

# AMBLE RIDGE

## OFFER TO PURCHASE

### 1 DEFINITIONS

In this offer to purchase and unless the context clearly indicates a contrary intention, the following words shall have the following meanings:

- |      |                        |   |
|------|------------------------|---|
| 1.1  | "the attorneys"        | Logan-Martin Incorporated, 20 Woodmill Lane Centre, Knysna;   |
| 1.2  | "the completion date"  | the date upon which the Knysna Municipality issues a certificate of occupation in respect of the improvements referred to in sub-clause 1.6 below;  |
| 1.3  | "the deed of sale"     | the deed of sale constituted by the seller's acceptance of the offer referred to in sub-clause 2.1 below;   |
| 1.4  | "the development land" | Erven 9003 and 9005 Knysna;   |
| 1.5  | "the optional items"   | the optional items listed in annexure "A" hereto which has been initialled by the seller and by the purchaser for purposes of identification;   |
| 1.6  | "the property"         | Erf ..... Knysna together with the improvements as detailed in the plans and in the specifications and, if applicable, incorporating the optional items;  |
| 1.7  | "the plans"            | the plans hereto annexed marked "B" which have been initialled by the seller and by the purchaser for purposes of identification;   |
| 1.8  | "the purchaser"        | .....;  |
| 1.9  | "the seller"           | S Colarossi Civil (Sedgefield) (Pty) Ltd (Registration No. 1995/008880/07), a registered Value Added Tax vendor (Registration No. 4180153597) as herein represented by Giuseppe Pasquale Colarossi, duly authorised hereto; |
| 1.10 | "the specifications"   | the specifications hereto annexed marked "C" which have been initialled by the seller and by the purchaser for purposes of identification; and  |
| 1.11 | "the transfer date"    | the date of registration of transfer of the property into the name of the purchaser.  |

### 2 OFFER TO PURCHASE / PURCHASER'S RIGHT TO CANCEL

- 2.1 The purchaser offers to purchase the property from the seller for the purchase price and on the terms and conditions hereinafter contained.
- 2.2 The offer referred to in sub-clause 2.1 above shall be irrevocable by the purchaser and open for acceptance by the seller until 12:00 on ..... whereafter, if not accepted by such time and date, it shall lapse. Provided that acceptance by the seller shall be by delivery of a copy of the deed of sale to the purchaser either in person, or by telefacsimile or by electronic mail by such time and date failing which the offer shall be deemed not to have been accepted.

- 2.3 In the event that the completion date occurs after the expiry of 8 (eight) months calculated from the date of the deed of sale then the purchaser shall have the right to cancel the deed of sale. Provided that such right shall be exercised within 7 (seven) days of the expiry of such period and shall be by delivery of written notice thereof to the seller failing either of which the purchaser shall be deemed to have elected to accept a completion date after the expiry of such 8 (eight) month period.
- 2.4 In the event that commencement of construction of the care centre referred to in sub-clause 1.1.7 of annexure "D" hereto has not occurred within 12 (twelve) months of the transfer date or in the event that a certificate of occupation in respect thereof has not been issued by the Knysna Municipality within 24 (twenty-four) months of the transfer date then in either of such events the purchaser shall have the right to require the seller to purchase the property from the purchaser for the purchase price paid by the purchaser to the seller in terms of clause 4 below. Provided that such right shall be exercised within 7 (seven) days of the expiry of the relevant period and shall be by delivery of written notice thereof to the seller failing either of which the purchaser shall be deemed to have elected to accept a commencement of construction date or a completion date of the care centre after the expiry of the relevant period. Provided further that in the event of the purchaser exercising such right then the registration of the transfer of the property into the name of the seller shall be effected by the attorneys at the cost of the seller.

### **3 SUSPENSIVE CONDITION**

- 3.1 The deed of sale is subject to fulfilment of the following suspensive condition by no later than..... failing which the deed of sale shall be null and void and of no force and effect, namely:
- 3.1.1 the purchaser obtaining approval of a loan in principle at current bank rates and conditions normally applicable to loans for a sum not less than R....., the loan to be secured by the registration of the first mortgage bond to be registered over the property on the transfer date; and
- 3.1.2 the delivery to the attorneys of the "Quotation and Pre-Agreement Statement" as described in the National Credit Act of 2007 in respect of such loan.
- 3.2 In the event of the failure of the suspensive condition referred to in sub-clause 3.1 above then the purchaser shall be refunded with the payment referred to in sub-clause 5.1.1 below together with all accumulated interest thereon.

### **4 PURCHASE PRICE**

The purchase price of the property is the sum of R.....which such sum is inclusive of Value Added Tax.

### **5 PAYMENT OF PURCHASE PRICE**

- 5.1 The purchase price referred to in clause 4 above shall be payable to the seller on the transfer date and shall be secured:
- 5.1.1 by the purchaser paying a sum of R..... to

the attorneys within 7 (seven) days of the date of signature of the deed of sale by the seller, to be held by the attorneys in trust and invested by them in an interest bearing account for the benefit of the purchaser pending fulfilment of the suspensive condition referred to in clause 3 above or pending registration of transfer of the property into the name of the purchaser, as the case may be; and

5.1.2 by the purchaser delivering to the attorneys, within 30 (thirty) days of the fulfilment of the suspensive condition referred to in clause 3 above, a banker's guarantee for the sum of R..... in favour of the seller or such party or parties as the seller may stipulate, the guarantee/s to be acceptable to the attorneys and to be for the account of the purchaser.

5.2 The purchaser shall be obliged to comply with the provisions of sub clause 5.1.1 above notwithstanding the provisions of clause 3 above.

## **6 REGISTRATION OF TRANSFER / POSSESSION / OCCUPATION**

6.1 Registration of transfer of the property into the name of the purchaser shall be undertaken by the attorneys and shall be given and taken as soon as practically possible after the completion date but only after the purchaser has complied with the purchaser's obligation in terms of clause 5 above and made payment to the attorneys of the cost of transfer and all other costs incidental thereto, for all of which the purchaser shall be liable and obliged to pay on request by the attorneys.

6.2 Possession and occupation of the property shall be given to the purchaser on the transfer date from which date the purchaser shall be responsible for all rates and taxes and other levies and from which date the risk and profit in the property will pass to the purchaser, the purchaser to refund the seller with a pro rata refund of any rates and taxes or similar charges which may have been paid by the seller in respect of the property in advance.

## **7 CONDITIONS OF SALE**

7.1 The property is sold, as regards its extent, as set out in the title deed thereof and the seller shall not be liable in respect of any shortfall and shall have no claim in respect of any excess which may be found on re-survey of the property.

7.2 The purchaser acknowledges that:

7.2.1 the purchaser has satisfied himself/herself/itself by inspection, or by means of independent sources of information, concerning any burdens or servitudes to which the property may be subject, as also concerning all advantages and disadvantages attaching to the property, its situation, boundaries, nature, condition, extent and/or locality and hereby agrees that the seller shall not be liable to it in respect of any failure by the seller to inform it of any such qualities. The seller gives no express or implied warranty whatsoever with respect to the property or any aspect thereof. Moreover, the property is sold "*voetstoots*", as it now is, with any patent or latent defects to which it may be subject, the purchaser acknowledging that the purchaser has not been influenced into entering into the deed of sale by any express or implied information, statement or representation given or made by or on behalf of the seller and hereby

waiving in favour of the seller any rights whatsoever which the purchaser otherwise may have obtained against the seller as a result of any such information, statement or representation given or made by or on behalf of the seller;

- 7.2.2 the purchaser shall be bound by all servitudes and conditions of title (in general) as contained in the current and/or prior title deeds in respect of the development land and such further conditions may be imposed by the local authority in terms of municipal legislation;
- 7.2.3 the seller and the local authority have reserved the right to place all necessary underground service pipelines over the development land in order for the development land to be subdivided and the purchaser further agrees to be bound by the conditions of title recorded in the current title deed of the development land in order to facilitate the construction of the above service lines. The purchaser hereby agrees to the passing of appropriate servitudes in the title deed of the property in order to record and impose such rights. The actual position of the servitude lines shall be determined in the absolute discretion of the seller and local authority;
- 7.2.4 the purchaser will be bound by the conditions of approval of the subdivision of the development land as approved by the relevant authority/ies, in particular that:
- 7.2.4.1 on the transfer date the purchaser shall ipso facto become a member of a homeowners' association (being the Amble Ridge Homeowners' Association and hereinafter referred to as "the Association"), this obligation being in perpetuity for each purchaser of a sub-division of the development land and the successors-in-title thereof including, via the respective body corporates of which they will be members, the purchasers of sectional title units on the development land and the successors-in-title of such purchasers;
- 7.2.4.2 the purchaser will be bound by the provisions of the constitution of the Association, a copy of which is hereto annexed marked "D" and which has been initialed by the purchaser for purposes of identification;
- 7.2.4.3 the following clause will be inserted in the title deed of the property in the following words or in such words as are approved by the Registrar of Deeds, namely;
- "The owner and his/her/its successors-in-title shall be members of the Amble Ridge Homeowners' Association and shall at all times be subject to the constitution thereof and the property will not be transferred without the written consent of the said Association"
- 7.2.4.4 the Association will become the registered owner of all common property on the development land, including the communal facility defined as such in annexure "D" hereto;
- 7.2.4.5 the following condition of title will be registered against the title deed of the property, namely:
- "a] The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and sewage and drainage including stormwater of any other erf

of erven to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon if considered necessary by the local authority in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonably time for works connected with the above;

- b] The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority." ;

7.2.4.6 the development land will be developed by the seller in phases;

7.2.4.7 Sunninghill Drive/Road, which is a public road, traverses the development land and may in due course become a bus route;

7.2.4.8 the gate house/security entrance at the northern entrance to the development land via the public road referred to in sub-clause 7.2.4.7 above has been installed by the seller in terms of the following conditions imposed by the Knysna Municipality in approving the seller's development of the development land, namely:

- " [d] That the Applicant be permitted to install temporary access control on Sunninghill Road, subject to the following conditions:
- [i] No person will be denied access through the access control;
  - [ii] The Municipality will have the right at any time to require that the access control across Sunninghill Drive be removed;
  - [iii] The developer is to construct the subway suitable for pedestrians, wheelchairs, golf carts, etc under Sunninghill Drive before the transfer of the first erf;
  - [iv] The developer shall install palisade fencing and structures that might in future be required for access control gates on either side of Sunninghill Drive before the transfer of the first erf in phase 2 of the Development;
  - [v] A condition will be inserted in the deeds of sale of all erven on the development to the effect that the purchasers acknowledge the existence of the Municipality's right at any time to require any access controls on Sunninghill Drive to be removed;
  - [vi] The Constitution of the Homeowners' Association will acknowledge the right of the Municipality to require that the Access Controls be removed;

[vii] For as long as access control remains in place on Sunninghill Drive the Developer, and, subsequently the Home Owners' Association shall be responsible to maintain that portion of Sunninghill Drive that is subject to controlled access to the satisfaction of the Director: Technical Services.";

7.2.5 within 2 (two) years of the transfer date the purchaser shall not, save in respect of the registration of a mortgage bond/s over the property, alienate the property by way of sale, exchange, donation, deed, cession or in any other manner howsoever and whether such alienation is subject to a suspensive or resolutive condition, this prohibition to be inserted in the title deed of the property in such words or in such words as are approved by the Registrar of Deeds. Provided that in the event that the purchaser is a natural person then this prohibition shall not preclude the alienation of the property arising from testate or intestate succession following on the death of the purchaser; and that

7.2.6 if the purchaser or any successor-in-title of the purchaser increases the accommodation potential of the property by increasing the number of bedrooms thereon and/or increases the number of bathrooms and/or water closets and/or baths and/or showers on the property then the purchaser or the successor-in-title in question, as the case may be, shall be liable to pay the local authority any augmentation fee/s in respect of such increase/s, the purchaser furthermore acknowledging that the purchaser and any successor-in-title shall not be entitled to transfer the property unless this acknowledgement is embodied in the deed of alienation in respect of the transfer of the property.

## **8 BREACH**

Should the purchaser fail to comply with any of the purchaser's obligations in terms of clause 5 above by the date stipulated for such obligation or fail to comply with any other of the purchaser's obligations in terms of this deed of sale and persist in such other failure for 7 (seven) days after a notice has been dispatched to the purchaser by prepaid registered or certified post setting out such other failure in and requiring rectification thereof the seller shall have the right at any time, without prejudice to any other powers which it may have by law or by virtue of the deed of sale to;

8.1 obtain payment of the full amount of the purchase price outstanding at the date of such breach of contract, together with interest thereon at 15,5% (fifteen comma five per centum) per annum from the date of such breach of contract to date of payment thereof, both dates included, notwithstanding anything to the contrary herein contained; or

8.2 cancel the deed of sale by giving the purchaser notice of such cancellation in which event and if the payment referred to in sub-clause 5.1 above has been made by the purchaser, such payment and the interest accrued thereon shall be forfeited by the purchaser to the seller.

## **9 DOMICILIUM CITANDI ET EXECUTANDI**

9.1 The seller chooses domicilium citandi et executandi for all purposes of the deed of sale at the address of the attorneys.

9.2 The purchaser chooses domicilium citandi et executandi for all purpose of the deed of sale at the address of .....

9.3 For purposes of sub-clause 2.2 above the purchaser's telefacsimile number is ..... and the purchaser's electronic mail address is.....

**10 INDULGENCES ETC**

Notwithstanding any express or implied provision of the deed of sale to the contrary, no latitude or extension of time which may be allowed by the seller to the purchaser in respect of any payment provided for herein, or any matter or thing which the purchaser may be bound to perform or observe in terms hereof, shall under any circumstances be deemed to be a waiver of the seller's right at any time without notice to require strict and punctual compliance with each and every provision or term hereof.

**11 ESTATE AGENT'S COMMISSION**

Estate agent's commission arising from the deed of sale shall be payable by the seller.

**12 ENTIRE AGREEMENT**

The deed of sale constitutes the entire agreement between the seller and the purchaser and no amendment or cancellation or substitution hereof or any portion hereof shall be of any force or effect whatsoever unless such amendment or cancellation or substitution is reduced to writing and signed by the seller and the purchaser.

Signed at Knysna on .....201....

As Witnesses:

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

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

\_\_\_\_\_  
Purchaser

Signed at Knysna at (time)..... on .....201....

As Witnesses:

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

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

\_\_\_\_\_  
Seller