

Erf No. \_\_\_\_\_ Kuils River

**CLERMONT DU CAP**  
**ANNEXURE A TO LAND SALE AGREEMENT**

**(PART A)**

**(PLOT AND PLAN)**

**BUILDING AGREEMENT**

Made and entered into by and between:

**Brick 'n Board (Pty) Ltd**  
**Registration number: 2020/836918/07**

**("the Seller")**

(herein represented by Jaco Rabe  
duly authorised signatory, who warrants that he is duly authorised hereto)

**("the Contractor")**

**AND**

---

whose particulars appear below, and are stated in **B** of the Information Schedule of the Land  
Sale Agreement, to which this Building Agreement attaches

**("the Purchaser")**

<b>PURCHASER</b>	
Full names	<hr/> <hr/>
ID/Registration No	<hr/> <hr/>
Spouse Full names	<hr/> <hr/>
Spouse ID/Registration No	<hr/> <hr/>

**1. THE BUILDING AGREEMENT:**

The Contractor undertakes in a proper and workmanlike manner to erect a Dwelling house ("the Works") on the Property in accordance with the Architectural Building Plan and the Specifications and Finishing Schedule (Schedules "A1" and "B1" as recorded in Part B of this Building Agreement).

The Contract Sum as Payment for this Building Agreement, subject to any variations as referred to in paragraph 5 of Part B hereto, which sum (inclusive of VAT) shall be payable by the Purchaser to the Contractor as specified in paragraph 3 of Part B.

**2. TERMS AND CONDITIONS**

This Building Agreement shall be subject to all the Terms and Conditions already referred to in the Land Sale Agreement for the Property, to which this Building Agreement attaches. The Works are to be erected on the Property subject to the Terms and Conditions referred to in all parts hereafter, namely;

- |   |                          |
|---|--------------------------|
| Building Agreement                      | (Part <b>A</b> )         |
| Schedule of Terms to Building Agreement | (Part <b>B</b> )         |
| Schedule of Costs                       | (Part <b>C</b> )         |
| Architectural Building Plan             | (Addendum " <b>A1</b> ") |
| Specifications and Finishing Schedule   | (Addendum " <b>B1</b> ") |
| Schedule of Variations                  | (Addendum " <b>C1</b> ") |
| Guarantees                              | (Addendum " <b>D1</b> ") |

which documents constitute the entire Building Agreement concluded between the parties.

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**3. CONSTRUCTION PRICE**

The Construction Price, subject to the variations referred to in **Part B** herein, will be the amount of;

**R**..... (.....)  
 .....) (**VAT Included**).

This will also include the costs payable by the Contractor as stipulated in **Part C**. Such costs will be payable by the Purchaser and the Contractor as specified in paragraph 3 of **Part B**.

**4. COMMISSIONS**

Agent's Commission will be payable by the Contractor to the Agent, in accordance with the Mandate Agreement concluded between the Seller the Contractor and the Agent, with the First Payment Instalment received.

**5. INSURANCE:**

The Contractor's All Risk Policy will cover the Works, during construction, until the date of Occupation by or on behalf of the Purchaser, after which date the Purchaser will be liable for the Insurance of the Property and the Works.

**6. ACKNOWLEDGEMENT**

The Purchaser acknowledges that he/she has read through this Agreement, Building Agreement, Schedule of Conditions and all parts, annexures and addendums of this Agreement thoroughly, and declare that I/we fully understand the full Agreement and all the parts herein.

SIGNED at this day of 201\_.

**AS WITNESSES:**

for and on behalf of:  
**the Contractor**

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

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

\_\_\_\_\_  
 Authorised signatory, who warrants that he is duly authorised hereto

SIGNED at this day of 201\_.

**AS WITNESSES:**

For and on behalf of:  
**the Purchaser and Purchasers Spouse**

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

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

\_\_\_\_\_  
 Purchaser or his/her/its duly authorised agent who warrants that he/she is duly authorised hereto

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# SCHEDULE OF TERMS TO THE BUILDING AGREEMENT

## CLERMONT DU CAP

### (PART B)

#### 1. DEFINITIONS

##### 1.1 ARCHITECTS BUILDING PLAN (Addendum "A1")

For the purposes of this Building Agreement, the attached Drawings of the Works, "Plan/s" subject to any amendments by the parties, will be submitted to the municipality for approval. On approval of such Plans by the municipality, the Approved Building Plan will replace the Plans and the Approved Building Plan will be the Architects Building Plan for the execution of the Works as stipulated herein.

##### 1.2 SPECIFICATIONS AND FINISHES SCHEDULE (Addendum "B1")

The Detailed specifications, which are signed by the parties, will constitute the specifications for the Works for this Building Agreement.

##### 1.3 SCHEDULE OF VARIATIONS (Addendum "C1")

The Schedule of variations will be signed by both parties and will stipulate the Purchasers specifications. The parties will record in writing and sign all Extra's or omissions to the Approved Building Plan and or the Architects Building Plan, as the case may be. The parties will further record the cost of extra Works and the procedure for the payment for any such extra Works and or variations.

##### 1.4 THE WORKS

Means all the activities which are required to be undertaken by the Contractor to erect the Dwelling on the Property for purposes of handover to the Purchaser.

#### 2. APPROVED BUILDING PLAN AND SPECIFICATIONS

2.1 In case of any discrepancy between the Plan/s and Specifications, the terms of the Specifications will have precedence above the Plan/s.

2.2 In case where the Bond Holder or the Municipality requires any changes, amendments or additions to the Plans and or the Specifications, these changes will be made in consultation with the Purchaser and any amendment deemed necessary, will be countersigned by both parties, with clear stipulations of the changes / procedures and the relevant changes in cost.

2.3 The Purchaser hereby irrevocably gives Power of Attorney to the Contractor to submit all necessary documentation to the Local Authorities for approval, should the same be required.

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**3. PAYMENT OF THE CONSTRUCTION PRICE**

- 3.1 If the Building Works are financed by the Purchaser, payment of the Construction Price shall be made by the Purchaser to the Contractor in monthly progress payment instalments, as Works progress as follows;
  - 3.1.1 The Architect shall confirm the percentage of Works completed, for determination of the percentage of the Construction Price to be paid by the Purchaser to the Contractor for each progress payment instalment, as regards the first 95% of the Construction Price,
  - 3.1.2 The balance of the Construction Price shall be paid on Presentation of the Occupation Certificate by the Local Authority.
- 3.2. Should any amounts not be paid by the Purchaser on due date, interest will be charged in accordance with Clause 6.3.1 of the Land Sale Agreement.
- 3.3 If the Building Works are financed by a Financial Institution, the Purchaser hereby empowers and authorises the Contractor to receive progress payments from the Financial Institution as determined by the Financial Institution. **The Purchaser / Owner will furthermore be liable for any interim interest charged by the Financial Institution.**
  - 3.3.1 The Purchaser hereby undertakes to sign 5 (Five) Standard Progress Payment Documents at the Attorneys with signing of the Transfer Documents. The Attorneys will hand these signed Progress Payment Documents to the Contractor who shall be entitled to receive the progress payments per 3.1 above, which amounts may be verified and approved by the property evaluator appointed by the Financial Institution.
- 3.4 Should the Building Works not be financed by a Financial Institution, the Purchaser / Owner will pay into the trust account of the Attorneys, the balance of the Purchase Price of the Property and the balance of the Construction Price for the Dwelling to be erected, to be held by such Attorneys in an interest bearing trust account, interest to accrue for the benefit of the Purchaser until the date upon which payment of the relevant amount falls due to the Contractor. Should the Purchaser elect to deposit the relevant amounts with the Attorneys as contemplated aforesaid, the Purchaser shall irrevocably authorise the Attorneys to release from the funds so received the payments due to the Contractor in terms of the provisions of this Building Agreement.

**4. COMMENCEMENT AND COMPLETION OF BUILDING WORK**

- 4.1. Should the Commencement or Completion date of the Works be delayed by *vis major*, exceptionally inclement weather, non-availability of any materials or labour, or for any reason beyond control of the Contractor, the Purchaser / Owner shall have no claim against the Contractor however arising. In case of such event, the Contractor will be entitled to an extension of the time allocated for the Commencement or Completion of the Works and the Purchaser will have no right to any claims against the Contractor in such instance and that the validity of the delays shall be certified by the Architect.
- 4.2. After signing of this Building Agreement, the Contractor will commence as soon as possible on condition that the Contractor will not be obliged to start with Building Work until:

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- 4.2.1. The Purchaser / Owner provided security to the Contractor for Full Payment of the Construction Price; and
- 4.2.2 All Permissions, Approvals, Registrations or other Powers has been received by the Contractor;
- 4.2.3. All Terms and Conditions in any of the Agreements between the parties have been met in full;
- 4.3. Should the Commencement date of this Building Agreement be delayed for more than 170 (one hundred and seventy) days, from date on which the Property was Registerable per C4 of the Information Schedule contained in the Land Sale Agreement, as a result of clause 4.2.1 and/or 4.2.2 not being met, but to no fault on the part of the Contractor, the Contractor will be entitled to cancel this Building Agreement at his discretion or start negotiations with the Purchaser regarding a change in the Construction Price.
- 4.4. The Contractor will complete the Works within 170 (one hundred and seventy days) after Approved Building Plans have been received from the Authorities, subject to the terms in clause 4.
- 4.5. Proof of Completion of the Works will be deemed, should any of the conditions in clause 4.6 be met. On such date the Works will be deemed Completed and all responsibilities of the Contractor to the Works will be released. The Purchaser will have no further claims against the Contractor regarding the Works.
- 4.6. Any of the following will be seen as proof of the Completion date, as per clause 4.5 of this Building Agreement:
  - 4.6.1. the date on which the keys of the Works were formally handed over to the Purchaser; or
  - 4.6.2. the date on which Occupation of the Works was taken by the Purchaser or his Agent; or
  - 4.6.3. notice given by the Contractor that the Works has been finalized, all inspections has been done and all tests have been passed at the Bond Holder or Local Authorities and that the Works are ready for occupation by the Purchaser; or
  - 4.6.4. receipt of a signed Certificate from the Architect, which was nominated by the Contractor, to certify the Works as being satisfactory completed, which Certificate shall in any event be presented by the Contractor to the Purchaser in the instances referred to in clauses 4.6.1 to 4.6.3 above.
- 4.7. The Full Construction Price, inclusive of variations and extras, will be payable immediately before Occupation of the Property. Interest for any amounts owed to the Contractor, will be calculated as specified in clause 6.3.1 of the Land Sale Agreement. Failure to pay the Full Construction Price shall also result in keys for the Property not being handed over to the Purchaser or his Agent.
- 4.8. All risk and responsibility will be transferred to the Purchaser on the date of Occupation.

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**5. VARIATIONS, EXTRAS AND OMISSIONS**

- 5.1 No dispute with regard to alterations, extras or omissions will deem the remaining provisions of this Building Agreement null and void. The cost to variations, extras and omissions will be agreed upon by both parties and recorded in writing, after which both parties will sign the Schedule of Variations, extras and omissions pertaining thereto.
- 5.2 The cost of Variations, extras and omissions will be payable before the Variations, extras and omissions can be executed by the Contractor as per the signed Schedule for Variations, extras and omissions.
- 5.3. Notwithstanding anything to the contrary, the Contractor will not be compelled to agree to the variations, extras and omissions or the execution thereof.
- 5.4 The agreed variations, extras and omissions must be reduced to writing and signed off between the parties within 7 (seven) days of the Purchaser requesting same. The Contractor shall be entitled to proceed with the standard specifications where the agreed variations, extras and omissions have not been reduced to writing and signed by the parties within the aforementioned 7 (seven) days.

**6. OCCUPATION**

The Contractor will be given occupation of the Property when the Works are about to commence and the Contractor will keep Occupation of the Property until all moneys owed to the Contractor have been paid in full according to the Terms and Conditions as set out in this Building Agreement.

**7. PUBLIC LIABILITY INSURANCE**

The Contractor shall take out Public Liability Insurance for the Works, which Public Liability Insurance shall be in place from the date on which the Works commence to the completion date of the Works as stipulated in clause 4.

**8. CESSION OF GUARANTEES**

All guarantees, as received by the Contractor in terms of any items incorporated in the Works, shall be ceded to the Purchaser, for guarantees the Contractor is entitled to cede.

**9. JOINT PURCHASERS**

In the event the Purchaser constituting one or more persons ("Joint Purchasers"), then all such Purchasers shall be held liable jointly, severally and in *solidum* for all monies due to the Contractor in terms of this Building Agreement. The signature of any of the Purchasers will be deemed binding on all parties as Purchasers in relation to any Variations, extras and omissions or any other documentation including the Plan and Working Drawings.

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**10. INDULGENCE**

Notwithstanding any stipulation in this Building Agreement, any indulgences or extensions of time granted by the Contractor will not constitute the waiver of any of the rights of the Contractor, to claim the fulfilment of the terms and conditions of this Building Agreement.

**11. WITHHOLDING OF PAYMENTS**

If any work of whatsoever nature is still required to be done as part of Works on the date that Occupation thereof is tendered to the Purchaser, the **Purchaser shall not be entitled to withhold, set off or retain any amounts owing by the Purchaser to the Contractor nor shall the Purchaser be entitled to withhold or rebate payment of any amount due to the Seller in terms of this Building Agreement by reason of any breach or alleged breach of the Seller's obligations hereunder. Should any dispute occur as to whether or not the Purchaser is entitled to withhold any payment or amount due then the Architect shall make a ruling with regard to whether or not the Purchaser is entitled to withhold such sum. The ruling of the Architect shall be final and binding on both parties and the Architects costs incurred in making such ruling shall be borne by the Party against whom the ruling was made.**

**12. REPRESENTATION OF AGENTS**

The Contractor and the Purchaser hereby declare that the contents of this Building Agreement shall constitute the full and final Building Agreement between the parties. No other Terms, Conditions or Proposals whatsoever, which may have been made by the Contractor or his Agents, shall be binding on the Contractor save where such amended terms, conditions or proposals have been reduced to writing and signed by both the Contractor and the Purchaser.

**THE FULL RESPONSIBILITY WILL BE WITH THE PURCHASER TO PUT ALL REQUESTS / AMENDMENTS IN WRITING TO THE CONTRACTOR'S OFFICE.**

**13. LIQUIDATION/SEQUESTRATION AND BREACH BY THE PURCHASER/OWNER**

13.1. Should the Purchaser's / Owner's estate be finally sequestrated and /or liquidated (as the case may be), placed under judicial management or should the Purchaser / Owner commit a breach of any of the terms of this Building Agreement (including failing to make any payments on the due date) and fail to remedy such breach within 7 (seven) days of date of dispatch by the Contractor of written notice calling upon the Purchaser / Owner to remedy such breach, then Developer shall in such circumstances be entitled to terminate this Building Agreement without prejudice to any other rights which the Contractor may have in terms of this Building Agreement or in terms of law.

13.2 In the event of the Contractor being obliged and/or electing to cancel the Building Agreement in accordance with the preceding paragraph, then the following shall occur:

13.2.1 A quantity Surveyor appointed by the Contractor shall assess the amounts due to the Contractor in terms of Works completed to date and any portion thereof which has not already, by virtue of progress payments been paid, shall forthwith be immediately payable.

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13.2.2 As genuinely pre-estimated damages for the breach of the terms and conditions of this Building Agreement by the Purchaser / Owner, **the Purchaser / Owner shall furthermore be liable to pay the Contractor an amount calculated as follows: (Total Contract Sum) less (Amount paid and/or Payable in respect of Works already completed) x 20%**

**14. WATER AND ELECTRICITY:**

For the purpose of executing the building work, the Contractor will be entitled to use water and/or electricity and/or any other service on the Property. The Purchaser shall be liable for the costs of such services.

In the event that the Contractor requires the use of water and/or electricity and/or any other service on the Property for the purpose of executing building work on other properties other than on the Property, the Contractor will be entitled to such aforementioned services and the Contractor will be liable for the costs of such services.

**15. GUARANTEE**

See addendum "D1"

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## SCHEDULE OF COSTS TO BUILDING CONTRACT

### (PART C)

Allocation of Schedule Building costs for the Contractor and Purchaser in terms of this Building Agreement are payable as set out below:

#### **THE PURCHASER's COSTS:**

Bond Registration Costs,  
Evaluation Costs and Costs to the Bond Holder  
All Variations and Extras as set out in the Variation and Extras Schedule (Addendum **C1**)  
Architect's payment certificates, for building draws as per clause 3.1 of the Building Agreement.

#### **THE CONTRACTOR's COSTS:** (included in the Contract Sum)

Architectural Fees  
Plans, Drawings and Printing Costs  
Costs pertaining to the Approval of Plans at the Local Authority  
Electrical Connection Fees for the House  
Sewerage Connections for the House  
NHBRC Registration Fee  
Plan submission Fee

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**ADDENDUM A1**  
**ARCHITECTS BUILDING PLAN**

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## List of Finishes and Project Specifications

### Client Specification and Finishes

#### **STRUCTURE**

- In accordance with the building plans.
- All external walls are cavity walls.
- House to be built with Maxi bricks

#### **ROOF CONSTRUCTION**

- The roof covering is cement tiles (Charcoal Thaurus)
- Roof to be constructed with pre manufactured roof trusses as per the engineer design.
- Fascia board to be New Tech cement and painted. Color as per contractor's choice.
- Aluminum gutters with PVC downpipes, color as per contractor's choice.
- Main roof overhang to be 300mm.

#### **CEILING**

- Rhino board ceilings with Shadow line.
- One trap door in the ceiling.
- No ceiling in Garage.
- Insulation in roof.

#### **WINDOWS**

- All window frames of White aluminium.
- Exterior and interior window sills to be plastered.
- Transparent window glass in general.
- Frosted glass in all bathrooms.

#### **DOORS**

- Interior - Hollow core doors, Horizontal slatted pattern. (Painted)
- Interior - Wood door frames (Painted)
- Exterior - Aluminium
- Front door - Aluminium with White Translucent glass
- Living area - Aluminium door and Frame.
- Kitchen door - Aluminium door.
- Garage door - Aluzink Sectional Overhead with motor.

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- Living Area - Aluminium sliding door.
- Three lever - Chrome locks at all external doors as per contractor's choice.
- Two lever - Chrome locks on all internal doors as per contractor's choice.

**PAINT WORK**

- All internal walls to be painted.
- All internal doors, frames to be painted with high-gloss white paint.
- External paint color – As per Contractors choice.
- Internal paint color – Birch White
- Skirting's to be painted.

**PLUMBING**

- Washing Machine and dishwasher point.
- 1 outside tap to be provided.
- Sink 1.2m – double bowl stainless steel sink with drip tray.
- Bath 1.8m white bath.
- Basin: White wall mounted basin.
- WC: Close couples system – white.
- 200 liters solar geyser, 400KPA in Garage.
- Chrome coated mixer taps. Hansgrohe décor E Range
- Shower doors – Pivot type, Frameless

**PLASTER**

- Interior: Smooth plastered 'polly skimmed'.

**FLOOR COVERING**

- Laminated Flooring as per floor plan as per contractor's selection provided.
- Floor tiles as per floor plan as per contractor's selection provided.
- 96mm WSK5 SA Pine skirting boards. (Not in bathrooms and kitchen)

**WALL TILES**

- Bathrooms: Splash back.
- Kitchen: Splash back.
- Shower: To be tiles 2.4m high.
- All wall tiles as per contractor's selection provided.

**CUPBOARDS**

- Kitchen: Upper cabinets above the stove and cupboards below in color melamine with 3mm impact edging and with Engineered counter tops. (No Granite Splash backs)
- Bedrooms: White Melamine Cupboards with 2mm impact edging.

**ELECTRICAL**

- As per plan
- Appliances: 600 Gas hob & Electric Oven, with chimney hood extractor
- Electrical point: As per Plan

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**Garage**

- Internal walls bagged and painted white.
- Automatic garage door opener with two remotes.

**BOUNDARY & SCREEN WALLS**

- The side boundaries and rear boundaries of erf shall be enclosed with pre-manufactured 1.8m vibrecrete walls.
- External gate to be horizontal slatted.
- All visible walls from street to be plastered and painted.

**PAVING**

1. Cement bond pavers.

**LAWN**

- Roll on lawn and 1 x 100lt bag tree.

**ITEMS INCLUDED**

1. House street number.
2. Post box.
3. Bathroom Fittings – Towel rail, Towel ring & Toilet roll holder
4. Gas Connection
5. Door stoppers.

**ITEMS EXCLUDED**

1. Landscaping apart from lawn and tree.
2. Curtain rails or blinds.
3. Dishes, aerials etc.
4. Mirrors

**GENERAL**

1. The specifications serve only as a guide and the developer reserve the right to change or substitute any of the product at his sole discretion.
2. Settlement cracks are regarded as a maintenance item and are not covered under the contractor’s guarantee.
3. The client is not permitted to do any work on site while construction is in proses without the permission of the Seller and the contractor.

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## ADDENDUM "C1"

### SCHEDULE OF VARIATIONS

All option extras, variations and omissions must be agreed with the Contractor personally, confirmed in writing and signed by both parties.

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**ADDENDUM "D1"**

**Guarantee by the Contractor**

1. Your new Home is being erected with quality Building Materials by competent experts, in their various fields.
2. The Contractor will provide you with cut-off dates within which your list of defects must be submitted. The defects will be corrected, provided the Contractor receives the list within 3 (three) months of date of Hand Over Letter. The Purchaser will forgo any claims to the Contractor where the defect list is not be submitted to the Contractor within this 3 (three) month period and the Purchaser have no further claim against the Contractor.
3. Up to 3 (three) months after completion, the Contractor will repair defects in workmanship for Plumbing, Electrical Installations, Hot Water Geyser, Floor Covering Tile Work and Carpentry.
4. Up to 12 (twelve) months after completion, the Contractor will repair defects in Roof Coverings.
5. The NHBRC provide a 5 (five) year guarantee against major structural damage.
6. Although the Contractor strives to erect a Building of Outstanding Quality, the guarantee cannot cover any loss or damage as a result of misuse, neglect, carelessness, accident or any risks, which are normally insured against in an Insurance Policy, as required by Financial Institutions with registration of mortgage Bonds over Residential Properties.
7. This Guarantee also excludes the following types of Repair works:
  - 7.1 Any touch-up paintwork whatsoever;
  - 7.2 Hairline cracks on any plasterwork. These types of cracks is unavoidable and are caused by the natural shrinkage of materials during the first 6 (six) months after completion. When walls are painted again, the hairline cracks will disappear. The Contractor cannot be held responsible to repair or repaint cracks of this nature.
  - 7.3 Water may be blown through the garage door into the garage up to a distance of 1.5m inside the garage. There is no guarantee that the rubber on the garage door will keep this water out if blown in by the wind.
8. All Guarantees received by the Suppliers of Materials or Appliances, will be handed over to the Purchaser. These guarantees are only enforceable by the Original Owner, the Purchaser and are not transferable to third party purchasers of the Purchaser.

ERF .....

PURCHASER .....

CONTRACTOR.....

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