

CONDUCT RULES FOR BUILDERS

NEGESTER KLEIN-KARIBA RETIREMENT ESTATE HOMEOWNERS ASSOCIATION

1. PARTIES

1.1

Registration Number : _____

(hereafter referred to as "***the contractor***")

and

1.2

Identity Number / Registration Number / IT number: _____

(hereafter referred to as "***the owner***")

and

1.3

**NEGESTER KLEIN-KARIBA RETIREMENT ESTATE HOMEOWNERS
ASSOCIATION**

Registration Number : _____

(hereafter referred to as "***the Negester HOA***")

2. INTERPRETATION

2.1

In the interpretation of this document, unless the context otherwise indicates, "***Act***" means the Companies Act, 2008 (Act 71 of 2008), as amended from time to time and any regulations made and in force thereunder.

2.2

Words and expressions, to which a meaning has been assigned in the Memorandum of Incorporation ("***the Mol***") of ***the Negester HOA***, shall bear the same meanings in these ***Conduct Rules For Builders***.

2.3

These ***Conduct Rules For Builders*** were accepted by the subscribers to ***the Mol*** of ***the Negester HOA*** and ***the developer*** in terms of clause 5.2.1 of ***the Mol***, for purposes of managing the conduct of builders while they work in ***the township***.

- 2.4 These **Conduct Rules For Builders** also incorporate:
- 2.4.1 the Security Procedure for Building Contractors attached as **Annexure CRB1**;
- 2.4.2 application for contractor's permit, **Annexure CRB1(A)**;
- 2.4.3 the agreed fines for non-compliance, **Annexure CRB2**.
- 2.5 The authorised representative of **the contractor** and **the owner** record that they have read and understand their rights and performance obligations in improving a **private property**, and undertake to comply with the provisions hereof.
- 2.6 **The Negester HOA** or **the developer** may from time to time by way of a written notification introduce further controls.

3. PURPOSE AND BINDING NATURE

- 3.1 **The township** has the unique qualities of an upmarket homogenous aesthetic secured residential retirement estate and in order to maintain the aesthetics, standards, general appearance and security arrangements of **the township**, it is necessary that **members, contractors**, their labourers, sub-contractors and suppliers adhere to prescribed rules in developing or improving **private property** in **the township**.
- 3.2 The purpose of these **Conduct Rules For Builders** are therefore to ensure a harmonious integration of residential living on the one hand, and building activities on the other hand, within **the township** with minimal impact upon the environment, residents and others, because building activities within **the township** will be carried out over a considerable period of time.
- 3.3 These **Conduct Rules For Builders** constitute a binding three party voluntary agreement enforceable in terms of its recorded terms.

3.4 Strict adherence to all aspects of ***the Conduct Rules For Builders*** are required and expected at all times and in all respects, as a result of which agreed fines and penalties recorded in ***these Rules*** may be imposed by ***the Negester HOA*** in the event of non-compliance.

3.5 It is the responsibility of:

3.5.1 ***the owner*** to ensure compliance by ***the contractor***,

3.5.2 ***the contractor*** to ensure compliance by his labourers, sub-contractors and suppliers,

with these ***Conduct Rules For Builders***; provided that ***the owner*** shall have a contractual right of recourse against ***the contractor***, and provided further that if ***the contractor*** wants a right of recourse against any one of them, he must negotiate it in his contract with them.

4. **BUILDING PLAN APPROVAL AND BUILDING INSPECTIONS**

4.1 Pre-submission Phase

Due to the prescribed ***development options*** for ***the township***, an architect has been appointed by ***the developer*** on behalf of ***the Negester HOA*** who has prepared the necessary plans to erect residential units on ***private properties*** and to render ***architectural services*** as defined in the deed of sale of ***private properties***.

4.2 Plans Submission & Inspection

4.2.1 First Stage Approval

The design concept and sketch plans ("***first stage drawings***") of a proposed residence on a ***private property*** must be agreed with the architect appointed in terms of clause 4.1 before final design and working drawings are submitted.

4.2.2 Second Stage Approval

After First Stage approval has been agreed between *the owner* and the architect, the detailed design and working drawings ("**building plans**") which comply with the following criteria will be prepared and submitted to the architectural and aesthetics sub-committee of *the Negester HOA* for inspection and approval:

- 4.2.2.1 the floor area of the residence, including patios and outbuildings;
- 4.2.2.2 the percentage coverage of *the erf*;
- 4.2.2.3 the height of all buildings above original natural ground level;
- 4.2.2.4 building restriction lines;
- 4.2.2.5 all external finishes, including a colour specification;
- 4.2.2.6 boundary wall / fence details, including elevations;
- 4.2.2.7 drainage and how it is concealed, as well as the sewer connection;
- 4.2.2.8 layout of the driveway;
- 4.2.2.9 external lighting plan; and
- 4.2.2.10 a signed original **Conduct Rules For Builders** by *the owner* and *the contractor*.

4.3 Plan Approval

The architectural and aesthetics sub-committee of *the Negester HOA* must approve, or reject with written reasons, *the building plans* for residences in *the township*, within 8 (eight) days of submission and payment of all the prescribed amounts in clause 4.4.

4.4 Fees and Compliance Guarantees

4.4.1 A non-refundable plan approval fee of R [REDACTED] is payable by **the owner** to **the Negester HOA** on submission of **building plans** for approval by the architectural and aesthetics sub-committee of **the Negester HOA**, only in the event of an amendment to a pre-approved **development option**.

4.4.2 Should it become necessary to re-submit building plans for approval, **the Negester HOA** may insist on payment of additional plan inspection and approval fees, as agreed and prescribed from time to time.

4.4.3 Before construction work is to commence, **the contractor** must deposit a refundable building performance fee of R10 000,00 ("**a compliance guarantee**") to be held in trust, free of interest, by **the Negester HOA**, and to be applied as agreed and recorded in **these Rules**.

4.4.4 **The compliance guarantee** in clause 4.4.3 will only be used in event of there being a breach or non-performance to remove rubble or make good any damage caused by **the contractor** or his sub-contractors or suppliers, including damage to kerbing, landscaping, community services, roads, irrigation and the like, or to pay any outstanding fines.

4.4.5 **The compliance guarantee** shall be repaid to **the contractor** 14 (fourteen) days after submission to **the Negester HOA** of:

4.4.5.1 the certificate of practical completion issued by the architectural and aesthetics sub-committee of **the Negester HOA**;

4.4.5.2 the local municipality's certificate of completion and occupancy.

4.4.6 **The Negester HOA** shall have the right to refuse and prevent the occupation of any residence on a **private property** if the documentation in clause 4.4.5 is not filed with it.

4.4.7 A refundable **compliance guarantee** of R20 000,00 may, in the sole discretion of **the Negester HOA**, be paid by a **contractor** to be used on a "roll-on" basis for up to 3 houses by a multiple housing **contractor**.

4.4.8 **The contractor** must pay an architectural integrity fee of R500,00 per month whilst a residence on a **private property** is under construction, to cover regular site inspection costs to ensure compliance by **the contractor** with the approved plans and these **Conduct Rules For Builders**.

[DRAFTING NOTE : Is this still applicable in the light of pre-approved *development options* and inclusion of *architectural services* in the deed of sale]

4.4.9 All **owners** must contribute an amount of R500,00 per month to a road damage contingency fund whilst his / her / its residence is under construction.

4.4.10 A compliant builders' board to be erected on the building site, will be provided to **the contractor** on request by **the Negester HOA** against payment of a fee of R2 000,00.

4.4.11 **The Negester HOA** reserves the right to increase any of the abovementioned amounts from time to time by means of a resolution by an ordinary majority of **members** on recommendation of **the board of directors**; provided that such increase shall not have retroactive application.

5. ACCESS, EXIT AND VEHICULAR TRAFFIC

5.1 The authorised representative of **the contractor** acknowledges that he is aware that **the Negester HOA** is a security estate and that **the contractor** must at all times adhere to the security regulations and controls of **the Negester HOA**, and agrees to comply therewith.

5.2 The prescribed procedures for authorised access to and egress from **the township**, and the requirements for identification of vehicles and all personnel are contained in **Annexure CRB1** hereto.

- 5.3 **The Negester HOA** reserves the right to improve the security and access controls and amend such controls by means of publication of a revised **Annexure CRB1**.
- 5.4 Only authorized vehicles will be allowed into **the township**; subject to a load restriction of (8) tons and axle load testing by **the Negester HOA** prior to being allowed entry.
- 5.5 Except for roof truss deliveries, no articulated vehicles are permitted into **the township**, unless by prior authorization of **the Negester HOA**. It is the obligation of **the contractor** to notify his suppliers of this restriction, and **the Negester HOA** shall not entertain any claims of losses or damages or delays in this regard.
- 5.6 Deliveries of building materials must be scheduled between 06h00 and 17h00 on weekdays only.
- 5.7 **The Negester HOA** security personnel have the right to subject vehicles entering and exiting **the township** to a physical search, and compiling and inventory and taking photos, if necessary.
- 5.8 **Contractors** shall only access and exit through the designated area determined by **the Negester HOA**.
- 5.9 Any contravention of security and access rules will constitute a security breach which will entitle **the Negester HOA**, to impose a fine on **the owner** in terms of clause 13 below or to the suspension of building activities, and barring **the contractor** to access **the township**.
- 5.10 No construction-, or delivery vehicles will be allowed to deviate from any internal roads or the recognised route to the building site. If any vehicle contravenes this rule **the Negester HOA** may:
- 5.10.1 impose a fine in terms of clause 13; and
- 5.10.2 remove the offending vehicle from the site and **the township** and recover any damages sustained to **the common property** or any other **private property** on behalf of such **owner** by way of agreed derivative private arbitration proceedings in terms of clause 14.

- 5.11 Vehicles with mechanical legs on trailers must use protection for possible damage to internal road surfaces.
- 5.12 The speed limit in **the township** is 30 km/h and speeding and reckless driving will not be tolerated. Due care must also be taken by all vehicles not to block the thoroughfare of internal roads.

6. HOURS OF WORK

- 6.1 **The contractor** may only enter **the township** after 06h00 in the morning and must vacate **the township** by 18h00.
- 6.2 No labourers or other employees of **the contractor** will be allowed to sleep overnight on site. No employee may remain on **the private property** to guard materials on site or the incomplete building. **Contractors** may negotiate with the appointed security company of **the Negester HOA** for on-site security services, if required.
- 6.3 Construction will be limited from Monday to Friday between 06h00 and 18h00.
- 6.4 No construction will be permitted on Saturdays, Sundays and public holidays unless by prior written agreement with **the Negester HOA**, in exceptional circumstances.

7. CONTRACTOR'S LABOURERS

- 7.1 Labourers who are used to undertake construction work on **private property** on behalf of **the contractor**.
- 7.1.1 must be legally employed by **the contractor** and only under exceptional circumstances and then in the sole discretion of **the Negester HOA**, will casual labour be allowed on site;
- 7.1.2 must be registered at the Security Control Room, where they will be issued with a temporary entry permit, which must be worn at all times whilst on site, and accessing and exiting **the township**;

- 7.1.3 must be transported under supervision by **the contractor** to and from the building site to access and exit gates;
- 7.1.4 are not permitted to walk between the construction site and:
- 7.1.4.1 the entrance / exit gates;
- 7.1.4.2 another construction site in **the township**;
- 7.1.5 must remain on the building site of **the contractor** during working hours.
- 7.2 **The contractor** is responsible for the discipline of his labourers, sub-contract labourers and delivery personnel of suppliers within **the township**.
- 7.3 If **the contractor** or any of his employees contravenes this clause, **the Negester HOA** may:
- 7.3.1 impose a fine in terms of clause 13 and on **the owner** who shall be entitled to recover it from **the contractor** by way of set-off against the contract price;
- 7.3.2 insist that **the contractor** immediately remove the offending employee from the building site and **the township**, or alternatively request the security personnel to remove the offending employee from **the township**.
- 7.4 Any dispute between **the contractor** and its employees must be settled outside the boundaries of **the township**.
- 7.5 If any employee of **the contractor** is found disturbing or endangering the animal-, fish- or bird life, or is suspected of unlawfully removing material or goods from **the township** or is involved in any form of violent behaviour, **the contractor** employing the offending employee will be removed from **the township** and both the offending employee and **the contractor** will be denied to undertake any further construction-, or other work in **the township**.

8. HOUSEKEEPING AND TIDINESS

- 8.1 The building site must be cleaned of building rubble at the end of every day and good rubble control practices must be undertaken during building operations.
- 8.2 No concrete, dagha, cement or such may be temporally stored, or mixed or prepared on any part of the internal roads, kerbs, pavements or **common property**.
- 8.3 Building materials must be off-loaded onto the building site and may not encroach onto the adjacent **private properties**, the pavement, road or other part of **the common property**, and it shall be the responsibility of **the contractor** to ensure compliance, failing which **the Negester HOA** may impose a fine in terms of clause 13 on **the owner**, who may recover it from **the contractor** by way of set-off against the contract price.
- 8.4 **The contractor** shall also provide adequate facilities for the disposal of personal rubbish and ensure that his labourers and sub-contractors use the facilities provided, and that the rubbish is removed every day to the on-site disposal dump of **the township** provided by **the Negester HOA**, if applicable, otherwise it shall be removed to an authorised off-site dumping ground of the local municipality. No rubbish may be burnt or buried on **the township**.
- 8.5 Accumulation of hardcore for fill shall be neatly piled.
- 8.6 **Contractors** shall take special care in their handling, disposal and cleaning up operations, with particular note to paint, tile grout, tile adhesive, cement and Rhinolite, chemicals, oil and fuel, to prevent pollution and contamination of groundwater and run-off water.
- 8.7 Fires for cooking or other purposes will not be permitted, and **contractors** shall ensure that approved alternative meal and heating arrangements are made, if required.
- 8.8 **The contractor** shall provide approved portable chemical toilet facilities or temporarily couple enclosed temporary toilets to the sewerage system, and changing facilities for its labourers and sub-contractors, and suitably position and screen them with forest fence, and keep them hygienic.

- 8.9 A certificate of completion issued by the principal agent of **the owner** or failing him / her by the architectural and aesthetics sub-committee of **the Negester HOA**, shall constitute proof of completion of the residence and commencement of a 5 (five) day period in which **the private property** must be cleared of all rubble, surplus materials and building equipment, to the satisfaction of **the Negester HOA**.
- 8.10 No pets, birds, or domestic animals of **contractors** will be permitted into **the township**.
- 8.11 Noise and dust reduction is essential, and **contractors** shall endeavour to the extent objectively possible, to limit noise pollution by labourers, construction equipment, vehicles and delivery vehicles.

9. **BUILDING BOARDS**

- 9.1 One approved building board shall be erected per site, and such board is to be erected in the corner of each site, and be maintained in a level position throughout the construction period, and be removed immediately after completion of the construction.
- 9.2 Building boards provided by **the Negester HOA** will be for the account of **the owner** who may recover it from **the contractor**.

10. **GENERAL**

- 10.1 **Contractors** are expected to conduct all building activities in a reasonable and co-operative manner. Should **the Negester HOA** have any concern with the conduct of **the contractor**, his sub-contractor or suppliers or any of their employees, **the Negester HOA** may, if **the owner** or **the contractor** fails to rectify the cause for concern after having received 24 (twenty four) hours written notice, may suspend building activity either indefinitely or until such undesirable conduct is rectified, without recourse from **the owner** or **the contractor** or any sub-contractors, or a supplier.
- 10.2 Vehicles leaking oils and fluids will not be permitted to park on the internal roads.

11. INSPECTION BY THE *NEGESTER HOA*

- 11.1 A representative of the architectural and aesthetics sub-committee of *the Negester HOA* will carry out site inspections during the following stages of construction:
- 11.1.1 surface bed level;
- 11.1.2 completion of roof structure; and
- 11.1.3 practical completion.
- 11.2 The architectural and aesthetics sub-committee of *the Negester HOA* may inspect the works at any stage during construction and may request any reasonable alterations and / or additions to ensure that the general design guidelines as intended for *the township* are complied with.
- 11.3 *The owner* is responsible to timeously notify the architectural and aesthetics sub-committee of *the Negester HOA* when the stages of completion that needs to be inspected will be achieved in order to arrange for the works to be inspected.

12. OCCUPATION

Occupation of a completed residence on a *private property* shall only be allowed after *the owner* has produced a certificate of occupation issued by both the local municipality and the architectural and aesthetics sub-committee of *the Negester HOA*.

13. FINES AND PENALIES TO BE IMPOSED ON *CONTRACTORS* AND / OR *OWNERS*:

- 13.1 In the event that *contractors* or *owners* do not comply with these *Conduct Rules For Builders*, the fines and penalties recorded in *Annexure CRB2* may be imposed by the architectural and aesthetics sub-committee of *the Negester HOA* and be recovered from *the owner*; *contractors* and *owners* are jointly and severally liable for any fine or penalty imposed by *the Negester HOA*; and provided further that *the owner* shall have a contractual right of recourse against *the contractor*.

- 13.2 All contraventions of these **Conduct Rules For Builders**, in respect of which there is no agreed fine recorded, shall be subject to a maximum fine of R150,00 per day.
- 13.3 The fines or penalties are to be paid within 7 (seven) calendar days of written notification at the offices of **the Negester HOA**.
- 13.4 If fines are not paid within the prescribed period in clause 13.3, building activities will be suspended from the 8th day following the notification of the imposition of the fine, until such time as payment has been made.

14. DISPUTE RESOLUTION

The dispute resolution procedures in article 5.12 of **the Mol** shall by agreement between **the contractor, the owner** and **the Negester HOA** equally apply to a dispute which arises in terms of these **Conduct Rules For Builders**.

15. CONTACT DETAILS OF PARTIES

PARTIES	BUSINESS ADDRESS	POSTAL ADDRESS	CELLULAR NUMBER, FACSIMILE- AND EMAIL ADDRESSES
THE CONTRACTOR	c/o The owner at the physical address of the private property		
THE OWNER	The physical address of his / her / its private property		
NEGESTER HOA	The Township Manager Negester Klein-Kariba c/o ATKV Head Office 348 Surrey Avenue Ferndale, Randburg	The Township Manager Negester Klein-Kariba c/o ATKV Head Office 348 Surrey Avenue Ferndale, Randburg	

16. **EXECUTION**

PARTIES	DATE	PLACE	WITNESSES
This document was signed on behalf of <i>the contractor</i> by the natural person whose particulars appear hereunder, who personally warrants his / her authority, and his / her principal's capacity to contract on the basis set out in <i>these Rules</i>. _____ q.q. THE CONTRACTOR Full Names: _____			1. _____ 2. _____
This document was signed by or on behalf of <i>the owner</i> who personally warrants his / her capacity and authority to contract on the basis set out in <i>these Rules</i>. _____ q.q. THE OWNER Full Names: _____			1. _____ 2. _____
This document was signed on behalf of <i>the Negester HOA</i> by the natural person whose particulars appear hereunder, who personally warrants his / her authority, and his / her principal's capacity to contract on the basis set out in <i>these Rules</i>. _____ q.q. THE NEGESTER HOA Full Names: _____		RANDBURG	1. _____ 2. _____