



Mountainlands
NATURE RESERVE

Agreement of Sale

(Standard Sale of Site only, including by Nominee)

Agreement of Sale

Entered into by and between

Simply See (Proprietary) Limited

Registration number: 94/02350/07
(the "Seller")

of

Suite 20C, West End Centre
John Vorster Road, Nelspruit
(the "Domicilium Address")

P O Box 8835
Nelspruit, 1200
(the "Postal Address")

and

(the "Purchaser")

of

(the "Domicilium Address")

(the "Postal Address")

WHEREAS Simply See (Pty) Ltd was the registered owner of Portion 6 of the farm Dycedale No 368 JU in the Barberton district of Mpumalanga, South Africa upon which resort development rights and subdivision of 18 one-hectare portions have been approved.

AND WHEREAS ownership of Portion 25 (Portion of Portion 6) of the farm Dycedale No 368 JU has been transferred to the Mountainlands Estate Owners Association, now being the registered owner thereof and forming the Common Property of the Mountainlands Estate.

AND WHEREAS Simply See (Pty) Ltd, being the registered owner of the 18 one-hectare subdivisions, is selling the subdivisions to members of the Association.

AND WHEREAS the Purchaser is desirous of purchasing the Property, which is one of the subdivisions, on which the Purchaser will construct a Lodge according to prescribed guidelines.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1 INTERPRETATION AND DEFINITION

The headings to the paragraphs are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this agreement nor any paragraph.

In this agreement, unless a contrary intention clearly appears -

1.1.1 Words importing one gender include the other gender, the singular include the plural and vice versa and natural persons include legal entities and vice versa.

1.1.2 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely -

Association:	The Mountainlands Estate Owners Association being the owner of the Common Property.
Common Property:	Portion 25 (Portion of Portion 6) of the Farm Dycedale 368 JU in the Barberton district of Mpumalanga, South Africa as indicated on Surveyor General subdivision diagram and measuring approximately 1 380 hectares.
Constitution:	The Constitution of Mountainlands Estate Owners Association Attached as Annexure B .
Conveyancer:	Viljoen Attorneys, 41 Ehmke Street, Nelspruit.
Date of Signature:	The date of last signature to this agreement by either the Purchaser or Seller.
Development Period:	As defined in the Constitution of the Mountainlands Estate Owners Association: The period from the establishment of the Association until all of the Sites in the Development Area have been sold, transferred and improved, alternatively, until the Developer notifies the Association in writing that the Development Period has ceased, whichever is the earlier;
Estate:	The development known as Mountainlands Estate consisting collectively of Portions 7 to 25 (Portions of Portion 6) of the Farm Dycedale 368 JU in the Barberton district of Mpumalanga, South Africa as indicated on Surveyor General subdivision diagram and measuring approximately 1 399 hectares.
Lodge:	A residential building or cluster of buildings with an emphasis on leisure in a bushveld environment and subject to Architectural Guidelines contained in the Constitution.
Mountainlands Nature Reserve:	The approximately 18 000 hectare reserve as defined by the association of landowners making up the reserve and game fenced as a single

ecological unit as indicated on the attached map **Annexure A**.

Nominated Purchaser:	A third party nominated by the Purchaser as described in paragraph 13.3.
Property:	The approximately 1 hectare portion/s described in paragraph 2.
Purchaser:	The person or entity other than the Seller named on page 1 of this agreement or the Nominated Purchaser if applicable.
Seller:	Simply See (Pty) Ltd (Reg no: 94/02350/07) or their successors-in-title.
Sites:	The approximately one-hectare Portions 7 to 24 (Portions of Portion 6) of the Farm Dycedale 368 JU in the Barberton district of Mpumalanga, South Africa on which the Lodges will be erected.

1.3 This Agreement is further subject to the following Annexures, which the Purchaser by signature hereof acknowledges are regarded as specifically embodied herein and forming part hereof:

Annexure A: Map: Mountainlands Nature Reserve.

Annexure B: Constitution of Mountainlands Estate Owners Association, including Regulations.

2 SALE

The Seller sells to the Purchaser who hereby purchases **Portion _____ (Portion of Portion 6) of the farm Dycedale 368 JU** in the Barberton District measuring approximately one hectare (the "Property")

3 PURCHASE PRICE

The Purchase Price of the Property is the sum of R _____ (_____ **rand**) inclusive of Value Added Tax which shall be payable as follows:

3.1 A deposit of 10% being R _____ (_____ **rand**), upon signature hereof.

3.2 The balance of the Purchase Price being R _____ (_____ **rand**) against registration of transfer of the Property into the name of the Purchaser (the "Transfer") and shall be secured as follows:

3.2.1 The Purchaser shall within 14 days (the "Guarantee Date") lodge with the Conveyancer, one or more guarantees totaling the balance of the Purchase Price. The guarantee shall be issued by a Bank or Institution, the terms and conditions whereof shall be reasonably acceptable to the Seller or the Conveyancer on his behalf.

3.2.2 Each guarantee shall be made payable to the Seller or its nominee/s as shall be advised by the Conveyancer and shall constitute an unconditional and independent undertaking by the Bank or Institution to make payment of the amount stipulated therein to the payee thereof on the Transfer.

3.3 All payments to be made shall be made to the Seller without any deduction at the Seller's address as set out beneath its name at the commencement of this Agreement, or such other address in the Republic of South Africa as the Seller may stipulate in writing from time to time.

4 VALUE-ADDED TAX

The Purchase Price and all amounts in this agreement are inclusive of value-added tax ("VAT"), calculated at 14% of the Purchase Price of the property. If the rate at which VAT is chargeable in respect of this transaction is increased or decreased so as to affect the amount of VAT, the Purchaser shall be liable for the increased amount of VAT, or the price adjusted with the saving on the VAT for the benefit of the Purchaser.

5 AGENTS COMMISSION

Not applicable.

6 TRANSFER

Costs of and incidental to the transfer including conveyancing charges shall be payable on demand by the Purchaser to the Conveyancer nominated by the Seller. Transfer of the Property shall be affected by the Conveyancer within a reasonable time after Date of Signature and provided that the Purchaser has complied with his obligations in terms hereof.

7 LEVY AND ELECTRICITY

- 7.1 The Purchaser shall be liable to pay a levy determined annually by the Trustees of the Association as provided for in the Constitution. It is recorded that the levy amounts to R5 431.44 per month at the date hereof. Levies shall be payable monthly in advance to the Association.
- 7.2 Metered electricity and proportional electricity contributions are payable monthly to the Association.
- 7.3 The levy and electricity shall become payable within one year from date of transfer or alternatively upon connection or occupation of any structures to be erected on the site, which ever shall occur first.
- 7.4 The Purchaser shall sign debit orders when requested to do so, for the monthly payment of levies and electricity.

8 POSSESSION AND OCCUPATION

- 8.1 The Purchaser shall take occupation and possession and assume control of the Property on date of registration of transfer of the Property in the name of the Purchaser, from which date the Property shall be at the sole risk, loss, profit and expense of the Purchaser and from which date the Purchaser shall be liable for all statutory levies, rates and taxes and other charges if applicable and levied upon the Property by the government or Local Council or other competent authority.
- 8.2 Should the Seller have pre-paid any such reasonable rates and taxes and charges to relevant authorities beyond the date of transfer aforesaid, the Purchaser shall on demand refund any such amounts paid beyond this date to the Seller.

9 OWNERS ASSOCIATION AND SERVICES

- 9.1 It is recorded that the Mountainlands Estate Owners Association was incorporated to promote the communal interest of all owners of properties in the Estate, which will include but not be limited to maintenance of security facilities, gate houses and security gates, roads, fencing, open spaces, servitudes and all communal facilities.
- 9.2 The Seller has procured the transfer of the Common property into the name of the Association.
- 9.3 The Purchaser acknowledges that he has acquainted himself with the contents of the Constitution of the Mountainlands Estate Owners Association, its annexures, including but not limited to the Architectural Guidelines and the Regulations made in terms of the Constitution all of which are attached hereto as **Annexure B**. It is recorded that the Association has been established and that the Association has adopted the attached Constitution and Regulations promulgated in terms of the Constitution with the intention of protecting the lifestyle and good neighbourliness of owners and residents of the Estate, which Regulations may be changed or added to from time to time by the Association.
- 9.4 The Purchaser acknowledges and binds himself that he shall upon registration of transfer of the Property into his name, automatically become and remain a member of the Association, and to subscribe to and to be bound by the provisions of the Constitution of the Association and any Regulations promulgated in terms of the

Constitution, including without limiting the generality of the foregoing, the Building Procedures and Architectural Guidelines.

- 9.5 The Seller shall 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:
- 9.5.1 The purchaser and its successors in title or assigns of the within mentioned property shall upon transfer of the within mentioned property become a member of the Mountainlands Estate Owners Association (herein referred to as "the Association") and remain a member and be subject to its constitution until the purchaser or each subsequent successor in title or assign ceases to be the registered owner of the property.
- 9.5.2 Neither the property nor any interest therein shall be transferred to any person who has not bound him/her/itself in writing to become a member of the Association.
- 9.5.3 The purchaser and its successors in title or assigns shall not be entitled to transfer the property without a clearance certificate from the said Association certifying that all amounts owing by the registered owner to the aforesaid Association have been paid.
- 9.6 In the event of the Registrar of Deeds requiring the amendment of the conditions in paragraphs 9.5.1 to 9.5.3 above in any manner in order to affect registration of same, the Purchaser hereby agrees to such amendment.
- 9.7 As the Estate forms part of and is game fenced and managed as a single ecological unit with the Mountainlands Nature Reserve as indicated on **Annexure A**:
- 9.7.1 The Association has, upon transfer of the Common Property to the Association, become a member of the Mountainlands Nature Reserve in the place and stead of the Seller who has ceased to be a member by virtue of ownership of the Common Property.
- 9.7.2 The Association and Members shall utilise their interest in the Reserve subject to the rules and regulations promulgated by the Mountainlands Nature Reserve from time to time.

10 DEVELOPMENT OF THE ESTATE

- 10.1 The Purchaser agrees, acknowledges and records that he is aware –
- 10.1.1 of the intention of the Seller and or other members to erect and complete buildings, structures, Lodges and further facilities at different times and in different phases on the Estate and Sites, which intention may be varied by the Seller for any reason it believes necessary or desirable in its sole discretion, but subject to the prescriptions and requirements of the environmental approvals, land-use rights, ordinances and/or statutory guidelines.
- 10.1.2 that the Estate and Sites of which the Property is one, are not yet fully developed and therefore building, construction and related operations will take place on the Estate, Sites and surrounding properties and that the said operations may cause the Purchaser certain inconvenience, but that he shall have no claim whatsoever against the Association, Seller or any other owner for any such inconvenience.
- 10.1.3 that notwithstanding the purchase of the Property being approximately one hectare in size, certain Sites could impact negatively on others or the ambience of the Estate and accordingly the area on which improvements may be erected will be restricted to a limited footprint within a Site, which footprint will be at the sole discretion of and demarcated by the Seller. The Purchaser agrees to erect all improvements on the Property within such footprint.
- 10.2 The Purchaser hereby authorizes the Seller to act on his behalf in all matters relating to the development of the Estate and Sites. The Purchaser hereby nominates, constitutes and appoints the Seller with power of substitution to be its lawful agent in his name place and stead and on his behalf to consent, if so required, to the further development of the Estate and Sites and the Purchaser shall not be entitled to object to any rezoning or subdivision or land-use rights applied for by the Seller or to interfere with or obstruct the Seller and the said

owners from erecting and completing buildings, structures, Lodges and further facilities principally in accordance with the approved resort development rights.

- 10.3 The Seller shall, subject to the compliance by the Seller with all the requirements in terms of the Environment Conservation Act 73 of 1989, install at his cost access and traversing roads, engineering services, security and management infrastructure on the Common Property, the precise location and area to be within the sole discretion of the Seller. The Association shall be responsible for the upkeep and maintenance of the Common Property.
- 10.4 The Seller may, subject to the compliance by the Seller with all the requirements in terms of the Environment Conservation Act 73 of 1989, the Mountainlands Estate Constitution, Regulations and Building Procedures and Architectural Guidelines develop Lodges on the Sites, to be registered in the name of the Seller, its nominees or other purchasers, the precise location and area on the Sites to be within the sole discretion of the Seller. Should subsequent investigations and designs indicate that a Site at the sole discretion of the Seller is unsuitable for whatever reason to be developed, then the Seller shall have the right to select an alternative Site from the area of the Common Property and to apply to the relevant authorities for the subdivision of such site from the Common Property provided that the unsuitable Site be consolidated to form part of the Common Property and that no new Lodge shall be located within one hundred meters of the Lodge on the Property.
- 10.5 The parties undertake to ensure that all reasonable measures are taken to limit the interference and inconvenience caused by building, construction and related operations to each other and other Purchasers and all construction and other activities will be regulated by the Constitution and its regulations.
- 10.6 The infrastructure and services consisting of a gravel access road, 3.3kv three phase electricity and water connection point to the Property has been provided. The Purchaser shall lodge R 8 000 electricity deposit with the Association, as determined by the Trustees in terms of the municipal bylaws. Purchaser shall be responsible for the installation of the specified 100 kva transformer and networked electricity meter required for the property.
- 10.7 The Purchaser warrants that construction of a Lodge on the Property will commence within one year from date of Transfer. The Purchaser further warrants that construction of the Lodge shall be completed within a further one year from commencement of such construction activities.

11 DESCRIPTION

- 11.1 The Property is sold as unimproved vacant land, as it stands, including soil and environmental conditions. The Buyer warrants having inspected the property and that the Seller has indicated the position of all beacons of the Property.
- 11.2 The Property is sold and will be transferred subject to all the conditions and servitudes noted on the Seller's title deed which may be issued hereafter, and subject to the conditions set out in the relevant approvals of land-use rights and subdivision and in this agreement.
- 11.3 Should the Property have been erroneously described in this agreement then the correct description of the Property as set out on the survey diagram registered with the Surveyor General shall be applicable, and this agreement shall automatically be deemed to be so amended and the Purchaser shall regardless of the discrepancy take transfer of the correct Property in compliance with the terms of this agreement.
- 11.4 The Seller shall not gain by any excess, nor shall the Seller be responsible for any diminution in the area of the Property that might be revealed through any survey of the Property.

12 BREACH

- 12.1 If any party breaches any material provision or term of this agreement and fails to remedy such breach within 30 days (or if it is not reasonably possible to remedy the breach within 30 days, within such a further period of time as may be reasonable in the circumstances) of the date of receipt of written notice requiring it to do so and warning that if the breach is not so remedied, the aggrieved party may exercise its rights in terms of this clause. Then the aggrieved party shall be entitled without notice, in addition to any other remedy available to it at law or under this agreement, including but not limited to obtaining an interdict, to cancel this agreement or to claim specific performance of all due obligations.

- 12.2 If any aforementioned breach is not capable of being remedied, it shall be deemed to have been remedied (but without prejudice to the aggrieved party's right to claim damages) provided that the defaulting party has caused the breach to cease within the period aforesaid.
- 12.3 Payments which may have been made by the Purchaser shall be forfeited to the Seller as *roukoop* and/or on account of damages sustained and/or as a penalty.

13 OFFER AND ACCEPTANCE

- 13.1 Should the Purchaser sign this agreement prior to the Seller, then by his signature hereto, the Purchaser offers irrevocably to purchase the Property for the price and on the terms and conditions herein.
- 13.2 On signature by the Seller, or his duly authorised representative, of an offer made in terms of paragraph 13.1, a valid contract of purchase and sale in terms hereof shall come into full force and effect between the parties and it shall be necessary for the Seller to communicate the fact of his acceptance to the Purchaser. Until the Seller has signed the agreement, no liability or obligation on the part of the Seller will be deemed to exist.
- 13.3 The Purchaser may without reason or penalty rescind this agreement by giving written notice to the Seller to such effect, provided that such written notice should reach the Seller within five days from the date on which the Purchaser signed this agreement.
- 13.4 In the event of rescission in terms of paragraph 13.3, the Seller shall refund any deposit received in terms of this agreement within 15 days from receipt of such notice of rescission.

14 NOMINATION OF A THIRD PARTY

- 14.1 This agreement is subject to the resolute condition that the purchaser may nominate a third party purchaser ("the Nominated Purchaser") under this agreement as follows:
- 14.1.1 The Nominated Purchaser need not be in existence at the time this agreement is signed but must be in existence at the time of the nomination;
- 14.1.2 both the nomination and the Nominated Purchaser's acceptance of the nomination must be in writing and must be delivered to the Seller no later than the Guarantee Date, failing which the right to nominate will lapse and the original Purchaser will remain bound as purchaser under this agreement;
- 14.1.3 if a nomination and an acceptance are duly delivered as set out above, the sale to the original Purchaser will automatically fall away and be dissolved on such delivery and a new sale to the Nominated Purchaser on the same terms and conditions will automatically simultaneously come into existence provided that:
- 14.1.3.1 reference to the date of this agreement shall also be considered the date of the new agreement;
- 14.1.3.2 the deposit, if any, paid by the original Purchaser shall be considered as having been paid by the Nominated Purchaser and the Seller shall have no obligation to repay the deposit to the original Purchaser;
- 14.1.4 the original Purchaser's rights to nominate a third party as purchaser is conditional on the original Purchaser not being in breach of any obligation under this agreement,
- 14.2 The original Purchaser will automatically be bound as surety and co-principal debtor for the Nominated Purchaser's obligations to the Seller arising out of this sale to the Nominated Purchaser.

15 COMPANY OR CLOSE CORPORATION TO BE FORMED

If the person ("the Signatory") signing as Purchaser acts or purports to act as agent or trustee for a company or close corporation not yet incorporated:

- 15.1 the Signatory personally undertakes to the Seller that the company or close corporation concerned will be incorporated before the Guarantee Date and will, within 7 days after being incorporated adopt or ratify this agreement without modification;
- 15.2 if the said company or close corporation is not so incorporated within the Guarantee Date, or having been incorporated does not adopt or ratify this agreement within the period of 7 days aforesaid, then the Signatory shall in his or her personal capacity be deemed to be the Purchaser in terms of this agreement;
- 15.3 if the said company or close corporation is incorporated and does adopt or ratify this agreement as contemplated in 15.1, then the Signatory will be bound in favour of the Seller as surety and co-principal debtor *in solidum* under renunciation of the benefits of division, excussion and cession of action, for the due and proper performance by the said company or close corporation of all obligations in terms of or arising in any way out of:
 - 15.3.1 this agreement, or
 - 15.3.2 any cancellation pursuant to this agreement, or
 - 15.3.3 Section 35 of the Insolvency Act No 24 of 1936, as amended, pursuant to the abandonment by a liquidator or cancellation by a court of this agreement, in the event that the said company or close corporation is wound up.

16 COMPANY, CLOSE CORPORATION OR TRUST ALREADY FORMED

If this agreement is signed by a person ("the Signatory") acting or purporting to act for and on behalf of an existing company, close corporation or trust as purchaser, the Signatory hereby warrants that the company, close corporation or trust as the case may be, is in existence and that the Signatory is duly authorised to sign this agreement on its behalf. The Signatory by his or her signature to this agreement hereby binds him/herself in favour of the Seller as surety and co-principal debtor *in solidum*, under renunciation of the benefits of division, excussion and cession of action, for the due and proper performance by the said company or close corporation or trust of all the obligations of the Purchaser under and pursuant to:

- 16.1 this agreement, or
- 16.2 any cancellation pursuant to this agreement, or
- 16.3 Section 35 of the Insolvency Act, No. 24 of 1936, as amended, pursuant to the abandonment by a liquidator or cancellation by a court of this agreement, in the event of the said company, close corporation or trust being wound up.

17 JURISDICTION

- 17.1 For the purpose of all or any proceedings arising from this agreement the parties consent to the jurisdiction of the Magistrate's Court otherwise having jurisdiction under section 28 of the Magistrate's Court Act of 1944 as amended, notwithstanding that such proceedings are otherwise beyond its jurisdiction. This clause shall be deemed to constitute the written consent, conferring jurisdiction upon the said court pursuant to section 45 of the said Act. Notwithstanding the foregoing either party hereto shall have the right at their option and discretion to institute proceedings in any other competent court, which might otherwise have jurisdiction.
- 17.2 Notwithstanding the place of any Signature hereto, this agreement and any proceedings arising from this agreement shall be subject to the laws of the Republic of South Africa.

18 DOMICILIUM

- 18.1 The Seller and the Purchaser hereby record the addresses on page 1 of this Agreement as their addresses in the Republic which they select as their respective *domicilia citandi et executandi* for the service of any notice or demand.
- 18.2 Notice of a change of address shall be given in writing and shall be delivered or sent by prepaid registered post by one party to the other.
- 18.3 All notices in terms of this agreement delivered or sent by prepaid registered post by any party to the other shall be deemed to have been received at the time of delivery or on the fifth business day following the date of registered posting, as the case may be.

19 SEVERABILITY

- 19.1 In the event that any of the clauses of this agreement are found to be invalid, unlawful or unenforceable, such clause(s) will be severable from the remaining clauses of this agreement, which will continue to be valid and enforceable.
- 19.2 If any invalid clause is capable of amendment to render it valid and enforceable to achieve the same objective as the invalid clause, the parties agree to negotiate an amendment to remove the invalidity.

20 VARIATION AND EXTENSION

- 20.1 This agreement constitutes the whole agreement between the parties and no warranties, representations or other terms and conditions of whatsoever nature not expressly recorded herein, shall be of any force or effect. This agreement supersedes any previous agreements which may exist between the parties whether oral or in writing.
- 20.2 No addition or variation of the terms and conditions of this agreement or consensual cancellation of this Agreement or any provision or term thereof and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement shall be binding, unless recorded in writing and signed by both parties.
- 20.3 Any latitude or extension of time which may be allowed by either party to this agreement in respect of any obligation of the other party provided for herein or any matter or action which the other party is bound to perform or observe in terms hereof shall not in any circumstances be deemed to be a waiver of the aggrieved party's rights at any time to require strict and punctual compliance with each and every provision or term hereof.

21 SPECIAL CONDITIONS

The Purchaser warrants adherence to the following conditions in the construction of improvements on the Property, which conditions are aimed at minimizing negative impact on the aesthetics and values of other Sites, the Estate and the Nature Reserve:

- 21.1 All improvements will be constructed on the development footprint and in accordance with the Constitution and Architectural Guidelines of the Estate;
- 21.2 Building plans will be presented to the Estate Architect and the Association for their consideration and approval, before commencement of any construction or site preparation.

THUS SIGNED IN THE PRESENCE OF THE BELOW WITNESSES ON THE DATE AND AT THE PLACE INDICATED:

DATE

PLACE

WITNESS

PURCHASER (*Signature*)

WITNESS

DATE

PLACE

WITNESS

SELLER (*Signature*) herein represented by **N J Oosthuizen**, duly authorized thereto by the appropriate resolution.

WITNESS