



**Boschhoek** *Berglandgoed  
Mountain Estate*

**BOSCHHOEK MOUNTAIN ESTATE HOME OWNERS  
ASSOCIATION NPC**

**CONDUCT RULES**

**Effective 1 December 2019**

**Approved by the Board, the Developer  
and Home Owners at a Special General Meeting  
held on 29 October 2019**

# BOSCHHOEK MOUNTAIN ESTATE HOME OWNERS ASSOCIATION NPC

## CONDUCT RULES

### GENERAL RULES & REGULATIONS

#### 1. INTRODUCTION

- 1.1 The Boschhoek Mountain Estate Home Owners Association NPC ("the HOA") is registered under Section 13 of the Companies Act as a Non Profit Company. It is recorded that whilst all the Owners of stands in the Estate are automatically members of the HOA, their interests are looked after by elected directors serving on the Board of the HOA. Many of the day-to-day activities of the HOA are in turn managed by an Estate Manager and/or the executive committee appointed by the Board.
- 1.2 The objective of the HOA is the provision of a high quality lifestyle in a natural environment on a private game estate for residents, and the intention of these rules is the protection of this lifestyle. Harmonious community living is achieved when residents use and enjoy their private property as well as the public areas of the Estate.
- 1.3 These Conduct Rules which incorporate General Rules and Regulations, Building & Architectural Guidelines and Contractors' Rules are incorporated into the Memorandum of Incorporation of the HOA by reference. They are binding upon all Members, as is any decision taken by the Board in interpreting these Conduct Rules.
- 1.4 The Owners(registered Owners of a portion in the Estate as appears in the Deed of Transfer registered for each portion) of the properties are responsible to ensure that members of their families, tenants, guests/visitors, friends, contractors, sub-contractors and all their employees abide by these rules.
- 1.5 These Conduct Rules are subject to the MOI and subject to change by the Board from time to time on condition that the Developer (Ankavista Investments Proprietary Ltd) provides written consent to any amendment for as long as the Developer is a member of the HOA and owns land in the development.
- 1.6 The Estate will not be managed and controlled directly by the Local Authority, all essential services will therefore be under the control of the HOA and the Board or alternatively the appointed Estate Manager and will include, *inter alia*, the following:
  - a) The HOA will be obliged to maintain the roads within the Estate as well as the access road between the Estate and the main public road. The road network will be maintained by the HOA to the following standards:
    - (i) Estate Roads and Private Access Tracks will be maintained such that they are accessible by an ordinary sedan motor vehicle subject to (ii) below;
    - (ii) Private access tracks to stands may be cleared but not graded to minimise the impact on the environment. The HOA shall maintain private access tracks up to the boundary of the last stand served by such a track. The HOA shall not maintain portions of private access tracks on any stand that provide access to an individual house only. The HOA shall not maintain additional private access tracks built by an Owner in terms of Rule 9.7;
    - (iii) Certain game viewing or other roads may be accessible to four wheel drive vehicles only.
  - b) The HOA will be responsible to supply and maintain potable water to the boundaries of all stands. The water reticulation system will be constructed by the Developer and will thereafter be maintained by the HOA.
  - c) Each Owner will be responsible for the installation and maintenance of the prescribed waste water system for each stand.
  - d) A refuse removal system will be determined by the Board. Refuse removal from stands may be available to Members once such Member has received an Occupation Certificate from the Board. The cost of refuse removal from individual stands will be included as an additional amount as determined by the Board from time to time and charged to Members who make use of the service.
  - e) Emergency fire-fighting equipment on the HOA common property will be maintained, managed and controlled by the HOA.
  - f) All other services that may be required to effectively manage and operate the Estate, including employees or Estate Manager employed or appointed by the Board.
  - g) Environmental Management of the natural water sources, fauna and flora, including removal of alien plants will be the responsibility of the HOA and will be done according to a management plan. Home Owners may conduct alien plant control on their properties according to directives obtained from the Estate Manager.

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This does not exempt Home Owners from any responsibilities they may have towards the relevant authorities in terms of applicable legislation.

### 2. MEMBERS:

- 2.1 All the Owners of stands in the Estate, including the Developer for as long as the Developer owns land in the development are members of the HOA.
- 2.2 The Board of directors may prescribe formalities to be complied with by a person before that person may become a member but may not refuse any Owner membership.
- 2.3 Joint Owners of stands, Trustees of Trusts, Shareholders & Directors of companies and members of Close Corporations which are Owners will be joint members, will be jointly, severally and *in solidum* liable for their obligations, and may only exercise their rights jointly.
- 2.4 In the following situations, the member will be:
  - a) *usufruct, usus* and *habitatio*: the bare *dominium* Owner;
  - b) *fideicommissum*: the fiduciary.
- 2.5 A member will cease to be a member when he ceases to own land in the Estate and not before.

### 3. ADMINISTRATION:

- 3.1 The management and control of the business of the HOA shall be vested in the directors who, in addition to the powers and authorities expressly conferred upon them by the Memorandum of Incorporation, may exercise all powers and authorities and perform all acts which may be exercised or done by the HOA, and are not hereby or by the Act expressly reserved to the HOA in general meeting.
- 3.2 The Board acts on behalf of the HOA and in terms of MOI and in terms of these Conduct Rules.
- 3.3 The Board of directors of the HOA shall elect a manager and/or executive committee from time to time to attend to the day-to-day activities of the HOA for the smooth and effective running of its affairs and shall confer upon such manager/executive committee any additional duties as the Board may deem appropriate.
- 3.4 The Board has the right to in its discretion fine or otherwise penalise transgressors where any of the rules as stipulated by the Board and/or the HOA have been broken. Such fine will form part of the contribution and be due and payable on due date of payment of the contribution. This will however not jeopardize or exclude any other right of the HOA or any other person or instance to otherwise penalise or institute action against the transgressor in terms of the Law.
- 3.5 The Board shall from time to time publish a schedule of applicable fines, deposits and fees in terms of the rules.

### 4. LEVIES:

#### 4.1 ORDINARY LEVY

- 4.1.1 An Ordinary Levy shall be imposed on all members to provide the funds to enable the HOA to achieve its objectives as defined in the MOI and the Conduct Rules. The Boschhoek Mountain Estate Home Owners Association NPC and the Developer will however not be liable to pay any levies.
- 4.1.2 The levy will cover the costs of:
  - a) Administrative tasks performed by the HOA;
  - b) Cleaning of communal areas;
  - c) General Estate security and access control;
  - d) Repairs to and maintenance of:
    - i. the gatehouse that gives access and egress to the Estate;
    - ii. the game fence surrounding the Estate;
    - iii. the roads servicing the Estate, including the servitude road on RE of the farm Leeupoort 370KR;
    - iv. the Camp Site;

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- v. other communal areas and facilities;
  - vi. supply of water;
  - e) Insurance of HOA property.
  - f) Estate General fund for Capital Investment; and
  - g) Any other purpose which the Board may deem necessary.
- 4.1.3 Payments received by the HOA from members shall be allocated as follows:
- a) Water License Levy due;
  - b) Interest due;
  - c) Outstanding fines;
  - d) Monthly Levies or other amounts in Arrears;
  - e) Additional Services (e.g. Refuse Removal from Stand);
  - f) Monthly Levy
- 4.1.4 The Ordinary Levies will be payable monthly in advance to the HOA in such a way as may be determined from time to time by the Board.
- 4.1.5 The Ordinary Levies shall be determined by dividing the estimated expenses pro rata between the members (excluding the HOA and the Developer) provided that the Board of Directors may resolve that costs which relate essentially to a particular stand or stands only be borne by the Owner(s) of that stand(s).
- 4.1.6 The monthly Ordinary Levies may be adjusted by the Board in time to accommodate changed costs.
- 4.1.7 Cessation of membership will not entitle a member to any refund of levies or release the member from liability for all levies up to the date of the cessation.
- 4.1.8 If at any time any amount owed by a member to the HOA is overdue:
- a) interest is payable by the member on the overdue amount compounded monthly at 3 percentage points above the published prime overdraft rate from time to time of FNB Bank Limited or such other rate as may be determined from time to time by the HOA, not exceeding the highest rate from time to time referred to in the Usury Act, or any replacement act, in respect of any loan;
  - b) all the member's rights of membership, including right of access to Estate may be suspended;
  - c) the HOA may enforce payment;
  - d) A further penalty, to be determined from time to time, will be imposed on any account unpaid after 60 days.
- 4.1.9 The Board may engage and pay for the services of professionals in order to achieve its objectives.
- 4.2 WATER LEVIES**
- 4.2.1 Each Owner will be charged an Excess Water Usage Levy for water used in excess of 6000 litres per household per month, provided that during building up to the issuing of an occupancy certificate by the HOA this amount will be 15 000 litres.
- 4.2.2 Water used in excess of the threshold will be charged for at a rate determined by the Board from time to time.
- 4.2.3 Owners may be required at the discretion of the Board to provide the Estate Manager with a meter reading on a monthly basis. Owners shall also ensure proper and safe access to the meter, proper maintenance of the meter and that the meter is clearly marked indicating the stand number relevant to the meter.
- 4.2.4 Owners who have received their Occupancy Certificate are liable to pay a Water Licence Levy charged at 5% of the Ordinary Levy from the date of Occupancy Certificate. This Water Licence Levy is payable in terms of the Estate's Water License issued by the Department of Water Affairs. The water licence states that a Water

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Licence Levy of 5% of Ordinary Levy is payable as a contribution to a local school as a social responsibility initiative.

- 4.2.5 The Water License Levy will be added to the Owner's monthly levy bill and paid over to the school as determined by the Board and in accordance with the conditions as stipulated by the Department of Water Affairs.
- 4.2.6 The Excess Water Usage Levies will be payable monthly in arrears to the HOA in such a way as may be determined from time to time by the Board.
- 4.2.7 The Water Licence Levies will be payable monthly in advance to the HOA in such a way as may be determined from time to time by the Board.

### **4.3 SPECIAL LEVIES**

The Board may from time to time impose Special Levies as provided in clause 9.5 of the Memorandum of Incorporation.

### **4.4 SECURITY LEVY**

- 4.4.1 The HOA subscribes to the need for a sustained and a sustainable effort pertaining to security. The personal security of the Home Owners, their families and visitors remains a prime concern to the HOA. In addition hereto, the future value of property in the Estate needs to be protected.
- 4.4.2 The Security Levies will be payable monthly in advance to the HOA in such a way as may be determined from time to time by the Board, with the intention to protect property in general and not specifically the individual Home Owner properties.
- 4.4.3 The Security Levies shall be determined by dividing the estimated security expenses pro rata between the members.
- 4.4.4 The monthly Security Levies may be adjusted by the Board in time to accommodate changed costs.

## **5 ENVIRONMENTAL MANAGEMENT**

- 5.1 It is recognised that all Members have the right to an environment that is not harmful to their health or well-being and to have the environment protected, for the benefit of present and future generations, through reasonable rules and measures that;
  - a) prevent pollution and ecological degradation;
  - b) promote conservation; and
  - c) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.
- 5.2 The ambiance presented by the natural environment at the Estate is its biggest asset and must be protected as such and utilised in a responsible manner to the benefit of all stakeholders, including the environment. It is the purpose of the Environmental Rules to ensure that the minimum disruption takes place during the development and during the day-to-day running of the Estate in an attempt not to negatively impact the ambiance as presented by the natural environment. The Board will review the footprint of all activities when and as required and may contract the services of environmental professionals to assist in this regard. Based on results of investigations the Board may implement addition measures to protect the most valuable asset of the Estate.
- 5.3 No rubble or refuse may be dumped or discarded in any public area on the Estate.
- 5.4 Waste Management:
  - a) Deleted;
  - b) Waste must be securely stored at the Home Owners' properties to prevent access by rodents or wildlife, and brought to the HOA designated collection point(s).

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- 5.5 Residents are required to leave any areas they visit in the same or a better condition than they found it.
- 5.6 Flora may not be damaged or removed (unless specifically approved as part of control of intruder species or building plans), and firewood may not be collected.
- 5.7 Fauna of any kind may not be hunted, teased, disturbed, chased or trapped by people or by animals.
- 5.8 No trees or plants may be removed from any stand without the written permission of the Board or the Control Architect in terms of approved building plans.
- 5.9 Feeding and luring of game and birds:
  - a) Residents may install birdfeeders and birdbaths which are ecologically and aesthetically acceptable. The Board's decision on any dispute in this regard will however be final.
  - b) Feeding of any wild animal or game, whether on the general or private areas, is only allowed subject to the approval of the Board and to such conditions as the Board may determine. This clause is also applicable to the creation of waterholes and drinking places for game.

### **6 RECREATIONAL ACTIVITIES:**

- 6.1 No motorised boat, wet bike, Jet Ski or other motorised floating object is allowed on any dam or stream on the Estate.
- 6.2 Canoes, rowing boats and swimming will be allowed subject to the rules of good neighbourliness and consideration of others generally applicable in the Estate.
- 6.3 Fishing will be allowed on a catch and release basis and subject to any general rules defined by the Board from time to time.
- 6.4 All Home Owners and their guests participating in any recreation activity in the Estate, do so at their own risk and must ensure all necessary safety precautions are taken.

### **7 FIREWORKS**

No fireworks may be brought into the Estate.

### **8 GAME STOCKING DENSITY**

On reaching the desired stocking density as indicated in the Ecological Management Plan and/or as determined by the Board with reference to the Ecological Management Plan, game numbers will be reduced by the Board in a manner approved of by the Board. Any proceeds thereof will be for the benefit of the HOA.

### **9 ROADS, INFRASTRUCTURE, FACILITIES AND SERVICES**

- 9.1 The roads within the Estate are for the movement of all occupants, whether by foot or mechanical means.
- 9.2 The speed limit in the Estate and on the servitude road to the Estate across RE of Leeupoort is 30 km/h or as otherwise determined by the HOA. Speeding and reckless driving will not be tolerated and offenders are liable for penalties as determined by the Board.
- 9.3 Only roads designated by the HOA may be travelled on by motor vehicles. Other roads may be travelled on by bicycle or by foot.
- 9.4 Only motor vehicles are allowed on the Estate and no motorcycles, quad bikes, go-karts or similar will be allowed. The Board may on special application issue permission for a motorcycle used for travel towards the Estate to also use the roads in the Estate subject to such conditions as the Board deems fit.
- 9.5 Each Owner will be allowed to travel on the roads for game viewing and leisure purposes in no more than two (2) vehicles per household at a time.
- 9.6 No vehicle will be allowed in any part of the Estate other than on clearly defined Estate roads. Access tracks providing access to stands are private and may only be used by the occupants of such stands.
- 9.7 No new roads may be made unless authorised by the HOA. This excludes roads built by the Developer in completing the Estate infrastructure and any additional private access track to an individual stand built by the stand Owner across HOA property, which shall be applied for as part of building plans and approved by the Control Architect.

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- 9.8 No public transport is permitted in the Estate.
- 9.9 Additional roads designated for exclusive use by four-wheel drive vehicles, hikers, cyclists or other shall only be used as designated.
- 9.10 The Farm Hoogmoedfontein 368KR to the north of the Estate has a right to thoroughfare across the Estate in terms of an agreement dated 30 April 2010, a copy of which can be obtained from the HOA. The Farm Hoogmoedfontein 368KR may not be entered unless in case of emergency and instructed to escape danger from the Estate when directed to do so.
- 9.11 Pipes and access roads required for individual stands or by the HOA may cross other stands and/or HOA property, provided that this does not unduly impact on the amenity of such other stands and subject to the approval of the Board. In the event of a dispute in this regard the decision of the Board will be final and binding on the parties involved. Approval of the Board will not be required in the event of such infrastructure having been constructed or provided for by the Developer or approved by the Control Architect in terms of paragraph 9.7.
- 9.12 The Board may, as representative of the HOA conclude agreements with dedicated service providers for the following services, subject to demand. The service will be paid for directly by the service user to the service provider.
- a) Pre-arrival house cleaning, preparation and airing;
  - b) Pre-arrival grocery shopping and delivery;
  - c) Housekeeping during stay;
  - d) Post departure house cleaning;
  - e) Maintenance services;
  - f) LPG Replacement;
  - g) Adult and children adventure activities and educational experiences;
  - h) Any other services in demand as approved by the Board.
- 9.13 Deleted.
- 9.14 The Developer, or an entity assigned by the Developer, shall be entitled to conclude a lease agreement with the HOA for an area of 100 hectares or such other extent as may be agreed on in the south-eastern section of the Estate to be used for the breeding of Sable Antelope or such other species at the discretion of the Developer. Expenses and profits will be for the Developer, provided that 5% of turnover or such other amount as may be agreed on is to be paid to the HOA as land rental. The exact position of the area in question shall be at the discretion of the Developer. Whilst access to the area will be controlled, adjacent game viewing roads will be positioned to promote visibility and enjoyment of the species in question by all members.
- 9.15 No guesthouses or commercial lodges will be allowed except with the express written permission of the Board and then only subject to such conditions as the Board may deem beneficial to the Estate.
- 9.16 The HOA shall maintain the existing Eskom connection for use at the clubhouse, swimming pool and workshops.
- 9.17 The existing farmhouse shall be entitled to continue using the farm's Eskom connection, provided that a meter is installed and the Owner of the farmhouse stand contributes pro rata for his electricity consumption.
- 9.18 Drivers should use due caution using roads and should be careful of protruding rocks or any other obstructions or objects. Drivers use the roads at their own risk. The HOA, the Board, the Estate Manager or the Developer shall not be responsible for any damage or injury suffered as a result of the use of the roads on the Estate.
- 10 GOOD NEIGHBOURLINESS**
- 10.1 No activity or hobby which would cause aggravation or nuisance to fellow residents may be conducted or allowed on the Estate. Drones or other remote/radio controlled surface, water and air vehicles/machines will not be allowed except for professional use and only with the written consent of the Estate Manager. This excludes the use of a drone for purposes of the HOA, provided that where practical Home Owners will be given

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prior notice of such activity. The Developer may use a drone for marketing purposes subject to the consent of the Estate Manager, provided that such consent will not be unreasonably withheld.

- 10.2 No activity causing noise which is disturbing to neighbours or other occupants of the Estate will be allowed. Mechanical maintenance work, including the use of power tools and bush cutters, is only permitted between the following hours: Monday to Thursday 09h00 – 16h00 and Fridays 09h00 – 15h00.
- 10.3 Washing should be hung on lines screened from the roads and neighbouring properties.
- 10.4 Refuse and garden refuse must be contained in approved bins on designated positions and must be secured against damaging by rodents or wildlife.
- 10.5 No vehicles, trailers, caravans or boats shall be parked on a stand, unless in a garage or carport when the dwelling is not occupied.
- 10.6 Should an owner wish to install a house alarm, such alarm should preferably be a silent linked alarm. Should the alarm be audible it shall be installed indoors or be otherwise muted to the satisfaction of the Estate Manager. No alarm may sound for longer than 3 minutes. An Owner shall take all necessary steps to avoid false alarms. An Owner whose alarm causes excessive disturbance or noise as determined by the Board shall be subject to a fine.

### **11 ARCHITECTURAL STANDARDS**

- 11.1 All building plans must be in accordance with the Building and Architectural Guidelines incorporated in the Conduct Rules applicable to the development.
- 11.2 Any additions and alterations to existing structures must also be in accordance with the Building and Architectural Guidelines.

### **12 SECURITY & FIRE CONTROL**

- 12.1 The Estate is surrounded by private land and has no direct access from any public road. It is not close to any major settlement. These factors contribute to the level of security inherent in the Estate. Any additional preventative measures are aimed at fully exploiting this advantage to the benefit of all on the Estate. The HOA can only enable safety and security on the Estate within practical limits and within the reasonable control of the HOA, and perimeter fencing serves as a deterrent and is not guaranteed. Neither the HOA nor the Board nor the Estate Manager nor the Developer shall be held responsible for the safety of inter alia the Individual Home Owners, Visitors, Contractors, Occupants and Service Providers and any of their property on the Estate. Should Home Owners require any additional security on their properties this will remain their responsibility provided that the conduct and other rules are adhered to.
- 12.2 Security measures at the gate and on the Estate as determined by the Board must be adhered to at all times by all Members and visitors (including Contractors and Service Providers).
- 12.3 Every Owner must ensure that all contractors and service providers in his/her employ adhere specifically to the security stipulations and the conditions with regard to contractor activity.
- 12.4 All Owners must install and maintain at least 1 x Fire Hose Reel and 1 x 9kg DCP fire extinguisher per dwelling in a position accessible from the outside when the dwelling is not occupied.
- 12.5 Open fires are not permitted anywhere on the Estate except for designated areas and boma pit braais at each dwelling. No open fire may be left unattended and must be extinguished when retiring at night. In addition to extinguishing open fires in the pit braai, a steel lid must be placed over the extinguished fire to avoid re-ignition and flying sparks. An Owner or occupant who has been negligent in this regard may be held liable and be fined in addition to other recourse.
- 12.6 No cigarette butts may be disposed of in the veld.
- 12.7 Owners shall adhere to any directives issued by the Board or the Estate Manager in respect of fire safety.

### **13 VISITORS, CONTRACTORS, EMPLOYEES AND OCCUPANTS**

- 13.1 The occupants of any property within the Estate are liable for the conduct of their visitors, contractors and employees, and must ensure that such parties adhere to the rules. Each member will be liable to ensure that all persons entering the Estate by express or implicit invitation of the member (e.g. employees, agents, contractors, lessees and other occupants, family, friends, invitees and guests of the member) do not do



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anything, or omit to do anything, which if done or omitted by the member would be a breach of the member's obligations under these conduct rules. In the event of failure, any such infraction will be deemed to be the member's responsibility who will be fined or penalised accordingly.

- 13.2 Every Owner must ensure that contractors in his employ adhere to the stipulations of the conditions with regard to contractor activity.
- 13.3 The Owner may not allow more than 14 (fourteen) people overnight on his stand inclusive of staff.
- 13.4 No person may overnight anywhere within the Estate, other than a completed dwelling, certified as such by virtue of an Occupancy Certificate issued by the Board, or at a camping spot so designated by the Board. Temporary accommodation prior to completion of construction may be allowed subject to such conditions as the Board may deem fit.
- 13.5 Any servant or staff member will only overnight on the property when the Owner or other residents authorised by the Owner, overnight in the dwelling on the stand. Permanent residents are exempt from this rule.
- 13.6 No visitors shall be permitted entry for whatever reason without the consent of the Home Owner to be visited at the time when entry is sought. The above restriction will, however, not apply to emergency vehicles.
- 13.7 All vehicles entering the or existing the Estate is subject to search by the Estate Manager, appointed Board Member or access control person. Any person who refuses such search when requested may be denied access.

### **14 PETS**

- 14.1 No pets will be allowed, provided that the Board may consent to pets under special circumstances and subject to such conditions as the Board in its sole discretion may impose, with a view to ensuring the amenity of the Estate. The dogs currently at the existing farmstead will be allowed to remain. Management shall be entitled to employ a dog for tracking or related purposes that shall be under the control of its owner at all times.
- 14.2 If stables are available, an Owner may lease such stabling from the HOA. If approved by the Board, an Owner may erect additional stables in a position on the HOA property designated by the Board.
- 14.3 All horses will be maintained by the Owner or by a dedicated service provider paid for by the Owner and approved by the Board.
- 14.4 No stables may be built on a stand and horses will not be allowed to graze freely on the Estate. The Board shall be entitled to limit the number of horses per member.

### **15 LETTING AND RESELLING PROPERTY**

- 15.1 Should any Owner want to let or resell the property, he shall advise the Board in writing in advance.
- 15.2 The Board shall accredit one or more agents, but Owners may also sell their property privately.
- 15.3 Prospective buyers, Lessees and Agents may only operate on a "by appointment" basis, and must be accompanied by a Board accredited Estate Agent or the Owner(s) at all times. No Owner or Agent is permitted to erect any "For Sale" or "To Let" signage boards in the Estate or the servitude road leading to the Estate.
- 15.4 The accredited agent or Owner in the case of a private sale must ensure that the Buyer/Lessee is informed about and receives a copy of the Conduct Rules and any other administrative regulations and conditions applicable at the time with regard to Building Contractor activity.
- 15.5 A Clearance Certificate must be obtained from the Board certifying that all levies have been paid and no other monies are owing to the HOA, and that such member is not in breach of any provisions of the Conduct Rules or the MOI.
- 15.6 The Seller or Lessor of a property in the Estate shall ensure that the sale or lease agreement contains the following:

*SALE AGREEMENT: A reference to the conditions of title in respect of the HOA and the development as applicable to the stand.*

*LEASE AGREEMENT: "The Lessee acknowledges that upon occupation of the premises, he/she and his/her family, his/her visitors and staff shall adhere to the rules and regulations as contained in the Conduct Rules of the HOA.*

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*The Lessor must personally ensure that the Lessee receives a copy of these Rules, and any other administrative regulation applicable at the time and binds the Lessee to the rules and regulations in the lease."*

### **16 INDEMNITY**

- 16.1 The use of the property by, and presence in the Estate of the Member, his employees, agents, contractors, lessees and other occupants, family, friends, invitees and guests is entirely at their own risk at all times. Every member of the HOA hereby waives any right he may obtain against the HOA, members of the Board, the Estate Manager or the Developer to claim any damage incurred by virtue of damage to or loss of property or personal injury or death (including those caused by animals) of the member occasioned while anywhere in the development. Every member indemnifies the HOA, members of the Board, the Estate Manager and the Developer against any such claim made by his employees, agents, contractors, lessees and other occupants, family, friends, invitees and guests (collectively referred to as "Member's Guests").
- 16.2 Any information supplied by the HOA or the Developer will not give rise to any liability or obligation on the part of the HOA, Members of the Board or the Developer. Such information shall be verified by the user and be used at own risk.
- 16.3 Wild animals roam on the estate and leopard have been seen on the Estate and Members as well as Member's Guests must take precautions.

### **17 NOTICE**

Any written notice addressed to an Owner or occupant of the property will be deemed to have been received and its contents to have come to the addressee's notice if it is served as provided for in the MOI.

### **18 ENFORCEMENT OF OBLIGATIONS**

- 18.1 The Board will ensure compliance to these Conduct Rules and will sanction appropriate penalty for rule transgressions, e.g. a written warning and a time frame within which to remedy and/or a fine and/or appropriate action at the sole discretion of the Board, including but not limited to denying access to the Estate.
- 18.2 The above does not derogate from the Board's right to legal recourse. Any legal costs, on an attorney and own client basis, incurred by the HOA arising out of the breach of an obligation under these rules, including any costs incurred in taking action against any person for whom the member is responsible, will be borne by the member in breach.
- 18.3 Any notification contemplated in paragraph 18.1 shall contain the name and address of the Owner, the stand, the nature of non-compliance with the Conduct Rules and if applicable required action or sanction.
- 18.4 Should any dispute arise with regards to the interpretation and enforcement of the Conduct Rules then the Board's decision will stand;

### **19 GENERAL ISSUES**

- 19.1 While every care will be taken by the HOA to perform its function to the best of its ability and to promote the interests of all members, neither the directors or their appointees/representatives nor agents of the HOA shall be held liable for any loss (consequential or otherwise), damage, injury and/or death, cost, interest and expense which they may hereafter be liable for, pay, incur or sustain in connection with any action, proceedings or claim being instituted against them by any party whomsoever, directly or indirectly arising from or related to the carrying out of the functions of the HOA.
- 19.2 It is expressly agreed that the manager/executive committee to be appointed by the Board may resolve any action, proceedings or claims instituted against them without consultation with any other party that may be affected.
- 19.3 In the event of any Owner, member, his employees, agents, contractors, lessees and other occupants, family, friends, invitees and guests failing to adhere to any rules applicable in terms hereof and such failure leading to any action being instituted against the members of the HOA or their employees or agents, then and in that event such Owner or member shall indemnify the HOA and keep same indemnified against all loss (consequential or otherwise), damage, injury and/or death, cost, interest and expense which the HOA may hereafter be liable for, pay, incur or sustain in connection with any action, proceedings, or claim being

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instituted against it by any party whomsoever, directly or indirectly arising from or related to the carrying out of the functions of the HOA.

- 19.4 It is anticipated that these rules will have to be updated and amended from time to time as circumstances may require. Notwithstanding the fact that the Board will endeavour to inform members of such changes, all members shall be deemed to have knowledge of and have consented to such amendments. The Board is responsible for ensuring that these rules are kept up to date.

### **Building and Architectural Guidelines**

**See following page**

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### **BUILDING AND ARCHITECTURAL GUIDELINES**

#### **20. GENERAL - BUILDING AND ARCHITECTURAL GUIDELINES**

- 20.1 Building and Architectural Guidelines are set out for prospective owners and contractors and are the design criteria they will have to comply with if they wish to build at the Estate. The guidelines have been developed to preserve, protect and maintain the unique environmental and physical attributes of the Estate rather than to hamper the development. The existing farmhouse and other structures are excluded from these rules.
- 20.2 The function of the HOA in respect of these guidelines is to ensure that the character and quality of the Estate is maintained, thereby protecting the value of individual homes as well as the environment. Development must conform to the fundamental intention of establishing an environment that is in harmony with nature and surrounding property. It is not the intention to unreasonably restrict building design and construction.
- 20.3 The Architectural Guidelines are a condition of the Agreement of Sale and the Memorandum of Incorporation of the HOA and will be enforced by the Board. The Board shall in addition to any other remedy, be entitled to impose fines in respect of approved building plan deviations. The Board reserves the right to alter or amend the Building and Architectural Guidelines, subject to the written approval of the Developer for as long as the Developer owns land in the development.
- 20.4 The Building and Architectural Guidelines applies equally to any additions and alterations to existing structures.

#### **21. BUILDING CONTROLS**

- 21.1 The restrictions/guidelines set out below are in addition to any restrictions imposed in terms of conditions of title, town planning schemes or national or any other building regulation, land development area approval, environmental authorisation or other. Notwithstanding that any plans or improvements might comply with any such restrictions imposed by any authority, the approval of any plans or improvements within the Estate shall be at the sole discretion of the HOA as represented by a Control Architect as set out below. Similarly, compliance with restrictions imposed by the HOA shall under no circumstances absolve the resident from the need to comply with restrictions imposed by any authority nor shall HOA's approval be construed as permitting any contravention of restrictions imposed by any authority having legal jurisdiction.
- 21.2 The architectural style of the house and all buildings will be considered in conjunction with that of other houses in the area, as well as aesthetic appearance and the proposed placing of the building, and such other factors as the Board in its entire discretion may deem appropriate.
- 21.3 The Board shall appoint a professional architect registered in terms of the Architectural Profession Act, 2000 (Act No. 44 of 2000) ("the Control Architect") from time to time to ensure that the architectural and aesthetical guidelines are complied with during the design and construction phases.
- 21.4 The Board may appoint another professional architect registered in terms of the Architectural Profession Act, 2000 (Act No. 44 of 2000) ("the Alternative Control Architect") from time to time act as control architect where the Control Architect appointed in terms of par 21.3 has been appointed/contracted by an Owner or for the purpose of further consideration in terms of Rule 21.5.
- 21.5 In the event of any dispute the decision of the Control Architect will be final and binding on the parties, provided that an Owner who feels aggrieved by a decision of the Control Architect may approach any other Control Architect if so appointed by the Board for further consideration. Any costs in this regard will be borne by such Owner.
- 21.6 The design of all dwellings (inclusive of building plans submitted for approval) must be executed and endorsed by a professional architect (Pr. Arch) who is a member of the panel of accredited architects for the Estate. Architects wanting to apply for accreditation with the panel must:
- a. be registered with the SACAP;
  - b. be interested and capable in the design of structures in an ecologically sensitive environment;
  - c. recognise the importance of conveying to their Client (Owner of the stand in the estate on which a new structure is to be designed) that the interest of the entire Estate be served with the aesthetic appeal of all proposed new structures, and that the HOA desires to establish an architectural language which is appropriate, rooted in the immediate environment, and environmentally responsible; and

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- d. recognise that the HOA wishes to prevent the building of inappropriate foreign inspired design styles (e.g. Tuscan, Bali, etc.)

- 21.7 The Board reserves the right to approve or deny accreditation of an architect in order to maintain the quality of the Estate.
- 21.8 The Board reserves the right to revoke/ withdraw accreditation of an architect, at its own discretion.
- 21.9 Each Owner shall maintain his dwelling exterior and surrounds to a standard acceptable to the Board. Should an Owner fail to do so after having been duly notified, the Board shall, without derogating from its other recourse, be entitled to undertake such maintenance work and claim from the Owner the costs thereof together with such penalties as the Board may determine.

### **22. TIME LIMIT FOR CONSTRUCTION**

- 22.1 The construction of improvements should commence within 10 (TEN) years from date of first registration of transfer of Ownership.
- 22.2 In order to reduce inconvenience to neighbours and to prevent unsightliness, construction should proceed without lengthy interruptions, and should in any event be completed within one year from commencement.
- 22.3 The time allowed for the completion of subsequent additions shall be similarly restricted.
- 22.4 Phased design should be handled in such a way that the end of each phase should be aesthetically acceptable to the Board. Any deviation from the above time limits will be subject to penalties calculated on a daily basis according to tariffs determined by the Board.

### **23. BUILDING MATERIALS AND METHODS**

- 23.1 Owners are encouraged to make use of natural building materials and appropriate alternative building methods as far as possible. This will serve to blend all new structures into the natural environment and create coherent intervention. It will also promote the concept of "treading lightly" in the environment, whilst upholding the quality of the Estate. Materials and methods not in keeping with the desired quality of the Estate will not be allowed.
- 23.2 Alternative roof materials include thatch with a scratched plaster topping (mock thatching), natural slate, corbelled stacked slate, synthetic thatch, long and short wood shingle and any of the aforementioned coverings with thatch or reed underlay, — 'sandwich' construction.
- 23.3 Traditional thatch may be used, but Owners are made aware of the fire risk inherent to the Waterberg, and the propensity of baboons and birds to damage thatch.
- 23.4 If thatched roofing (or 45° roof pitches) are considered, the width of individual buildings will be confined to 6m to prevent excessive height and visible "towering roofs" which are detrimental to the preservation of the intended rural ambiance and "un-spoilt" nature.
- 23.5 Corrugated steel roof sheeting, or Rheinzink roof sheeting with "standing seams" will be allowed under condition that the use of these materials is integrated in the design proposal for a particular structure and "speaks" the particular architectural language intended for rural structures. Dark roof colours to be selected that will blend in to the satisfaction of the Estate Manager, with the colour of steel roof sheeting being restricted to Charcoal Grey and Black to the satisfaction of the Estate Manager. No un-painted galvanised steel or bright colours will be allowed, provided that unpainted steel or metal roof sheeting will be allowed if otherwise covered to the satisfaction of the Control Architect. Any disputes will be referred to the Board.
- 23.6 Alternative walling materials include roll-up canvas, wood, traditional stone, shutter-and-mortar stone, dry packed stone gabions, wattle-and-daub, gum poles, logs, cob, compacted and plastered sandbags, compacted and plastered straw bales, adobe, rammed earth, vertical & horizontal post construction with either rock and mortar infill or with thatch or reed infill. These can be plastered externally and/or internally for weather and baboon proofing. Ample stone is available on site subject to approval of the Board. Canvas walls may be protected by roller or pivot shutters when the dwelling is not occupied.

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23.7 Framed construction with suitable exterior and interior cladding: Architects to propose specific materials and provide detail on the visual impact, construction methods and maintenance issues related thereto for approval by the Control Architect.

23.8 Deleted.

### **24. PLACING OF BUILDINGS**

24.1 Placing of the buildings on the stand will be done in conjunction with the Control Architect with due consideration for the privacy of surrounding properties. If agreement cannot be reached, the decision of the Control Architect will be final.

24.2 Placing of the buildings on the stand will, in terms of the Environmental Authorisation, be subject to the approval of a professional landscape designer or ecologist. Any costs in this regard will be for the account of the Owner.

24.3 No building may be placed on a steep rocky slope as indicated in the Environmental Plan.

24.4 A 20 meter buffer from the edge of the riparian zone must be observed in respect of all stands along the drainage channels.

24.5 Flood lines must be observed where applicable.

24.6 A minimum building line of 20 meters or such other distance as the Board may determine shall be applied on all common boundaries, provided that this may be relaxed with the written consent of the adjacent Owner concerned, or by the Control Architect in the instance of narrower stands. No man-made structure may be erected in the building line, provided that an access road is allowable in the building line with the approval of the Control Architect and provided that a waste water facility may be constructed in the building line with the approval of the Board.

24.7 Building placement on terraces shall be set back from the edge of the terrace to the satisfaction of the Control Architect, to prevent such building being unduly obtrusive or visible from below. Open decks or bomas may extend to the edge of such terraces, subject to the approval of the Control Architect.

24.8 The satellite design concept (or "village approach"), e.g. a central living area and kitchen with freestanding bedroom/bathroom units is encouraged to promote phasing and blending into the natural environment.

24.9 All buildings should be contained within a circle with a diameter of 40 metres or such other area as the Control Architect may determine.

24.10 The term "building" as referred to in this clause 24 includes all man-made structures.

24.11 It is the responsibility of the Owner to ensure that all structures are built at the position as approved in the building plans. For this purpose the owner shall provide the Estate Manager with a certificate from a registered Land Surveyor prior to foundation excavation, confirming the position of the structures. The Board reserves the right to at any stage during construction or at any time thereafter remove any structure or part thereof which is outside the stand boundary or does not observe a building line as shown in the approved building plan. This does not apply to a mini artificial wetland pond and/or evaporation pond and/or grey water irrigation point situated on HOA property in terms of paragraph 32.3.

24.12 Deviations of less than 2 metres from the approved position will be allowed with the written consent of the Estate Manager. Deviations of 2 metres and more from the approved position will only be allowed with the written approval of the Control Architect and the Ecologist.

### **25. TREATMENT OF BOUNDARIES, FENCING, SIGHTING FROM ROADS AND ADJACENT STANDS AND SCREEN WALLS**

25.1 No fencing of any type on the boundaries of or anywhere on a stand will be allowed.

25.2 The natural environment will be left untouched except for an area, with a strip of 15 to 20 metres wide around the outside of any building to be kept clear from excessive combustible material for fire control purposes. Within this perimeter area the natural vegetation may only be disturbed as prescribed by the Board for the purposes of paving and fire control measures. No lawns or flowerbeds or vegetation alien to the area will be allowed. On this area the environment must be disturbed as little as possible. The purpose hereof is to impose

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as little as possible on the natural habitat of the game and create the feeling of "being in the bush" as opposed to city living.

- 25.3 No trees, bush, grass or any natural growth will be disturbed or removed without written approval of the Control Architect or in terms of paragraph 25.2 above as this also serves as natural screening of buildings from the roads and buildings on adjacent stands.
- 25.4 If solid walling is required to enhance the privacy of certain parts of the property (e.g. to screen a swimming pool from the road or adjacent stands), then such walling should not exceed 1.6 metres in height, and should not extend for more than 50% of its length as a continuous line. If a solid wall is unavoidable, a stepped-back or articulated wall is considered more acceptable. This will however only be allowed on the area approved by the Control Architect.
- 25.5 The Control Architect must approve all screen walls and other external screens with regard to materials, position and dimensions.

### **26. SWIMMING POOLS:**

- 26.1 No swimming pool with a surface area larger than 16 square meters and deeper than 1.8 metres will be allowed. No temporary/portable swimming pools will be allowed.
- 26.2 The design of the swimming pool will be such that any wild animal falling into the pool will be able to easily climb out of the pool.
- 26.3 Detailed design of the swimming pool must be lodged with the Control Architect for approval.
- 26.4 The use of natural as opposed to chemical water clearing agents may be imposed.
- 26.5 Swimming pool water discharge will be subject to conditions imposed by the Board.

### **27 PROHIBITED BUILDING MATERIALS AND STRUCTURES**

- 27.1 The use of natural building materials and alternative building methods are encouraged. However, within the style and outside finishing prescribed by the Board, in principle no limitations are placed on building materials other than the following items, the use of which is not allowed:
  - a. Unpainted plaster and concrete finishes except where the finished surface is coloured naturally – subject to the Estate Manager's approval;
  - b. Reflective or brightly coloured roofing materials;
  - c. Pre-cast concrete walls;
  - d. Razor wire, wire fencing, palisade or similar features;
  - e. Temporary carports, wendy houses or patent type shade netting structures
- 27.2 No person shall use any building or cause or permit any building to be used for a purpose other than the purpose shown on the approved plans of such building, unless such building is suitable, having regard to the requirements of relevant regulations, for such above-mentioned purpose.
- 27.3 The use of asbestos and asbestos-containing materials is prohibited in terms of the Asbestos Regulation (as published by Government Notice No. 341 [Government Gazette No. 30904] of 28 March 2008 under the Environment Conservation Act, 1989 (Act No. 73 of 1989)).

### **28 MISCELLANEOUS ARCHITECTURAL GUIDELINES**

- 28.1 The general style prescribed is a bush house, lodge or farm type design with natural look and natural outside finishings and colours. The intent of this rule is to prevent inappropriate "outlandish" or "non-contextual" so-called styles, e.g. Bali, Tuscan, Georgian, etc. and to encourage Owners and their architects to embrace the development of buildings rooted in the landscape and in harmony therewith. The rich inheritance of the African landscape provides plenty of inspiration for the development of an "own architectural language", which begs to be developed to provide the HOA's desired character. The individual Owners are encouraged to appoint architects who understand this principle and will be able to offer creative design solutions, suitable and

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effective in terms of initial cost as well as "life cycle cost" (the cost of maintenance over an extended period) and wholly appropriate in this environment.

- 28.2 Outside walls shall be coloured/painted only in dark (earthy) colours approved by the Control Architect. In addition, any colouring/paint shall be subject to final approval by the Estate Manager.
- 28.3 Details of the design and colour of parapets, fascias, capping eaves, roof trim, guttering and roofing materials in general should be specified for approval subject to final approval by the Estate Manager.
- 28.4 The design of lighting must be considered in the context of the environment. "Light pollution" (over-designed provision of lighting, exterior and interior) shall be prevented.
- 28.5 All external finishes and colours should be specified, and colour samples may be requested. In addition, any colouring/paint shall be subject to final approval by the Estate Manager.
- 28.6 Awnings, TV aerials, satellite dishes and other items, which do not form part of the basic structure should be clearly shown and annotated on drawings and shall be painted in a colour approved by the Estate Manager. Should it be required that such items be moved or subsequently added, this will be subject to the approval of the Estate Manager.
- 28.7 Solar photovoltaic panels, solar heating panels and solar geysers should be incorporated into the buildings to form part of the basic structure and should be clearly shown and annotated on drawings. Solar geysers may not be obtrusive. Where the underside of solar panels is visible, this should be painted in a colour or covered with an acceptable material approved by the Estate Manager.
- 28.8 Only one kitchen per stand will be allowed. Kitchenettes for satellite sleeping areas are allowed provided that there is no oven other than a microwave oven and that the cooker hobs are restricted to two plates.
- 28.9 All buildings and additions should match in design and style.
- 28.10 Staff accommodation should open onto screened yards or patios.
- 28.11 Yard walls and screen walls should complement the basic materials of the building.
- 28.12 All exposed plumbing and washing lines should be fully screened from the roads or adjoining properties.
- 28.13 All toilets must be equipped with a half flush function.
- 28.14 The floor space of all dwellings may be up to 500 square meters, exclusive of open decks, lapa's, undercover garages or parking but including undercover patios.
- 28.15 No part of a dwelling may have a footprint larger than 250 square metres. Any dwelling with a larger footprint should be divided into freestanding parts to promote blending into the natural environment.
- 28.16 No dwelling may provide sleeping facilities for more than 14 (fourteen) people (including staff accommodation which will not provide for more than 2 (two) staff members).
- 28.17 Dwellings shall be one storey (ground floor) in height subject to the Height Governing Guideline approved by the Board on 5 December 2015 and obtainable from the Estate Manager.
- 28.18 If required, lightning conductors must be according to SABS standards and painted in a natural colour approved by the Control Architect and the Estate Manager, in order to reduce visibility and glare. The Control Architect may require more than one lightning conductor if this will contribute to reducing the height of lightning conductors.
- 28.19 No external light sources (e.g. outside lights, flood lights or garden lights) are permitted which are directly visible from any boundary of a stand when lit, provided that visible exterior lighting will be allowed in the event of an emergency for a duration of not longer than 15 minutes.
- 28.20 Waste bins will be stored and concealed in a structure inaccessible to rodents, baboons, monkeys and other animals or birds.
- 28.21 All Owners must install and maintain at least 1 x Fire Hose Reel and 1 x 9kg DCP fire extinguisher per dwelling in a position accessible from the outside when the dwelling is not occupied.
- 28.22 The Board may, by notice in writing to the Owner, order building activities to stop until such time as the Board is satisfied that all relevant rules have been comprehensively complied with.



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- 28.23 The Board may, by notice in writing to the Owner order the evacuation of building where the building activities or the state of such building or facility will cause conditions which in the opinion of the Board may be detrimental to the amenity of the Estate.
- 28.24 The procedure for the approval of any colouring/paint used on the outside of any structure shall be as follows: two (2) sample areas of maximum 1m<sup>2</sup> each (or as determined by the Estate Manager) will be selected, one in the sun and one in the shade. Both the areas will be given two (2) coats of the selected colouring/paint. If the colour is approved by the Estate Manager, a 1 litre sample will be kept by him until after the occupational certificate has been issued.
- 28.25 Any and all disputes regarding 28.24 above shall be referred to the Board for a final decision.

### **29 SERVICES**

It is the intention that Boschhoek Mountain Estate should be self-sufficient in terms of services and infrastructure. Furthermore, the concept of treading lightly in the environment and cost optimisation will be promoted.

### **30 ENERGY**

- 30.1 Solar and other sources of alternative energy may be used. Individual stands will not be supplied with Eskom or municipal electricity.
- 30.2 Deleted.
- 30.3 Silent generators may only be used in a secondary role for high currency appliances such as washing machines, dishwashers and the like. Silent generators may not be audible at a distance of 40 metres from the source, or beyond the property boundary, whichever is the shorter, or such other distance as may be required by the Board. Silent generators may only be used between 07h00 and 17h00. The Board or the Estate Manager shall be entitled to suspend the use of any generator with immediate effect.
- 30.4 Energy saving designs should be incorporated into house design as far as possible. Energy saver globes (florescent and LED) shall be used in all light fittings where possible. The inherent insulation properties of any natural building materials should be fully exploited.
- 30.5 Washing machines and/or dishwashers, if required, should be supplied with hot water from the solar or gas geyser for the sake of energy efficiency.
- 30.6 The use of gas (LPG) is permitted for secondary electricity generation, cooking, refrigeration, general heating and alternative geyser purposes. Gas bottles shall be screened and not externally visible. Gas installation must be undertaken by a certified gas installer who must issue a COC (Certificate of Conformity) on completion of the installation.

### **31 WATER SUPPLY:**

- 31.1 Each stand will be supplied with a water connection on the stand boundary.
- 31.2 House connections will adhere to specifications as laid down by the Board. A water meter must be installed prior to construction so as to monitor usage and leakages. Home Owners must ensure that all pipes on stands and pipes to waste water facilities and to water tanks are adequately protected against fire and shall undertake periodic inspections to ensure that such protection remains effective.
- 31.3 Water pressure in the gravity fed supply network will differ at individual stands in accordance with the natural ground elevation. In cases of lower pressure a household pressure pump may be fitted. In cases of higher pressure, it is standard practice to install a pressure control valve to protect household equipment.
- 31.4 One water tank linked with the Estate water distribution system with a maximum capacity of 2500 litres may be installed per stand subject to the Guideline Governing the Installation of an Additional Water Storage Tank issued by the Board in March 2016 and obtainable from the Estate Manager. When installing such a tank a non-return valve should be fitted in the main supply pipe on the house side of the water meter. Water tanks should be adequately protected against fire by means of a rock gabion surround or otherwise.
- 31.5 Filling of swimming pools, casting of concrete slabs and other large volume water consuming activities as determined by the Estate Manager must be arranged with the Estate Manager at least 2 working days before to provide for sufficient water reserves.

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### **32 WASTE WATER AND SANITATION:**

- 32.1 The Owner will install and maintain the waste water system set out below in the manner prescribed by the Board and in the position approved by the Control Architect.
- 32.2 A dual waste water system will be used for each dwelling. The one drain will collect the outflow from the bath, shower and hand basins ("grey water"), and shall be diverted or pumped to an irrigation outlet. The other drain will collect the effluent from the toilets and kitchen (black water) and terminate at a septic tank for each dwelling. The outflow from each individual septic tank is fitted with a gravity feed or pump to a small lined pond containing vegetation acting as a mini artificial wetland, and equipped with a water supply and ball valve to ensure that the artificial wetland vegetation remains intact during periods of no use. The outflow from the wetland pond is directed into a second lined evaporation pond. The septic tank shall be a double chamber septic tank. All ponds are to be adequately protected from damage by game. The artificial wetland and evaporation pond shall be completed during the initial stages of house construction to allow sufficient lead time for it to be functional on occupation. A suitably qualified civil engineer shall certify that the artificial wetland and evaporation ponds comply with the process design parameters prior to issuing of an occupancy certificate by the local authority. Contact the Estate Manager or the Board for design specifications.
- 32.3 The mini artificial wetland pond and/or evaporation pond components of the effluent treatment system for a particular stand, together with any point of irrigation of grey water, shall be situated at least 100 metres or such other distance as the Board may determine from the edge of a stream or dam. Where it is impractical to situate such ponds or point of irrigation on the stand itself, such components may be situated on the HOA property at a position approved by the Control Architect, provided that such components shall be maintained by the stand Owner.

### **33 PROCEDURE FOR THE APPROVAL OF BUILDING PLANS, OCCUPATION AND PENALTIES**

- 33.1 After the building position has been determined, conceptual designs and sketch plans together with site plans must be submitted to the Control Architect for consideration and approval. One electronic copy of each plan must be submitted. The Control Architect may require a site visit to assess building placing, in which event an additional fee will be required. Site and sketch plans will ordinarily be approved or rejected within 14 (fourteen) days (December/January closure period excluded).
- 33.2 Working drawings in compliance with the approved sketch plans are to be submitted to the Control Architect for approval prior to being submitted to the Local Authority for approval. One electronic copy of each plan must be submitted to the Control Architect. Note that the Local Authority will not accept plans that do not bear the HOA stamp of approval.
- 33.3 All building plans submitted must show contours of at least 500 (five hundred) millimeter intervals and indigenous trees and rock formations should be indicated. Owners are encouraged to acquire high resolution contoured aerial photographs of the stand and can contact the Control Architect for details in this regard.
- 33.4 During the approval processes, the design architect may be requested to personally address the Control Architect on specific queries or alternatively perspective sketches may be requested.
- 33.5 Once approved by the Control Architect in writing, building plans will be returned to the applicant for submission to Modimolle Municipality. The consideration fees for the approval of the various stages of building plans and site visits by the Control Architect will be determined and updated by the Board from time to time. The fees can be obtained from the Estate Manager. The procedure for the approval of building plans is summarised for ease of reference in ANNEXURE A – PROCEDURE FOR THE APPROVAL OF BUILDING PLANS
- 33.6 No construction may commence before a Contractor's Registration Form, Certificate to Commence Construction as determined by the Board, written confirmation of approval by the Modimolle Municipality has been submitted to the Board or the Estate Manager and a building deposit, payable by Electronic Funds Transfer, has been paid to the HOA. This will be held in trust (free of interest) by the HOA until completion of the buildings. This deposit may be used to pay for the removal of any rubble or to make good any damages caused by the contractor, e.g. roads, services, etc. or in lieu of penalties caused by transgression of these rules and other rules by the Owner or his contractor. The amount of the building deposit will be determined from time to time by the Board.

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33.7 Deviations from the approved building plans during construction must first be cleared with the Estate Manager before proceeding. Should this be required by the Estate Manager, "as built plans" must be resubmitted to the Control Architect and for approval by the local municipality. Approved as built plans must be resubmitted to the Board for record purposes.

### **34 ALTERATIONS OR ADDITIONS**

34.1 The same design criteria and rules will apply as set out herein.

34.2 No plans, particulars or approval shall be required for any repair which has become necessary as a result of ordinary wear and tear or which is undertaken in the normal course of maintenance or upkeep of any building: Provided that where such repair will affect the external appearance the Board may require drawings or specifications to be submitted.

### **35 OCCUPATION OF NEW DWELLINGS**

35.1 It is compulsory to obtain a HOA Occupation Certificate before occupation of new dwellings.

35.2 A HOA Occupation Certificate will only be issued by the Board after:

- a) One set of coloured building plans, approved by the appointed Control Architect and Modimolle Municipality, is submitted to the Estate Manager, which will be kept for record purposes.
- b) Prior to the issue of an occupation certificate the Board or its representative will conduct a final site and building inspection.

### **36 PENALTIES**

The Board will be entitled to claim penalties, including but not limited to fines and exclusions from the Estate from the Owner or contractor in the Board's absolute and sole discretion for any breach of these rules.

#### **Building Contractor Rules**

**See following page**

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### **37. BUILDING CONTRACTOR RULES**

The HOA has adopted certain rules relating to building contractor activity in the Estate. The primary intention of the provisions hereunder is to ensure that all building activity occurs with the least possible disruption to residents, the environment and wildlife. To ensure sufficient control, only Contractors cleared by the Estate Manager as being in compliance with applicable Estate Rules will be permitted to build. Any contractor may apply for accreditation, but the Board reserves the right to approve deny or withdraw accreditation at its sole discretion. Where an Owner acts in the capacity of Owner-builder, the same conditions will apply as would have been applicable to a third party contractor.

### **38. LEGAL STATUS**

38.1 The conditions governing building activities, which are set out in this document, are rules adopted by the Board and are therefore binding on all Owners, their professional advisers, contractors and sub-contractors in any building contract concluded in respect of the property in the Estate and all such contracts may be required to be submitted to the Board for approval.

38.2 The Board has the right to suspend any building activity in contravention of any of the conditions and to refuse access to the contractor or other workers and the HOA and the Board accepts no liability whatsoever for any losses sustained by an Owner as result thereof.

### **39. CONTRACTOR'S DEPOSIT**

39.1 In addition to the building deposit paid by the Owner, a Contractor's Registration Form must be submitted with a contractor's deposit as set by the Board from time to time, payable by means of Electronic Funds Transfer (EFT) directly into Boschhoek Mountain Estate's bank account.

39.2 The contractor's deposit will be held in trust (free of interest) by the HOA until completion of the contractor's activities. The contractor's deposit is also payable in case of an Owner builder.

39.3 Building sites will be inspected periodically and should any of the conditions or rules be breached then a notice of warning will be delivered, faxed or e-mailed to the contractor, requiring him to remedy such breach within such reasonable time as stipulated on the warning notice.

39.4 If the contractor fails to remedy such breach within the stipulated period then the Board may, without derogating from its other recourse, also rectify the breach on the contractor's behalf and deduct the cost of rectifying such breach and/or the subsequent fine from the contractor's deposit.

### **40. HOURS OF WORK**

40.1 Unless otherwise arranged with the Board's appointed representative, contractor activity and access to the Estate, including deliveries, are limited to the following hours:

✓ 07h00-18h00 Monday to Thursday

✓ 07h00-15h00 Friday

40.2 No contractor activity or deliveries shall be permitted outside these hours and on Saturdays, Sundays and Public Holidays.

40.3 In addition to the restriction on building hours contained above, the contractor may not conduct any activity on any site within the Estate during the December/January closure period as determined by the Board.

### **41. SITE PREPARATION**

41.1 No physical construction may commence before:

a) the area approved by the Board for building purposes has been screened on all boundaries to a height of 1.5 meters using Hessian cloth or other screening material approved by the Board;

b) the water connection and meter has been installed and connected on site;

c) the Board's representative has approved the installation and positioning of the site toilet;

d) entrance to the site toilet has been screened from public view;

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## **CONDUCT RULES**

e) approved building plans have been submitted to the Board.

41.2 No building boards may be erected on the site, anywhere on the Estate or the private servitude road leading to the Estate.

### **42. CONTRACTOR PERSONNEL**

42.1 Contractor personnel shall under no circumstances be permitted to remain on the building site or Estate at any time other than the Hours of Work specified above.

42.2 All contractors and their workers will only be allowed to enter/exit the Estate through the applicable gate with an approved contractor's access card or similar to be purchased or obtained from the HOA or alternatively with a temporary one-day access clearance pass. Security, access controls and security procedures may be revised from time to time.

42.3 No workers or temporary workers may be collected or dropped off at the gate

42.4 All workers must remain within the screened area of the building site throughout the day and are not allowed to walk around the Estate.

42.5 If any contractor or his worker is found disturbing, endangering or removing any animal, fish, birdlife or flora on/from the Estate, or is found pilfering, stealing or removing material or goods without the necessary permission or is under the influence or in possession of alcohol or any illegal substance or is involved in any form of violence, the contractor will be removed from the site and be denied future access to the Estate, and to undertake any further work on the Estate.

42.6 Fires for cooking or any other purpose are not permitted.

### **43. ROAD USE AND DELIVERIES**

43.1 The speed limit in the Estate is 30 km/h.

43.2 Speeding and reckless driving will not be tolerated.

43.3 All contractors and their workers must travel by vehicle to and from the building site along the route prescribed by the HOA and all occupants must remain in/on the vehicle until the destined building site is reached.

43.4 All delivery vehicles must travel to and from the building site along the route prescribed by the HOA.

43.5 Extreme caution must be taken by heavy vehicles to cause as little as possible damage to the road surface and environment. The Estate Manager may deny access to heavy vehicles during particularly wet spells to minimise damage to the roads.

43.6 Vehicles in excess of 10 metric tons will not be allowed.

43.7 It is the responsibility of the contractor to ensure that no materials are stored on the road or anywhere on the stand other than within the screened building area. Off-loaded materials which encroach onto the prohibited areas shall be moved by the contractor to within the screened area of the site immediately after delivery.

### **44. SITE CLEANLINESS**

44.1 Building sites are to be kept clean at all times in accordance with the HOA representative's standards. If a contractor fails to keep the building site and surrounding area clean he may be prohibited from continuing any further work on the site until such time that the site is brought up to acceptable standards and neatness.

44.2 The Contractor must provide facilities on the site for rubbish and or rubble disposal and shall ensure that the workers use this facility. Building rubbish and or rubble shall be removed weekly by the Contractor and may not be burnt or disposed of on the Estate. Waste of any kind shall not, under any circumstances, be dumped anywhere on the Estate or the private servitude road leading to the Estate.

44.3 The contractor shall ensure that all waste generated and transported during the building phase is removed from the Estate and dumped at a registered dumping site. Failure to do so, will result in a fine, the amount thereof will be determined by the Board. Upon non-payment of the fine, the Board reserves the right to deduct the costs from the Builder's Deposit. The contractor will still be responsible for the removal of the waste.

44.4 After completion of the project the contractor shall pick up and remove all visible litter and building rubble on the verges of the road/s he used to access the building site, gravel quarries and other places on the Estate.

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## **45. DAMAGE TO THE PROPERTY**

The Owner and the contractor will be held responsible for any damage caused during the building process to any property.

## **46. GENERAL**

- 46.1 The contractor acknowledges that he is aware that the Estate is a security Estate and shall at all times adhere to the security regulations and controls, and shall co-operate with the HOA and security personnel so as to maintain security on the Estate. The Estate Manager or appointed security personnel reserve the right to subject vehicles and or persons entering and exiting the Estate to a search.
- 46.2 Contractors shall endeavour to limit inconvenience to residents and limit unnecessary noise, dust creation and the like.
- 46.3 Should the Board have any reservation with regard to the conduct of a contractor, the Board reserves the right to suspend all building activity without prior notice and free of any recourse from the Owner or contractor until remedial measures are implemented as required by the HOA.
- 46.4 All Owners and contractors shall observe and adhere to any further rules and regulations which may be introduced by the HOA from time to time.

## **47. FINES AND PENALTIES**

Any Owner or contractor who contravenes or fails to comply with any of the provisions of these rules, or any conditions imposed or directions given in terms of these rules, shall be deemed to have breached these rules and shall be subject to any penalties including fines, imposed by the Board.

## **48. FIRE SAFETY**

The contractor shall at all times adhere to the fire safety directives issued by the Estate Manager. The contractor will not be allowed to use any tools/equipment that create sparks on days with a "very dangerous" or "extreme dangerous" Fire Danger Index except with the written permission of the Estate Manager. During construction the home owner and contractor shall ensure that the fire hoses required for the site are operational and are not used for building purposes.

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### ANNEXURE A

#### SUMMARY OF PROCEDURE FOR THE APPROVAL OF BUILDING PLANS

**This is provided for ease of reference. In the event of any conflict with the rules, the rules will apply.**

- (i) Obtain an aerial photo with contours from a Land Surveyor or the Estate Manager.
- (ii) Determine the building position and orientation of buildings. When determining the position, the following aspects shall inter alia be considered: building lines, flood lines, riparian zones, wetlands, trees, steep slopes, the Boschhoek Environmental Sensitivity Map and visibility and privacy of neighbours.
- (iii) After the building position has been determined, conceptual designs and sketch plans together with site plans must be submitted to the Control Architect for consideration and approval. One electronic copy of each plan must be submitted.
- (iv) The conceptual site plan with the position of the buildings and structures should also be submitted to the Ecologist for provisional consideration. Once the working drawings have been completed, the final site plan should be submitted to the Ecologist for approval.
- (v) Electronic copies of the working drawings in compliance with the approved conceptual designs and sketch plans are then to be submitted to the Control Architect for approval. A copy must also be submitted to the Board for information purposes. After approval by the Control Architect the plans must be submitted to the Local Authority for final approval.
- (vi) All drawings must be numbered/marked appropriately (i.e. originals, revisions, approval dates etc.) for identification and reference purposes.
- (vii) After approval by the Modimolle Municipality and prior to construction, a full set of approved drawings must be submitted by the owner to the Board in electronic format.
- (viii) Prior to construction, all buildings must be set out by a land surveyor. Deviations less than 2 metres from the approved position will be allowed with the written consent of the Estate Manager. Deviations of 2 metres and more from the approved position will only be allowed with the written approval of the Control Architect and the Ecologist.
- (ix) Deviations from the approved building plans during construction must first be cleared with the Estate Manager before proceeding. Should this be required by the Estate Manager, "as built plans" must be resubmitted to the Control Architect and for approval by the local municipality. Approved as built plans must be resubmitted to the Board for record purposes.