

Terms and Conditions of Use of the NHBRC's Website

1. INTRODUCTION

1.1 This website can be accessed at *www.nhbrc.org.za*, related mobi-sites and software applications (the "**Website**") and is owned and operated by the National Home Builders Registration Council ("**NHBRC**", "**we**", "**us**" and "**our**").

1.2 The following services can be requested via the Website:

1.2.1 Registration as a home builder;

1.2.2 Renewal of registration as a home builder; and

1.2.3 Enrolment of homes

(the "**Services**").

1.3 These terms and conditions ("**Terms**") constitute the whole agreement between you and the NHBRC relating to your access to the Website. Each time you access the Website, you agree to be bound by the version of the Terms posted on the Website at the time. You are advised to regularly check the Terms for any amendments.

1.4 By accessing the Website and/or registering on the Website and/or requesting any of the Services via the Website, you –

1.4.1 agree that you have read and understand these Terms and agree to be bound by them without any modification by you.

1.4.2 represent and warrant that you are of legal age and capacity to enter into a binding agreement with the NHBRC.

1.4.3 understand that certain data will be collected about you, your use of the Website and the Services you request.

1.5 If you do not agree to any of these Terms, you should not access the Website, or register on the Website or request any of the Services offered on the Website.

1.6 If you have any questions regarding the Website, these Terms, or the Services, please contact us. In using the Website you may access some of its content and transmit your content to us. These Terms include details of the licenses we apply to our content and which we require you to apply to your content when transmitted or otherwise made available to us.

2. **IMPORTANT NOTICE**

2.1 To the extent that these Terms apply to users who are consumers for purposes of the Consumer Protection Act (Act 68 of 2008) (the “**CP Act**”), these Terms contain provisions that appear in similar text and style to this clause and which -

2.1.1 may limit the risk or liability of the NHBRC; and/or

2.1.2 may create risk or liability for you; and/or

2.1.3 may require you to indemnify the NHBRC; and/or

2.1.4 serves as an acknowledgement of a fact by you.

2.2 Your attention is drawn to these Terms because they are important and should be carefully noted.

2.3 If there is any provision in these Terms that you do not understand, it is your responsibility to request an official of the NHBRC to explain it to you before you accept the Terms, and/or continue accessing the Website, and/or requesting the Services offered on the Website.

2.4 No provision in these Terms is to be interpreted or construed as excluding or waiving any rights which you may have in terms of the Electronic Communications and Transactions Act (Act 25 of 2002) (the “**ECT Act**”), or the CP Act or any other applicable laws or regulations (“**Applicable Laws**”).

3. **CONSUMER PROTECTION INFORMATION**

In compliance with section 43(1) of the ECT Act, your attention is drawn to the following:

- 3.1 **Full name and legal status:** The National Home Builders Registration Council, a statutory body established in accordance with the provisions of the Housing Consumers Protection Measures Act (Act 95 of 1998).
- 3.2 **Registered physical address:** 27 Leeuwkop Road, Sunninghill, Johannesburg.
- 3.3 **Telephone number:** 0800 200 824
- 3.4 **Email address:** thenhbrc@nhbrc.org.za
- 3.5 **Physical address for receipt of legal service of documents:** 27 Leeuwkop Road, Sunninghill, Johannesburg.
- 3.6 **Description of the main characteristics of the service(s) offered by the NHBRC:** Regulatory services in the home building industry.
- 3.7 **Manner of payment:** Electronically by credit card, debit card or electronic transfer.
- 3.8 **Terms of the agreement:** The terms of the agreement between yourself and the NHBRC is governed by these Terms, and your application form and documents uploaded in support of your request for any Services offered on the Website (if applicable). The NHBRC makes no representations and gives no warranties and/or guarantees of whatever nature, whether express, implied in law, or residual, in respect of these Terms, the services and/or the accuracy or correctness of the information delivered to you or any part thereof..
- 3.9 **Time within which the service(s) will be delivered:** Within 14 (fourteen) days or as soon as is reasonably possible after the NHBRC grants your request for the services, subject to whatever conditions the NHBRC may impose.
- 3.10 **Refund policy:** Refer to our refund policy, which forms part of these Terms.
- 3.11 **Security procedures and policy of the NHBRC in respect of payment, and payment information:** the NHBRC utilizes a payment system that is sufficiently secure with reference to accepted technological standards as at the date of these Terms, given the type of transaction(s) to be concluded between you and the NHBRC.

- 3.12 **Cooling-off period:** You are entitled to cancel your transaction with the NHBRC for the supply of the Services without reason and without penalty within 7 (Seven) days after the date of the conclusion thereof with the NHBRC in terms of these Terms.

4. REGISTRATION AND USE OF THE WEBSITE

- 4.1 Only registered users may request services on the Website.
- 4.2 To register as a user, you must provide a unique username and password and provide certain information and personal details to the NHBRC. You will need to use your unique username and password to access the Website in order to request services.
- 4.3 You agree and warrant that your username and password shall:
- 4.3.1 be used for personal use only; and
- 4.3.2 not be disclosed by you to any third party.
- 4.4 For security purposes you agree to enter the correct username and password whenever requesting services, failing which you will be denied access.
- 4.5 You agree that, once the correct username and password relating to your account have been entered, irrespective of whether the use of the username and password is unauthorised or fraudulent, you will be liable for payment of such order, save where the order is cancelled by you in accordance with these Terms and Conditions.
- 4.6 You agree to notify the NHBRC immediately upon becoming aware of or reasonably suspecting any unauthorised access to, or use of your username and password and to take steps to mitigate any resultant loss or harm.
- 4.7 You agree that you will not in any way use any device, software or other instrument to interfere or attempt to interfere with the proper working of the Website. In addition, you agree that you will not in any way use any robot, spider, other automatic device, or manual process to monitor, copy, distribute or modify the Website or the information contained herein, without the prior written consent from an authorised representative of the NHBRC (such consent is deemed given for standard search

engine technology employed by Internet search websites to direct Internet users to this Website).

- 4.8 You may not in any way display, publish, copy, print, post or otherwise use the Website and/or the information contained therein without the express prior written consent of an authorised representative of the NHBRC.

5. SERVICES

- 5.1 Registered users may request the Services from the NHBRC and by doing so, you hereby authorize the NHBRC to provide the Services as requested by you in accordance with these Terms and the Housing Consumer Protection Measures Act 95 of 1998 read with the regulations made in terms thereof. You acknowledge that the NHBRC may use third party service providers to perform certain aspects of the Services provided to you hereunder, and may provide you with support services as reasonably necessary to facilitate the performance of the Services. **The NHBRC shall not, under any circumstances, be responsible for the acts and omissions of such service providers.**

- 5.2 Any request for Services submitted by you shall include all required information and all documentation as may be requested by the NHBRC (and uploaded to the Website as directed) to enable the NHBRC to provide the Services.

- 5.3 The NHBRC will indicate the acceptance of your request for the Services by written confirmation thereof, and only at that point will an agreement between you and the NHBRC come into effect. This is regardless of any communication from the NHBRC stating that your request for the Services has been received or payment therefor has been confirmed. Should the NHBRC not accept your request for the Services, it will notify you in writing thereof and as soon as possible thereafter, attend to payment of any refund that may be due to you.

6. FEES AND PAYMENT

- 6.1 You agree to pay to the NHBRC such fees as may be indicated for any Service requested by you (the "**Service Fees**"). Except as otherwise expressly provided, the Service Fees are billed in advance of the provision of the Service by the NHBRC.

- 6.2 The NHBRC is committed to providing secure online payment facilities. All transactions are encrypted using appropriate encryption technology.
- 6.3 Payment of Service Fees can be made via -
- 6.3.1 credit card and debit card. **You warrant that you are fully authorised to use the credit card supplied for purposes of paying the Service Fees. You also warrant that your credit card has sufficient available funds to cover all the costs incurred as a result of the services used on the Website;**
- 6.3.2 other methods that may be made available via the Website.
- 6.4 You may contact us via email at **thenhbrc@nhbrc.org.za** to obtain a full record of your payment. We will also send you email and SMS communications about your order and payment.
- 6.5 Once you have selected your payment method and you accept these Terms, you will be directed to a link to a secure site for payment of the Services requested.

7. **CANCELLATIONS AND REFUNDS**

- 7.1 If for any reason you would like to cancel a request for Services, this may be done by contacting the NHBRC's contact centre on 0800 200 824.
- 7.2 **For the cancellation of a request for registration as a home builder, or cancellation of a request for the renewal of registration as a home builder ("cancellation request"), all payments made to NHBRC will be refunded within 30 (thirty) days from the cancellation of the request, which must be sent to the following email address: **ndof@nhbrc.org.za**, together with the following -**
- 7.2.1 A dated and signed letter in which the cancellation request is made together with an explanation for the cancellation request.
- 7.2.2 Proof of payment to the NHBRC; and
- 7.2.3 Proof of banking details by way of a bank stamped letter or cancelled cheque.

- 7.3 **For the cancellation of a request for enrolment as a home owner**, all payments made will be refunded within 30 (thirty) days from the cancellation of the request, and upon receipt of the following documentation, which must be sent to the following email address: **ndof@nhbrc.org.za**, together with the following -
- 7.3.1 A letter requesting the refund with an explanation of the reason for cancellation of the request for enrolment as a home owner;
- 7.3.2 An inspection report from the Inspectorate to confirm that no building has commenced;
- 7.3.3 Proof of payment to NHBRC; and
- 7.3.4 Proof of banking details by way of a bank stamped letter or cancelled cheque.
- 7.4 Where building has already commenced, no refund shall be made.

8. **PRIVACY POLICY**

- 8.1 The NHBRC respects your privacy and will take all reasonable measures to protect it, as more fully detailed below.
- 8.2 Should you decide to register as a user on the Website, we may require you to provide us with personal information which includes but is not limited to -
- 8.2.1 your name and surname;
- 8.2.2 your identity number;
- 8.2.3 your email address;
- 8.2.4 your physical address; and
- 8.2.5 your mobile number.
- 8.3 Should your personal information change, please inform the NHBRC and provide us with updates to your personal information as soon as reasonably possible to enable us to update your personal information.

- 8.4 You may choose to provide additional personal information to us, in which event you agree to provide accurate and current information, and not to impersonate or misrepresent any person or entity or falsely state or otherwise misrepresent your affiliation with anyone or anything.
- 8.5 Subject to clause 8.6 below, the NHBRC will not, without your express consent:
- 8.5.1 use your personal information for any purpose other than as set out below -
- 8.5.1.1 in relation to the request for and provision of any of the Services; or
- 8.5.1.2 to contact you regarding Services that may be offered by the NHBRC; or
- 8.5.1.3 to improve your experience on our Website by, *inter alia*, monitoring statistical non-personal browsing habits, and to transact with us; or
- 8.5.2 disclose your personal information to any third party other than as set out below -
- 8.5.2.1 to our employees and/or third party service providers who assist us to interact with you via our Website, email or any other method, for the provision of the Services to you, and thus need to know your personal information in order to assist us to communicate with you properly and efficiently; and
- 8.5.2.2 to enable us to communicate with you for informational and advisory purposes.
- 8.6 We are entitled to use or disclose your personal information if such use or disclosure is required in order to comply with any Applicable Law, order of court or legal process served on us, or to protect and defend our rights or property.
- 8.7 We will ensure that all of our employees and third party service providers having access to your personal information are bound by appropriate and legally binding confidentiality and non-use obligations (save as permitted herein) in relation to your personal information.
- 8.8 The NHBRC shall -

- 8.8.1 treat your personal information as strictly confidential;
- 8.8.2 take appropriate technical and organisational measures to ensure that your personal information is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction or damage, alteration, disclosure or access;
- 8.8.3 provide you with access to your personal information to view and/or update personal details;
- 8.8.4 promptly notify you if we become aware of any unauthorised use, disclosure or processing of your personal information;
- 8.8.5 provide you with reasonable evidence of our compliance with our obligations under this policy on reasonable notice and request;
- 8.8.6 upon your request, promptly return or destroy any and all of your personal information in our possession or control; and
- 8.8.7 not retain your personal information longer than the period for which it was originally needed, unless we are required by law to do so, or you consent to us retaining such information for a longer period.
- 8.9 The NHBRC shall never to sell or make your personal information available to any third party other than as provided for in this privacy policy, unless we are compelled to do so by law. In particular, in the event of a fraudulent online payment, we reserve the right to disclose relevant personal information for criminal investigation purposes or in line with any other legal obligation for disclosure of the personal information which may be required of it.
- 8.10 Whilst the NHBRC will do all things reasonably necessary to protect your rights of privacy, we cannot guarantee or accept any liability whatsoever for unauthorised or unlawful disclosures of your personal information, whilst in our possession, made by third parties who are not subject to our control, unless such disclosure is as a result of our gross negligence.
- 8.11 If you disclose your personal information to a third party, such as an entity which operates a website linked to this Website or anyone other than the NHBRC, **then**

the NHBRC shall not be liable for any loss or damage, howsoever arising, suffered by you as a result of the disclosure of such information to the third party.

- 8.12 This Website makes use of “cookies” to automatically collect information and data through the standard operation of the Internet servers. **“Cookies”** are small text files a website can use (and which we may use) to recognise repeat users, facilitate the user’s on-going access to and use of a website and allow a website to track usage behaviour and compile aggregate data that will allow the website operator to improve the functionality of the website and its content. The type of information collected by cookies is not used to personally identify you. If you do not want information collected through the use of cookies, there is a simple procedure in most browsers that allows you to deny or accept the cookie feature. Please note that cookies may be necessary to provide you with certain features available on our Website, and thus if you disable the cookies on your browser you may not be able to use those features, and your access to our Website will therefore be limited. **If you do accept a “cookie”, you thereby consent to our use of any personal information collected by us using that cookie subject to the provisions of this clause 8.12.**

9. CHANGES TO THESE TERMS

- 9.1 The NHBRC may, in its sole discretion, change any of these Terms at any time. It is your responsibility to regularly check these Terms and make sure that you are satisfied with the changes. Should you not be satisfied, you must not request any Services, or in any other way use the Website.
- 9.2 Any such change will only apply to your use of this Website after the change is displayed on the Website. If you use the Website after such amended Terms have been displayed on the Website, you will be deemed to have accepted such changes.

10. ELECTRONIC COMMUNICATIONS

When you access the Website or send emails to us, you consent to receiving communications from us or any of our third party service providers, in accordance with our privacy policy as set out in clause 7.1 above.

11. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS

- 11.1 The contents of the Website, including any material, information, data, software, icons, text, graphics, lay-outs, images, sound clips, advertisements, video clips, trade names, logos, trade-marks, designs and service marks which are displayed on or incorporated in this Website ("**Website Content**") are protected by law, including but not limited to copyright and trade mark law. The Website Content is the property of the NHBRC and/or is licensed to the NHBRC.
- 11.2 You will not acquire any right, title or interest in or to the Website or the Website Content.
- 11.3 Any use, distribution or reproduction of the Website Content is prohibited unless expressly authorised in terms of these Terms or otherwise provided for in terms of Applicable Law.
- 11.4 Where any of the Website Content has been licensed to the NHBRC or belongs to any third party, your rights of use will also be subject to any terms and conditions which that licensor or third party imposes from time to time and you agree to comply with such third party terms and conditions.

12. DISCLAIMER

- 12.1 The use of the Website is entirely at your own risk and you assume full responsibility for any risk or loss resulting from use of the Website or reliance on any information on the Website.
- 12.2 Whilst the NHBRC takes reasonable measures to ensure that the content of the Website is accurate and complete, we make no representations or warranties, whether express or implied, as to the quality, timeliness, operation, integrity, availability or functionality of the Website or as to the accuracy, completeness or reliability of any information on the Website.
- 12.3 **The NHBRC disclaims liability for any damage, loss or liability, whether direct, indirect or consequential in nature, arising out of or in connection with your access to or use of the Website and/or any content therein unless otherwise provided by Applicable Law.**

- 12.4 The Website itself and all information provided on the Website is provided “as is” without warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, completeness, or non-infringement, as may be allowed in law.
- 12.5 **In addition to the disclaimers contained elsewhere in these Terms, the NHBRC makes no warranty or representation, whether express or implied, that the information or files available on the Website are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which is able to corrupt, destroy, compromise, disrupt, disable, harm, jeopardise or otherwise impede in any manner the operation, stability, security functionality or content of your computer system, computer network, hardware or software in any way. You accept all risk associated with the existence of such viruses, destructive materials or any other data or code which is able to corrupt, compromise, jeopardise, disrupt, disable, harm or otherwise impede in any manner the operation or content of a computer system, computer network, any handset or mobile device, or your hardware or software, save where such risks arise due to the gross negligence or wilful misconduct of the NHBRC, its employees, agents or authorised representatives. The NHBRC disclaims all liability for any damage, loss or liability of any nature whatsoever arising out of or in in connection with your access to or use of the Website.**

13. LINKED THIRD PARTY WEBSITES

- 13.1 This Website may contain links or references to other websites (“**Third Party Websites**”) which are outside of our control. These Terms do not apply to those Third Party Websites and the NHBRC is not responsible for the practices and/or privacy policies of those Third Party Websites or the “cookies” that those sites may use.
- 13.2 **Notwithstanding the fact that the Website may refer to or provide links to Third Party Websites, your use of such Third Party Websites is entirely at your own risk and the NHBRC is not responsible for any loss, expense, claim or damage, whether direct, indirect or consequential, arising from your use of such Third Party Websites or your reliance on any information contained thereon.**

14. LIMITATION OF LIABILITY

- 14.1 The NHBRC cannot be held liable for any inaccurate information published on the Website and/or any incorrect Service Fees displayed on the Website, save where such liability arises from the gross negligence or willful misconduct of the NHBRC, its employees, agents or authorised representatives. You are encouraged to contact us to report any possible malfunctions or errors by way of email to *thenhbrc@nhbrc.org.za* or by contacting 0800 200 824.
- 14.2 The NHBRC shall not be liable for any direct, indirect, incidental, special or consequential loss or damages which might arise from your use of, or reliance upon, the Website and/or its content, or your inability to use the Website and/or unlawful activity on the Website and/or any linked Third Party Website.
- 14.3 You hereby indemnify the NHBRC against any loss, claim or damage which may be suffered by yourself or any third party arising in any way from your use of the Website and/or any linked Third Party Website.

15. AVAILABILITY AND TERMINATION

- 15.1 The NHBRC will use reasonable endeavours to maintain the availability of the Website, except during scheduled maintenance periods, and reserve the right to discontinue providing the Website or any part thereof with or without notice to you.
- 15.2 The NHBRC may in its sole discretion terminate, suspend and modify this Website, with or without notice to you. You agree that NHBRC will not be liable to you in the event that it chooses to suspend, modify or terminate this Website other than for processing any orders made by you prior to such time and to the extent possible.
- 15.3 If you fail to comply with your obligations under these Terms, including any incident involving payment of Service Fees, and you fail to remedy such failure within 7 (Seven) days of notice to you by the NHBRC, this may (in our sole discretion) lead to a suspension of your access to the Website without any prejudice to any claims for damages or otherwise that we may have against you.

16. GOVERNING LAW AND JURISDICTION

- 16.1 These Terms and our relationship and/or any dispute arising from or in connection with these Terms shall be governed and interpreted in accordance with the laws of the Republic of South Africa. Your continued use of the Website will constitute your consent and submission to the jurisdiction of the High Court of South Africa, regarding all proceedings, transactions, applications or the like instituted by either party against the other, arising from any of these Terms.
- 16.2 In the event of any dispute arising between you and NHBRC, you hereby consent to the non-exclusive jurisdiction of the High Court of South Africa, Gauteng Division, Johannesburg, notwithstanding that the quantum in the action or proceedings may otherwise fall below the monetary jurisdiction of that court.
- 16.3 Nothing in this clause 16 or the Terms and Conditions limit your right to approach any court, tribunal or forum of competent jurisdiction in terms of the CPA (if applicable).

17. NOTICES

- 17.1 The NHBRC hereby selects the address stated in clause 3.2 above as its address for the service of all formal notices and legal processes in connection with these Terms. The NHBRC may change this address from time to time by updating these Terms.
- 17.2 You hereby select the address specified when you request the Services as your nominated address, but you may change it to any other physical address by giving the NHBRC not less than 7 (Seven) days' notice in writing.
- 17.3 Notices must be sent either by hand or email and must be in English. All notices sent -
- 17.3.1 by hand will be deemed to have been received on the date of delivery;
- 17.3.2 by email will be deemed to have been on the date indicated in the "Read Receipt" notification.

18. **GENERAL**

- 18.1 The NHBRC may, in its sole discretion, at any time and for any reason and without prior written notice, suspend or terminate the operation of the Website or the user's right to use the Website or any of its contents subject to us processing any orders then already made by you.
- 18.2 You may not cede, assign or otherwise transfer your rights and obligations in terms of these Terms to any third party.
- 18.3 Any failure on the part of you or the NHBRC to enforce any right in terms hereof shall not constitute a waiver of that right.
- 18.4 If any term or condition contained herein is declared invalid, the remaining terms and conditions will remain in full force and effect.
- 18.5 No variation, addition, deletion, or agreed cancellation of the Terms will be of any force or effect unless in writing and accepted by or on behalf of the parties hereto.
- 18.6 No indulgence, extension of time, relaxation or latitude which any party may show grant or allow to the other shall constitute a waiver by the grantor of any of the grantor's rights and the grantor shall not thereby be prejudiced or stopped from exercising any of its rights against the grantee which may have arisen in the past or which might arise in the future.
- 18.7 These Terms contain the whole agreement between you and the NHBRC and no other warranty or undertaking is valid, unless contained in this document between the parties.