



EXECUTION VERSION

SALE OF HOTEL PROPERTIES AND BUSINESSES AGREEMENT

entered into between

LISTED INVESTMENTS PROPRIETARY LIMITED

(Registration No. 1997/003059/07)

("Listed Investments")

and

TSOGO SUN CASINOS PROPRIETARY LIMITED

(Registration No. 1995/012674/07)

("TSC")

(collectively, Listed Investments and TSC shall hereinafter be referred to as the "Sellers")

and

HPF PROPERTIES PROPRIETARY LIMITED

(Registration No. 2005/020743/07)

("Purchaser")

and

SOUTHERN SUN HOTEL INTERESTS PROPRIETARY LIMITED

(Registration No. 1969/001365/07)

("SSHI")

WHEREBY IT IS AGREED AS FOLLOWS :

1. INTERPRETATION AND PRELIMINARY

The headings in this agreement are for the purpose of convenience and reference only and shall neither be used in the interpretation of nor modify nor amplify the terms of this agreement nor any of its clauses. Unless a contrary intention clearly appears :

1.1. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely :

- 1.1.1. **"Agreement"** means this sale of hotel properties and businesses agreement, together with any annexures or schedules hereto, if any;
- 1.1.2. **"Business Day"** means a day which is not a Saturday, Sunday or public holiday gazetted in South Africa from time to time;
- 1.1.3. **"Conditions Precedent"** means the conditions precedent in clause 3.1;
- 1.1.4. **"Contracts"** means those contracts concluded by TSC in relation to the operation of the relevant Hotel Businesses which are separately identifiable for the Hotel's use only, including but not limited to the Management Agreements, to be assigned to the Purchaser in terms hereof, which contracts shall be identified by the Parties during the Interim Period by agreement and assigned to the Purchaser with effect from the Effective Date as contemplated in clause 9;
- 1.1.5. **"Conveyancer"** means Fatima Rodrigues of Werksmans Attorneys, or such other Conveyancer as may be agreed between the Parties;
- 1.1.6. **"Effective Date"** shall bear the meaning ascribed to that term in the Separation Agreement;
- 1.1.7. **"Emnotweni Casino"** means the Emnotweni Casino and Entertainment Centre owned and operated by TSC;
- 1.1.8. **"Goodwill"** means the goodwill associated with the Hotels;
- 1.1.9. **"Hotel Businesses"** means collectively, the Southern Sun Emnotweni Hotel Business and the StayEasy Emnotweni Hotel Business, and **"Hotel Business"** shall mean any one of them as the context requires;
- 1.1.10. **"Hotel Properties"** means collectively, the Southern Sun Emnotweni Hotel Property and StayEasy Emnotweni Hotel Property, and **"Hotel Property"** shall mean any one of them as the context requires;

- 1.1.11. **"Interim Period"** means the period commencing on the Signature Date and terminating on the Effective Date;
- 1.1.12. **"Insolvency Act"** means the Insolvency Act, 1936;
- 1.1.13. **"Liquor Licences"** means the liquor licences issued to a Seller (or a member of its group) in accordance with the provisions of any provincial liquor act or liquor licencing act enacted by a provincial legislature to regulate the retail sale or consumption of liquor on the premises of the Hotels;
- 1.1.14. **"Listed Investments"** means Listed Investments Proprietary Limited (Registration No. 1997/003059/07), a private company duly incorporated and registered in accordance with the laws of South Africa, of Palazzo Towers East, Montecasino Boulevard, Fourways, 2055, with e-mail address: companysecretary@tsogosun.com, Cindy.Wannell@tsogosun.com and gregory.lunga@tsogosun.com, marked for the attention of: the Legal Manager and the Chief Financial Officer;
- 1.1.15. **"Management Agreements"** means the management and license agreements concluded between TSC and SSHI (a member of the TSH Group) in relation to the operation of the Hotel Businesses, as listed and more fully described in Annexure A, and **"Management Agreement"** shall mean any one of them, as the context requires;
- 1.1.16. **"Movable Property"** means all movable assets (including but not limited to furniture, machinery and equipment, computer equipment, soft furnishings and inventory, but excluding food and beverage stock) owned by TSC and located on the Hotel Properties which are utilised to conduct the ordinary and normal day-to-day operations of the Hotel Businesses as at the Effective Date;
- 1.1.17. **"Parties"** means the parties to this Agreement, namely SSHI, the Sellers and the Purchaser, and **"Party"** shall mean any one of them, as the context requires;
- 1.1.18. **"Purchaser"** means HPF Properties Limited (Registration No. 2005/020743/07), a public company duly incorporated and registered in accordance with the laws of South Africa, of Palazzo Towers West, Montecasino Boulevard, Fourways, 2055, with e-mail address: CompanysecretaryTGO@tsogosun.com, marked for the attention of: marcel.vonaulock@tsogosun.com;
- 1.1.19. **"Sellers"** means:
- 1.1.19.1. in respect of the Hotel Properties, Listed Investments; and

1.1.19.2. in respect of the Hotel Businesses, TSC,

and “**Seller**” shall mean either of them as the context may require;

1.1.20. “**Separation Agreement**” means the agreement concluded or to be concluded between, *inter alia*, certain members of the TSG Group including TSG and TSC and certain members of the TSH Group including TSH and SSHI on or about the Signature Date, pursuant to which, *inter alia*, the parties thereto have agreed to mutually and amicably terminate the hotel management and license agreements concluded between them;

1.1.21. “**Signature Date**” means the date on which the party to this agreement signing last in time signs this agreement;

1.1.22. “**South Africa**” means the Republic of South Africa;

1.1.23. “**Southern Sun Emnotweni Hotel Property**” means Erf 5, Riverside Park Extension 1 Township, situated in the Mbombela Local Municipality in the province of Mpumalanga, South Africa, measuring approximately 1,93445 (one comma nine three four four five) hectares, together with all buildings, erections and improvements thereon, held under deed of transfer number T3212/2019;

1.1.24. “**Southern Sun Emnotweni Hotel Business**” means the hotel business owned by TSC and operated by SSHI in terms of the Management Agreements on behalf of TSC on the Southern Sun Emnotweni Hotel Property (commonly known as “*Southern Sun Emnotweni*”), including:

1.1.24.1. the Movable Property located on the Southern Sun Emnotweni Hotel Property;

1.1.24.2. the Contracts in respect of the Southern Sun Emnotweni Hotel Property and Southern Sun Emnotweni Business; and

1.1.24.3. the Goodwill in respect of Southern Sun Emnotweni Hotel Property and Southern Sun Emnotweni Business;

1.1.25. “**SSHI**” means Southern Sun Hotel Interests Proprietary Limited (Registration No. 1969/001365/07), a private company duly incorporated and registered in accordance with the laws of South Africa and a member of the TSH Group, of Palazzo Towers West, Montecasino Boulevard, Fourways, 2055, with e-mail address: CompanysecretaryTGO@tsogosun.com, marked for the attention of: marcel.vonaulock@tsogosun.com;

- 1.1.26. **“StayEasy Emnotweni Hotel Property”** means Erf 3, Riverside Park Extension 1 Township, situated in the Mbombela Local Municipality in the province of Mpumalanga, South Africa, measuring 7,555m² (seven thousand five hundred and fifty five square metres), together with all buildings erections and improvements thereon, held under deed of transfer number T3211/2019;
- 1.1.27. **“StayEasy Emnotweni Hotel Business”** means hotel business owned by TSC and operated by SSHI in terms of the Management Agreements on behalf of TSC on the StayEasy Emnotweni Hotel Property (commonly known as “StayEasy Emnotweni”), including:
- 1.1.27.1. the Movable Property located on the StayEasy Emnotweni Hotel Property;
 - 1.1.27.2. the Contracts in respect of the StayEasy Emnotweni Hotel StayEasy Emnotweni Hotel Business;
 - 1.1.27.3. the TSC Employees; and
 - 1.1.27.4. the Goodwill in respect of StayEasy Emnotweni Hotel and the StayEasy Emnotweni Hotel Business;
- 1.1.28. **“Transfer Date”** means, in respect of each Hotel Property, the date of registration of transfer of such Hotel Property (or any part thereof) as a going concern in the name of the Purchaser;
- 1.1.29. **“TSC”** means Tsogo Sun Casinos Proprietary Limited (Registration No. 1995/012674/07), a private company duly incorporated and registered in accordance with the laws of South Africa;
- 1.1.30. **“TSC Employees”** means, collectively, those employees of TSC and/or any member of the TSG Group who are primarily employed for the maintenance operations *Southern Sun Emnotweni* Hotel Business, which employees are listed in Annexure B hereto;
- 1.1.31. **“TSG”** means Tsogo Sun Gaming Limited (Registration No. 1989/002108/06), a public company duly incorporated and registered in accordance with the laws of South Africa;
- 1.1.32. **“TSG Group”** means, in relation to the Sellers and any company which is Controlled by TSG including each Seller, and **“TSG Group Company”** shall mean any one of them as the context requires;

- 1.1.33. “**TSH**” means Tsogo Sun Hotels Limited (Registration No. 2002/006356/06), a public company duly incorporated and registered in accordance with the laws of South Africa;
- 1.1.34. “**TSH Group**” means, in relation to the Purchaser, any company which is Controlled by Tsogo Sun Hotels Limited, including the Purchaser and SSHI, and “**TSH Group Company**” shall mean any one of them as the context requires;
- 1.1.35. “**VAT**” means value-added tax;
- 1.1.36. “**VAT Act**” means the Value-added Tax Act, 1991;
- 1.2. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement;
- 1.3. when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in South Africa in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday in South Africa
- 1.4. if figures are referred to in numerals and in words in this Agreement and if there is any conflict between the two, the words shall prevail;
- 1.5. expressions defined in the main body of this Agreement shall bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own conflicting definitions;
- 1.6. if :
 - 1.6.1. any term is defined in any particular clause in the main body of this Agreement, the term so defined, unless it is clear from the clause in question that the defined term has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause;
 - 1.6.2. any term is defined in any annexure to this Agreement, the term so defined, unless it expressly provides in that annexure that the defined term in question shall bear the meaning ascribed to it for all purposes in the annexure and in the main body of this Agreement, will have limited application to that annexure only;
 - 1.6.3. any annexure to this Agreement contains any rules of interpretation which conflict with the rules of interpretation contained in the main body of this Agreement, the former shall prevail for purposes of the annexure;

- 1.7. the discharge or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after such discharge or termination or which of necessity must continue to have effect after such discharge or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.8. the rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply;
- 1.9. any reference in this Agreement to a Party shall include a reference to that Party's assigns expressly permitted under this Agreement and, if such party is liquidated, or is sequestrated or business rescue proceedings have commenced in respect of such Party, be applicable also to and binding upon that Party's liquidator, trustee or business rescue practitioner, as the case may be;
- 1.10. the words following "other", "otherwise", "including", "in particular", or any other similar general term or expression shall not :
 - 1.10.1. be construed as being of the same kind, class or nature with any preceding words;
or
 - 1.10.2. limit the generality of any preceding word/s,

if a wider construction is possible.

2. INTRODUCTION

- 2.1. The TSG Group is, through Listed Investments, the registered owner of the Hotel Properties and through TSC, the owner of the Hotel Businesses conducted on the Hotel Properties.
- 2.2. TSC and SSHI concluded the Management Agreements in terms of which TSC appointed SSHI (a member of the TSH Group) to manage the Hotel Businesses on the Hotel Properties on TSC's behalf.
- 2.3. Listed Investments wishes to sell the Hotel Properties and TSC wishes to sell the Hotel Businesses, to the Purchaser, and the Purchaser wishes to purchase the Hotel Properties and the Hotel Businesses, on and with effect from the relevant Effective Date.
- 2.4. This Agreement contains the terms and conditions agreed by the Parties with regard to the above and matters incidental thereto.

3. CONDITIONS PRECEDENT

- 3.1. This Agreement, save for this clause 3 and clauses 16 to 32 ("**Binding Clauses**") which shall be of immediate force and effect, is subject to the fulfilment or, if permitted, waiver of the following

Conditions Precedent, namely that by no later than the date that is 3 (three) months after the Signature Date ("**Longstop Date**"):

- 3.1.1. the financial institutions which fund the TSG Group have, to the extent required in terms of the relevant funding agreements concluded between them, approved the sale of the Hotel Properties and Hotel Businesses as contemplated in this Agreement and agreed (in writing) to release the Sellers and/or the remaining members of the TSG Group (as the case may be) from all existing security and/or encumbrances created in their favour relating to the Hotel Properties and/or Hotel Businesses with effect from the Effective Date; and
- 3.1.2. the Separation Agreement has been concluded by the parties thereto in a form acceptable to all such parties, and such agreement has become unconditional in accordance with its terms (save for any condition therein requiring this Agreement to become unconditional).
- 3.2. As soon as possible after the Signature Date, but in any event by no later than the Longstop Date, both Parties shall use their respective reasonable endeavours to procure the fulfilment of the Conditions Precedent and in addition the Parties shall be obliged to co-operate with each other and provide such assistance as may reasonably be required to procure the fulfilment of all Conditions Precedent.
- 3.3. The Conditions Precedent have been stipulated for the benefit of all Parties. Accordingly, the Parties may by written agreement waive fulfilment of any such Condition Precedent (in whole or in part and, if in part, the remainder of the relevant Condition Precedent will still be required to be fulfilled) prior to the Longstop Date.
- 3.4. If any Condition Precedent is not fulfilled or, if permitted, waived, by the Longstop Date, then the Binding Clauses shall continue to be of force and effect, and the remaining clauses of this Agreement shall cease to be of any further force or effect and never become effective. Subject to clause 3.2, no Party shall have any liability towards any other Party if this Agreement does not become effective as a result of the failure of the timeous fulfilment of a Condition Precedent save if a Party has deliberately frustrated the fulfilment of that Condition Precedent or where the failure is as a result of a breach of this clause 3 or any provision of this Agreement by which the Parties remain bound.

4. **SALE OF THE HOTEL PROPERTIES AND THE HOTEL BUSINESSES**

- 4.1. With effect from the Effective Date:
 - 4.1.1. Listed Investments hereby sells to the Purchaser, who purchases from Listed Investments the Hotel Properties; and

4.1.2. TSC hereby sells to the Purchaser, who purchases the Hotel Businesses

in each case, as an indivisible whole and subject to all conditions and servitudes mentioned or referred to in the current title deeds of the Hotel Properties and to all such conditions and servitudes which may exist in regard thereto.

4.2. The Parties hereby record that, simultaneously with registration of transfer of the Hotel Properties, a servitude shall be registered in the title deed of the Southern Sun Emnotweni Hotel Property in favour of TSC in its capacity as the operator of the Emnotweni Casino and Entertainment Centre, recording that the borehole located on Southern Sun Emnotweni Hotel Property shall be made available for the shared use and benefit of the Southern Sun Emnotweni Hotel Property and the Emnotweni Casino and Entertainment Centre operated by TSC adjacent and/or opposite to the Southern Sun Emnotweni Hotel Property. Any cost and expense associated with the maintenance and operation of the borehole shall be borne equally between the Purchaser and TSC.

5. **REGISTRATION OF TRANSFER OF THE HOTEL PROPERTIES**

5.1. Registration of transfer of the Hotel Properties into the name of the Purchaser shall be effected by the Conveyancers on or as soon as reasonably possible after the Effective Date, and after:

5.1.1. the Conveyancers are issued with:

5.1.1.1. a transfer duty exemption certificate from the Commissioner: South African Revenue Services in terms of the Transfer Duty Act, No. 40 of 1949 and the VAT Act and/or any transfer duty payable on transfer is paid by the Purchaser;

5.1.1.2. a municipal rates clearance certificate from the relevant authority in terms of section 118(1) of the Municipal Systems Act, No. 32 of 2000; and

5.1.1.3. payment of all costs of and incidental to the Transfer, together with VAT (if any) in respect of such costs, which the Purchaser shall pay to the Conveyancers on demand; and

5.1.2. payment, if so required by the Conveyancers, of an estimate of the assessment rates, levies and other local authority and/or proprietary charges, for which the Purchaser will be liable in respect of a period from the Transfer Date to the end of the relevant rating year.

5.2. The Purchaser and Listed Investments shall sign all preliminary transfer documents on request by the Conveyancers. Without limiting the generality of the foregoing, Listed Investments and the Purchaser hereby undertake to and in favour of each other to attend at the offices of the

Conveyancers as soon as is practicably possible after the Conditions Precedent have been fulfilled or waived and to complete and/or sign all documents necessary to effect the transfers.

- 5.3. All of Listed Investments right and interest in and to, and possession, occupation and control of, each Hotel Property shall be transferred by Listed Investments to the Purchaser on the relevant Effective Date, from which date:

5.3.1. all risk and benefit thereto shall pass to the Purchaser;

5.3.2. the Purchaser shall be entitled to any benefits of whatsoever nature accruing in respect of each such Hotel Property; and

5.3.3. the Purchaser shall be liable for all rates, taxes and other imposts levied on or payable in respect of each such Hotel Property,

it being agreed that, notwithstanding that the Transfer Date has not yet occurred, all risk in and benefit in and to the Hotel Properties shall transfer to the Purchaser on and with effect from the Effective Date, the bare dominium in respect of the Hotel Properties being the sole asset retained by Listed Investments until the relevant Transfer Date in respect of a Hotel Property.

- 5.4. The Purchaser waives the requirement for the Sellers to deliver electrical certificates of compliance, certificate of conformity in respect of any gas installation and any other similar certificates in relation to the Hotel Properties.

6. **TRANSFER OF THE HOTEL BUSINESSES**

- 6.1. Notwithstanding the Signature Date and the Transfer Date, the Hotel Businesses will be sold with effect from the Effective Date, from which date all risk in and all benefit attaching to Hotel Businesses will pass to the Purchaser, and the Parties intend ownership in the Hotel Businesses to pass against payment of the Purchase Price.

- 6.2. Should the Purchaser or SSHI receive any payment of any nature in relation to the Hotel Properties or the Hotel Businesses after the Effective Date which payments relates to the period prior to the Effective Date, it shall forthwith transfer any such amounts to TSC by electronic funds transfer into the bank account nominated by TSC for that purpose.

- 6.3. The Sellers shall maintain the insurance policies in place in respect of the Hotel Properties and the Hotel Businesses until the Effective Date, whereafter the Purchaser shall obtain insurance policies in respect of the Hotel Properties and the Hotel Businesses and maintain such insurance for the entire period until the Transfer Date in respect thereof.

- 6.4. The Purchaser shall on demand refund to the Sellers the amount of any rates, taxes, utilities or other imposts paid by a Seller (or a member of the TSG Group) in respect of any period from the Effective Date until the relevant Transfer Date provided that such imposts relate to and/or were

paid by a Seller (or a member of the TSG Group) in respect of a Hotel Property and/or a Hotel Business.

- 6.5. The Parties undertake to use their respective best endeavors to procure that the TSC Employees each conclude an addendum to their employment agreements confirming that, with effect from the Effective Date, their employer will no longer be TSC, but will be the Purchaser (or a member of the TSH Group), on terms reasonably acceptable by both Parties.

7. DELIVERY OF THE HOTEL BUSINESSES

- 7.1. On the Effective Date, TSC shall deliver the Hotel Businesses to the Purchaser, provided that:
- 7.1.1. all Movable Property and benefits in the Hotel Businesses held by TSC and/or members of the TSG Group (as the case may be) shall be transferred to the Purchaser on the Effective Date; and
 - 7.1.2. registered title to each Hotel Property will be delivered on the Transfer Date.
- 7.2. The Purchaser and SSHI shall on the Effective Date hand over the control and/or management of all bank accounts of TSC held by SSHI and/or any TSH Group Company (including, without limitation, replacing SSHI's signatories to any such bank accounts with the Sellers nominees).
- 7.3. It is recorded that SSHI (a member of the TSH Group) currently manages the Hotel Businesses for and on behalf of the TSG Group in terms of the Management Agreements. SSHI and TSC (being the parties to the Management Agreements) hereby agree that the Management Agreements in respect of each Hotel Business and Hotel Property shall be assigned to the Purchaser with effect from the Effective Date, and SSHI hereby consents to such assignment. No fees, penalty and/or other similar costs are and will be payable by TSC or any TSG Group Company to SSHI and/or a TSH Group Company after the Effective Date and/or as a result of the assignment or subsequent termination of the Management Agreements.

8. OTHER POST EFFECTIVE DATE ARRANGEMENTS

- 8.1. It is acknowledged that the Hotel Businesses and Emnotweni Casino share a casino waste management contract. The Purchaser shall procure that it concludes a new waste management contract which shall become effective on the Effective Date. Accordingly, the Parties agree that the rights and obligations under and in respect of the waste management contract shall terminate in relation to the Hotel Businesses with effect from the Effective Date.
- 8.2. It is furthermore recorded that the Hotel Businesses' maintenance team reports to the Emnotweni Casino technical manager. With effect from the Effective Date, the Purchaser shall ensure that the reporting channel changes to the relevant hotel manager of the Hotel Businesses or SSHI.

- 8.3. Prior to the Effective Date, the Hotel Businesses make use of certain aspects of the Emnotweni Casino infrastructure. This includes, by way of example, borrowing food and beverage stock when required, making use of the clinic located at the Emnotweni Casino, when required, borrowing vehicles, when required, and requesting assistance with the management of its information technology systems when required. It is recorded that the sharing and assistance referred herein shall terminate on and with effect from the Effective Date, unless otherwise agreed between the Parties.
- 8.4. It is recorded that, while the Hotel Properties already have cameras installed, the Purchaser will be required to install and implement its own surveillance system and servers to make use of such cameras.

9. **CESSION OF LEASE AGREEMENTS AND CONTRACTS**

- 9.1. The Sellers shall, to the extent held by it and not already in the possession of any TSH Group Company, provide the Purchaser with copies of all Contracts, licenses and permits concluded by any TSG Group Company and/or on behalf of any TSG Group Company for the purpose of or in connection with conducting the Hotel Businesses, within 30 (thirty) days after the Signature Date.
- 9.2. The TSH Group Companies shall be entitled to negotiate the cancellation of any of the aforementioned Contracts, licenses and permits (including those contracts, licenses and permits referred to in clause 9.1) with suppliers and to enter into new contracts, licenses and permits with such suppliers or services providers with effect from (and not earlier than) the Effective Date.
- 9.3. With effect from the Effective Date, the Sellers hereby cede, assign and make over to the Purchaser (which accepts cession and assignment thereof) all of their rights, title and interest in and to the Contracts applicable to such Hotel and as such the Purchaser shall, with effect from the Effective Date, be: (i) entitled to the rights in and to the Contracts; (ii) entitled to any income that accrues in respect of the relevant Hotel; and (iii) liable for the obligations arising under or by virtue of the aforesaid Contracts.
- 9.4. The Parties shall, where such consent is required, use their respective best endeavours to obtain the consent of the counterparties to the cession and assignment of the Contracts applicable to the Hotel Businesses in accordance with the provisions of clause 9.3 or at the election of the Purchaser and/or any TSH Group Company the cancellation of such agreement in terms of clause 9.2.
- 9.5. If, after the Effective Date, any TSH Group Company or TSG Group Company receives a claim in respect of a Contract for which the other Party may incur liability for an event in respect of which the cause of action arose after the Effective Date, such recipient shall, within 5 (five) Business Days after receiving notification of such claim, inform the other Party of the existence of the relevant claim and shall provide the other Party with such assistance as the other Party

may reasonably require in order to defeat or otherwise deal with such claim, and such other Party shall hold the recipient harmless and keep it fully indemnified against such claim.

10. **ACCOUNTS RECEIVABLES**

10.1. In this clause 10, "**Trade Receivables**" means in respect of each Hotel Business all the claims at the Effective Date in respect of :

10.1.1. trade accounts receivable; and

10.1.2. any other accounts receivable other than deposits and deferred expenditure.

10.2. SSHI shall give TSG written notice (or procure that the relevant TSH Group Company shall give such notice) of each of the Trade Receivables which was not fully recovered on or before the Effective Date. Such notice shall give all reasonable information in respect of each of the Trade Receivables to which it relates (including the amount unrecovered, the invoices which have been sent, and the steps that have been taken to recover it).

10.3. SSHI shall continue to collect all Trade Receivables after the Effective Date in the ordinary course. If any Trade Receivable is recovered by the Purchaser or SSHI after the Effective Date, SSHI or the Purchaser (as the case may be) shall pay to TSC the amount of such recovery.

10.4. Any management fees and licence fees earned by TSH or SSHI on the portion of Trade Receivables not recovered within 6 (six) months after the Effective Date, shall be reimbursed by SSHI to the TSC within 1 (one) month after this 6 (six) month period. All records relating to such Trade Receivables not recovered shall be handed over by SSHI to TSC within 1 (one) month after the aforementioned 6 (six) month period. To the extent that the relevant Accounts Receivable are recovered by SSHI thereafter and paid to TSC, then TSC shall transfer the management fees so reimbursed applicable to the Accounts Receivable so recovered to SSHI.

11. **LIQUOR LICENCES**

11.1. The Purchaser shall, as soon as reasonably possible after the Signature Date, prepare, with the assistance and cooperation of the Sellers, all submissions, applications and documents which are required to be furnished by the Purchaser to the relevant authority and/or government body in order to apply for the Liquor Licences in its own name, it being noted that it is the Purchaser's desire to have the Liquor Licences in place in its name to continue the Hotel Businesses with effect from the Effective Date.

11.2. Each Party shall bear its own costs of and incidental to the preparation and submission of the applications, including the legal fees and costs of its advisors in the preparation of the applications and engagement with the relevant government bodies and authorities provided that all regulatory

fees payable in connection with the submission of the applications for transferring each transferrable Liquor Licence from the Sellers to the Purchaser shall be borne by the Purchaser.

- 11.3. The fact that any replacement licences to the current Liquor Licences are not granted or obtained (as applicable) prior to, or with effect from, the Effective Date, shall not preclude the Purchaser from continuing to operate the Hotel Businesses affected, provided that the operation of the Hotel Businesses by the Purchaser under those circumstances is not prohibited by the laws of South Africa.
- 11.4. Pending the transfer of the Liquor Licences from the Sellers to the Purchaser, the Purchaser shall maintain the payment of annual licence fees and any charges, levies or imposts such as might be required by the relevant licensing authority on or after the Effective Date.

12. PURCHASE PRICE AND PAYMENT

- 12.1. The aggregate purchase price payable by the Purchaser to the Sellers in consideration for the Hotel Properties and the Hotel Businesses is R141,599,000 (one hundred and forty one million five hundred and ninety nine thousand Rand) (excluding conveyancing fees and VAT) ("**Purchase Price**"), which shall be allocated and payable as follows:

- 12.1.1. to TSC in respect of the Southern Sun Emnotweni Business, the book value of the Movable Property of the Southern Sun Emnotweni Business sold in terms hereof as at the Effective Date, which is approximately R4,440,562 as at the Signature Date;
- 12.1.2. to Listed Investments in respect of the Southern Sun Emnotweni Hotel Property, R77,004,000 (seventy seven million and four thousand Rand) less the value allocated in terms of clause 12.1.1;
- 12.1.3. to TSC in respect of the StayEasy Emnotweni Business, the book value of the Movable Property of the StayEasy Emnotweni Business sold in terms hereof as at the Effective Date, which is approximately R9,274,745 as at the Signature Date; and
- 12.1.4. to Listed Investments in respect of the StayEasy Emnotweni Property, R64,595,000 (sixty four million five hundred and ninety five thousand Rand) less the value allocated in terms of clause 12.1.3.

All amounts stated above are exclusive of VAT, it being acknowledged that VAT shall be levied on all amounts at a rate of 15% (fifteen percent). On the Effective Date, the Sellers shall each provide a VAT invoice to the Purchaser reflecting the VAT payable on their relevant portions of the Purchase Price.

- 12.2. The Purchase Price shall become due and payable on the Effective Date and shall be settled on the Effective Date in cash by the Purchaser in accordance with clause 12.3.

- 12.3. All cash payments to be made in terms of or arising from this Agreement by any Party to another shall be made by electronic transfer of immediately available and freely transferable funds, in the currency of South Africa, into a South African bank account as the relevant Party may stipulate.

13. **ADJUSTMENT ACCOUNTS**

- 13.1. The Parties agree that SSHI will prepare, as soon as possible after the Effective Date (but not later than 2 (two) months after such Effective Date), a consolidated adjustment account in respect of the relevant Hotel Property and Hotel Business as at close of business on the relevant Effective Date ("**Adjustment Account**"). Each Adjustment Account shall reflect (without double counting):

13.1.1. as credits to the Sellers:

- 13.1.1.1. all rates, insurance premiums and other expenses prepaid by the Seller for any period after the Effective Date, the benefit of which will be enjoyed by the Purchaser by virtue of its ownership of the relevant Hotel;
- 13.1.1.2. the sum of all deposit guarantees (if any) provided by a Seller (or a TSG Group Company) in respect of each Hotel Property and Hotel Business;
- 13.1.1.3. the cost price (plus VAT thereon) of all inventory of food and beverages located at the Hotel Properties on the Effective Date, which the Purchaser shall acquire and retain;
- 13.1.1.4. the cash on hand in respect to each Hotel Business, including all such amounts held by SSHI and/or any TSH Group Company on behalf of TSC, to the extent retained by the Purchaser on the Effective Date and not transferred back to TSC; and
- 13.1.1.5. an amount equal to the total amount (if any) held on behalf of the Seller in respect of deposits for electricity, water and like charges; and

13.1.2. as debits to the Sellers:

- 13.1.2.1. an amount equal to all trade account payables as at the Effective Date which have not been paid by a Seller (or a member of the TSG Group) as at the Effective Date, and which expenses are payable by a Seller in respect of the Hotel Properties and/or Hotel Businesses for any period prior to the Effective Date, and are subsequently settled by the Purchaser. For the avoidance of doubt, the above excludes all provisions, including all leave pay, long service awards and other payables associated with employees employed in respect of the Hotel Businesses; and

13.1.2.2. the amounts paid by the customers of the relevant Hotel Business prior to the Effective Date in respect of any period after the Effective Date.

13.2. The amount payable by the Seller to the Purchaser, if a debit balance arises pursuant to the preparation of the relevant Adjustment Account, or by the Purchaser to the Seller, if a credit balance arises pursuant to the preparation of the relevant Adjustment Account, as the case may be, shall be paid within 3 (three) Business Days of the date of receipt by the Purchaser of the Adjustment Account as per clause 13.1 above.

14. **USE OF NAMES**

14.1. The Parties hereby agree that no TSH Group Company shall, after the Effective Date make use of the word “Emnotweni” in relation to the Hotel Properties, the Hotel Businesses or otherwise. As such, the Purchaser hereby undertakes to rebrand the Hotel Businesses and Hotel Properties to remove any reference to “Emnotweni” by no later than the Effective Date.

14.2. Notwithstanding the foregoing, the Purchaser shall be entitled to make use of the existing collateral, consumables, uniforms and similar items owned by it or the Hotel Businesses reflecting the name “Emnotweni” until 30 April 2023, but shall cease to use such items by that date.

15. **WARRANTIES AND EXCLUSION OF SELLER’S LIABILITY**

15.1. The Sellers, jointly and severally, hereby give to the Purchaser the following warranties in respect of the Hotel Properties and the Hotel Businesses:

15.1.1. Listed Investments is beneficial and registered owner of each Hotel Property being sold by it to the Purchaser, and will, subject to the release of security contemplated at clause 3.1.1, be able to give free and unencumbered title thereof to the Purchaser with effect from the Effective Date; and

15.1.2. TSC is the owner of each Hotel Business (including the Movable Property) being sold by it to the Purchaser, and will be able to give free and unencumbered title thereof to the Purchaser with effect from the Effective Date.

15.2. A Party shall only be liable for general damages by reason of a breach of this Agreement by the other Party. For the purposes of this clause 15 general damages (which excludes loss of profit which a Party would have earned by reason of this Agreement) are those damages which result immediately and proximately from, and with a sufficiently close connection to, any breach of this Agreement by a Party, and which on an objective basis were reasonably foreseeable as a probable consequence of such breach.

15.3. The maximum aggregate liability of any one Party in respect of all claims in terms of clause 15.2 shall not, in the aggregate, exceed 10% (ten percent) of the Purchase Price.

15.4. Notwithstanding anything to the contrary contained in this Agreement, or anything contained in the common law, under no circumstances, including as a result of the Party's negligent (but excluding grossly negligent) acts or omissions or those of its directors, employees, agents or contractors or other persons for whom such Party may be liable in law, shall a Party or its directors, employees, agents or contractors (in whose favour this constitutes a *stipulatio alteri*) be liable for any other loss, cost, interest or damage of any kind whatsoever (regardless of whether such loss, costs, interest or damage was foreseeable) and howsoever caused (whether arising in delict or contract, whether directly or by reason of vicarious or strict liability and regardless of whether such claim arises in relation to the performance of this Agreement or extraneously to the performance of this agreement), including:

15.4.1. those that may be categorised as indirect, special, exemplary, non-patrimonial or consequential loss or damage;

15.4.2. loss of profit; and/or

15.4.3. any death or injury;

which is incurred or sustained by the other Party, its directors, employees, representatives, contractors, agents, invitees or the dependents of any of them or any other person whomsoever.

15.5. Notwithstanding anything to the contrary contained in this Agreement, claims shall be wholly barred and unenforceable unless and to the extent that the affected Party has notified the other Party in writing of such claims by a date which is no later than the expiry of 12 (twelve) months after the Effective Date for claims relating to a breach of this Agreement, and thereafter has submitted the dispute to arbitration within a further period of 6 (six) months. Each Party hereby irrevocably and unconditionally waives and renounces any and all rights with regard to claims not so enforced or notified.

15.6. No Party shall be entitled to withhold or defer payment of any amount due to the other Party on account of any losses for which such other Party may be liable in terms of clause 15.2.

15.7. Nothing in this Agreement shall or shall be deemed to relieve a Party or any member of its Group of any common law or other duty to mitigate any loss or damage incurred by it.

15.8. No Party shall be entitled to make any claim against the other Party in respect of and/or in connection with any breach of the warranties or any other provision of this Agreement, to the extent that such claim would result in the Party that is the claimant being compensated more than once for the same damage or loss.

15.9. The Purchaser is expressly informed by the Sellers that the Hotel Properties and the Movable Property are offered on an "as is" basis. No warranties or representations, express or implied or tacit whether by law, contract or otherwise and whether they induced the contract or not, which

are not set forth in this Agreement shall be binding on the Sellers, the Purchaser irrevocably waiving any right (common law or otherwise) it may have to rely thereon and acknowledging that the Hotel Properties and the Movable Property have in terms of the Management Agreement been managed by SSHI, and the Hotel Businesses are purchased on the basis that it is taken *voetstoots* and with the exclusion of all common law and other remedies including *aedilician* remedies. For the avoidance of doubt, the Sellers shall not be liable for any patent or latent defects in the Properties, including any improvements thereon, the Purchaser waiving any claims that it may in relation thereto.

16. **NO PUBLICATION IN TERMS OF THE INSOLVENCY ACT**

- 16.1. The Parties hereby record and acknowledge that notice of the sale of the Hotel Properties and the Hotel Businesses in terms of this Agreement will not be published, as contemplated in terms of section 34 of the Insolvency Act.
- 16.2. The Sellers, jointly and severally, indemnify the Purchaser against all loss, liability, damage and expense of whatsoever nature which the Purchaser may suffer as a result of notice of this transaction not being published in terms of the Insolvency Act.

17. **BREACH**

- 17.1. For purposes of this clause 17, “**Remedy Period**” shall mean a period of 10 (ten) Business Days after receipt of a written notice requiring a Party to remedy a breach (or, in the case of clause 17.2.1, if it is not reasonably possible to remedy the breach within that period, then within such further period as may be reasonable in the circumstances provided that the defaulting Party furnishes evidence within the period of 5 (five) days, reasonably satisfactory to the aggrieved Party, that it has taken whatever steps are available to it to commence remedying the breach).
- 17.2. Unless there is another clause in this Agreement which provides its own remedies, which remedies shall then prevail over the remedies in this clause 17, if :
 - 17.2.1. a Party breaches any term of this Agreement and if the breach is capable of being remedied, fails to remedy such breach within the Remedy Period;
 - 17.2.2. a Party breaches any term of this Agreement which is not capable of being remedied;

then the aggrieved Party shall be entitled, in addition to any other remedy available to the aggrieved Party whether at law or under this Agreement, to :

 - 17.2.3. cancel this Agreement by notifying the other Party in writing that it has done so, provided that no cancellation may be made by any Party after payment by the Purchaser of the Purchase Price;

17.2.4. claim specific performance of any obligation whether or not the due date for performance has arrived by notifying the other Party in writing; and/or

17.2.5. continue with this Agreement,

but without prejudice to the aggrieved Party's right to claim damages or obtain an interdict.

18. **INDIVISIBILITY**

The Parties record and agree that the transaction contemplated in this Agreement is indivisibly linked to the conclusion and implementation of the Separation Agreement. Accordingly, if the Separation Agreement is terminated for any reason, then this Agreement shall likewise terminate, unless otherwise agreed between the Parties.

19. **AGENT'S COMMISSION**

It is recorded that this sale was not effected through the instrumentality of any agent.

20. **CO-OPERATION**

Each of the Parties hereby undertakes to:

20.1. do and to procure the doing by other persons, and to refrain and procure that other persons will refrain from doing, all such acts; and

20.2. pass and to procure the passing of all such resolutions of directors or shareholders of any company or, as the case may be,

to the extent that the 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.

21. **INDEPENDENT ADVICE**

Each Party acknowledges that he/she/it has been free to secure independent legal and other advice as to the nature and effect of all the provisions of this Agreement and that each of the Parties has either taken such independent legal and other advice or dispensed with the necessity of doing so. Further, each Party acknowledges that all of the provisions of this Agreement and the restrictions herein contained have been negotiated between the Parties and are part of the overall intention of the Parties in connection with this Agreement.

22. **DISPUTE RESOLUTION**

22.1. If any dispute or difference shall arise between all or any of the Parties out of or in relation to or in connection with this Agreement, or the interpretation thereof, or any breach thereof, the Party claiming such dispute or difference, shall forthwith advise the other Parties in writing thereof.

- 22.2. Within 10 (ten) Business Days of receipt of such notice, the Parties shall meet and negotiate in good faith in order to resolve such dispute or difference.
- 22.3. Should the Parties fail to resolve such dispute or difference within 5 (five) Business Days of their meeting or such longer period as the Parties may agree in writing, any Party may refer such dispute or difference to mediation to be undertaken by a single mediator.
- 22.4. The Party referring the dispute to mediation shall, within 5 (five) Business Days of the Parties having failed to resolve the dispute in terms of clause 22.3, submit to the other Party in writing the names and occupations of 3 (three) persons proposed by it to act as mediator and request the other Party to agree to the appointment of any one of them in writing within 5 (five) Business Days of receipt of such notice.
- 22.5. In the event of the Parties being unable to agree on the appointment of a mediator, the Parties shall, within 5 (five) Business Days after the date of receipt of the notice in terms of clause 22.4, submit the dispute to the AFSA or its successors for AFSA administered mediation by one mediator, upon the terms set by the AFSA secretariat.
- 22.6. Failing such a resolution, the dispute if possible to be settled by means of arbitration, shall be finally resolved in accordance with the Rules of AFSA by an arbitrator appointed by AFSA.
- 22.7. The decision of the Arbitrator appointed by AFSA shall be final and binding on the Parties, and may be made an order of any court of competent jurisdiction, including its award in respect of the costs of arbitration. There shall be no appeal against such decision.
- 22.8. Nothing herein contained shall disallow any party to make application for an interdict or urgent relief in appropriate circumstances.
- 22.9. The Parties hereby irrevocably consent to the proceedings as set out in this clause 22.

23. **NOTICES AND DOMICILIA**

- 23.1. Each of the Parties chooses *domicilium citandi et executandi* ("**domicilium**") for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from this Agreement at their respective addresses set forth in clause 1.
- 23.2. Each of the Parties shall be entitled from time to time, by written notice to the other Parties to vary its *domicilium* to any other address which is not a post office box or *poste restante*.

24. **ASSIGNMENT**

Neither this Agreement nor any part, or interest therein or any rights or obligations hereunder may be ceded, assigned, or otherwise transferred by either Party without the prior written consent of the other Party.

25. **GOVERNING LAW**

The provisions of this Agreement are governed by, and shall be construed in accordance with, the laws of South Africa.

26. **SUPERSESION**

This Agreement cancels and supersedes all prior negotiations and agreements entered into between the Parties relating to the matters set forth herein.

27. **SEVERABILITY**

Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction shall, with respect to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

28. **NO WAIVER**

No relaxation, indulgence or extension of time granted by any Party ("**the Grantor**") to the other Party shall be construed as a waiver of any of the Grantor's rights in terms hereof, or a novation of any of the terms of this Agreement or estop the Grantor from enforcing strict and punctual compliance with the terms of this Agreement.

29. **NO VARIATION**

No variation of, addition to, consensual cancellation of or waiver of any right arising in terms of this Agreement (including this clause 29) shall be of any force or effect unless it is reduced to writing and signed by each of the Parties or their duly authorised representatives.

30. **WHOLE AGREEMENT**

This Agreement constitutes the whole agreement between the Parties in relation to the subject matter thereof and no Party shall accordingly be bound by any undertaking, representation or warranty not recorded therein.

31. **COSTS**

Each Party will bear and pay its own costs and expenses of and incidental to the negotiation, drafting, preparation and implementation of this Agreement.

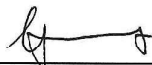
32. COUNTERPARTS

This Agreement may be executed in a number of counterparts and by the same Parties in different counterparts but shall not be effective until each Party has executed at least one counterpart. Each counterpart, when executed shall be an original, but all counterparts together constitute the same document.

The remainder of this page has been intentionally left blank. Signature blocks follow on the next page.

FOR: LISTED INVESTMENTS PROPRIETARY LIMITED

Signature: _____



who warrants that he / she is duly authorised thereto

Name: _____

Gregory Lunge

Date: _____

25 May 2022

Place: _____

Fournays

FOR: TSOGO SUN CASINOS PROPRIETARY LIMITED

Signature: _____



who warrants that he / she is duly authorised thereto

Name: _____

Gregory Lunge

Date: _____

25 May 2022

Place: _____

Fournays

FOR: HPF PROPERTIES PROPRIETARY LIMITED

Signature: _____

who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

FOR: LISTED INVESTMENTS PROPRIETARY LIMITED

Signature: _____
who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

FOR: TSOGO SUN CASINOS PROPRIETARY LIMITED


Signature: _____
who warrants that he / she is duly authorised thereto

Name: _____

Date: _____

Place: _____

FOR: HPF PROPERTIES PROPRIETARY LIMITED

Signature:  _____
who warrants that he / she is duly authorised thereto

Name: M N VON Aulock

Date: 25/05/2022

Place: FOURWAYS.

FOR: SOUTHERN SUN HOTEL INTERESTS PROPRIETARY LIMITED

Signature:



who warrants that he / she is duly authorised thereto

Name:

MN von Aulock

Date:

25/05/2022

Place:

Fourways.

Annexure A Management Agreements*Management Agreements*

1. The written agreement titled "*Management Agreement*" entered into between SSHI (as the manager) and TSC (as the owner) in respect of the management of the StayEasy Emnotweni Hotel Business on or about 13 January 2010 (as amended by the addenda concluded by the parties thereto on 25 July 2018 and 14 March 2019); and
2. The written agreement titled "*Management Agreement*" entered into between SSHI (as the manager) and TSC (as the owner) in respect of the Southern Sun Emnotweni Hotel Business, on or about 22 April 2010 (as amended by the addenda concluded by the parties thereto on 20 February 2018, 25 July 2018 and 14 March 2019).

License Agreements

3. The written agreement titled "*License Agreement*" entered into between SSHI (as the manager) and TSC (as the owner) in respect of, *inter alia*, the granting by SSHI to TSC of a non-exclusive, non-assignable and non-transferrable license to use the relevant marks (including the word marks "*Southern Sun*") in connection with the hotel commonly known as "*Southern Sun Emnotweni*", on or about 2 February 2010 (as amended); and
4. The written agreement titled "*License Agreement*" entered into between SSHI (as the manager) and TSC (as the owner) in respect of, *inter alia*, the granting by SSHI to TSC of a non-exclusive, non-assignable and non-transferrable license to use the relevant marks (including the word marks "*Southern Sun*" and "*StayEasy*") in connection with the hotel commonly known as "*StayEasy Emnotweni*", on or about 13 January 2010 (as amended).

Annexure B TSC Employees

Company Rule Short Description	Employee Code	Employee Name	Job Title Type Long Description	Nature of Contract Code
Emnotweni Casino	8900521	Mr HS Mnisi	Maintenance Attendant/Handyman	PERM
Emnotweni Casino	8900722	Mr PS Mahlangu	Maintenance Attendant/Handyman	PERM
Emnotweni Casino	8901058	Mr VL Motha	Maintenance Attendant/Handyman	PERM
Emnotweni Casino	8901102	Mr TS Mathonsi	Maintenance Attendant/Handyman	PERM