typical site in Appendix "B"*). A layer of sand must be laid down on the existing road surface to prevent trucks damaging the road when entering

the site. Service connection points (water, sewerage, power and telephone) will be finalised once the engineer's reticulation plans are approved.

## **18 THE SITE BOUNDARIES**

- 18.1 The ARCHITECT shall consult with the ENVIRONMENTAL OFFICER as to the placement of the footprint on the property, ensuring that the most environmentally sensitive site be chosen.
- 18.2 The footprint and the 3m (metres) work area be enclosed by Knittex K80Green shade-netting 1,8m high of 80% density or equally approved .In the case of buildings with as irregular footprint , where it could be difficult to determine the position of the shade net screen , the ENVIRONMENTAL OFFICER must be consulted . The erection of the shade net screen must be done in consultation with the ENVIRONMENTAL OFFICER. For this purpose, the boundary of the ERF, position of the screen as well as the footprint of the building must temporarily be indicated by means of a bright coloured string, twine or nylon cord.
- 18.3 All activities of CONTRACTORS, subcontractors and workers must be contained within said enclosed building area.

## **19 VEGETATION AND SOIL**

- 19.1 The CONTRACTOR shall notify the ENVIRONMENTAL OFFICER, ESTATE MANAGER and MANAGING AGENTS at least 4 (four) weeks before commencement of construction on site to ensure that plants can be removed and stored on the erf in an shade cloth enclosure approximately 3m x 3m in area for further rehabilitation of the site and so that the necessary permits can be obtained in the event that Milkwood trees are to be removed.
- 19.2 The CONTRACTOR shall ensure that the construction/erection of the IMPROVEMENTS in no way causes damage to trees, other vegetation or landscaping on the DEVELOPMENT and he shall take steps to protect such vegetation, where necessary.
- 19.3 The CONTRACTOR shall remove the topsoil and store it in a designated area and ensure it is re-instated at the site after construction is completed.
- 19.4 The CONTRACTOR shall remove and "chip" all plant material left on site after the rescue

operation have taken place and store it in a area designated by the ENVIRONMENTAL OFFICER and reinstate as a mulch after construction is completed.

- 19.5 In the event of soil or topsoil being excavated, the CONTRACTOR shall consult the ENVIRONMENTAL OFFICER as to its re-usage on site, relocation or removal from the Estate.

## **20 FIRES**

No fires shall be allowed on the property at any time.

## **21 OWNER**

The OWNER undertakes to co-operate fully with the CONTRACTOR, the ARCHITECT and the HOA to ensure that the spirit and intent of this AGREEMENT are complied with. The OWNER acknowledges that he has employed the CONTRACTOR and the ARCHITECT and is responsible to ensure compliance with this AGREEMENT as well as the GUIDE and any rules made in terms thereof from time to time.

## **22 DOMICILIUM NOTICES**

- 22.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this AGREEMENT, whether in respect of Court process, notices or other documents or communications of whatsoever nature, the following addresses:

22.1.1 HOA – care of Status-Mark Property Management

22.1.2 OWNER – the address and telefax number recorded after the Description of the OWNER in the SCHEDULE;

22.1.3 CONTRACTOR – description of the CONTRACTOR in the SCHEDULE;

22.1.4 ARCHITECTS – the address and telefax number recorded after the description of the ARCHITECTS in the SCHEDULE.

- 22.2 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 telefax or e-mail.

22.3 Any notice to a party:

- 22.3.1 Sent by prepaid registered post in a correctly addressed envelope to its *domicilium citandi et executandi* shall be deemed to have been received on the third day after posting (unless the contrary is proved);
- 22.3.2 Delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery;
- 22.3.3 sent by telefax or e-mail during normal working hours to the telefax number or e-mail address specified herein for the addressee, shall be deemed to have been received by the addressee 4 (FOUR) hours after the time of transmission or within 12 (TWELVE) hours of transmission where it is transmitted outside business hours;
- 22.4 Any of the parties referred to in clause 22.1 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 poste restante and provided that such alteration shall not be effective until 7 (SEVEN) days after it has been received.
- 22.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually 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*.

## **23 BREACH**

- 23.1 In the event of the OWNER/CONTRACTOR breaching any of the provisions of this AGREEMENT and persisting in such failure for a period of 7 (SEVEN) days after dispatch of written notification calling upon them or either of them to remedy the same, the HOA shall be entitled to all or any of the following relief:
- 23.1.1 to deny the CONTRACTOR access to the DEVELOPMENT;
- 23.1.2 to cancel this AGREEMENT, in which event the CONTRACTOR shall not be entitled to continue construction on the ERF. Should the CONTRACTOR so require, the HOA will, upon reasonable notice, meet with the CONTRACTOR in an effort to obtain the CONTRACTOR'S undertakings to abide by the terms and conditions of this

AGREEMENT. The HOA shall be entitled, in its absolute discretion, to reinstate this AGREEMENT to enable the CONTRACTOR to continue with the work on the ERF subject to such further conditions as the HOA may impose;

23.1.3 to hold the OWNER and/or CONTRACTOR jointly and severally liable and to claim from either or both of them the cost of reinstatement of any damage caused by them within the DEVELOPMENT, as determined in terms hereof;

23.1.4 should the HOA take steps against the OWNER and/or CONTRACTOR pursuant to a breach of this AGREEMENT, the HOA shall, in addition to the rights aforementioned, be entitled to recover from the OWNER and/or CONTRACTOR who shall be liable to the HOA for payment of all the HOA's legal costs incurred on the scale as between attorney and own client.

23.2 If access to the DEVELOPMENT is denied to the CONTRACTOR in terms of the foregoing or this AGREEMENT is cancelled as above, neither the CONTRACTOR nor the OWNER shall have any claim of whatever nature against the HOA arising there from.

**24 INDULGENCES**

No extension of time or indulgence granted by the HOA to the CONTRACTOR and/or the OWNER shall be deemed in any way to affect, prejudice or derogate from the rights of the HOA 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.

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
BREAKWATER BAY THE BRINK  
HOME OWNERS ASSOCIATION

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

OWNER

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

CONTRACTOR

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_

ARCHITECT/  
APPOINTED AGENT OF THE OWNER



**ADDENDUM 1**

**SCHEDULE TO CONTRACTOR'S CONDUCT AGREEMENT**

1. BREAKWATER BAY AND THE BRINK HOME OWNERS ASSOCIATION

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

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

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

2. OWNER

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

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

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

3. CONTRACTOR

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

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

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

4. ARCHITECTS

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

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

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

5. PROPERTY

**Erf:** \_\_\_\_\_

**Plot No:** \_\_\_\_\_

6. CONTACT DETAILS

ENVIRONMENTAL OFFICER  
ESTATE MANAGER  
MANAGING AGENTS

Dr Daan Botha: 0842080881/044 851 0107

Mr Cobus Barnardt: 072 758 1860

Status Mark: 044 691 3054 Fax 044 691 1520

## ADDENDUM 2

### BREAKWATER BAY CONTRACTORS CONDUCT AGREEMENT

#### PENALTIES as per Clause 6

#### 8.3 SIGNAGE

Only one consultant board as per the attached specification "Addendum 3" will be allowed on the building site. No other sub-contractor's signs or advertisements will be allowed on site. The approved board must be removed as soon as the project is completed.

***BREACH:***

- ***Signboard not conforming to standard set by the HOA, R500.00 penalty.***
- ***Signboard to be erected within 2 weeks after construction started. Not conforming to the latter – R300.00 penalty.***
- ***Signage not kept in acceptable standard, R150.00 per day of infringement.***

#### 9 & 11 ACCESS/ACCESS CONTROL/DELIVERIES/CONTROL OF LABOUR

The BUILDING CONTRACTOR shall only use designated access, delivery and labour control assigned by the HOA for purpose of its work and delivery of materials, equipment and workers.

***BREACH:***

- ***Any employee of the building contractor or any sub contractor not adhering to the access control will be penalized with a R1000 penalty.***
- ***Any employee of a building contractor or its sub contractors found outside the immediate vicinity of the building site, will be penalized with a R1000 per person/per transgression fine.***
- ***Threatening of any security personnel will be viewed as a serious breach and the penalty for such a breach will amount to a fine of R2500 for the building contractor and expulsion of the perpetrator from the estate.***

## 10 BUILDING HOURS

- 10.1 No building activity shall be undertaken on Sundays, public holidays or outside of the hours referred to in clause 10.2.

***BREACH:***

- ***Employees not leaving the estate within the times set, will be escorted off and the appropriate contractor penalized with a R5000.00 fine.***

## 16. TOILET FACILITIES

- 16.1 Prior to commencement of the construction/erection of the IMPROVEMENTS and throughout the duration of the work, the CONTRACTOR shall provide a suitable and properly operational water borne or chemical toilet on the ERF and shall ensure that such facility is at all times maintained in a clean, hygienic and neat condition. The toilet door must be kept closed at all times with the toilet door facing towards the building.
- 16.2 The CONTRACTOR will consult the ENVIRONMENTAL OFFICER or the ESTATE MANAGER about placement of chemical toilets and the designation of washing and eating areas.
- 16.3 Any worker (employee of the CONTRACTOR/sub-contractor/s or invitee) found relieving himself in any area other than the supplied toilet will, upon request by the HOA or the ARCHITECT be removed from the DEVELOPMENT by the CONTRACTOR and shall be barred from returning to the DEVELOPMENT.

***BREACH:***

- ***Toilet facilities found not to conform with the clause 16 will result in a penalty of a R1000.00***

## 17. USE OF ROADS

***BREACH:***

- ***Any damage incurred by trucks will result in a penalty of R500.00 for the appropriate contractor.***

**GENERAL:*****BREACH:***

- ***No waste bins on site – R1000.00 penalty***
- ***Waste bin not complying to regulations – R500.00 penalty***
- ***Overflowing waste bins – R500.00 penalty***
- ***Refuse dumped on other place within the estate – R1000.00 penalty***
- ***Dumping building waste on the estate – R1500.00 penalty***
- ***Dumping excavation soil other than the allocated area - R2000.00 penalty***
- ***ERF not kept in an acceptable tidy state – R500.00 per day***
- ***Shade netting not neat – R1000.00 penalty***

**NEW RESIDENCE FOR  
Mr & Mrs GOLF FANS**

DESIGN

**JOE SOAP & PARTNERS**

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STRUCTURAL ENGINEERS

**DICK CHANGE & PARTNERS**

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CONTRACTOR

**PETER BRAVEBOY & SONS (Pty) Ltd**

The size of the board 1200mm wide x 800mm high