



BRICK 'n BOARD
GROUP (PTY) LTD

Clermont Du Cap

Offer to Purchase Plot & Plan

(OTP for Erf only)

Entered into by and between

**Brick 'n Board Group (Pty) Ltd
Reg. No. 2015/408549/07**

(hereinafter referred to as "the Seller")

and

1. _____

2. _____

(hereinafter collectively referred to as "the Purchaser")

A1 THE SELLER

Name	Brick 'n Board Group (Pty) Ltd Reg. No. 2015/408549/07
Address:	8 Rome Street, Brackengate Business Park 1, Brackenfell, 7560
E-mail:	cherie@bricknboard.co.za

A2 THE PURCHASER**PURCHASER 1**

Full Names	
ID/Reg. No.	
Marital Status	COP ANC UNMARRIED
Address	
Tel (H)	
Tel (W)	
Mobile	
E-mail	
Income Tax No	

A3**PURCHASER 2**

Full Names	
ID	
Marital Status	COP ANC UNMARRIED
Address	
Tel (H)	
Tel (W)	
Mobile	
E-mail	
Income Tax No	

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B THE PROPERTY SOLD

THE PROPERTY HEREBY SOLD IN THE DEVELOPMENT

Portion number	
Erf number if available and allocated	
Approximate extent in square meters	

Being a portion of Erf 11851 Kuils River, In the City of Cape Town, Division Stellenbosch, Province Western Cape.

HEREINAFTER REFERRED TO AS “the Property” as depicted on Annexure “A” hereto.

C PURCHASE PRICE inclusive of Value-Added Tax at 15 %

Purchase Price of the Property	R
Purchase Price in words	

D PAYMENT OF PURCHASE PRICE

Purchase price of the Property	R
Deposit	R35 000.00
Balance of Purchase Price	R

E MORTGAGE BOND (INDICATE IF REQUIRED)

Answer yes or no: _____

Amount required	R
Date by which bond must be granted	Within 90 (Ninety) days of acceptance of this Offer.
Preferred institution:	

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F THE SELLING AGENT

Selling Agency	
Name of Estate Agent	
Vat No. Selling Agency	
Income Tax. No of Agent	
Tel. No.	
Fax. No.	
E-mail adress	

G SALE OF PURCHASER'S PROPERTY

Situated at:	
For the amount of:	R
Date when property must be unconditionally sold	

H OTHER

Estimated monthly levy	R _____ (Vat incl.)
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CONSUMER PROTECTION ACT NOTICE

A In complying with the Consumer Protection Act, certain portions of the agreement have been printed in ***bold italics***. The reason for this is to specifically draw the Purchaser’s attention to these clauses as they either: Limit in some way the risk or liability of the Seller or any other person, constitute an assumption of risk or liability by the Purchaser, impose an obligation on the Purchaser to indemnify the Seller or any other person for some cause; or are acknowledgement of a fact by the Purchaser.

B It is further recommended that:

B1 the Purchaser carefully reads this Agreement (and its Annexures), and complete annexure "B" to record any representations made by the Seller or its Agent concerning material facts which the Purchaser relied on in deciding to purchase the Property and to conclude this Agreement and that are not contained in this Agreement; and

B2 the Purchaser consults a suitable qualified person to assist the Purchaser in the interpretation and conclusion of this Agreement; and

B3 the Purchaser advises the Seller in writing of any information furnished to the Purchaser in a manner or form which the Purchaser deems not to be plain and understandable language.

I DECLARE HEREWITH THAT I HAVE READ THE IMPORTANT NOTICES SET OUT ABOVE

Signed at _____ on _____ 20__.

PURCHASER who warrants that he/she

Is duly authorized thereto

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CONFIRMATION OF RECEIPT AND PERUSAL OF CONSTITUTION OF HOME OWNERS ASSOCIATIONS

A I/We hereby confirm that we had the opportunity to peruse a copy of the draft constitution of the Home Owners Association governing the Property, being:

- Clermont Du Cap Home Owners Association

As provided for in paragraph 19 of the Standard Terms and Conditions of this agreement and that we are familiar with the contents thereof of which we have a good understanding.

B I/ We furthermore confirm that a copy of the abovementioned constitution were made available to us.

I DECLARE HEREWITH THAT I HAVE READ THE IMPORTANT NOTICES SET OUT ABOVE

Signed at _____ on _____ 20__.

PURCHASER who warrants that he/she

Is duly authorized thereto

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STANDARD CONDITIONS

Whereas

- The Seller is in the registered owner of Erf 11851 Kuils River situated in the City of Cape Town, Stellenbosch Division, Western Cape Province,
- The Seller is in the process to develop the Site;
- The Purchaser wishes to purchase the Property from the Seller.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1 INTERPRETATION

- 1.1 **“the Parties”** means the Seller and/or Purchaser.
- 1.2 **“Selling Agent”** The Estate Agency responsible for the cause of the sale in terms of a mandate;
- 1.3 **“Anticipated date of Completion of Services”** 30 November 2020
- 1.4 **“the Possession Date”** means date of Registration of Transfer;
- 1.5 **“the Plan”** means the Site Development Plan approved by the Local Authority; (annexed hereto and marked “A”)
- 1.6 **“the Site”** means Erf 11851 Kuils River situated in the City of Cape Town, Stellenbosch Division, Western Cape Province,
- 1.7 **“the Seller”** Brick ‘n Board Group (Pty) Ltd,
Reg No: 2015/408549/07 ;

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- 1.8 **“Conveyancers”** means the Conveyancer appointed by the Seller, being, Louis van Schalkwyk of Bellingan Muller Hanekom Inc. (Tel. 021 9197599)
- 1.9 **“Mortgage loan”** means a loan in terms of clause 10 hereunder that must be obtained;
- 1.10 **“the Development”** means the development of the Site known as Clermont Du Cap;
- 1.11 **“the Local Authority”** means the City of Cape Town and any other relevant authority;
- 1.12 **“Transfer Date** means the date of registration of transfer of the Property in the name of the Purchaser, which shall be as soon as possible after the Anticipated date of Completion of Services and fulfilment of any suspensive conditions;
- 1.13 **“VAT means”** Value Added Tax in terms of the VAT Act;
- 1.14 **“VAT Act means”** the Value Added Tax Act No. 89 of 1991, as amended.
- 1.15 Unless the context indicates otherwise, words in this Agreement importing any one gender shall include the other, and words importing the singular shall include the plural and vice versa.

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- 1.16 The headnotes to the clauses in this Agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- 1.17 The provisions of the Preamble and Recordal and annexures to this Agreement shall be deemed to be incorporated in and form part of this Agreement.
- 1.18 *The Purchaser confirms that he has chosen English as the language of this Agreement.***
- 1.19 If any provision of this Agreement is in conflict or inconsistent with Law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions hereof.
- 1.20 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 1.21 When any number of days is prescribed in this Agreement, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

2 RECORDAL

- 2.1 It is recorded that:
- 2.1.1 the Seller is presently planning and will develop the Site substantially in accordance with the Plan approved by the local authority.
- 2.1.2 the Plan has been studied by or on behalf of the Purchaser and the Purchaser declares that he is conversant therewith;
- 2.1.3 the Purchaser wishes and has offered to acquire the Property from the Seller and the Seller is prepared to sell the Property to the Purchaser;

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- 2.1.4 No separate title has been issued in respect of the Property which will not be a separate registerable entity until certain services have been installed.
- 2.1.5 This sale is further subject to the anticipated compliance by the Seller with the conditions imposed by the Local Authority and/or the Provincial Government when approving rezoning and subdivision of the Site and the installation of services and compliance with the formalities in terms of the Environmental Conservation Act 73 of 1989 and other relevant legislation.
- 2.1.6 ***the Purchaser agrees that any delay in transfer by the Seller due to the approval of the sub-divisional diagram by the Surveyor General or the installation of services, will not give rise to a claim for cancellation of this agreement; except for on the grounds as set out in clause 17.2 hereunder and it will remain in full force and effect, notwithstanding any delay in the registration of transfer of the Property.***
- 2.1.7 If the property has been erroneously described herein, such mistake or error shall not be binding upon the parties but the correct description as intended by the parties shall apply and they shall effect rectification of this contract accordingly.

3 SALE

The Seller sells to the Purchaser who purchases from the Seller the Property and for the Purchase Price stated in Clause C above.

4 PURCHASE PRICE

The Purchase Price reflected in clause C hereto is payable as follows:

- 4.1 The deposit payable as per clause D with an electronic funds transfer (EFT) which shall be held in Trust by the Conveyancers in an interest-bearing account pending the Transfer Date after the Purchaser signed an Authority to Invest and complied with the requirements of the Conveyancer in terms of the Financial Intelligence Centre Act No. 38/2001 (FICA). All interest earned on the deposit shall accrue to the Purchaser. The deposit shall not be paid to the Seller until registration of transfer, or until it shall become otherwise payable in terms hereof.

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- 4.2 The balance in cash or by bank guaranteed cheque against registration of transfer.
- 4.3 The Purchaser shall furnish the Conveyancers within 14 (Fourteen) days from date of fulfillment of the suspensive conditions referred to in paragraphs 10.1 and 20 hereunder, if any, with a guarantee/s drawn in favour of the Conveyancers, or as directed by the Conveyancers, which save for providing for payment against the tendering of registration of transfer of the Property into the name of the Purchaser, shall be unconditional and shall be in terms acceptable to the Seller. The guarantee shall be issued by a registered South African Commercial Bank or other financial institution approved by the Seller in its absolute discretion for the payment of the balance of the Purchase Price. The Seller shall not be required to give any reason for any refusal of approval of the guarantee issued. Withdrawal by a guarantor as aforesaid for any reason whatsoever, shall constitute a breach by the Purchaser of his obligations to deliver a guarantee in terms of this clause and in respect of which breach the Seller shall not be required to give notice in terms of clause 12. The remedies as provided for in clause 12 shall be applicable.
- 4.4 In the event of the rate of which VAT is chargeable being amended after the date of signature hereof by the Purchaser and in circumstances in which the amended rate will apply to this transaction, then the Purchase Price shall be adjusted accordingly, the intention being that the Seller shall receive and retain the same amount after payment of VAT regardless of the rate at which VAT is payable.
- 4.5 All payments shall be made to the Conveyancers.

5 TRANSFER

- 5.1 Registration of transfer shall be effected by the Conveyancers and will be passed on the Transfer date (as soon as possible after the completion of the civil and electrical services on the anticipated date of completion of these services in terms of clause 1.3 above) and the fulfillment of any other suspensive condition/s. The Purchaser will ensure that the financial institution approving the mortgage loan as referred to in paragraph 10 of this agreement, instruct the Conveyancers or its nominee to attend to the registration of such mortgage bond insofar they will be able to receive such an instruction.

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- 5.2 The abovementioned Conveyancers are hereby irrevocably authorised by the Purchaser to sign all relevant documentation and declarations to enable the conveyancers to obtain a transfer duty exemption from the South African Revenue Services.
- 5.3 The Purchaser undertakes to sign all transfer documents within 10 (ten) days of being called upon to do so by the Conveyancers. Failure to comply with this provision shall constitute a material breach of this Agreement.
- 5.4 It is recorded that it will only be possible for the Seller to give transfer of the Property to the Purchaser after registration of the subdivision(s) of the site.

6 COSTS

- 6.1 The Seller shall pay all transfer costs in connection with transfer of the Property into the name of the Purchaser, which includes the costs of registration of transfer, Vat on the Conveyancer's fees, local authorities clearance fees, Home Owners Association consent fees, etc. The Purchase Price is therefore inclusive of these costs. The Purchaser will be liable for his own bond registration costs.

7 POSSESSION

- 7.1 Possession shall be given to the Purchaser on the Transfer Date, from which date it will be at the sole risk, profit or loss of the Purchaser.
- 7.2 The Purchaser shall be liable for payment of all rates, taxes and other legal government levies or charges in respect of the Property calculated as from the Transfer Date and the Purchaser shall refund the Seller a proportionate share of such charges paid by the Seller in advance. If requested to do so, the Purchaser shall on demand pay to the Conveyancers an estimated pro rate portion of such rates etc. in advance to enable the said Conveyancers to pay such rates etc. before the Transfer Date.
- 7.3 The Seller is liable for payment of all bulk services levies and charges normally payable to any Local Authority in respect of the Property.
- 7.4 The Seller is liable for the payment of all service connection fees to the Local Authority.

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8 CONDITIONS OF TITLE AND VOETSTOOTS

- 8.1 The Property is sold subject to the title conditions as set out in the existing Title Deed or deeds and to such further conditions as may be imposed by competent Local Authority when approving the subdivision(s) of the site.
- 8.2 The Property is sold voetstoots and the Seller will not be entitled to any remuneration in respect of any minor excess and will not be liable for any minor shortfall in the extent of the Property which may become apparent in any re-survey thereof and the Purchaser shall accept the site as constructed voetstoots on the completion date.
- 8.3 The Seller shall not be required to indicate the position of any of the beacons or pegs on the Property or any boundaries thereof other than those to be indicated by the land surveyor upon sub-division survey. The Seller shall not be responsible for any deviation in actual size in the Property from that represented to the Purchaser, if such deviation does not exceed 5% (five percent) of the total actual size of the Property.
- 8.4 The Purchaser acknowledges that it may be necessary for the Seller to erect mini-substations throughout the development during the course of construction and the installation of bulk services. In the event that any such mini-substations should need to be erected upon the Property, the Purchaser consents to the erection thereof and consents to the creation of a servitude in the title deed for the Property providing for such mini-substation to be erected on a space not exceeding 4m² (four square meters).

9 INTEREST

- 9.1 Any amounts due by the Purchaser to the Seller or the Conveyancers and not paid on the date in terms of this Agreement, will bear interest at the rate of four percentage points above the prime interest rate of Absa Bank Limited, calculated from the date upon which it becomes due until date of final settlement.

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9.2 In the event of transfer being tendered by the Seller as described in clause 5 above, and the Purchaser not being able to take transfer, interest will become payable as described in clause 9.1, calculated from the date upon which transfer was tendered by the Seller, until date of registration of transfer.

10 SUSPENSIVE CONDITIONS

In the event of it being indicated in Clause E of the Schedule that a Mortgage Loan is required, then this Agreement shall be subject to the following suspensive conditions:

10.1. The Purchaser shall without delay apply for a loan and shall have it approved in principle in writing by a recognized financial institution, upon its usual terms and conditions in the amount referred to in clause E of the Schedule (or such lesser amount accepted by the Purchaser), by no later than the date specified, upon the security of a mortgage bond to be registered over the Property at such rates of interest and on such conditions as are stipulated by the relevant financial institution, provided that if the loan is granted subject to the Purchaser selling any immovable property or cancelling any existing mortgage bond (except when condition G of the Schedule is applicable) or repaying any existing debt or loan, the suspensive condition will not be fulfilled. This suspensive condition shall be deemed to be fulfilled:

10.1.1 On the date that the Purchaser obtains a quotation and/or pre-agreement statement from any Bank in terms of which such Bank offers a loan to the Purchaser in an amount of not less than the amount referred to above and even if such loan is approved subject to the Purchaser's spouse (or any of the directors and/or shareholders and/or members and/or trustees of the Purchaser, as the case may be) interposing himself as surety for and co-principal debtor in solidum with the Purchaser of the fulfilment of all the Purchaser's obligations under the loan; and/or

10.1.2 Even if such loan is offered as a conditional approval by a financial institution whether in the form of a grant quotation or as an offer issued in respect of a mortgage loan or as a conditional offer preceding a quotation or otherwise. It is recorded that some Banks issue offers which are not official quotations in terms of the provisions of the NCA as amended and/or replaced from time to time in order to indicate to a purchaser that they would be willing to provide an official quotation in

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terms of the NCA to such purchaser and in respect of such specific property. In light of the same it is specifically agreed that this suspensive condition will be deemed to be fulfilled in the event that a Bank issues a document which reflects the name of the Purchaser, the Property, a mortgage loan amount which is equal to or greater than the amount set out above and the rate of interest and such other information which would usually reflect on a quotation issued under provisions of the NCA.

10.1.3 Upon the Purchaser accepting a quotation and/or pre-agreement statement from a Bank for the granting of a loan for a lesser amount than the amount stipulated above, in which event the Purchaser shall deliver to the Conveyancers a guarantee for the difference between the amount stipulated above on the one hand and the amount of the loan accepted on the other hand, within 14 (fourteen) days of the loan or offer being accepted by the Purchaser.

10.2 Failure on the part of

10.2.1 the Purchaser to sign any application for a bond or any other document/s necessary to procure the granting of such loan or registration of such bond, or to furnish relevant information or documentation or to pay the costs of or incidental to registration of any bond or to properly and timeously take all steps reasonably necessary to procure the loan and to comply with the requirements of the financial institution; or

10.2.2 any person nominated to sign a Deed or Deeds of Suretyship as contemplated above to sign such Deed of Suretyship or to furnish relevant information upon demand by the Seller or any prospective Bondholder;

Shall constitute a breach hereof by the Purchaser within the meaning of clause 12 or alternatively shall, at the option of the Seller, entitle the Seller to regard clause 10 hereof as having been duly fulfilled.

10.3 ***The Purchaser warrants that he has no reason to believe that he will not successfully obtain a mortgage loan for the financing of the balance of the purchase price, in the event that he requires same. Should the Purchaser’s bond application be declined, the Purchaser will be reimbursed with his / her deposit as well as the interest accrued thereupon.***

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- 10.4 Whereas it is important for the Developer to have proper control over the mortgage loan application it is agreed that the Purchaser shall make use and instruct Almarie Nel of Mortgage Max (almarie@cmco.co.za, Tel: 0824623165) to lodge the mortgage loan application with the Purchaser's preferred financial institutions/s.
- 10.5 In the event of any of the said suspensive conditions not being timeously fulfilled the Seller in its sole discretion may give an extension of time for the fulfillment of this condition.
- 10.6 This agreement is further subject to the suspensive condition that it shall be of no force or effect unless the Purchaser concludes a building contract, with the Seller or his nominated builder, to construct a dwelling on the property with specifications to be agreed between the parties.
- 10.6.1 Should the building agreement, signed in terms of clause 10.6 above, be cancelled or lapse, for whatever reason, then this agreement shall also lapse and be of no further force and effect.
- 10.7 It is specifically agreed that this agreement is subject to and conditional upon the approval being obtained from the Local Authority for the subdivision and / or rezoning of the Site on conditions acceptable to the Seller as well as the Surveyor-General's approval and registration of the general plan for that phase of the development on which the Property is depicted.
- 10.8 It is anticipated that structural services to the Property will be installed on or as close as possible to the Anticipated date of completion of the services, or such extended period as the seller in his sole discretion may allow.
- 10.9 ***Should this agreement be of no force and effect due to the non-fulfillment of clause 10.1, the Seller shall refund to the Purchaser all monies paid on account of the purchase price together with accrued interest thereon, whereupon the Seller and the Purchaser reciprocally acknowledge that they shall have no further claim, the one against the other, arising from this Agreement.***

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11 ARBITRATION

- 11.1 If any dispute arises between the Seller (and/or Purchaser) and the Estate Agent relating to payment of the commission, such dispute must be submitted to the Arbitration Tribunal (*the Tribunal*) established by the Estate Agency Affairs Board for decision.
- 11.2 If any dispute arises between the Seller and another estate agent (*the other estate agent*) relating to payment of commission, the Seller :-
- 11.2.1 must without delay notify the Estate Agent in writing of such dispute; and
- 11.2.2 may, notwithstanding the provisions of clause 14, withhold payment of the commission to the Estate Agent, provided the Seller, the Estate Agent and the other estate agent, within 14 (fourteen) days after receipt by the Estate Agent of the written notification referred to in clause 11.2.1 above, conclude a tripartite arbitration agreement, in the form determined by the Estate Agency Affairs Board, to submit such dispute for decision by the Tribunal.
- 11.3 The Constitution and Procedural Rules of the Tribunal (a copy of which can be obtained from the Estate Agent or the Estate Agency Affairs Board at Private Bag X10, Benmore, 2010) form part of this agreement. The Tribunal is not obliged to hear the dispute unless the matter is referred to it in accordance with the said Constitution and Procedural Rules.
- 11.4 This clause will apply even if the validity of the remainder of this agreement (or any other clause) is in dispute.

12. DEFAULT

If a party commits a breach of this agreement and/or fails to comply with any of the provisions hereof, then the other party shall be entitled to give the defaulting party 7 (Seven) days' notice in writing to remedy such breach and/or failure and if the defaulting party fails to comply with such notice, then the

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other party shall forthwith be entitled, but no obliged, without prejudice to any other rights or remedies which such party may have in law, including the rights to claim damages, to cancel this agreement or to claim immediate performance and/or payment of all the defaulting party's obligations in terms hereof. In the event that the defaulting party is the Purchaser and the Seller elects to cancel the agreement then it will be entitled, but not obliged, to retain all amounts paid by the Purchaser as a genuine pre-estimate of damage suffered by the Seller

13 NOTICES

13.1 The parties to the Agreement choose the addresses set out in the second page of this Agreement as their respective *domicilia citandi et executandi* (domicile of notices, summons and execution) for all purposes arising hereout and as their respective addresses for the service of any notices required to be served upon them hereunder.

13.2 Any notice or communication required or permitted in terms of this Agreement shall be valid and effective only if in writing but it shall be competent to give such notice by e-mail.

13.3 Either party may by notice to the other change their physical address chosen as its/his/her domicilium, or may advise an e-mail address or change the e-mail address provided that such change(s) shall only become effective on the sixth business day after the date of receipt, or deemed date of receipt, of such notice by the addressee.

13.4 Any notice to a party shall-

13.4.1 If sent by pre-paid registered post, shall be deemed to have been received on the fourth business day after posting unless the contrary is proved.

13.4.2 If delivered by hand, shall be deemed to have been received on the day of delivery or on the next business day if the day of delivery is not a business day.

13.4.3 If sent by te-mail, shall be deemed to have been received on the date of dispatch or on the next business day if the time of dispatch is not on a business day unless the contrary shall otherwise be proved.

13.5 Notwithstanding anything to the contrary herein contained, any written notice or communication actually received by a party to this Agreement shall be an adequate written

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notice or communication to it/him/her notwithstanding that it was not sent to or delivered at the chosen *domicilium citandi et executandi* (domicile of notices, summons and execution) or transmitted to such party's e-mail address as stipulated herein.

14 SELLING AGENTS COMMISSION

The Seller shall pay the Selling Agents commission for the sale of the property as agreed between them. The Purchaser warrants that it was not introduced to the Property, or this Agreement, by any agent other than the Selling Agent named in clause F. The Purchaser accordingly indemnifies the Seller and holds it harmless against all costs, charges, claims, demands, expenses, loss and damage which may be made against/suffered by the Seller arising out of a breach of any of the foregoing warranty. In the event of this Agreement being cancelled as a consequence of a breach on the part of the Purchaser, the Purchaser shall be liable for any sales commission due by the Seller to the agent who introduced the Property.

15 TRUSTEES OF LEGAL ENTITIES TO BE FORMED AND, NOMINATIONS AND SURETYSHIPS

15.1 If more than one Purchaser is a party to this agreement, then such Purchasers shall jointly, severally and *in solidum* (joint and several) be liable for the due performance of their respective obligations in terms of this agreement and the parties hereby renounce all benefits arising from the legal exemptions *de duobus vel pluribus, reis debendi*. (the debtor from whom the full amount is claimed cannot avail himself of the benefit that he is only liable for his share and thereby avoid having to pay the full debt)

15.2 If the Purchaser nominates another person and the person thus nominated does not accept the nomination or accepts the nomination but fails to perform timeously in terms of this Agreement, then the Purchaser shall in his personal capacity be liable for the due fulfilment of all the obligations of such party in terms of this contract.

15.3 If the Purchaser is acting for or as a nominee of as a Trustee for a Company, Close Corporation to be formed, or in any other representative capacity, then the Purchaser shall be personally liable as Purchaser in terms of this Agreement unless the said Company/Close Corporation is formed and in addition adopts, ratifies and confirms the terms of this

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Agreement, within 30 (thirty) days after notification by the Conveyancers. If the said Company/Close Corporation so formed adopts the nomination and ratifies and confirms all the terms of this Agreement then the Purchaser by his signature hereto binds himself to the Seller as Surety and co-principal debtor *in solidum* (joint and several) with the said Company/Close Corporation under renunciation of the benefits or excussion, division and cession of action for the due performance by the said Company/Close Corporation of its obligation in terms hereof.

15.4 In the event of a registered Company/Close Corporation or the Trustees of a Trust being the Purchaser of the Property, the signature on behalf of such Company/Close Corporation or the Trust, by virtue of his signature hereto, binds himself as surety and co-principal debtor jointly and severally with the Company/Close Corporation or Trust for the fulfillment of all the terms and conditions of this Agreement.

16 OFFER

If this Agreement is signed by the Purchaser only, then this document constitutes an offer to the Seller, which must be accepted within 30 (Thirty) days from date of signature by the Purchaser, by failure of which the offer shall lapse and be of no further effect.

17 RIGHT TO TERMINATE AGREEMENT

17.1 In the event of this agreement being subject to Section 29 (A) of the Alienation of Land Act 68 of 1981, the attention of the Purchaser is drawn to his right as therein prescribed to revoke, alternatively terminate, as the case may be, this agreement, within 5 (FIVE) days, excluding Saturdays, Sundays and Public Holidays of the date of signature hereto, written notice of termination shall be delivered to the Agent of the Seller within the stated period. Neither party will occur any liability to the other party or the agent in the event that this offer or deed is so revoked or terminated.

17.2 In the event that it is impossible for the Seller to pass transfer of the property to the Purchaser within a period of 12 (twelve) months from date of signature of this agreement as a result of the fact that the Seller did not receive a Rates Clearance Certificate or any other consent and / or documentation from the Local Authority, or any consent, from any other person,

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whosoever, necessary in the discretion of the Seller and / or Local Authority, to enable him to pass transfer to the Purchaser, then the Seller may cancel this agreement with a written notice to the Purchaser.

- 17.3 The Seller may be of the intention to develop the scheme with the assistance of a Development Bond and it is also necessary for the Seller to sell a certain minimum number of Units in the Development to make it economically viable. Should the Seller not sell the required number of units to make the Development, in the Seller's own and absolute discretion, economically viable or not meet the requirements of the development loan then the Seller may cancel this Agreement by written notice to the Purchaser. The Purchaser shall have no recourse against the Seller as a result of this cancellation.

18 BUILDING OPERATIONS, PHASING AND LAY-OUTS

- 18.1 ***The Purchaser acknowledged that the development is not fully developed yet and that building operations will take place upon, adjacent or neighbouring subdivisions or stands and that the said building operations may cause the Purchaser certain inconvenience. The Purchaser agrees that he shall have no claim either against the Seller or against the building arising out of such building operations.***
- 18.2 ***The Purchaser acknowledges that the Development may take place in phases and that the Seller reserves the right to change and amend in his sole discretion the layout and phasing of the development from time to time.***

19 HOME OWNERS ASSOCIATION

The Purchaser acknowledges that the Site will be governed by a new Home Owners Association to regulate, control and manage the common interests of the owners of properties specifically in Development, (herein referred to as the "HOA")

- 19.1** On the Transfer Date the Purchaser will become a member of the ("HOA") and be bound by its constitution. ***The Purchaser specifically acknowledges that he will be liable for the payment of levies plus VAT, if applicable, thereon from the Transfer Date.***

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19.2 It is recorded that the HOA has been incorporated to promote the communal interest of all owners of properties governed by the HOA, which will include but not be limited to maintenance of security facilities, gate houses and security gates, roads, fencing, open spaces, communal dams, servitudes and all communal facilities.

19.3 *The Purchaser acknowledges that he has acquainted himself with the provisions of the Constitution and the Management Regulations.*

19.4 *The Purchaser undertakes that upon the Transfer Date he shall automatically become and remain a member of the HOA and hereby agrees to be bound by the Constitution and Management Regulations for as long as he is the registered owner of the Property.*

19.5 The Seller shall be entitled to procure that, in addition to other conditions of title and/or subdivision referred to herein, the following conditions of title *inter alia* be inserted in the Deed of Transfer in terms of which the Purchaser takes title to the Property for the HOA:

19.5.1 The Property may not be sold or transferred save with the consent of the Clermont Du Cape Home Owners Association, which consent will not be unreasonably withheld.

19.5.2 The Purchaser and its successors in title or assigns shall not be entitled to transfer the Property without a clearance certificate from the said HOA certifying that all amounts owing by the registered owner to the aforesaid HOA have been paid.

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19.6 In the event of the Registrar of Deeds requiring the amendment of the conditions in paragraph 19.5 above in any manner in order to affect registration of same, the Purchaser hereby agrees to such amendment.

19.7 The Purchaser also accepts any amendment of the constitution in order to meet the requirements of the Local Authority to approve the draft constitution.

19.8 The Purchaser hereby acknowledges that he has received and read a draft copy of the constitution of the HOA, which may not yet have been approved by the Local Authority.

20. SALE OF PROPERTY

If it is indicated in paragraph **G** of the Schedule that this agreement is subject to the sale of the Purchaser’s property then this agreement is subject to such sale on the conditions contained in the said paragraph **G**. The Seller may extend the relevant period in the Seller’s sole discretion, on request by the Purchaser.

21. 96 HOUR CLAUSE

Should the Seller, receive another offer to purchase the Property with no suspensive conditions or less onerous suspensive conditions in the Seller’s discretion, then the Seller may give the Purchaser 96-hours written notice to waive the suspensive conditions in this agreement or prove that the suspensive conditions contained herein, have been fulfilled, thereby binding the Purchaser unconditionally to the agreement failing which, the agreement will lapse and be of no further force or effect.

22. DIRECT MARKETING COOLING OFF RIGHT

22.1 In terms of section 16 of the CPA, if this sale has resulted from direct marketing by the Seller or its agents the Purchaser has the right to cancel this agreement without reason or penalty by written notice within 5 (five) business days after the agreement was

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concluded, or within 5 (five) business days after delivery of the Property.

22.2 The Seller is unable to accept the risk of cancellation without reason within 5 (five) business days of delivery as the Seller could in the interim have sold the Property to someone who was not so affected. In addition, if the transaction is cancelled after delivery to the Purchaser the Seller will be left to carry the holding costs of the Property for an uncertain period whilst looking for a replacement Purchaser. This has the potential to create substantial losses for the Seller.

22.3 The Seller is therefore not prepared to enter into this agreement with any Purchaser if the transaction has resulted from direct marketing.

22.4 The Purchaser therefore warrants that this transaction has not resulted from direct marketing and the Seller enters into this transaction relying entirely upon such a warranty.

22.5 If after delivery, the Purchaser is successful in cancelling this agreement by relying upon the right of cancellation flowing from the direct marketing provisions of the CPA, the Purchaser shall be liable for the damages suffered by the Seller as a result thereof on the basis of the Purchaser's breach of warranty.

23 GENERAL

23.1 The parties hereto acknowledge that this Agreement represents the entire Agreement between them and that no other conditions, stipulations, warranties and/or representations whatsoever express or implied have been made by either party or their agents other than as set forth in this Agreement.

23.2 No variation of this Agreement shall affect the terms hereof unless such variation shall be reduced to writing under the hands of the parties hereto.

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- 23.3 No extension of time or indulgence granted by either party to the other shall be deemed in any way to affect, prejudice or derogate from the rights of such party in respect of this Agreement, nor shall it in any way be regarded as a waiver of any rights hereunder, or a novation of this Agreement.
- 23.4 The parties hereby consent in terms of Section 45 of the Magistrate's Court Act No. 32 of 1944, as amended, to the jurisdiction of the Magistrate's Court of any district having jurisdiction in terms of Section 28(1) of the said Magistrate's Court in any action or court procedure instituted by the Seller arising out of this Agreement.
- 23.4.1 Notwithstanding the above, the Seller shall be entitled to institute any action or court procedure against the Purchaser arising out of this Agreement in any court having jurisdiction.
- 23.5 In the event of legal action being instituted by the Seller against the Purchaser in accordance with this Agreement, the Purchaser will be liable for all the legal costs incurred by the Seller calculated on an attorney-and-own client-scale.
- 23.6 The Purchaser may only sell the property prior to the Transfer Date with the written consent of the Seller.
- 23.7 Should the Purchaser dispose of his stand, before taking transfer thereof, to a third party with the consent in clause 23.6 above then that transaction must be registered simultaneously with the initial transfer to the Purchaser, then the Purchaser undertakes to also appoint the Conveyancers to attend to such transfer, in order to eliminate the possibility of any delays in the registration process. The instruction of the Conveyancers shall be a condition of the Seller's consent obtained in clause 23.6 above.
- 23.8 Should any provision of this Agreement be held to be unenforceable, illegal or invalid for any reason whatsoever, such provision shall in the first instance be construed and interpreted to the minimum extent necessary so as to comply with the relevant legislation or law. Should such interpretation not be possible, then such provision shall be treated as *pro non scripto* and will be separate and severable from the

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remaining provisions of this Agreement which shall continue to be of full force and effect, and his Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been set forth herein. In such event, this Agreement shall be carried out as nearly as possible according to its original terms and intent, and the Parties further agree to substitute for such invalid provision a valid provision that most closely approximates the intent and economic effect of the invalid provision.

23.9 ***The Purchaser acknowledges that all artistic, architectural, photographic and in any way visual presentation material including but not limited to models, brochures and pamphlets, used by the Seller or its agents in the marketing and selling of the Property hereby purchased and sold, have been prepared and distributed as advertising material only and that the Seller shall in no way be bound and the Purchaser shall have no claim in respect of any information stated therein or impression conveyed thereby and that no representation is thereby made by the Seller and that the parties shall be bound by the terms contained in this Agreement only.***

23.10 In terms of the National Environmental Management: Biodiversity Act 10/2004 Alien and Invasive Species Regulations, 2014, The Seller declares that to the best of his knowledge there are no Invasive Alien Species, as per the National register of alien and listed invasive species, present on the property.

23.11 In the event that it becomes unlawful for the Seller to conduct business or being restricted in any way to conduct its business under regulations issued in terms of the Disaster Management Act No 57 of 2002 or any other legislation, then any time period referred to in this agreement, imposing an obligation on the Seller shall be automatically extended with the period of restriction.

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As Witnesses:

- 1. _____
- 2. _____

PURCHASER

- 1. _____
- 2. _____
- Date:
- Place:

As Witnesses:

- 1. _____
- 2. _____

SELLER

- 1. _____
- Date:
- Place:

IMPORTANT ACKNOWLEDGEMENT

The Purchaser is once again alerted to the fact that by signing this agreement the Purchaser will, on signature by the Seller, be contractually bound to an agreement with the Seller. The Purchaser should therefore not sign this agreement until the Purchaser has carefully considered the merits of the agreement and allowed enough time for consideration thereof. As already mentioned on the first page of this agreement the Purchaser must ask for an explanation for any portion of this agreement which the Purchaser does not understand and preferably get the explanation in writing. The portions of the agreement that are in bold print are especially important.

I/we confirm that I/we have read understood the abovementioned paragraph

PURCHASER

PURCHASER

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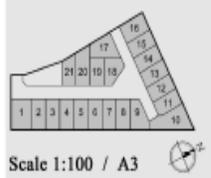
Annexure "A"




CLERMONT
 du Cap

SITE PLAN

LOCALITY



Scale 1:100 / A3



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