



1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement the following words and phrases shall have the meanings assigned to them, unless the context indicates or requires otherwise:

1.1.1 "Seller" means the **Knysna Municipality**, a local municipality (as defined in Section 1 and constituted in terms of Section 12 of the Local Government Municipal Structures Act (Act 117 of 1998) as read with P.N 504/2000, herein represented by **Ombali Phineas Sebola, ID No. 711225 6263 08 4** in his capacity as Acting Municipal Manager, he being duly authorised.

1.1.2 "Purchaser" means **Kinetic Catamarans SA Proprietary Limited**, Registration number 2018/334988/07 represented by **Leon Scheepers ID No.631201 5151 08 0**, acting in his capacity as **Director**, he being duly authorised.

1.1.3 "Property" means **A PORTION OF ERF 1339, 1316 & A PORTION OF NEW STREET KNYSNA IN THE MUNICIPALITY AND DIVISION OF KNYSNA WESTERN CAPE PROVINCE IN EXTENT EIGHT THOUSAND SIX HUNDRED (8600) SQUARE METRES DEPICITED ON ANNEXURE A.**

1.1.4 "The purchase price" means the sum of **R12 075 000.00** (Twelve Million and Seventy Five Thousand Rand Only) (VAT INCLUSIVE).

SM
CM
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1.1.5 "The date of occupation" means the date upon which the Purchaser takes lawful occupation of the property.

1.1.6 "The date of possession" means the date upon which the Agreement is signed by the last of the parties.

1.1.7 "The seller's address" means:

1.1.7.1 For postal purposes:

P.O Box 21, Knysna, 6570

1.1.7.2 For communications by:

Telephone: (044)302 6300.

1.1.7.3 For other purposes:

Facsimile: (044) 302 6333

1.1.8 "The purchaser's address" means:

1.1.8.1 For postal purposes:

12 New Street
Knysna
6570

1.1.8.2 For other purposes:

Cell: 083 362 6292

Email:

leon@kineticcatamarans.com

1.1.9 "The conveyancers" mean the Seller's conveyancers as appointed from time to time.

1.2 Words importing the masculine gender shall include the feminine and the neuter and words importing the singular shall include the plural and vice versa.

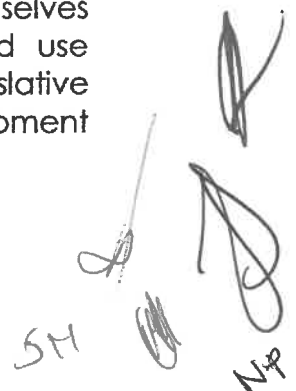
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- 1.3 The headings to the clauses of this agreement are for convenience only and do not amplify or modify the meaning or assist in the interpretation of the clauses to which they relate.

2. SALE

- 2.1 The seller hereby sells to the purchaser who hereby purchases, the property for the purchase price and upon the terms and conditions herein stated.
- 2.2 The transfer of a Portion of Erf 1339, 1316 & a Portion of New Street Knysna shall be approved on condition that:
- 2.2.1 The purchaser shall be responsible for the relocation of the testing grounds and the Sea Cadets to Council identified sites;
 - 2.2.2 The development be such that it enhances the appearance and the utilization of the prime are in the town and be within the scope of the SDF;
 - 2.2.3 The purchaser must develop the properties within 60 months of purchasing the properties, failure may result in the properties reverting back to the Municipality unless an extension is granted on an application submitted to Council;
 - 2.2.4 The purchaser shall be responsible for the relocation of any bulk services;
 - 2.2.5 The purchaser shall make provision for a taxi holding facility, preferably on New Street;
 - 2.2.6 The developer must familiarize themselves with any building control and land use guidelines and any other legislative provisions pertaining to the development of the sites;

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CM
NP

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2.2.7 Any application pertaining to land use, building control and/or environmental authorization will be for the cost of the purchaser. It is the purchaser's responsibility to ascertain which authorization will be applicable to their development.

3. FIXTURES

The property is sold with all fixtures of a permanent nature (which the purchaser warrants are their exclusive property and fully paid for) including garden trees, shrubs and plants etc.



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4. PAYMENT

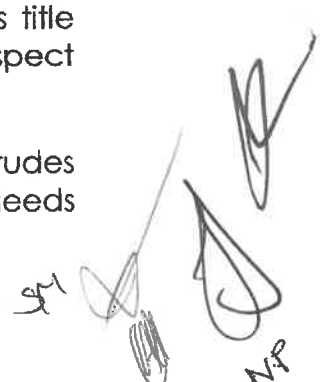
Payment of the full purchase price shall be made on the date of registration of transfer into the name of the purchaser.

- 4.1 The purchaser shall within 30 (THIRTY) days from the date of signature hereof by the last signatory, deliver to the conveyancers a bank guarantee in a form reasonably acceptable to the seller for the payment on due date of that portion of the purchase price which is payable upon the registration of transfer into the name of the purchaser in terms of this agreement. Should the attorneys require more than one guarantee then the purchaser shall furnish such guarantees as may be reasonably required.
- 4.2 In the event of the purchaser failing to make payment of any amount due to the seller in terms of this agreement on due date the purchaser shall be liable to pay interest thereon at the rate of 10% per annum or at such lesser rate as may be the maximum permitted by law, whilst in mora.
- 4.3 Payments due in terms hereof shall be made in cash without deduction or settle and free of bank exchange at such address within the Republic of South Africa as the seller may direct in writing.

5. ACKNOWLEDGEMENT AND DISCLOSURE

The Purchaser acknowledges that the Purchaser:

- 5.1 Has been given sufficient time to inspect the Property, to consider all provisions of this agreement and get advice;
- 5.2 Has had sufficient opportunity to appoint professionals for purposes of inspecting the Property and assisting her in any way he requires in relation to the Property;
- 5.3 Is acquainted with the nature, extent and condition of the Property;
- 5.4 The Property is substantially in accordance with what was sold;
- 5.5 The Property, including all buildings and other improvements thereon, if any, is sold in accordance with the Seller's title deeds and the diagram or general plan framed in respect thereof;
- 5.6 The sale is subject to all the conditions and servitudes mentioned or referred to in current and/or prior title deeds of the property;

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5.7 The Seller renounces all claims to any excess in the extent of the Property and will not be answerable for any deficiency in the extent of the Property, and no warranty is given in respect of boundaries;

5.8 The Seller shall not be responsible for indicating existing boundaries and beacons;

6. GOOD FAITH

The seller warrants in favour of the purchasers that all factual circumstances relating to the property, which are, or which ought reasonably to be within the seller's knowledge and which would be material to a purchaser of the property have been disclosed in this agreement.

7. OCCUPATION

7.1 The purchaser shall be entitled to occupy the premises as from the date of occupation.

7.2 Until the purchaser takes transfer, the purchaser undertakes to keep all improvements on the property in a good and thorough state of repair and conditions to the satisfaction of the seller, and in default of so doing, the seller shall have the right to carry out such repairs as are necessary to maintain same in a good state of repair at the cost of the purchaser and the purchaser shall refund any such amounts expended to the seller on demand. Until the Purchaser takes transfer, The purchaser shall not make any structural alterations or additions to any improvements upon the land without the prior written consent of the seller. Should the purchaser make any alterations or improvements to the property then, unless otherwise agreed in writing by the parties, the purchaser shall not be entitled to any refund or compensation in respect of the same in the event of this sale being cancelled.

7.3 The purchaser shall as from the date of occupation maintain the property and for the purpose of this agreement, the word maintain, "shall inter alia include trimming, cutting, and removal of vegetation, shrubs and trees". Should the purchaser be in default of doing so, the seller shall have the right to carry out the maintenance at a cost of the purchaser and the purchaser shall refund any amounts expended to the seller on demand within 7 days.

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8. COSTS

- 8.1 The purchaser shall be responsible for the payment of all costs associated with the alienation of a Portion of Erf 1339 and Erf 1316 Knysna, conveyancing charges, transfer duty and generally all costs incidental to transfer including the cost for the appointment of a valuer to do the valuation.
- 8.2 The Purchaser shall immediately on request by the Seller or the Attorneys pay all costs of and incidental to the sale and registration of transfer, which without derogating from the generality of the foregoing, shall include transfer duty if any and conveyancing fees, survey fees, and if applicable, any penalties or interest imposed due to delays.
- 8.3 Transfer shall be effected by the conveyancers as soon as reasonably possible after guarantees have been furnished and costs paid as provided for herein. Payment of the costs due in terms hereof shall be made to the conveyancers upon request even if the relevant service has not yet been rendered or the disbursement not paid by them.

9. RATES AND TAXES

The Purchaser shall pay all rates, taxes and charges levied in respect of the Property from the Occupation Date, if any.

10. VALUE-ADDED TAX

- 10.1 The purchaser warrants that at the date of occupation they will not be:
- 10.1.1 A vendor as that term is defined in Section 1 of the Act; and

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10.1.2 registered as such in terms of Section 23 of the Act, it being recorded and agreed, if necessary, the purchaser shall take the necessary steps to register as a vendor as contemplated herein, and shall furnish to the seller a copy of form VAT 103 as soon as it has been issued to him, but not later than the date upon which a guarantee is to be delivered in respect of the purchase price in terms of this agreement.

10.2 The parties record and agree that:

10.2.1 ownership of the property constitutes an enterprise as that term is defined in Section 1 of the Act;

10.2.2 ownership of the property will be an income earning activity on the date of possession, it being recorded that all of the assets which are necessary for the carrying on of such enterprise are hereby disposed of by the seller to the purchaser;

10.2.3 the sale of the property as contemplated herein is a supply of an enterprise which is a going concern and shall be chargeable with Value Added ("VAT") at the rate of 0% (zero per centum) in terms of Section 11 (1) (e) of the Act.

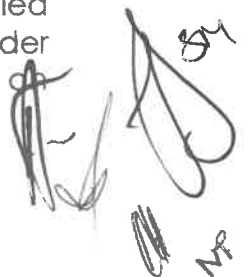
10.3 Notwithstanding the foregoing, in the event of VAT being levied in respect of such supply at a rate other than 0% (zero per centum), the seller shall be entitled to recover such VAT from the purchaser.

11. RISK AND PROFIT

The risk and profit in the property sold in terms hereof shall pass from the seller to the purchaser on the date of occupation, from which date the purchaser shall be proportionately liable for the rates and taxes and all other imposts levied thereon and all other expenses of whatsoever nature in respect of the property. The purchaser shall refund all amounts, deposits or premiums prepaid by the seller for any period beyond the date of occupation, including rates and taxes due to any local authority.

12. ELECTRICAL INSTALLATION AND INFESTATION CERTIFICATE

12.1 The seller shall not be required to acquire or deliver to the purchaser a certificate of compliance issued by a qualified electrician in terms of the regulations promulgated under the Machinery and Occupational Safety Act 6 of 1983 or an infestation certificate.

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13. DEFAULT BY PURCHASER

13.1 Until the date of possession should the purchaser –

13.1.1 fail to pay any amount due in terms of this agreement on due date or commit any other breach of any term hereof and remain in default 21 (twenty one) days after the seller has given notice to the purchaser setting out the alleged default and requesting the purchaser to rectify it, or

13.1.2 consistently breach any one or more terms of this agreement in such a manner as to justify the seller in holding that the purchaser's conduct is inconsistent with the purchaser's intention or ability to carry out the terms of this agreement, or

13.1.3 fail to satisfy or note any appeal against any default or consent judgment entered against the purchaser within 14(FOURTEEN) days of the purchaser becoming aware thereof then the seller shall be entitled, without prejudice and in addition to all other rights available to the seller in law as a result of such event, to forthwith cancel this agreement.

13.1.4 The Seller shall be entitled to retain such payments on account of purchase price until the Purchaser's liability to the Seller in accordance with the foregoing provisions shall have been determined.

14. CO-OPERATION

Each of the parties hereby undertakes to:

14.1 sign or execute all such documents (without limiting the generality of the foregoing, this shall include the execution of the necessary power of attorney, transfer duty declarations and other prescribed documents);

14.2 pass, and to procure the passing of all such resolutions of trustees of any trust, to the extent that same may lie within such party's power and may be required to give effect to the import or intent of this agreement, or any contract concluded pursuant to the provisions of this agreement.

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15. CONFIDENTIALITY

The parties to this agreement undertake to each other that all of the terms and conditions of this agreement shall at all times remain confidential and no party shall disclose to any other person any detail or information of the fact of this agreement unless it is reasonably necessary to do so or the prior written consent of the other party is obtained thereto.

16. JOINT AND SEVERAL LIABILITY

In as much as any party hereto consists of two or more individuals, the individuals comprising that party shall be jointly and severally liable for the performance of all obligations encumbent upon the party in question in terms of this agreement.

17. DOMICILUM AND NOTICES

17.1 The parties select their addresses as hereinbefore stated as their respective *domicilium citandi et executandi* for all purposes arising out of this agreement or the cancellation thereof.

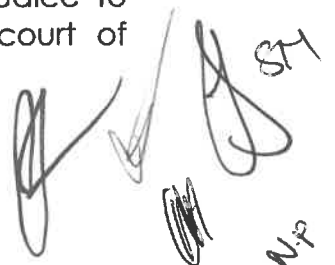
17.2 Any notice sent to the *domicilium citandi et executandi* of a party by pre-paid registered post or delivered there by hand shall be deemed to have been received on the fifth business day after posting or on the date of delivery, as the case may be.

17.3 Any party may, by written notice to the other, change his *domicilium citandi et executandi* to another physical address (not being a post office box number or poste restante) within the Republic of South Africa and such change shall become effective seven days after the giving of such notice.

17.4 All notices, which may or may have to be given in terms of this agreement, shall be in writing.

18. JUDICIAL PROCEEDINGS

18.1 The parties hereby consent, in terms of section 45 of the Magistrate's Courts Act, No 32 of 1944, to the jurisdiction of a magistrate's court in respect of any action or proceeding arising directly or indirectly out of this agreement or the cancellation thereof. This consent is without prejudice to the right of a party to proceed in any other court of competent jurisdiction or by way of arbitration.

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18.2 Any dispute which may arise between the parties relating to the interpretation, effect or termination of this agreement or to their rights or obligations in terms hereof shall be submitted for arbitration if any party to the dispute so requires. In such an event the following provisions shall apply:

18.2.1 The party which elects to make use of arbitration shall give notice of his election to the other party prior to or within 10 (TEN) days after the institution of proceedings.

18.2.2 The arbitration shall be conducted –

18.2.3 at Knysna, Western Cape Province;

18.2.3.1 in accordance with the formalities and procedures to be settled by the arbitrator;

18.2.3.2 as soon as reasonably possible with a view to its being completed within 30 (THIRTY) days after the appointment of the arbitrator;

18.2.3.3 save as provided for to the contrary herein, in accordance with the provisions of the Arbitration Act, 1965, or such other legislation as may be enacted in its stead from time to time.

18.2.4 The arbitrator shall be a practising or retired attorney or advocate who has had not less than 10 (TEN) years of experience in practise. He shall be appointed by agreement between the parties to the dispute, and failing such agreement within 7 (SEVEN) days after the date upon which the arbitration is demanded, by the President of the Law Society of the Cape of Good Hope, or his nominee.

18.2.5 The arbitrator shall be entitled –

18.2.5.1 to require or dispense with pleadings or discovery of documents:

18.2.5.2 to depart the strict rules of the law of evidence to such extent and in such manner as he may in his sole discretion determine;

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- 18.2.5.3 to investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with the dispute and for that purpose shall have the widest powers of investigating all the books and records of any of the parties to this agreement whether or not that party is a party to the dispute, and the right to make copies or take extracts therefrom and the right to have them produced or delivered at any reasonable place required by him for the aforesaid purposes;
- 18.2.5.4 to interview and question under oath any of the parties;
- 18.2.5.5 to decide the dispute according to what he considers just and equitable in the circumstances;
- 18.2.5.6 to make such award, including an award for specific performance, an interdict, damages or a penalty or otherwise as he in his sole discretion may deem fit and appropriate.

18.3 Any award that may be made by the arbitrator –

18.3.1 shall be final and binding;

18.3.2 will be carried into effect;

and

18.3.3 may be made an order of the Western Cape High Court (Cape Town) or the Magistrates Court for the district of Knysna to whose jurisdiction the parties hereby submit.

18.3.4 Should any party take legal proceedings against another arising directly or indirectly out of this agreement or the cancellation thereof, the successful party shall be entitled to recover costs on the scale as between attorney and client from the other party.



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19. ENTIRE AGREEMENT – NO VARIATION

- 19.1 The purchaser acknowledges that he has inspected the property or has caused same to be inspected.
- 19.2 The parties acknowledge that they have acquainted themselves with all facts relevant to this agreement and neither party shall be liable for nondisclosure of any material information. The parties acknowledge furthermore that they have not been influenced into entering into this agreement by any warranty or representation other than those contained herein.
- 19.3 No indulgence, latitude or extension of time granted by either of the parties shall be construed as a waiver of that party's rights at any time or as creating a precedent and such party shall be entitled to require strict and punctual compliance with each and every provision or term thereof.
- 19.4 This agreement constitutes the entire agreement between the parties and no variations nor agreements which are in conflict with the provisions hereof shall bind the parties or be of any force and effect unless reduced to writing and signed by all of the parties.



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20. **AGREEMENT TO BE SIGNED**

20.1 It is recorded that this document is intended to be signed firstly by the Purchaser and thereafter by the Seller.

20.2 This agreement shall be duly concluded upon timeous signature by the Seller and its validity will in no way be dependent upon the fact of such signature being communicated to the Purchaser.

THUS DONE and SIGNED at KNYSNA on 5th JUNE 2023

AS WITNESSES:

1. 

2. 



PURCHASER (Kinetic
Catamarans SA Proprietary
Limited Reg:2018/334988/07)

THUS DONE and SIGNED at KNYSNA on 19 July 2023

AS WITNESSES:

1. 

2. 



SELLER (Knysna Municipality)
(Municipal Manager)