
APPLICABLE PRICING SUPPLEMENT



HOSPITALITY PROPERTY FUND LIMITED

*(Incorporated in the Republic of South Africa with limited liability under registration number
(2005/014211/06))*

Issue of ZAR300,000,000 Senior Secured Floating Rate Notes due 31 March 2024

Under its ZAR10,000,000,000 Domestic Medium Term Note Programme

This Applicable Pricing Supplement (the **Applicable Pricing Supplement**) must be read in conjunction with the Programme Memorandum, dated 31 January 2019, prepared by Hospitality Property Fund Limited in connection with the Hospitality Property Fund Limited ZAR10,000,000,000 Domestic Medium Term Note Programme, as amended and/or supplemented from time to time (the **Programme Memorandum**).

Any capitalised terms not defined in this Applicable Pricing Supplement (including Appendix "A" headed "Description of Security Arrangements" and Appendix "B" headed "Additional Terms and Conditions") shall have the meanings ascribed to them in the section of the Programme Memorandum headed "Terms and Conditions of the Notes".

This document constitutes the Applicable Pricing Supplement relating to the issue of Notes described herein and which shall be referred to hereinafter as **Senior Secured Notes**. The Senior Secured Notes described herein are issued on and subject to the Terms and Conditions as amended and/or supplemented by the Terms and Conditions contained in this Applicable Pricing Supplement. To the extent that there is any conflict or inconsistency between the contents of this Applicable Pricing Supplement and the Programme Memorandum, the provisions of this Applicable Pricing Supplement shall prevail.

PARTIES

1.	Issuer	Hospitality Property Fund Limited
2.	Dealer	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
3.	Manager	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
4.	Debt Sponsor	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
5.	Paying Agent	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
	Specified Office	1 Merchant Place, Cnr Fredman Drive and Rivonia Road, Sandton, 2196, South Africa
6.	Calculation Agent	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
	Specified Office	1 Merchant Place, Cnr Fredman Drive and Rivonia Road, Sandton, 2196, South Africa
7.	Transfer Agent	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
	Specified Office	1 Merchant Place, Cnr Fredman Drive and Rivonia Road, Sandton, 2196, South Africa

8.	Settlement Agent	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
	Specified Office	1 Merchant Place, Cnr Fredman Drive and Rivonia Road, Sandton, 2196, South Africa
9.	Issuer Agent	FirstRand Bank Limited (acting through its Rand Merchant Bank division)
	Specified Office	1 Merchant Place, Cnr Fredman Drive and Rivonia Road, Sandton, 2196, South Africa

PROVISIONS RELATING TO THE NOTES

10.	Status of Notes	Senior Secured <i>See Appendix "A" for a description of the security arrangements</i>
11.	Form of Notes	Listed Notes, issued in uncertificated form held in the CSD
12.	Series Number	12
13.	Tranche Number	1
14.	Aggregate Nominal Amount:	
	(a) Series	ZAR300,000,000
	(b) Tranche	ZAR300,000,000
15.	Interest	Interest-bearing
16.	Interest Payment Basis	Floating Rate
17.	Automatic/Optional Conversion from one Interest/ Redemption/ Payment Basis to another	N/A
18.	Issue Date	17 April 2019
19.	Nominal Amount per Note	ZAR1,000,000
20.	Specified Denomination	ZAR1,000,000
21.	Specified Currency	ZAR
22.	Issue Price	100%
23.	Interest Commencement Date	17 April 2019
24.	Maturity Date	31 March 2024
25.	Applicable Business Day Convention	Following Business Day
26.	Final Redemption Amount	100% of Nominal Amount
27.	Last Day to Register	By 17h00 on 20 March, 19 June, 19 September, and 20 December or if such day is not a Business Day, the Business day before the Book Closed Period, in each year until the Maturity Date
28.	Books Closed Period(s)	The Register will be closed from 21 March to 30 March, 20 June to 29 June, 20 September to 29 September and 21 December to 30 December (all dates inclusive) in each year until the Maturity Date
29.	Default Rate	N/A

FIXED RATE NOTES

N/A

FLOATING RATE NOTES

30.	(a)	Floating Interest Payment Date(s)	31 March, 30 June, 30 September and 31 December or if such day is not a Business Day, the Business Day on which interest will be paid, as determined in accordance with the applicable Business Day Convention (as specified in this Applicable Pricing Supplement), in each year until the Maturity Date, with the first Floating Interest Payment Date being 30 June 2019
	(b)	Interest Period(s)	Each period beginning on (and including) one Floating Interest Payment Date and ending on (but excluding) the next Floating Interest Payment Date, with the first Interest Period beginning on (and including) the Interest Commencement Date and ending on (but excluding) the first Floating Interest Payment Date (each Floating Interest Payment Date as adjusted in accordance with the applicable Business Day Convention)
	(c)	Definition of Business Day (if different from that set out in Condition 1) (<i>Interpretation</i>)	N/A
	(d)	Minimum Rate of Interest	N/A
	(e)	Maximum Rate of Interest	N/A
	(f)	Other terms relating to the method of calculating interest (e.g.: Day Count Fraction, rounding up provision)	N/A
31.		Rate of Interest and the manner in which the Rate of Interest is to be determined	Screen Rate Determination plus Margin
32.		Margin	160 basis points to be added to the relevant Reference Rate
33.		If ISDA Determination	N/A
34.		If Screen Determination:	
	(a)	Reference Rate (including relevant period by reference to which the Rate of Interest is to be calculated)	ZAR-JIBAR-SAFEX with a designated maturity of 3 (three) months
	(b)	Interest Determination Date(s)	The first Business Day of each Interest Period save for the first Interest Determination Date being 12 April 2019
	(c)	Relevant Screen Page and Reference Code	Reuters page or any applicable successor page
35.		If Rate of Interest to be calculated otherwise than by ISDA Determination or Screen Determination, insert basis for determining Rate of Interest/Margin/ Fallback provisions	N/A
36.		Calculation Agent responsible for calculating amount of principal and	N/A

interest

ZERO COUPON NOTES	N/A
PARTLY PAID NOTES	N/A
INSTALMENT NOTES	N/A
MIXED RATE NOTES	N/A
INDEX-LINKED NOTES	N/A
DUAL CURRENCY NOTES	N/A
EXCHANGEABLE NOTES	N/A
OTHER NOTES	N/A

PROVISIONS REGARDING REDEMPTION/MATURITY

37.	Redemption at the Option of the Issuer:	Yes
	If Yes:	
	a) Optional Redemption Date(s)	Any Floating Interest Payment Date after the Issue Date
	b) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s)	If the Redemption Date following the exercise by the Issuer of its option to redeem all or some of the Notes in accordance with Condition 10.3 (<i>Redemption at the Option of the Issuer</i>) occurs during the period commencing on the Issue Date and ending one day prior to the Maturity Date, 100% (one hundred percent) of the Nominal Amount, together with accrued interest up to but excluding the initial Optional Redemption Date.
	c) Minimum period of notice (if different from Condition 10.3 (<i>Redemption at the Option of the Issuer</i>))	3 (three) Business Days
	d) If redeemable in part:	
	Minimum Redemption Amount(s)	N/A
	Higher Redemption Amount(s)	N/A
	e) Other terms applicable on Redemption	N/A
38.	Redemption at the Option of the Senior Noteholders:	Yes (See Appendix B for additional redemption events relating to the Senior Secured Notes).
39.	Redemption in the event of a Change of Control at the election of Noteholders pursuant to Condition 10.5 (<i>Redemption in the event of a Change of Control</i>) or any other terms applicable to a Change of Control	Yes
40.	Redemption in the event of a failure to maintain JSE Listing and Rating at the election of Noteholders pursuant to Condition 10.6 (<i>Redemption in the event of a failure to maintain JSE Listing or</i>	Yes

Rating)

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| 41. | Early Redemption Amount(s) payable on redemption for taxation reasons pursuant to Condition 10.2 (<i>Redemption for Tax Reasons</i>), at the option of the Issuer in terms of Condition 10.3 (<i>Redemption at the Option of the Issuer</i>) at the option of the Noteholders in terms of Condition 10.4 (<i>Redemption at the Option of the Senior Noteholders</i>), in the event of a Change of Control in terms of Condition 10.5 (<i>Redemption in the event of a Change of Control</i>), on a redemption pursuant to Condition 10.6 (<i>Redemption in the event of a failure to maintain JSE Listing and Rating</i>), on a redemption pursuant to Condition 10.7 (<i>Clean-Up Call Option</i>) or on Event of Default in terms of Condition 16 (<i>Events of Default</i>) (if required or if different from that set out in the relevant Conditions). | No |
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GENERAL

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| 42. | Financial Exchange | Interest Rate Market of the JSE Limited |
| 43. | Additional selling restrictions | N/A |
| 44. | ISIN No. | ZAG000158338 |
| 45. | Stock Code | HPF12 |
| 46. | Stabilising manager | N/A |
| 47. | Provisions relating to stabilisation | N/A |
| 48. | Method of distribution | Private Placement |
| 49. | Credit Rating assigned to the Issuer | A-(ZA) on a long-term and A1-(ZA) on a short-term National Scale indicative rating assigned as at September 2018 |
| 50. | Applicable Rating Agency | Global Credit Rating Co. Proprietary Limited |
| 51. | Governing law (if the laws of South Africa are not applicable) | N/A |
| 52. | Other provisions | See Appendix "B" for Additional Terms and Conditions relating to the Senior Secured Notes; Appendix "C" for Noteholder Debt Guarantee; Appendix "D" for Noteholder Guarantee; Appendix "E" for Description of Guarantors and Noteholder Trustee and Appendix "F" for General. |

DISCLOSURE REQUIREMENTS IN TERMS OF PARAGRAPH 3(5) OF THE COMMERCIAL PAPER REGULATIONS IN RELATION TO THIS ISSUE OF NOTES

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|-----|---|
| 53. | <u>Paragraph 3(5)(a)</u>
The "ultimate borrower" (as defined in the Commercial Paper Regulations) is the Issuer. |
| 54. | <u>Paragraph 3(5)(b)</u> |

its commitments under the Senior Secured Notes.

55. Paragraph 3(5)(c)

The auditor of the Issuer is PricewaterhouseCoopers Inc.

56. Paragraph 3(5)(d)

As at the date of this issue:

- (i) the Issuer has issued Commercial Paper (as defined in the Commercial Paper Regulations) in an aggregate amount of ZAR890,000,000 (exclusive of the Notes issued in terms of this issue); and
- (ii) the Issuer estimates that it may issue ZAR300,000,000 of additional Commercial Paper during the current financial year, ending 31 March 2020.

57. Paragraph 3(5)(e)

All information that may reasonably be necessary to enable the investor to ascertain the nature of the financial and commercial risk of its investment in the Senior Secured Notes is contained in the Programme Memorandum and the Applicable Pricing Supplement.

58. Paragraph 3(5)(f)

There has been no material adverse change in the Issuer's financial position since the date of its last audited financial statements.

59. Paragraph 3(5)(g)

The Senior Secured Notes issued will be listed.

60. Paragraph 3(5)(h)

The funds to be raised through the issue of the Senior Secured Notes are to be used by the Issuer for its general corporate purposes.

61. Paragraph 3(5)(i)

The obligations of the Issuer in respect of the Senior Secured Notes are secured.

62. Paragraph 3(5)(j)

PricewaterhouseCoopers Inc., the statutory auditors of the Issuer, have confirmed that nothing has come to their attention to indicate that this issue of Senior Secured Notes issued under the Programme will not comply in all material respects with the relevant provisions of the Commercial Paper Regulations.

Responsibility:

The Issuer certifies that to the best of its knowledge and belief there are no facts that have been omitted from the Programme Memorandum or this Applicable Pricing Supplement which would make any statement false or misleading, that all reasonable enquiries to ascertain such facts have been made and that the Programme Memorandum together with this Applicable Pricing Supplement contain all information required by law and the Debt Listings Requirements of the JSE. The Issuer accepts full responsibility for the accuracy of the information contained in the Programme Memorandum, this Applicable Pricing Supplement and all documents incorporated by reference (see the section of the Programme Memorandum headed "*Documents Incorporated by Reference*") and any amendment or supplements to the aforementioned documents, except as otherwise stated therein.

The JSE takes no responsibility for the contents of the Programme Memorandum, the annual financial statements, the annual reports and this Applicable Pricing Supplement of the Issuer and any amendments or supplements to the aforementioned documents. The JSE makes no representation as to the accuracy or completeness of the Programme Memorandum, the annual financial statements, the annual reports and this Applicable Pricing Supplement of the Issuer and any amendments or supplements to the aforementioned documents and expressly disclaims any liability for any loss arising from or in reliance upon the whole or any part of the aforementioned documents. The JSE's approval of the registration of the Programme Memorandum and listing of the Notes is not to be taken in any way as an indication of the merits of the Issuer or of the Notes and that, to the extent permitted by law, the JSE will not be liable for any claim whatsoever.


As at the date of this Applicable Pricing Supplement, the Issuer confirms that the authorised

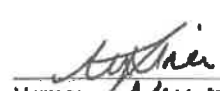
Programme Amount of ZAR10,000,000,000 has not been exceeded.

Application was made to list this issue of Senior Secured Notes on 17 April 2019.

SIGNED at Johannesburg on this 12th day of April 2019.

For and on behalf of
HOSPITALITY PROPERTY FUND LIMITED

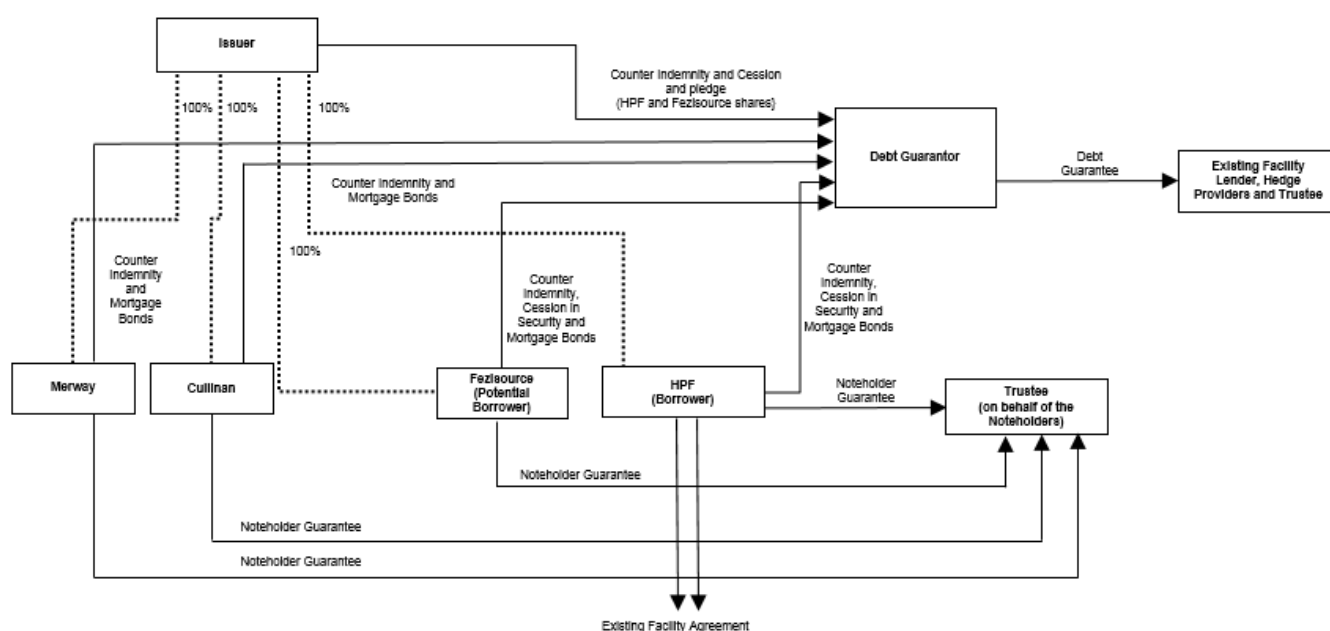

Name: Rob Nicoella
Capacity: Director / CEO
Who warrants his/her authority hereto


Name: Maja de Lima
Capacity: Director
Who warrants his/her authority hereto

DESCRIPTION OF SECURITY ARRANGEMENTS

The below is a brief description of the security arrangements in respect of the Senior Secured Notes and does purport to form part of the Terms and Conditions.

Security Structure Diagram



1. Interpretation

Terms and expressions defined in the Security Sharing Agreement (as defined in Appendix "B" (*Additional Terms and Conditions*)) and not otherwise defined in this Appendix "A" (*Description of Security Arrangements*) shall have the same meanings in this Appendix "A" (*Description of Security Arrangements*). In addition, unless inconsistent with the context:

- 1.1 **Cession in Security (HPF and Fezleource)** means the cession and pledge in security concluded on or about 28 April 2017 by Hospitality and the Debt Guarantor, in terms of which Hospitality pledges, and cedes *in securitatem debiti* its rights, title and interest in, its shares in HPF and Fezleource to the Debt Guarantor;
- 1.2 **Loan Finance Providers** means the Original Facility Lender and each Additional Finance Provider as defined in the Security Sharing Agreement;
- 1.3 **Security** means a mortgage bond, notarial bond, cession in security, charge, pledge, hypothec, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

2. **Description of Security Arrangements**

- 2.1 The Senior Secured Notes constitute direct, senior, unconditional and secured indebtedness of the Issuer, but rank *pari passu* amongst themselves and *pari passu* with any indebtedness incurred to the Loan Finance Providers under the Credit Agreements and with any indebtedness incurred to the Hedge Providers under the Hedging Agreements.
- 2.2 The Issuer may issue second ranking Secured Notes in the future.
- 2.3 The obligations of the Issuer under the Senior Secured Notes will be directly guaranteed and indirectly secured as set out below.

3. **Direct Guarantees**

3.1 *Direct Guarantee by the Debt Guarantor*

The *Debt Guarantor* has irrevocably guaranteed, by way of a guarantee agreement, with an effective date of 28 April 2017, the obligations of HPF, Fezisource, Cullinan, Merway and the Issuer to:

- 3.1.1 each Loan Finance Provider under each Credit Agreement;
- 3.1.2 the Noteholder Trustee (acting for the benefit of the Secured Noteholders) under the Noteholder Debt Guarantee; and
- 3.1.3 the Hedge Providers under the Hedging Agreements.

3.2 *Direct Guarantee by HPF, Fezisource, Cullinan and Merway*

HPF, Fezisource, Cullinan and Merway have irrevocably guaranteed, by way of a guarantee agreement, with an effective date of 28 April 2017, the Issuer's obligations under the Senior Secured Notes, in favour of the Noteholder Trustee (acting for the benefit of the Secured Noteholders).

4. **Security and Guarantee**

4.1 *HPF, Fezisource, Cullinan and Merway*

- 4.2 In terms of the Counter Indemnity, HPF, Fezisource, Cullinan and Merway (as well as the Issuer) indemnify the Debt Guarantor against claims made by the Loan Finance Providers and/or the Noteholder Trustee and/ or the Hedge Providers against the Debt Guarantor under the Security debt guarantees.

- 4.2.1 The obligations of HPF, Fezisource, Cullinan and Merway under the Counter Indemnity are secured by:

- 4.2.1.1 the Cession in Security; and

- 4.2.1.2 the Mortgage Bonds.

4.3 *Issuer*

The obligations of the Issuer under the Counter Indemnity are secured by the Pledge and Cession.

5. **Risks relating to the Security Structure**

5.1 As set out above, the Security will not be granted directly in favour of the Secured Noteholders. Instead, the Security will be granted in favour of the Debt Guarantor.

5.2 As a result, neither the Noteholder Trustee (acting for the benefit of the Senior Noteholders) nor the Secured Noteholders will have the right to realise the Security directly. Instead, the Noteholder Trustee (acting on the instructions of the Senior Noteholders) must in accordance with the Security Sharing Agreement, instruct the Enforcement Agent, to call a meeting of the Finance Providers where the voting Finance Providers would be required to vote in favour of any realisation of Security in accordance with the terms and conditions of the Security Sharing Agreement. This indirect claim in respect of the Security may result in a delay in realisation or could involve voting Finance Providers voting against the realisation of the Security.

ADDITIONAL TERMS AND CONDITIONS

The following are the additional terms and conditions (the **Additional Terms and Conditions**) which apply to the HPF12 Notes (the **Senior Secured Notes**) and which will be incorporated by reference into each Senior Secured Note.

In addition to the below, (i) all references to notice to the Noteholders and rights and/or discretions to be exercised by the Noteholders shall for the purposes of the Senior Secured Notes, be deemed to be references to notice to the Noteholder Trustee and the Senior Secured Noteholders and rights and/or discretions to be exercised by the Noteholder Trustee in accordance with the instructions of the relevant majority of Senior Secured Noteholders or such other person as prescribed in relation to any particular matter under the Notes Trust Deed, as the case may be; and (ii) all references in the Programme Memorandum to Senior Notes shall be deemed to be references to the Senior Secured Notes.

1. Interpretation

Terms and expressions defined in the Security Sharing Agreement (as defined below) and not otherwise defined in the Terms and Conditions and/or these Additional Terms and Conditions shall have the same meanings in these Additional Terms and Conditions. In addition, unless inconsistent with the context:

- 1.1 **Cullinan** means The Cullinan Hotel Proprietary Limited, a private company incorporated under the laws of the Republic of South Africa with registration number 1988/004685/07;
- 1.2 **Debt Guarantor** means Hospitality Guarantee SPV (RF) Proprietary Limited, a private company incorporated under the laws of the Republic of South Africa with registration number 2005/036268/07;
- 1.3 **Fezisource** means Fezisource Proprietary Limited, a private company incorporated under the laws of the Republic of South Africa with registration number 2015/305572/07;
- 1.4 **HPF** means HPF Properties Proprietary Limited (registration number 2005/020743/07), a private company duly incorporated in accordance with the laws of South Africa;
- 1.5 **Merway** means Merway Fifth Investments Proprietary Limited, a private company incorporated under the laws of the Republic of South Africa with registration number 1991/006478/07;
- 1.6 **Noteholder Debt Guarantee** means the debt guarantee issued or to be issued in favour of the Noteholder Trustee (for the benefit of the Secured Noteholders), in terms of which the Debt Guarantor guarantees the obligations of the Obligor under the Secured Notes;

- 1.7 **Noteholder Guarantee** means the guarantee issued or to be issued in favour of the Secured Noteholders, pursuant to which each of HPF and Fezisource guarantees the obligations of Hospitality under the Secured Notes;
- 1.8 **Noteholder Trustee** means TMF Corporate Services (South Africa) Proprietary Limited, a private company incorporated under the laws of the Republic of South Africa with registration number 1967/010920/07;
- 1.9 **Obligors** means the Issuer, Fezisource, HPF, Cullinan, Merway and any other person that may accede to the Security Sharing Agreement, as an Obligor, from time to time; and
- 1.10 **Security Sharing Agreement** means the written agreement entitled "Security Sharing Agreement" concluded amongst, *inter alia*, the Obligors, the Debt Guarantor, Nedbank and the other "Finance Parties" (all as defined therein) on 28 April 2017 as amended and restated or supplemented from time to time

2. **Guarantees**

- 2.1 The occurrence of one or more of the following events set out in this paragraph 2 (*Guarantees*) shall constitute an Event of Default as set out in Condition 16.1.1.9 (*Other*):
- 2.1.1 The Noteholder Debt Guarantee and/or the Noteholder Guarantee is not in full force and effect and such failure has continued for more than 30 (thirty) days following service on the Debt Guarantor and/or the Obligors (as applicable) and the Issuer of a written notice requiring that failure to be remedied; or
- 2.1.2 it is or becomes unlawful for the Debt Guarantor and/or the Obligors, to perform any of its obligations under the Noteholder Debt Guarantee and/or the Noteholder Guarantee (as applicable); or
- 2.1.3 the Debt Guarantor and/or the Obligors repudiates the Noteholder Debt Guarantee and/or the Noteholder Guarantee (as applicable) or evidence an intention to repudiate the Noteholder Debt Guarantee and/or the Noteholders Guarantee (as applicable).
- 2.2 The Noteholder Debt Guarantee and/or the Noteholder Guarantee shall not be amended, modified or varied, unless such amendments are of a technical nature, to correct a manifest error or to comply with mandatory provisions of law, without the prior approval of the Secured Noteholders, holding not less than 66.67% (sixty-six point six-seven percent) in Nominal Amount of the Notes Outstanding from time to time or a specific Class of Notes, as the case may be, represented by the Noteholder Trustee.

3. **Financial Covenants**

The Issuer shall, and if applicable, shall procure that each other Obligor will:

- 3.1 ensure that, for as long as any Senior Secured Note remains Outstanding:

- 3.1.1 the Loan to Value Ratio does not exceed 45% (forty five percent); and
 - 3.1.2 the Interest Cover Ratio is not less than 2:1 (two to one),
- (each a **Financial Covenant** and collectively, the **Financial Covenants**).
- 3.2 The Issuer shall and if applicable, shall procure that each other Obligor will, be required within 90 (ninety) days after each Measurement Date to:
 - 3.2.1 test the Financial Covenants as at each Measurement Date; and
 - 3.2.2 provide the Noteholder Trustee with a certificate signed by any two directors of the Issuer setting out each Financial Covenant together with the calculations thereof (a **Compliance Certificate**).
 - 3.3 If a breach of the Financial Covenant set out in:
 - 3.3.1 paragraph 3.1.1 above (a **LTV Financial Covenant Breach**) occurs while any Senior Secured Note remains Outstanding, then the Issuer shall within 15 (fifteen) days after the date on which the relevant Compliance Certificate is delivered pursuant to paragraph 3.2.2 above, (the **LTV Remedy Period**), take steps to remedy such LTV Financial Covenant Breach; and
 - 3.3.2 paragraph 3.1.2 above occurs, such breach shall constitute an Event of Default as set out in Condition 16.1.1.9 (*Other*) with effect from the relevant Measurement Date.
 - 3.4 Should the Issuer:
 - 3.4.1 remedy the LTV Financial Covenant Breach within the LTV Remedy Period, the LTV Financial Covenant Breach shall be deemed not to have occurred; or
 - 3.4.2 fail to remedy the LTV Financial Covenant Breach within the LTV Remedy Period, the LTV Financial Covenant Breach shall constitute an Event of Default as set out in Condition 16.1.1.9 (*Other*) with effect from the relevant Measurement Date.
 - 3.5 In the event of any dispute in respect of any calculation relating to any Financial Covenant, such dispute shall be determined by the Issuer's independent auditors, acting as experts and not as arbitrators (taking into account the Terms and Conditions), whose determination will, in the absence of manifest error, be final and binding on the Issuer and Senior Secured Noteholders. The cost of such independent auditors in resolving such dispute shall be borne by the Issuer.
 - 3.6 For the purposes of paragraph 3.1:
 - 3.6.1 **Financial Indebtedness** means any indebtedness for or in respect of:
 - 3.6.1.1 moneys borrowed;

- 3.6.1.2 any amount raised by acceptance under any acceptance credit facility or dematerialised equivalent;
- 3.6.1.3 any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- 3.6.1.4 the amount of any liability in respect of any lease or hire purchase contract which would, in accordance with IFRS, be treated as a finance or capital lease;
- 3.6.1.5 receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis);
- 3.6.1.6 any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing;
- 3.6.1.7 any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and, when calculating the value of that derivative transaction, only the marked to market value (or, if any actual amount is due as a result of the termination or close-out of that derivative transaction, that amount) shall be taken into account), including for the avoidance of doubt, any interest rate swap transactions relating to financial indebtedness secured by the Secured Properties;
- 3.6.1.8 any amount raised by the issue of shares which are redeemable;
- 3.6.1.9 any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
- 3.6.1.10 the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraph 3.6.1.1 to 3.6.1.9 above;
- 3.6.2 **Measurement Date** means each of 31 March and 30 September of each year or such other dates which accord with the Issuer's financial half year or financial year end, as the case may be;
- 3.6.3 **Measurement Period** means each period of 12 (twelve) months ending on a Measurement Date; and
- 3.7 For the purposes of paragraph 3.1.1 above:
 - 3.7.1 **Aggregate Secured Property Valuation** means, the aggregate of the Property Valuation Amounts of the Secured Properties;
 - 3.7.2 **Desk-top Valuation** means, at any time, a valuation of the Secured Properties (other than any Secured Properties which have been disposed of and released at the time of any Valuation) addressed to the Noteholder Trustee;

- 3.7.3 **Immovable Properties** means any land and any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that land;
- 3.7.4 **Loan to Value Ratio** means the ratio between the Financial Indebtedness of the Obligor in relation to the Secured Properties and the Aggregate Secured Property Valuation;
- 3.7.5 **Mortgage Bonds** means each continuing covering mortgage bond in the agreed form registered or to be registered by the Obligor in favour of the Debt Guarantor over the Immovable Property (and any other Immovable Property owned by an Obligor as required by the finance providers from time to time to be registered in favour of the Debt Guarantor) and forming part of the transaction security;
- 3.7.6 **Property Valuation Amounts** means, in respect of a Secured Property, the value of that Secured Property expressed in Rands as determined by a Valuer or a Desk-top Valuation;
- 3.7.7 **Secured Properties** means, as at any date, each of the Immovable Properties owned by any Obligor over which a Mortgage Bond is registered in favour of the Debt Guarantor for the Obligor's obligations to the Debt Guarantor in connection with the finance documents and **Secured Property** shall mean any one of them;
- 3.7.8 **Valuer** means any independent surveyor or registered valuer (as such term is used in the JSE Limited (the **JSE**) Listings Requirements) and appointed by an Obligor;
- 3.8 For the purposes of paragraph 3.1.2 above:
- 3.8.1 **EBITDA** means in respect of each Measurement Period, the consolidated net operating income of the Obligor derived from the Secured Properties, for such period before taking into account:
- 3.8.1.1 gains or losses from exceptional or extraordinary items;
- 3.8.1.2 liability for income and other tax;
- 3.8.1.3 interest charged or received;
- 3.8.1.4 amortisations in respect of intangible assets;
- 3.8.1.5 any profit or loss arising on a revaluation of fixed assets; and
- 3.8.1.6 depreciation in respect of fixed assets,
- 3.8.1.7 and excluding any fair value adjustments which result in no cash flow implications on a going concern basis, including but not limited to any adjustments in accordance with any accounting adjustments to rental income which differ from the cash flows in respect of such rental income;
- 3.8.2 **Interest Cover Ratio** means, for any 12 (twelve) month rolling period ending on the date of measurement, the ratio of EBITDA to Net Interest; and

3.8.3 **Net Interest** means in relation to each Measurement Period, the aggregate of all interest incurred by the Obligors in respect of Financial Indebtedness in relation to the Secured Properties (including all net payments due under all derivative transactions) less the aggregate of all interest received by the Obligors in respect of Financial Indebtedness in relation to the Secured Properties.

NOTEHOLDER DEBT GUARANTEE

NOTEHOLDER DEBT GUARANTEE

by

HOSPITALITY GUARANTEE SPV (RF) PROPRIETARY LIMITED
(as **Debt Guarantor**)

in favour of

TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED
(as **Noteholder Trustee**)

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	2
2.	GUARANTEE	6
3.	REPRESENTATIONS	9
4.	UNDERTAKINGS.....	11
5.	CHANGES TO THE PARTIES	11
6.	PAYMENTS.....	12
7.	NOTICES	12
8.	CALCULATIONS AND CERTIFICATES	15
9.	SEVERABILITY.....	15
10.	PARTIAL INVALIDITY	15
11.	REMEDIES, EXTENSIONS AND WAIVERS.....	15
12.	NO VARIATION/AMENDMENTS AND WAIVERS.....	16
13.	COUNTERPARTS.....	16
14.	SOLE AGREEMENT.....	16
15.	NO IMPLIED TERMS.....	16
16.	INDEPENDENT ADVICE.....	17
17.	FURTHER ASSURANCES	17
18.	GOVERNING LAW.....	17
19.	JURISDICTION	17

PARTIES:

This Agreement is entered into by:

- (1) **Hospitality Guarantee SPV (RF) Proprietary Limited**, a private company incorporated under the laws of the Republic of South Africa with registration number 2005/036268/07 (the **Debt Guarantor**); and
- (2) **TMF Corporate Services (South Africa) Proprietary Limited (formerly GMG Trust Company (SA) Proprietary Limited)**, a private company incorporated under the laws of the Republic of South Africa with registration number 1967/010920/07 (**TMF**) (in its capacity as trustee, acting for the benefit of the Secured Noteholders (the **Noteholder Trustee**)).

WHEREAS:

- (A) The Debt Guarantor has agreed to guarantee to each Finance Provider the punctual performance by the Obligors of the Guaranteed Obligations, all on the terms and subject to the conditions set out in this Noteholder Debt Guarantee.
- (B) The Obligors have agreed to enter into the Counter Indemnity Agreement in favour of the Debt Guarantor and, in support thereof, to grant certain Security to the Debt Guarantor (or procure that those interests are granted).

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context dictates otherwise or unless otherwise defined in this Agreement, the words and expressions set forth below bear the following meanings and cognate expressions bear corresponding meanings:

- 1.1.1 **Accruing Demand Interest** has the meaning given to it in Clause 2.2 (*Form of demand*);
- 1.1.2 **Agreement** or **Noteholder Debt Guarantee** means this Noteholder Debt Guarantee;
- 1.1.3 **Authorisation** means an authorisation, consent, approval, resolution, licence, permit, exemption, filing, notarisation, lodgement or registration;
- 1.1.4 **Business Day** means any day (other than a Saturday, Sunday or an official public holiday in South Africa in accordance with the Public Holidays Act, 1994) on which banks are open for general business in South Africa;
- 1.1.5 **Counter Indemnity Agreement** means the counter indemnity agreement entitled "Counter Indemnity Agreement" entered into or to be entered into on or about the Signature Date amongst the Debt Guarantor and the Obligors;
- 1.1.6 **Default** means an Event of Default or any event or circumstances specified in any Finance Document which would (with the expiry of a grace period, the giving of notice, the making of

any determination under the Finance Documents or any combination of the foregoing) be an Event of Default;

- 1.1.7 **Discharge Date** means the date on which all the Guaranteed Obligations have been fully, unconditionally and irrevocably paid and discharged to the satisfaction of the Enforcement Agent, whether or not as a result of enforcement;
- 1.1.8 **Effective Date** means "Effective Date as defined in the Implementation Agreement;
- 1.1.9 **Enforcement Agent** has the meaning ascribed thereto in the Security Sharing Agreement;
- 1.1.10 **Event of Default** means the occurrence of an event of default or termination event, howsoever described, in any of the Finance Documents;
- 1.1.11 **Finance Documents** has the meaning given to it in the Security Sharing Agreement;
- 1.1.12 **Finance Parties** has the meaning given to it in the Security Sharing Agreement but excluding, for purposes of this Agreement, the Debt Guarantor ;
- 1.1.13 **Guaranteed Obligations** means all present and future liabilities, payment obligations and indebtedness of whatsoever nature (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever including any liability to pay damages or pursuant to enrichment) which are now, or which may hereafter become, owing by the Obligors to the Finance Parties in terms of or arising out of the Finance Documents to which they are a party, including all items which would be Guaranteed Obligations but for the winding up, business rescue, absence of legal personality or incapacity of the Obligors or any statute of limitation and a reference to a **Guaranteed Obligation** shall be to any one or more of the Guaranteed Obligations as the context requires;
- 1.1.14 **Implementation Agreement** means the agreement dated on or about the Signature Date entered into by, *inter alia*, the Parties, in terms of which, *inter alia*, the Parties set out the implementation of the Finance Documents and the restructuring of the existing security structure;
- 1.1.15 **Obligors** has the meaning given to it in the Security Sharing Agreement;
- 1.1.16 **Parties** means, collectively:
 - 1.1.16.1 the Debt Guarantor; and
 - 1.1.16.2 the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders;
 - 1.1.16.3 and **Party** means, as the context requires, any of them;
- 1.1.17 **Representations** means each of the representations and warranties set out in Clause 3 (*Representations*);

- 1.1.18 **Security** means:
- 1.1.18.1 any mortgage, notarial bond, pledge, lien, assignment or cession conferring security, hypothecation, security interest, preferential right or trust arrangement or other encumbrance securing any obligation of any person;
- 1.1.18.2 any arrangement under which money or claims to, or for the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or
- 1.1.18.3 any other type of preferential agreement or arrangement (including any title transfer and retention arrangement), the effect of which is the creation of a security interest;
- 1.1.19 **Security Sharing Agreement** means the agreement with the title “*Security Sharing Agreement*” entered into or to be entered into on or about the Signature Date amongst the Finance Parties, the Debt Guarantor and the Obligors; and
- 1.1.20 **Signature Date** means the date of signature of this Agreement by the Party last signing it in time.
- 1.2 **General Interpretation**
- 1.2.1 Unless expressly provided to the contrary or inconsistent with the context, a reference in this Agreement to:
- 1.2.1.1 any **Finance Party**, any **Obligor**, any **Party**, the **Debt Guarantor** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.1.2 this **Agreement** or any other agreement, document or instrument shall be construed as a reference to this Agreement or that other agreement, document or instrument as amended, varied, novated or substituted from time to time;
- 1.2.1.3 **assets** includes properties, revenues and rights of every description;
- 1.2.1.4 a **Clause, Sub-Clause, Schedule, Annexure** or **Appendix** is to a clause, sub-clause, schedule, annexure or appendix to this Agreement;
- 1.2.1.5 **guarantee** means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- 1.2.1.6 the words **including, include** and **in particular** followed by specific examples shall be construed by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding words, and the *eiusdem generis* rule must not be applied in the interpretation of such specific examples or general words;

- 1.2.1.7 **indebtedness** shall be construed so as to include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.1.8 a **person** includes any natural person, firm, company, corporation, body corporate, juristic person, unincorporated association, government, state or agency of a state or any association, trust, partnership, syndicate, consortium, joint venture, charity or other entity (whether or not having separate legal personality) and that person's personal representatives, successors in title, permitted assigns and permitted transferees;
- 1.2.1.9 the words **other** and **otherwise** shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible.
- 1.2.1.10 a **regulation** means any regulation, rule, official directive, request or guideline (whether or not having the force of law but complied with generally) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.1.11 any one gender, whether masculine, feminine or neuter, includes the other two;
- 1.2.1.12 the singular includes the plural and vice versa;
- 1.2.1.13 a word or expression given a particular meaning includes cognate words or expressions;
- 1.2.1.14 any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day is a day that is not Business Day, the next Business Day;
- 1.2.1.15 a statutory provision includes any subordinate legislation made from time to time under that provision and a reference to a statutory provision includes that provision as from time to time modified or re-enacted as far as such modification or re-enactment applies, or is capable of applying, to this Agreement or any transaction entered into in accordance with this Agreement;
- 1.2.2 Where any Party to this Agreement is required to provide any consent or approval or agree to the actions of any other Party to this Agreement, the request for such consent or approval or agreement shall be in writing and such consent or approval or agreement, in order to be an effective consent, approval or agreement for the purposes of this Agreement, shall be in writing and shall not be unreasonably withheld or delayed.
- 1.2.3 A Default (other than an Event of Default) is continuing if it has not been remedied (in the time period provided for remedy of such Default in this Agreement or any other Finance Document or any extension of time allowed by the Finance Parties thereunder) or waived and an Event of Default is continuing if it has not been waived.
- 1.2.4 All the headings and sub-headings in this Agreement are for convenience and reference only and shall be ignored for the purposes of interpreting it.
- 1.2.5 A term defined in a particular Clause, Schedule or Annexure in this Agreement, unless it is clear from the Clause, Schedule or Annexure in question that application of the term is to be limited to

the relevant Clause, Schedule or Annexure shall bear the meaning given to it for all purposes of this Agreement, notwithstanding that that term has not been defined in Clause 1.1 (*Definitions*) and where there is any inconsistency between any term defined in Clause 1.1 (*Definitions*) and any term defined in any Clause, Schedule or Annexure in this Agreement, then, for the purposes of construing such Clause, Schedule or Annexure the term as defined in such Clause, Schedule or Annexure shall prevail.

- 1.2.6 References to a "subsidiary" or a "holding company" shall be references to a subsidiary or holding company as defined in the Companies Act, 2008 (and shall include, for the avoidance of doubt, any company that would be a subsidiary or holding company (as those terms are defined in the Companies Act, 2008) if it were incorporated in South Africa).
- 1.2.7 If a definition confers substantive rights or imposes substantive obligations on a Party, such rights and obligations shall be given effect to and shall be enforceable as substantive provisions of this Agreement, notwithstanding that they are contained in that definition.
- 1.2.8 The use of any expression covering a process available under South African law such as, without limitation, winding-up is, if any of the Parties is subject to the law of any other jurisdiction, to be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 1.2.9 No rule of construction shall be applied to the disadvantage of a Party because that Party was responsible for or participated in the preparation of this Agreement or any part of it.
- 1.2.10 The termination or expiry of this Agreement shall not affect those provisions of this Agreement that expressly provide that they will operate after any such termination or expiry, or which by implication continue to have effect after such termination or expiry.
- 1.2.11 The termination or expiry of this Agreement for any cause shall not release a Party from any liability which at the time of termination or expiry has already accrued to such Party or which thereafter may accrue in respect of any act or omission which took place prior to such termination or expiry.

2. GUARANTEE

2.1 Guarantee and indemnity

With effect from the Effective Date, the Debt Guarantor irrevocably and unconditionally, as a principal obligor and not merely as a surety and on the basis of a severable and discrete obligation enforceable against it, whether or not any or all of the Guaranteed Obligations are enforceable against the Obligors in respect thereof:

- 2.1.1 guarantees to the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) the punctual performance by the Obligors of all the Guaranteed Obligations when and as the same become due;
- 2.1.2 undertakes with the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) that whenever an Obligor does not pay any amount of the Guaranteed

Obligations, the Debt Guarantor shall immediately on written demand from the Enforcement Agent (acting for itself or for any other Finance Party) in accordance with the requirements of Clause 2.2 (*Form of demand*), pay that amount as if the Debt Guarantor was the principal obligor;

- 2.1.3 agrees with the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) that if any obligation (including any item which would have been an obligation but for the unenforceability, invalidity or illegality of that item) guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify that the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) immediately on demand against any cost, loss or liability it incurs as a result of an Obligor not paying any amount which would, but for such unenforceability, invalidity or illegality, have been payable by it under the Guaranteed Obligations on the date when it would have been due. The amount payable by the Debt Guarantor under this indemnity will not exceed the amount it would have had to pay under this Noteholder Debt Guarantee if the amount claimed had been recoverable on the basis of a guarantee; and
- 2.1.4 guarantees to the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) payment of all Accruing Demand Interest.

2.2 **Form of demand**

Any demand for payment of any amount of the Guaranteed Obligations in terms of Clause 2.1 (*Guarantee and indemnity*) (as applicable) shall be delivered to the Debt Guarantor together with the demand for which it is required and shall specify the amount being demanded and, if applicable, the amount of interest or default interest accruing thereon as specified in the relevant Finance Document (**Accruing Demand Interest**). A demand for payment of Accruing Demand Interest need not quantify the amount of interest or default interest, as the case may be, to be so paid by the Debt Guarantor, up to the date of payment, but may instead specify the rate at which it so accrues and the method of its calculation, so that the amount of Accruing Demand Interest to be paid by the Debt Guarantor can be determined from the demand itself and paid up to the date of payment.

2.3 **Continuing guarantee**

This Noteholder Debt Guarantee is a continuing guarantee and will extend to the ultimate balance of all the Guaranteed Obligations, regardless of any intermediate payment or discharge in whole or in part.

2.4 **Reinstatement**

- 2.4.1 If any discharge, release or arrangement (whether in respect of any of the Guaranteed Obligations or any security for the Guaranteed Obligations or otherwise) is made by the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, business rescue or otherwise), then the liability of the Debt Guarantor will continue or be reinstated and the Noteholder Trustee (in its capacity as

trustee, acting for the benefit of the Secured Noteholders shall be entitled to recover the value or amount of that payment, discharge, release or arrangement from the Debt Guarantor, as if the discharge, release or arrangement had not occurred.

- 2.4.2 The Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) may, without prejudice to its rights under the Noteholder Debt Guarantee, concede or compromise any claim for avoidance or restoration of a payment, security or other disposition made to it, under another Finance Document or otherwise.

2.5 **Waiver of Defences**

- 2.5.1 The obligations of the Debt Guarantor under this Noteholder Debt Guarantee will not be affected by an act, omission, matter or thing which but for this provision, would reduce, release or prejudice any of Debt Guarantor's obligations under this Noteholder Debt Guarantee or on which the Debt Guarantor may otherwise be able to rely on a defence based on prejudice, waiver or estoppel (without limitation and whether or not known to it or the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders)) including:
- 2.5.1.1 any time, waiver or consent granted to, or composition with, any Obligor or any other person;
 - 2.5.1.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor or any other person;
 - 2.5.1.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect, or election not, to perfect, execute, take up or enforce any rights against, or security over assets of, any Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - 2.5.1.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
 - 2.5.1.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
 - 2.5.1.6 any unenforceability, illegality, invalidity, suspension or cancellation by or of any Finance Document or any other document or security;
 - 2.5.1.7 any insolvency, liquidation, business rescue or similar proceedings (including, but not limited to, receipt of any distribution made under or in connection with those proceedings);
 - 2.5.1.8 the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) receiving a dividend or benefit in any insolvency liquidation, business rescue, compromise, composition or similar proceedings, whether in terms of statutory enforcement of the common law; or

2.5.1.9 any Finance Document not being executed by or binding against any other guarantor or any other party.

2.5.2 The Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) shall not be concerned to see or investigate the powers or authority of any Obligor or its directors, officers or agents. Guaranteed Obligations incurred in the purported exercise of such powers or authorities or by any person purporting to be or represent that Obligor shall be deemed to form a part of the Guaranteed Obligations, and Guaranteed Obligations shall be construed accordingly.

2.6 **Guarantor Intent**

Without prejudice to the generality of Clause 2.5 (*Waiver of defences*), the Debt Guarantor expressly confirms that it intends that this guarantee shall extend from time to time to any (however fundamental) variation, increase, extension, amendment, novation, supplement, restatement, replacement or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents.

2.7 **Immediate Recourse**

The Debt Guarantor waives any right it may have of first requiring the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) (or the Enforcement Agent or any other trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from the Obligors or any other person before claiming from the Debt Guarantor under this Noteholder Debt Guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

2.8 **Additional Security**

This Noteholder Debt Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders).

2.9 **Renunciation of Benefits**

The Debt Guarantor renounces, to the extent permitted under applicable law, the benefits of each of the legal exceptions of excussion, division, revision of accounts, no value received, no cause of debt and cession of actions, and declares that it understands the meaning of each such legal exception and the effect of such renunciation.

3. **REPRESENTATIONS**

3.1 **General**

3.1.1 The Debt Guarantor makes the Representations to the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders).

3.1.2 The Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) enter into the Finance Documents to which they are party on the strength of and

relying on the Representations, each of which is a separate representation and warranty, given without prejudice to any other representation or warranty and is deemed to be a material representation or warranty (as applicable) inducing the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders to enter into the Finance Documents.

3.2 **Status**

3.2.1 It is a limited liability company, duly incorporated and validly existing under the law of South Africa.

3.2.2 It has the power to own its assets and carry on its business as it is being conducted.

3.3 **Binding obligations**

The obligations expressed to be assumed by it under this Noteholder Debt Guarantee and each other Finance Document to which it is a party are legal, valid, binding and enforceable obligations.

3.4 **Non-conflict with other obligations**

The entry into and performance by it of, and the transactions contemplated by, this Noteholder Debt Guarantee do not and will not conflict with:

3.4.1.1 any law or regulation applicable to it;

3.4.1.2 its constitutional documents;

3.4.1.3 any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

3.5 **Power and authority**

3.5.1 It has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, the Finance Documents and the transactions contemplated thereby in accordance with their terms.

3.5.2 No limits on its powers will be exceeded as a result of the borrowing or giving of guarantees or indemnities contemplated by this Noteholder Debt Guarantee.

3.6 **Authorisations**

3.6.1 All Authorisations necessary to enable it lawfully to enter into, exercise its rights, be bound by and comply with its obligations in this Agreement and each other Finance Document to which it is a party have been obtained or effected and are in full force and effect.

3.6.2 All Authorisations necessary for the conduct of its business have been obtained or effected and are in full force and effect.

3.7 **Times when Representations made**

3.7.1 All the Representations are made by the Debt Guarantor on the Signature Date.

- 3.7.2 All the Representations are deemed to be made by the Debt Guarantor on the Effective Date.
- 3.7.3 Each Representation deemed to be made after the Signature Date shall be deemed to be made by reference to the facts and circumstances existing at the date the Representation.

4. UNDERTAKINGS

The undertakings in this Clause 4 (*Undertakings*) remain in force from the Signature Date until the Discharge Date.

4.1 Financial information

The Debt Guarantor will from time to time during the currency of this Noteholder Debt Guarantee promptly furnish the Enforcement Agent with such information concerning the financial affairs of the Debt Guarantor as the Enforcement Agent may reasonably require.

4.2 Authorisations

The Debt Guarantor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect; and supply certified copies to the Enforcement Agent of any Authorisation necessary under any law or regulation to:

- 4.2.1 enable it to perform its obligations under the Finance Documents; and
- 4.2.2 ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document.

4.3 Other Obligations

4.3.1 The Debt Guarantor shall not incur or allow to remain outstanding:

- 4.3.1.1 any financial indebtedness; or
- 4.3.1.2 any guarantee or counter-indemnity in respect of any obligation of any person,
- in each case, without the prior consent of the Enforcement Agent.

5. CHANGES TO THE PARTIES

5.1 Cession and delegation by the Debt Guarantor

The Debt Guarantor shall not cede any of its rights or delegate any of its obligations under this Agreement or any other Finance Documents to which it is a party without the prior consent of the Enforcement Agent.

5.2 Cessions and delegations by, and stipulation for the benefit of, the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders)

- 5.2.1 The Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) may, with the prior written consent of the Secured Noteholders transfer, cede and/or delegate any or all of its rights and/or obligations under this Agreement to any person to whom it cedes and delegates all or any part of its rights, benefits and obligations under the

Finance Documents. The Debt Guarantor agrees to co-operate and take all such steps as that Finance Party may reasonably request to give effect to any such cession or delegation.

5.2.2 The provisions of this Noteholder Debt Guarantee which confer benefits upon the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders constitute stipulations for the benefit of the Secured Noteholders and of any person(s) becoming a Secured Noteholders, capable of acceptance at any time.

5.2.3 The Debt Guarantor hereby consents to any splitting of claims which may arise as a result of a cession of rights by the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders) permitted by this Agreement.

6. PAYMENTS

6.1 Payments to the Enforcement Agent

All payments under this Agreement shall be made to such account in South Africa with such bank as the Noteholder Trustee or its nominee may specify by notice to the Debt Guarantor.

6.2 Funds

Payments under this Agreement must be made for value on the due date in immediately available and freely transferable funds, or at such times and in such funds as the Noteholder Trustee may specify to the Debt Guarantor as being customary at the time for the settlement of transactions in Rand in the place for payment.

6.3 No set-off

All payments made by any Party under this Agreement must be calculated and made without (and free and clear of any deduction for) set-off or counterclaim. No Party may set off any matured obligation due from the one Party under the Finance Documents (to the extent beneficially owned by that Party) against any matured obligation owed to another Party, regardless of the place of payment, booking branch or currency of either obligation

6.4 Currency of account

Each amount payable under this Agreement is payable in Rand.

7. NOTICES

7.1 Communications in writing

7.1.1 Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by registered post, hand delivery, fax or email.

7.2 **Addresses**

The address, email address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

7.2.1 in the case of the **Debt Guarantor**:

3rd Floor, 200 on Main
Cnr Main and Bowwood Roads
Claremont
7708

Email: nick.clarke@tmf-group.com
Telefax No.: +27 86 673 3490
Attention: The Managing Director

7.2.2 in the case of the **Noteholder Trustee**

3rd Floor, 200 on Main
Cnr Main and Bowwood Roads
Claremont
7708

E-mail: nick.clarke@tmf-group.com
Telefax No.: +27 86 673 3490
Attention: The Managing Director

7.2.3 in the case of any other Finance Party, that notified in writing to the other Parties on or prior to the date on which it becomes a Party,

or any substitute address, fax number, email address or department or officer as a Party may notify to the other Parties, if a change is made by not less than five Business Days' notice prior to such change being effective.

7.3 **Domicilia**

7.3.1 Each of the Parties chooses its physical address provided under Clause 7.2 (Addresses) as its *domicilium citandi et executandi* at which documents in legal proceedings in connection with this Agreement may be served.

7.3.2 Any Party may by written notice to the other Parties change its *domicilium* from time to time to another address, not being a post office box or a *poste restante*, in South Africa, provided that any such change shall only be effective on the fourteenth day after deemed receipt of the notice by the other Parties pursuant to Clause 7.4 (Delivery).

7.4 Delivery

7.4.1 Any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

7.4.1.1 if by way of email, be deemed to have been received upon receipt in a readable form by the recipient;

7.4.1.2 if by way of fax, be deemed to have been received on the first Business Day following the date of transmission provided that the fax is received in legible form;

7.4.1.3 if delivered by hand, be deemed to have been received at the time of delivery; and

7.4.1.4 if by way of courier service or registered post, be deemed to have been received on the seventh Business Day following the date of such sending,

and provided, if a particular department or officer is specified as part of its address details provided under Clause 7.2 (*Addresses*), if such communication or document is addressed to that department or officer, unless the contrary is proved.

7.4.2 Any communication or document to be made or delivered to a Party will be effective only if it is expressly marked for the attention of the department or officer specified as part of its address details provided under Clause 7.2 (*Addresses*) (or any substitute department or officer as that Party shall specify for this purpose).

7.4.3 Subject to Clause 7.4.1 and Clause 7.4.2 but notwithstanding anything else to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address, e-mail address and/or telefax number.

7.4.4 Any communication or document which becomes effective, in accordance with Clause 7.4.1, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

7.5 Electronic communication

7.5.1 Any communication to be made between the Parties under or in connection with this Agreement may be made by electronic mail or other electronic means, unless and until notified to the contrary, this is to be an accepted form of communication and if the Parties:

7.5.1.1 notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

7.5.1.2 notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

7.5.2 Any electronic communication made between the Parties will be effective only when actually received in readable form.

7.5.3 Any electronic communication which becomes effective, in accordance with Clause 7.5.2, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

7.6 **English Language**

Any notice or other document given under or in connection with any Finance Document must be in English.

8. **CALCULATIONS AND CERTIFICATES**

8.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Agreement, the entries made in the accounts maintained by a Finance Party are *prima facie* proof of the matters to which they relate.

8.2 **Certificates and determinations**

Any certification or determination by the Enforcement Agent of a rate or amount or a due date under this Agreement, signed by any officer, manager or employee of the Enforcement Agent (the appointment of which officer, manager or employee need not be proved), will be, in the absence of manifest error, *prima facie*, proof of the matters to which it relates.

9. **SEVERABILITY**

Each provision in this Agreement is severable from all others, notwithstanding the manner in which they may be linked together or grouped grammatically, and if in terms of any judgment or order, any provision, phrase, sentence, paragraph or Clause is found to be defective or unenforceable for any reason, the remaining provisions, phrases, sentences, paragraphs and clauses shall nevertheless continue to be of full force. In particular, and without limiting the generality of the foregoing, the Parties acknowledge their intention to continue to be bound by this Agreement notwithstanding that any provision may be found to be unenforceable or void or voidable, in which event the provision concerned shall be severed from the other provisions, each of which shall continue to be of full force.

10. **PARTIAL INVALIDITY**

If, at any time, any provision of this Agreement is or becomes illegal, invalid, unenforceable or inoperable in any respect under any law of any jurisdiction, neither the legality, validity, enforceability or operation of the remaining provisions nor the legality, validity, enforceability or operation of such provision under the law of any other jurisdiction will in any way be affected or impaired. The term "inoperable" in this Clause 10 (*Partial Invalidity*) shall include, without limitation, inoperable by way of suspension or cancellation.

11. **REMEDIES, EXTENSIONS AND WAIVERS**

11.1 No failure to exercise, nor any delay in exercising, on the part of the Noteholder Trustee (in its capacity as trustee, acting for the benefit of the Secured Noteholders), any right or remedy under this Agreement shall operate as a waiver.

- 11.2 No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Agreement and no single or partial exercise of any right or remedy shall under any circumstances:
- 11.2.1 be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising from or under or in connection with this Agreement; or
- 11.2.2 estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term of this Agreement; or
- 11.2.3 prevent any further or other exercise or the exercise of any other right or remedy.
- 11.3 The rights and remedies of the Noteholder Trustee provided in this Noteholder Debt Guarantee:
- 11.3.1 are cumulative and not exclusive of any rights or remedies provided by law;
- 11.3.2 may be exercised as often as the Finance Party requires;
- 11.3.3 may be exercised by the Noteholder Trustee (acting for the benefit of the Secured Noteholders); and
- 11.3.4 may be waived only in writing and specifically.

12. NO VARIATION/AMENDMENTS AND WAIVERS

- 12.1 No amendment or consensual cancellation of this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement shall be of any force or effect unless in writing (excluding electronic communication) and signed in handwriting by or on behalf of all the relevant Parties (or their authorised representative), provided that the Parties may deliver any written agreement by electronic communication and in accordance with Clause 13 (*Counterparts*).
- 12.2 No oral *pactum de non petendo* shall be of any force or effect.

13. COUNTERPARTS

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

14. SOLE AGREEMENT

This Agreement constitutes the sole record of the agreement between the Parties in regard to the subject matter hereof.

15. NO IMPLIED TERMS

No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded in this Agreement.

16. **INDEPENDENT ADVICE**

Each Party acknowledges that it has been free to secure independent legal and other advice as to the nature and effect of all of the provisions of this Agreement and that it 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 therein contained are part of the overall intention of the Parties in connection with this Agreement.

17. **FURTHER ASSURANCES**

The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for the putting into effect or maintenance of the terms, conditions and import of this Agreement and the transactions contemplated herein.

18. **GOVERNING LAW**

The entire provisions of this Agreement, and any non-contractual obligations arising out of or in connection with this Agreement, are governed by the law of South Africa.

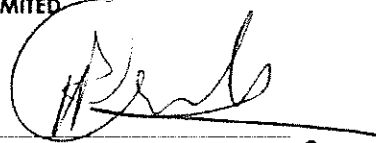
19. **JURISDICTION**

- 19.1 The Parties hereby irrevocably and unconditionally consent to the jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) in regard to all matters arising from this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a **Dispute**).
- 19.2 The Parties agree that the High Court of South Africa, Gauteng Local Division, Johannesburg is the most appropriate and convenient court to settle Disputes and accordingly no Party will argue to the contrary.

SIGNED at Cape Town on this the 28th day of April 2017.

For and on behalf of

**HOSPITALITY GUARANTEE SPV (RF) PROPRIETARY
LIMITED**

A handwritten signature in black ink, appearing to read 'N. Russell Clarke', written over a horizontal line.

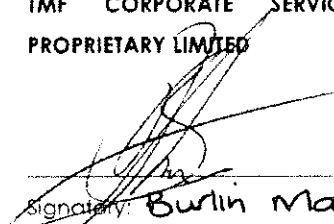
Signatory: Nicholas Russell Clarke
Capacity: Director

Who warrants his/her authority hereto

SIGNED at Cape Town on this the 28th day of April 2017.

For and on behalf of

**TMF CORPORATE SERVICES (SOUTH AFRICA)
PROPRIETARY LIMITED**



Signatory: Burlin Marsay Russouw

Capacity: Authorised Signatory

Who warrants his/her authority hereto

NOTEHOLDER GUARANTEE

NOTEHOLDER GUARANTEE

by

FEZISOURCE PROPRIETARY LIMITED

(as **Guarantor**)

and

HPF PROPERTIES PROPRIETARY LIMITED

(as **Guarantor**)

in favour of

TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED

(as **Noteholder Trustee**)

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	2
2.	GUARANTEE	7
3.	PAYMENT MECHANICS.....	11
4.	REPRESENTATIONS AND WARRANTIES	11
5.	ACCESSION UNDERTAKING	14
6.	RENUNCIATION OF BENEFITS.....	14
7.	CERTIFICATES	14
8.	INDEMNITY	14
9.	STIPULATION FOR THE BENEFIT OF THE NOTEHOLDER TRUSTEE.....	14
10.	TAX GROSS UP	15
11.	REMEDIES CUMULATIVE.....	15
12.	NOTICES AND DOMICILIA.....	15
13.	SOLE AGREEMENT.....	17
14.	NO IMPLIED TERMS.....	17
15.	AMENDMENTS AND WAIVERS	17
16.	EXTENSIONS AND WAIVERS	17
17.	FURTHER ASSURANCES	18
18.	INDEPENDENT ADVICE.....	18
19.	COUNTERPARTS.....	18
20.	WAIVER OF IMMUNITY	18
21.	GOVERNING LAW	18
22.	JURISDICTION	18
23.	SEVERABILITY.....	19
24.	COSTS.....	19

PARTIES:

This Guarantee is granted by:

- (1) **FEZISOURCE PROPRIETARY LIMITED**, a private company incorporated under the laws of the Republic of South Africa with registration number 2015/305572/07 (**Fezisource**); and
- (2) **HPF PROPERTIES PROPRIETARY LIMITED**, a public company incorporated under the laws of the Republic of South Africa with registration number 2005/020743/07 (**HPF**);

in favour of:

- (3) **TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED** a private company incorporated under the laws of the Republic of South Africa with registration number 1967/010920/07 (**TMF**), in its capacity as **Noteholder Trustee**, acting for the benefit of the Secured Noteholders.

WHEREAS:

The Guarantors have agreed to guarantee to the Noteholder Trustee the due and full performance by the Issuer of the Guaranteed Obligations on the terms and conditions set out in this Agreement.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms used (but not otherwise defined) in this Agreement have the meaning given to them in the Security Sharing Agreement. In addition, unless the context dictates otherwise, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

- 1.1.1 **Accession Undertaking** means an accession undertaking substantially in the relevant form provided for in terms of the Security Sharing Agreement;
- 1.1.2 **Agreement** and **Guarantee** mean this Noteholder Guarantee;
- 1.1.3 **Debt Guarantor** means Hospitality Guarantee SPV (RF) Proprietary Limited, a private company incorporated under the laws of the Republic of South Africa with registration number 2005/036268/07;
- 1.1.4 **Discharge Date** means the date on which all the Guaranteed Obligations have been fully paid and discharged to the satisfaction of the Noteholder Trustee whether or not as a result of enforcement;
- 1.1.5 **Effective Date** means the "Effective Date" as defined in the Implementation Agreement;
- 1.1.6 **Financial Markets Act** means the Financial Markets Act, 2012;

- 1.1.7 **Guaranteed Obligations** means all present and future liabilities and obligations at any time which the Issuer owes to the Secured Noteholders and the Noteholder Trustee, acting for the benefit of the Secured Noteholders, under the Secured Notes to which the Issuer is a party, both actual and contingent and whether incurred solely or jointly or in any other capacity and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency, business rescue or other similar proceedings;
- 1.1.8 **Guarantors** means:
- 1.1.8.1 each Original Guarantor; and
- 1.1.8.2 each Additional Guarantor,
- and **Guarantor** means, as the context requires, any one of them;
- 1.1.9 **Hospitality** means Hospitality Property Fund Limited, a public company incorporated under the laws of the Republic of South Africa with registration number 2005/014211/06;
- 1.1.10 **Implementation Agreement** means the agreement dated on or about the Signature Date entered into by, *inter alia*, the Parties, in terms of which, *inter alia*, the Parties set out the implementation of the Finance Documents (as defined therein) and the restructuring of the existing security structure;
- 1.1.11 **Insolvency Event** means, in relation to each of the Guarantors, the occurrence of any of the following events:
- 1.1.11.1 its liabilities (fair valued) exceed its assets;
- 1.1.11.2 it is, or takes any steps to be or proceedings are undertaken or instituted against it (excluding frivolous or vexatious proceedings) with the object of it being sequestrated, wound-up, liquidated, proceedings or administration, as the case may be, whether provisionally or finally and whether compulsorily or voluntarily (excluding any such steps or proceedings brought against any of the Guarantors which are frivolous, vexatious or unfounded and have no realistic prospect of success in the reasonable opinion of the Noteholder Trustee);
- 1.1.11.3 it is unable (or admits inability) to pay its debts generally as they fall due or it is (or admits to being) otherwise insolvent or stops or suspends payment of all or material part of its debts or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness;
- 1.1.11.4 it takes any proceedings or other step with a view to the general readjustment, rescheduling or deferral of its indebtedness (or any part thereof which it would otherwise be unable to pay when due) or proposes to take any such step;
- 1.1.11.5 it commits an act or omission which is, or would if such act or omission were committed by an individual be, an act of insolvency; or

- 1.1.11.6 it ceases to carry on its business contemplated in its constitutional documents;
- 1.1.12 **Issuer** means Hospitality;
- 1.1.13 **Noteholder Guarantee** means this Guarantee;
- 1.1.14 **Noteholder Trustee** means TMF, in its capacity as initial trustee under the Trust Deed.
- 1.1.15 **Original Guarantors** means Fezsource and HPF, and Original Guarantor means, as the context requires, any one of them;
- 1.1.16 **Parties** means:
- 1.1.16.1 the Guarantors; and
- 1.1.16.2 the Noteholder Trustee,
- and **Party** means, as the context requires, any one of them;
- 1.1.17 **Secured Noteholders** means the registered holders of the Secured Notes as recorded in the applicable register and Secured Noteholder means, as the context requires, any of them;
- 1.1.18 **Secured Notes** has the meaning given to it in the Security Sharing Agreement;
- 1.1.19 **Security Sharing Agreement** means the written agreement entitled "*Security Sharing Agreement*" concluded or to be concluded amongst, *inter alia*, the Obligors, the Debt Guarantor, Nedbank and the other "*Finance Parties*" (as defined therein) on or about the Signature Date and to which an Additional Finance Provider and/or Additional Obligor may accede from time to time;
- 1.1.20 **Signature Date** means the date of the signature of the Party last signing this Agreement in time; and
- 1.1.21 **Trust Deed** means the trust deed concluded on or about 13 March 2013 amongst, *inter alia*, the Obligors and the Noteholder Trustee establishing the "*Hospitality Senior Secured Notes Trust*", as amended and restated from time to time.
- 1.2 **Interpretation**
- 1.2.1 Any reference in this Agreement to:
- 1.2.1.1 an **amendment** includes a supplement, novation or re-enactment and **amended** is to be construed accordingly;
- 1.2.1.2 **assets** includes properties, revenues and rights of every description;
- 1.2.1.3 **authority** means any government or governmental, administrative, fiscal or judicial authority, body, court, department, commission, tribunal, registry or any stated owned or controlled authority which principally performs governmental functions;
- 1.2.1.4 a **Clause** shall, subject to any contrary indication, be construed as a reference to a clause hereof;

- 1.2.1.5 **control** means, in relation to any company or similar organisation or Person, the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
- 1.2.1.5.1 cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that Person;
- 1.2.1.5.2 appoint or remove all, or the majority, of the directors or other equivalent officers of that Person; or
- 1.2.1.5.3 give directions with respect to the operating and financial policies of that Person which the directors or other equivalent officers of that Person are obliged to comply with;
- 1.2.1.6 the words **including** and **in particular** are used by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any of the preceding words;
- 1.2.1.7 **indebtedness** shall be construed so as to include any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.1.8 **law** shall be construed as any law (including statutory, common or customary law), statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order, other legislative measure, directive, requirement of any government, supranational, local government, statutory or regulatory or self-regulatory or similar body or authority or court and the common law, as amended, replaced, re-enacted, restated or reinterpreted from time to time;
- 1.2.1.9 a **month** means a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day but one in the next calendar month, except that:
- 1.2.1.9.1 if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the directly preceding Business Day; and
- 1.2.1.9.2 if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month;
- 1.2.1.10 the words **other** and **otherwise** shall not be construed *eiusdem generis* with any foregoing words where a wider construction is possible;
- 1.2.1.11 a **regulation** means any regulation, rule, official directive of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.2.1.12 **security interest** means any mortgage, pledge, lien, charge, assignment, cession, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security; and
- 1.2.1.13 a **Schedule** shall, subject to any contrary indication, be construed as a reference to a Schedule hereof.

- 1.2.2 Unless inconsistent with the context or save where the contrary is expressly indicated in this Agreement:
- 1.2.2.1 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in an interpretation clause, effect shall be given to it as if it were a substantive provision of this Agreement;
- 1.2.2.2 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 day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;
- 1.2.2.3 in the event that the day for payment of any amount due in terms of this Agreement should fall on a day which is not a Business Day, the relevant day for payment shall be the immediately succeeding Business Day;
- 1.2.2.4 in the event that the day for performance of any obligation (other than a payment obligation) to be performed in terms of this Agreement should fall on a day which is not a Business Day, the relevant day for performance shall be the immediately succeeding Business Day;
- 1.2.2.5 any reference in this Agreement to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time;
- 1.2.2.6 any reference in this Agreement or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented;
- 1.2.2.7 except as expressly provided for in this Agreement, no provision of this Agreement constitutes a stipulation for the benefit of any Person who is not a Party to this Agreement;
- 1.2.2.8 a reference to a Party includes that Party's lawful successors-in-title and permitted assigns; and
- 1.2.2.9 where any Party is required to provide any consent or approval or agree to the actions of any other Party, the request for such consent or approval or agreement shall be in writing and such consent or approval or agreement shall be in writing and shall not be unreasonably withheld or delayed.
- 1.2.3 The headings to the Clauses and Schedules of this Agreement are for reference purposes only and shall in no way govern nor affect the interpretation of nor modify nor amplify the terms of this Agreement nor any clause or Schedule thereof.
- 1.2.4 Unless inconsistent with the context, an expression in this Agreement which denotes:
- 1.2.4.1 any one gender includes the other genders;
- 1.2.4.2 a natural person includes an juristic person and vice versa; and

- 1.2.4.3 the singular includes the plural and vice versa.
- 1.2.5 The Schedules to this Agreement form an integral part thereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such Schedules. To the extent that there is any conflict between the Schedules to this Agreement and the provisions of this Agreement, the provisions of this Agreement shall prevail.
- 1.2.6 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in any interpretation clause.
- 1.2.7 The rule of construction, in the event of ambiguity, that the contract shall be interpreted against the Party responsible for the drafting thereof, shall not apply in the interpretation of this Agreement.
- 1.2.8 This Agreement shall to the extent permitted by applicable law be binding on and enforceable by the administrators, trustees, permitted assigns or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's administrators, trustees, permitted assigns or liquidators, as the case may be.
- 1.2.9 The use of any expression in this Agreement covering a process available under South African law such as winding-up (without limitation *eiusdem generis*) shall, if any of the Parties to this Agreement is subject to the law of any other jurisdiction, be construed as including any equivalent or analogous proceedings under the law of such other jurisdiction.
- 1.2.10 Where figures are referred to in numerals and in words in this Agreement, if there is any conflict between the two, the words shall prevail.
- 1.2.11 Unless expressly defined in this Agreement, terms and expressions defined in the Security Sharing Agreement have the same meaning in this Agreement.

2. GUARANTEE

2.1 Guarantee and Indemnity

With effect from the Effective Date, each of the Guarantors hereby (as principal obligor and not merely as surety) jointly and severally, irrevocably and unconditionally and on the basis of a severable and discrete obligation enforceable against each of the Guarantors whether or not any and all of the Guaranteed Obligations are enforceable against the Issuer:

- 2.1.1 guarantees to the Noteholder Trustee the due and punctual performance by the Issuer of the Guaranteed Obligations;
- 2.1.2 undertakes to the Noteholder Trustee that whenever the Issuer does not pay any amount or perform any obligation, as the case may be, when due and payable under or in connection with

the Guaranteed Obligations, that Guarantor shall immediately on demand pay that amount or perform that obligation, as the case may be, as if that Guarantor was the principal obligor;

2.1.3 indemnifies the Noteholder Trustee and it holds it harmless on demand against any loss, liability or cost suffered by the Noteholder Trustee if any obligation guaranteed by the Guarantors is cancelled or suspended entirely, partially or conditionally, including but not limited to:

2.1.3.1 any damages suffered by the Noteholder Trustee contemplated in section 136(3) of the Companies Act; and/or

2.1.3.2 any claim which the Noteholder Trustee has or may have against the Guarantors for restitution,

arising as a result of the exercise by any business rescue practitioner of the powers granted to it in accordance with section 136(2) of the Companies Act. The amount of that loss, liability or cost shall be equal to the amount which the Trustee would otherwise have been entitled to recover; and

2.1.4 agrees with the Noteholder Trustee that if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, it will, as an independent and primary obligation, indemnify the Noteholder Trustee immediately on demand against any cost, loss or liability it incurs as a result of the Issuer not paying any amount or performing any obligation, as the case may be, which would, but for such unenforceability, invalidity or illegality, have been payable by or due for performance by, as the case may be, it under the Guaranteed Obligations on the date when it would have been due for payment or performance, as the case may be. The amount payable by the Guarantors under this indemnity will not exceed the amount they would have had to pay under this Agreement if the amount claimed had been recoverable on the basis of a guarantee.

2.2 **Ultimate Balance**

This Guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by the Issuer under the Guaranteed Obligations, regardless of any intermediate payment or discharge in whole or in part of the Guaranteed Obligations.

2.3 **Reinstatement**

If any payment by the Issuer or any discharge, release or arrangement given by the Noteholder Trustee (whether in respect of the obligations of the Issuer or any security for those obligations or otherwise) is avoided or reduced for any reason (including, without limitation, as a result of insolvency, business rescue proceedings, liquidation, winding-up or otherwise):

2.3.1.1 the liability of the Issuer shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

2.3.1.2 the Noteholder Trustee shall be entitled to recover the value or amount of that security or payment from the Issuer, as if the payment, discharge, avoidance or reduction had not occurred.

2.3.2 The Noteholder Trustee shall be entitled to concede or compromise any claim that any such payment, security or other disposition is liable to avoidance or repayment.

2.4 **Waiver of Defences**

The obligations of each Guarantor under this Agreement in respect of the Guaranteed Obligations will not be affected by an act, omission, matter or thing which, but for this Clause 2.4 (Waiver of Defences), would reduce, release or prejudice any of its obligations under this Agreement (without limitation and whether or not known to it or the Noteholder Trustee) including, without limitation:

- 2.4.1 any time, waiver or consent granted to, or composition with, the Issuer or any other person;
- 2.4.2 the release of the Issuer or any other person under the terms of any composition or arrangement with any creditor of the Issuer or such other person;
- 2.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, execute, take up or enforce, any rights against, or security over assets of the Issuer or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 2.4.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Issuer or any other person;
- 2.4.5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of the Secured Notes or any other document or security;
- 2.4.6 any unenforceability, illegality, invalidity, suspension or cancellation of any obligation of any person under this Agreement or any other document or security;
- 2.4.7 any insolvency, liquidation, winding-up, business rescue proceedings (whether, without limitation, provisionally or finally, voluntarily or compulsorily) or similar proceedings in respect of the Issuer otherwise becoming subject to any other legal liability or to any law for the benefit or assistance of debtors and/or creditors, or entering into or becoming subject to any scheme of arrangement or compromise; or
- 2.4.8 this Agreement or any Applicable Pricing Supplement relating to the Secured Notes not being executed by or binding against the Issuer or other guarantor or any other party.

2.5 **Immediate Recourse**

Each Guarantor waives any right it may have of first requiring the Noteholder Trustee to proceed against or enforce any other rights or security or claim payment from any person before claiming from any of the Guarantors under this Agreement. This waiver applies irrespective of any law or any provision of this Agreement or the Secured Notes to the contrary.

2.6 **Appropriations**

Until all amounts which may be or become payable by the Issuer under or in connection with the Guaranteed Obligations have been irrevocably paid in full, the Noteholder Trustee (or the Enforcement Agent or any other trustee or agent on their behalf) may:

- 2.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Noteholder Trustee (or the Enforcement Agent or any other trustee or agent on their behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Guarantors shall not be entitled to the benefit of the same; and
- 2.6.2 hold in an interest-bearing suspense account any moneys received from the Guarantors (in their capacities as such) or on account of the Guarantors' liability under this Agreement.

2.7 **Deferral of Guarantor's Rights**

Until all amounts which may be or become payable by the Issuer under or in connection with the Guaranteed Obligations have been irrevocably paid in full and unless the Noteholder Trustee (or the Enforcement Agent or any other trustee or agent on their behalf) otherwise directs, none of the Guarantors will exercise any rights which they may have by reason of performance by them of their obligations under this Agreement or the Secured Notes or by reason of any amount being payable, or liability arising, under this Agreement:

- 2.7.1 to be indemnified by the Issuer;
- 2.7.2 to claim any contribution from any other guarantor of or provider of security for any of the Guaranteed Obligations;
- 2.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Noteholder Trustee under the Guaranteed Obligations or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Obligations by the Noteholder Trustee;
- 2.7.4 to bring legal or other proceedings for an order requiring the Issuer to make any payment, or perform any obligation, in respect of which the Guarantors have given a guarantee, undertaking or indemnity under this Agreement;
- 2.7.5 to exercise any right of set-off against the Issuer; and/or
- 2.7.6 to claim or prove as a creditor of the Issuer in competition with the Noteholder Trustee.

If any Guarantor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Noteholder Trustee by the Issuer under or in connection with the Guaranteed Obligations to be paid in full on trust for the Noteholder Trustee and shall promptly pay or transfer the same to the Noteholder Trustee for application in accordance with Clause 3 (*Payment Mechanics*).

2.8 **Additional Security**

This Guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by the Noteholder Trustee. The rights of the Noteholder Trustee hereunder are in addition to and not exclusive of those provided by law.

2.9 Without prejudice to (a) representations and warranties provided by any Guarantor under any Finance Document or (b) the obligations of the Guarantors under the Finance Documents or (c) the rights or remedies of the Finance Providers under the Finance Documents (including any rights of the Finance Providers pursuant to the occurrence of a Default), this guarantee does not apply to any liability to the extent that it would result in this guarantee constituting unlawful financial assistance within the meaning of sections 44 and 45 of the Companies Act.

2.10 With respect to any Additional Guarantor, this guarantee is subject to any limitations (if any) set out in the Accession Undertaking applicable to such Additional Guarantor.

3. **PAYMENT MECHANICS**

3.1 All payments to be made by the Guarantors in terms of this Agreement shall be in accordance with the provisions of the Security Sharing Agreement and shall be:

3.1.1 made in Rand at or before 12h00 on the due date for payment in immediately available funds free of set off, taxes, exchange, costs, charges, expenses or any other deductions;

3.1.2 in the event of any payment not being made in full on its due date, such payment shall be appropriated in such manner as the Noteholder Trustee deems fit in its sole discretion, which appropriation will override any appropriation made by the Guarantors.

3.2 The Guarantors shall not have the right to defer, adjust or withhold any payment due to the Noteholder Trustee in terms of or arising out of this Agreement or to obtain deferment of judgement for such amount or any execution of such judgement by reason of any set-off or counterclaim due to any other contractual or delictual claims or causes of whatsoever nature or howsoever arising.

3.3 Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not). In the event that the day for performance of any obligation to be performed in terms of this Agreement (other than a payment obligation) should fall on a day which is not a Business Day, the relevant day for performance shall be the succeeding Business Day.

4. **REPRESENTATIONS AND WARRANTIES**

Each Guarantor makes the representations and warranties set out in the balance of this Clause 4 (*Representations and Warranties*) to the Noteholder Trustee for the benefit of the Secured Noteholders. In deciding to enter into this Agreement and the other Finance Documents to which it is a party, the Noteholder Trustee relies on the representations and warranties which each of the Guarantors makes in this Clause 4 (*Representations and Warranties*) as being true, correct and complete and each of the Guarantors recognise and agree that the Noteholder Trustee would not have entered into this Agreement and/or the Finance Documents to which it is a party but for the representations and

warranties contained in this Agreement, it being recorded that all such representations and warranties are material to the entry into and performance of this Agreement.

4.1 Matters Represented

- 4.1.1 It is a limited liability company, duly incorporated in accordance with the laws of its jurisdiction of incorporation.
- 4.1.2 It has the corporate power to enter into and perform this Agreement and the transactions contemplated hereby and has taken all necessary corporate action to authorise the entry into and performance of this Agreement and the transactions contemplated hereby in accordance with its terms.
- 4.1.3 This Agreement constitutes legal, valid and binding obligations on it in accordance with its terms.
- 4.1.4 The entry into and performance by it of this Agreement and the transactions contemplated hereby do not:
 - 4.1.4.1 conflict with any law or regulation or any official or judicial order;
 - 4.1.4.2 conflict with its constitutional documents;
 - 4.1.4.3 conflict with any agreement or document to which it is a party or which is binding upon it or any of its assets; or
 - 4.1.4.4 result in the creation or imposition of (or enforceability of) any encumbrance on any of its assets or the provisions of any agreement or document.
- 4.1.5 All authorisations, approvals, consents, licences, exemptions, filings, regulations, notarisations and other matters, official or otherwise, required in connection with the entry into and performance by such Guarantor and the validity and enforceability against it of this Agreement have been obtained or effected (or, in the case of registrations, will be so effected within any applicable required period) and, if obtained and effected, are in full force and effect and all fees (if any) payable in connection therewith, if due, have been paid and there has been no default in the performance of any of the terms or conditions thereof which is material to the effectiveness of any of the foregoing.
- 4.1.6 It is not in default of the payment of any taxes which have been assessed and demanded and which are not subject to a *bona fide* dispute between it and any government entity demanding such taxes (where such dispute does not require the payment of such taxes as a condition to entering into the dispute).
- 4.1.7 It is not in breach of, or in default under, any material agreement to which it is a party or which is binding on it or any of its assets.
- 4.1.8 It is not involved in, nor so far as it is aware, is there pending or threatened, litigation, arbitration or other proceedings of a litigious nature nor are there any circumstances likely to give rise to any such litigation, arbitration or proceedings.

- 4.1.9 No Insolvency Event has occurred or is persisting in relation to it and it is not "Financially Distressed" as defined in the Companies Act.
- 4.1.10 All information furnished by or on behalf of it to the Noteholder Trustee (acting on behalf of the Secured Noteholders) in connection with this Agreement and/or the other Finance Documents, remains true and correct in all material respects and there are no other facts or circumstances of which it is aware that would render any such information misleading in respect of any material matter.
- 4.1.11 It has disclosed to the Noteholder Trustee (acting on behalf of the Secured Noteholders) any information known to it (having made diligent enquiry) which was requested by the Finance Providers prior to the date of this Agreement and information which it reasonably expected could materially and adversely influence the decision of the Noteholder Trustee (acting on behalf of the Secured Noteholders) to enter into the Finance Documents, save to the extent that the disclosure of the information in question would be in contravention of the Financial Markets Act.
- 4.1.12 The claims of the Secured Noteholders against it under this Agreement shall rank at least *pari passu* with the claims of all its other unsecured unsubordinated creditors, save for obligations mandatorily preferred by law.
- 4.1.13 In entering into this Agreement and the other Finance Document to which it is a party, and in performing their rights and obligations thereunder, it acts and will continue to act solely for its own account.
- 4.1.14 It has not taken any action nor have any other steps been taken or legal proceedings been started or threatened against it for its liquidation, winding-up, dissolution, sequestration, administration, business rescue or re-organisation or for the appointment of a receiver, administrative receiver, trustee, business rescue practitioner or similar officer of it or of any or all of its assets or revenues.
- 4.1.15 It is fully aware of and acquainted with the provisions of the Secured Notes and the Finance Documents to which it is party and the meaning and effect of all such provisions.

4.2 **Repetition**

The representations and warranties set out in Clause 4.1 (*Matters Represented*) shall survive the execution of this Agreement and shall be deemed to be repeated by each of the Guarantors in favour of the Noteholder Trustee on each day prior to the Discharge Date in full, in each case with reference to the facts and circumstances then subsisting as if made at each such time.

4.3 **Duration**

- 4.3.1 The representations and warranties in Clause 4 (*Representations and Warranties*) (other than the representation and warranty set out in Clauses 4.1.4.3, 4.1.4.4 and 4.1.5) shall come into force on the Signature Date and shall continue in force until the Discharge Date.
- 4.3.2 The representations and warranties set out in Clauses 4.1.4.3, 4.1.4.4 and 4.1.5 shall come into force on the Effective Date and shall continue in force until the Discharge Date.

5. **ACCESSION UNDERTAKING**

Any member of the Hospitality Group who wishes to accede to this Agreement as a Guarantor shall become a Party to this Agreement in accordance with the provisions hereof and the Security Sharing Agreement by delivery to the Noteholder Trustee (acting on behalf of the Secured Noteholders) of a duly executed Accession Undertaking. Such member of the Hospitality Group shall become a Party to this Agreement as a Guarantor only upon acceptance by the Noteholder Trustee (acting on behalf of the Secured Noteholders) of a duly executed Accession Undertaking in the required form as evidenced by the countersignature of the Noteholder Trustee (acting on behalf of the Secured Noteholders) on such Accession Undertaking. The Noteholder Trustee (acting on behalf of the Secured Noteholders) shall as soon as reasonably practicable but in any event within 5 (five) Business Days after receipt by it of a duly executed Accession Undertaking, deliver a copy of such duly executed Accession Undertaking to the Enforcement Agent and Hospitality.

6. **RENUNCIATION OF BENEFITS**

Each Guarantor renounces, to the extent permitted under applicable law, the benefits of each of the legal exceptions of excussion, division, revision of accounts, no value received, *errore calculi*, *non causa debiti*, *non numeratae pecuniae* and cession of actions, and declares that it understands the meaning of each such legal exception and the effect of such renunciation.

7. **CERTIFICATES**

A certificate signed by any director or manager of the Noteholder Trustee (whose appointment need not be proved) as to the existence of and the amount of indebtedness by the Guarantors or an Issuer, as the case may be, to the Noteholder Trustee, that such amount is due and payable, the amount of interest accrued thereon and as to any other fact, matter or thing related to the Guarantors' or the Issuer's, as the case may be, indebtedness to the Noteholder Trustee under this Agreement or the Guaranteed Obligations, as the case may be, shall be *prima facie* proof of the contents and correctness thereof for the purposes of provisional sentence, summary judgment or any other proceedings, shall be valid as a liquid document for such purpose and shall, in addition, be *prima facie* proof for purposes of pleading or trial in any action instituted by the Guarantors arising herefrom.

8. **INDEMNITY**

Each Guarantor hereby indemnifies and holds the Noteholder Trustee harmless against any costs, claim, loss, expense (including legal fees on the scale as between attorney and own client) or liability together with any VAT thereon, which it may sustain or incur as a consequence of the occurrence of any default by any of the Guarantors in the performance of any of the obligations expressed to be assumed by it in this Agreement.

9. **STIPULATION FOR THE BENEFIT OF THE NOTEHOLDER TRUSTEE**

- 9.1 The provisions of this Agreement which confer benefits upon the Noteholder Trustee, shall constitute stipulations for the benefit of any person(s) becoming a Noteholder Trustee in accordance with the provisions of the Security Sharing Agreement, capable of acceptance at any time.

9.2 To the extent that a splitting of claims arises as a result of the provisions of this Clause 9 (*Stipulation for the Benefit of the Noteholder Trustee*), the Guarantors hereby consent to such splitting of claims.

10. TAX GROSS UP

All payments to be made by the Guarantors to the Noteholder Trustee, hereunder shall be made free and clear of and without deduction for or on account of Tax unless any Guarantor is required by law to make such a payment subject to the deduction or withholding of tax, in which case the sum payable by that Guarantor in respect of which such deduction or withholdings is required to be made shall be increased to the extent necessary to ensure that, after the making of the required deduction or withholding, the Noteholder Trustee receives and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

11. REMEDIES CUMULATIVE

11.1 The rights of the Noteholder Trustee under this Agreement:

11.1.1 may be exercised as often as necessary;

11.1.2 are cumulative and not exclusive of their rights under general law, and

11.1.3 may be waived only in writing and specifically.

11.2 Delay in exercising or non-exercise of any such rights is not a waiver of those rights.

12. NOTICES AND DOMICILIA

12.1 Communications in Writing

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax, email or letter.

12.2 Addresses

The address, email address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Agreement is:

12.2.1 in the case of the **Guarantors**:

Fezisource Proprietary Limited

The Zone II
Lofts Office East Wing
2nd Floor, Cnr Oxford Road and Tyrwhitt Avenue
Rosebank, Johannesburg
South Africa

Email: marad@hpf.co.za / Riaan.erasmus@tsogosun.com
Telefax No.: +27 11 994 6321
Attention: Financial Director

HPF Properties Proprietary Limited:

The Zone II
Lofts Office East Wing
2nd Floor, Cnr Oxford Road and Tyrwhitt Avenue
Rosebank, Johannesburg
South Africa

Email: marad@hpf.co.za / Riaan.erasmus@tsogosun.com
Telefax No.: +27 11 994 6321
Attention: Financial Director

12.2.2 in the case of the **Noteholder Trustee:**

3rd Floor, 200 on Main
Corner Main and Bowwood Roads
Claremont
7708
South Africa

Email: nick.clarke@tmf-group.com
Telefax No.: +27 (086) 673 3490
Attention: Managing Director

or any substitute address or fax number or department or officer as a Party may notify to the other Parties by not less than 5 (five) Business Days' written notice.

12.3 **Domicilia**

- 12.3.1 Each of the Parties chooses its physical address provided under or in connection with Clause 12.2 (*Addresses*) as its *domicilium citandi et executandi* at which documents in legal proceedings in connection with this Agreement may be served.
- 12.3.2 Any Party may by written notice to the other Parties change its *domicilium* from time to time to another address, not being a post office box or a *poste restante*, in South Africa, provided that any such change shall only be effective on the 14th (fourteenth) day after deemed receipt of the notice by the other Parties pursuant to Clause 12.4 (*Delivery*).

12.4 **Delivery**

- 12.4.1 Any communication or document made or delivered by one person to another under or in connection with this Agreement will:
- 12.4.1.1 if by way of fax, be deemed to have been received on the 1st (first) Business Day following the date of transmission provided that the fax is received in legible form;
- 12.4.1.2 if delivered by email, be deemed to have been received at the time of receiving a delivery notice;
- 12.4.1.3 if delivered by hand, be deemed to have been received at the time of delivery; and
- 12.4.1.4 if by way of courier service, be deemed to have been received on the 7th (seventh) Business Day following the date of such sending,

and provided, if a particular department or officer is specified as part of its address details provided under Clause 12.2 (*Addresses*), if such communication or document is addressed to that department or officer, unless the contrary is proved.

12.4.2 Any communication or document to be made or delivered to the Noteholder Trustee will be effective only when actually received by the Noteholder Trustee and then only if it is expressly marked for the attention of the department or officer specified as part of its address details provided under Clause 12.2 (Addresses) (or any substitute department or officer as the Noteholder Trustee shall specify for this purpose).

12.4.3 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Party shall be an adequate written notice or communication to it, notwithstanding that it was not sent to or delivered at its chosen address, email address and/or telefax number.

12.5 **English Language**

Any notice or other document given under or in connection with this Agreement must be in English.

13. **SOLE AGREEMENT**

The Agreement constitutes the sole record of the agreement between the Parties in regard to the subject matter thereof.

14. **NO IMPLIED TERMS**

No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded in this Agreement.

15. **AMENDMENTS AND WAIVERS**

15.1 No variation, amendment or consensual cancellation of this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement shall be of any force or effect unless effected in accordance with the provisions of this Clause 15 (*Amendments and Waivers*).

15.2 Any term of this Agreement may be varied or amended and any extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement may be granted, in each case, only with the consent of all the Parties and any such variation, amendment, waiver, extension of time, relaxation or suspension will be binding on all Parties.

15.3 No variation, amendment or consensual cancellation of this Agreement contemplated by this Clause 15 (*Amendments and Waivers*) shall be of any force or effect unless in writing and signed by or on behalf of the relevant Parties.

15.4 No oral *pactum de non petendo* shall be of any force or effect.

16. **EXTENSIONS AND WAIVERS**

No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Agreement and no single or partial exercise of any right by any Party shall under any circumstances be construed to be an implied consent by such Party or operate as a waiver or a

novation of, or otherwise affect any of that Party's rights in terms of or arising from this Agreement or estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term of this Agreement.

17. FURTHER ASSURANCES

The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for the putting into effect or maintenance of the terms, conditions and import of this Agreement.

18. INDEPENDENT ADVICE

Each of the Parties acknowledges that they have been free to secure independent legal and other advice as to the nature and effect of all of the provisions of this Agreement and that they have either taken such independent legal and other advice or dispensed with the necessity of doing so. Further, each of the Parties acknowledges that all of the provisions of this Agreement and the restrictions therein contained are fair and reasonable in all the circumstances and are part of the overall intention of the Parties in connection with this Agreement.

19. COUNTERPARTS

This Agreement may be executed in any number of counterparts and by different parties thereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

20. WAIVER OF IMMUNITY

Each Guarantor irrevocably and unconditionally waives any right it may have to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

21. GOVERNING LAW

This Agreement and any non-contractual obligations arising out of or in connection with it is governed by South African law.

22. JURISDICTION

22.1 Each Guarantor hereby irrevocably and unconditionally consents and submits to the jurisdiction of the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) in regard to all matters arising from this Agreement (including a dispute relating to the existence, validity or termination of this Agreement, any Guaranteed Obligation or any non-contractual obligation arising out of or in connection with this Agreement or any Guaranteed Obligation) (a **Dispute**).

22.2 Each Guarantor agrees that the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that division) is the most appropriate and convenient court to settle Disputes and accordingly:

- 22.2.1 it will not argue to the contrary;
- 22.2.2 it hereby waives any objection to the jurisdiction of that court on the grounds of venue or *forum non conveniens* or any similar grounds; and
- 22.2.3 it consents to service of process in any manner permitted by applicable law.
- 22.3 This Clause 22 (*Jurisdiction*) is for the benefit of the Noteholder Trustee only. As a result, the Noteholder Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction as it sees fit. To the extent allowed by law, the Noteholder Trustee may take concurrent proceedings in any number of jurisdictions.

23. **SEVERABILITY**

Each provision in this Agreement is severable from all others, notwithstanding the manner in which they may be linked together or grouped grammatically, and if in terms of any judgment or order, any provision, phrase, sentence, paragraph or clause is found to be defective or unenforceable for any reason, the remaining provisions, phrases, sentences, paragraphs and clauses shall nevertheless continue to be of full force. In particular, and without limiting the generality of the foregoing, the Parties acknowledge their intention to continue to be bound by this Agreement notwithstanding that any provision may be found to be unenforceable or void or voidable, in which event the provision concerned shall be severed from the other provisions, each of which shall continue to be of full force.

24. **COSTS**

- 24.1 Hospitality shall bear the costs of and incidental to the negotiation, preparation and execution of the Finance Documents.
- 24.2 All legal costs incurred by a Party in consequence of any default of the provisions of this Agreement by any other Party shall be payable on demand by the defaulting Party on the scale as between attorney and own client and shall include collection charges, the costs incurred by the non-defaulting Party in endeavouring to enforce such rights prior to the institution of legal proceedings and the costs incurred in connection with the satisfaction or enforcement of any judgement awarded in favour of the non-defaulting Party in relation to its rights in terms of or arising out of this Agreement.

SIGNED at Rosebank on this the 28th day of April 2017.

For and on behalf of
FEZISOURCE PROPRIETARY LIMITED



Signatory: Keith Graham Randall
Capacity: Director
Who warrants his/her authority hereto

SIGNED at Rosebank on this the 28th day of April 2017.

For and on behalf of
HPF PROPERTIES PROPRIETARY LIMITED



Signatory: Keith Graham Randall

Capacity: Director

Who warrants his/her authority hereto

We, the undersigned, **TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED (formerly GMG Trust Company (SA) Proprietary Limited)**, in our capacity as Noteholder Trustee acting for the benefit of the Secured Noteholders, hereby accept all benefits conferred on the Noteholder Trustee for the benefit of Secured Noteholders under this Agreement.

SIGNED at Cape Town on this the 28th day of April 2017.

For and on behalf of

TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED (formerly GMG Trust Company (SA) Proprietary Limited), (as NOTEHOLDER TRUSTEE, acting for the benefit of the SECURED NOTEHOLDERS)


Signatory: Burtin Marsay Russouw
Capacity: Authorised Signatory
Who warrants his authority hereto

OBLIGOR ACCESSION UNDERTAKING

To: **Hospitality Guarantee SPV (RF) Proprietary Limited (as Debt Guarantor)**
And to: **TMF Corporate Services (South Africa) Proprietary Limited (as Enforcement Agent and Noteholder Trustee)**
From: **Hospitality Property Fund Limited (the Issuer); and**
Merway Fifth Investments Proprietary Limited (the Acceding Party)
Date: 27 October 2017

Dear Sirs

HOSPITALITY PROPERTY FUND LIMITED – SECURITY SHARING AGREEMENT DATED 28 APRIL 2017 (the SECURITY SHARING AGREEMENT) - SUBORDINATION AGREEMENT AND NOTEHOLDER GUARANTEE – ACCESSION UNDERTAKING

1. We refer to the Security Sharing Agreement. This is an Accession Undertaking, and terms used in this Accession Undertaking have the same meaning as in the Security Sharing Agreement.
2. This Accession Undertaking is delivered to you as Debt Guarantor and Enforcement Agent pursuant to Clause 9.1 (*Changes to the Obligors – Additional Obligor*) of the Security Sharing Agreement.
3. Furthermore, in terms of:
 - 3.1 clause 3.3 of the Subordination Agreement, the Obligors are required to procure that any Additional Obligor becomes a party to the Subordination Agreement by delivering the necessary accession undertaking in according with the Finance Documents to which it is a party; and
 - 3.2 clause 5 of the Noteholder Guarantee, any member of the Hospitality Group can accede to the Noteholder Guarantee as a Guarantor by completing an accession undertaking in terms of the Security Sharing Agreement.
4. In consideration of the Acceding Party being accepted as an Obligor for the purposes of the Security Sharing Agreement, the Acceding Party hereby confirms that, as from the date of acceptance of this Accession Undertaking by the Enforcement Agent, it –
 - 4.1 intends to be party to the (i) Security Sharing Agreement as an Obligor, (ii) Subordination Agreement as an Additional Subordinated Party and (iii) Noteholder Guarantee as an Additional Guarantor;
 - 4.2 undertakes to perform all the obligations expressed in the (i) Security Sharing Agreement to be assumed by an Obligor, (ii) Subordination Agreement to be assumed by an Additional Subordinated Party and (iii) Noteholder Guarantee to be assumed by a Guarantor; and
 - 4.3 agrees that it shall be bound by all the provisions of the (i) Security Sharing Agreement as if it had been an original party to the Security Sharing Agreement as an Obligor, (ii) Subordination

Agreement as if it had been an original party to the Subordination Agreement as a Subordinated Party and (iii) Noteholder Guarantee as if it had been an original party to the Noteholder Guarantee as a Guarantor.

5. This Accession Undertaking may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Accession Undertaking.
6. This Accession Undertaking shall be governed by and construed in accordance with the laws of South Africa.

For and on behalf of
The Acceding Party



Name: **MERWAY FIFTH INVESTMENTS PROPRIETARY LIMITED**
Capacity: Director
Who warrants his/her authority hereto
Address for notices:
Address: The Zone II
Lofts Office East Wing
2nd Floor, Cnr Oxford Road and Tyrwhitt Avenue
Rosebank, Johannesburg
South Africa
Email: marad@hpf.co.za/Riaan.Erasmus@tsogosun.com

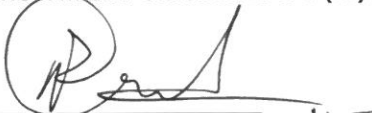
For and on behalf of
The Issuer



Name: **HOSPITALITY PROPERTY FUND LIMITED**
Capacity: Director
Who warrants his/her authority hereto
Address for notices:
Address: The Zone II
Lofts Office East Wing
2nd Floor, Cnr Oxford Road and Tyrwhitt Avenue
Rosebank, Johannesburg
South Africa
Email: marad@hpf.co.za/Riaan.Erasmus@tsogosun.com

We hereby accept and acknowledge the accession by the Acceding Party to the Security Sharing Agreement, the Subordination Agreement and the Noteholder Guarantee.

For and on half of
The Debt Guarantor
HOSPITALITY GUARANTEE SPV (RF) PROPRIETARY LIMITED



Name: **NICHOLAS CLARKE**
Capacity: **DIRECTOR**
Who warrants his/her authority hereto

For and on half of
The Enforcement Agent and the Noteholder Trustee
TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED

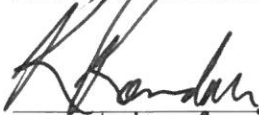


Name: Rozanne Kamaje
Capacity: Enforcement Agent
Who warrants his/her authority hereto




Berlin Rossouw
Trustee

For and on half of
FEZISOURCE PROPRIETARY LIMITED



Name: Keith Randall
Capacity: Director
Who warrants his/her authority hereto

For and on half of
HPF PROPERTIES PROPRIETARY LIMITED



Name: Keith Randall
Capacity: Director
Who warrants his/her authority hereto

OBLIGOR ACCESSION UNDERTAKING

To: **Hospitality Guarantee SPV (RF) Proprietary Limited** (as **Debt Guarantor**)
And to: **TMF Corporate Services (South Africa) Proprietary Limited** (as **Enforcement Agent** and **Noteholder Trustee**)
From: **Hospitality Property Fund Limited** (the **Issuer**); and
The Cullinan Hotel Proprietary Limited (the **Acceding Party**)
Date: 27 October 2017

Dear Sirs


HOSPITALITY PROPERTY FUND LIMITED – SECURITY SHARING AGREEMENT DATED 28 APRIL 2017 (the SECURITY SHARING AGREEMENT) - SUBORDINATION AGREEMENT AND NOTEHOLDER GUARANTEE – ACCESSION UNDERTAKING

1. We refer to the Security Sharing Agreement. This is an Accession Undertaking, and terms used in this Accession Undertaking have the same meaning as in the Security Sharing Agreement.
2. This Accession Undertaking is delivered to you as Debt Guarantor and Enforcement Agent pursuant to Clause 9.1 (*Changes to the Obligors – Additional Obligor*) of the Security Sharing Agreement.
3. Furthermore, in terms of:
 - 3.1 clause 3.3 of the Subordination Agreement, the Obligors are required to procure that any Additional Obligor becomes a party to the Subordination Agreement by delivering the necessary accession undertaking in accordance with the Finance Documents to which it is a party; and
 - 3.2 clause 5 of the Noteholder Guarantee, any member of the Hospitality Group can accede to the Noteholder Guarantee as a Guarantor by completing an accession undertaking in terms of the Security Sharing Agreement.
4. In consideration of the Acceding Party being accepted as an Obligor for the purposes of the Security Sharing Agreement, the Acceding Party hereby confirms that, as from the date of acceptance of this Accession Undertaking by the Enforcement Agent, it –
 - 4.1 intends to be party to the (i) Security Sharing Agreement as an Obligor, (ii) Subordination Agreement as an Additional Subordinated Party and (iii) Noteholder Guarantee as an Additional Guarantor;
 - 4.2 undertakes to perform all the obligations expressed in the (i) Security Sharing Agreement to be assumed by an Obligor, (ii) Subordination Agreement to be assumed by an Additional Subordinated Party and (iii) Noteholder Guarantee to be assumed by a Guarantor; and
 - 4.3 agrees that it shall be bound by all the provisions of the (i) Security Sharing Agreement as if it had been an original party to the Security Sharing Agreement as an Obligor, (ii) Subordination

Agreement as if it had been an original party to the Subordination Agreement as a Subordinated Party and (iii) Noteholder Guarantee as if it had been an original party to the Noteholder Guarantee as a Guarantor.

5. This Accession Undertaking may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Accession Undertaking.
6. This Accession Undertaking shall be governed by and construed in accordance with the laws of South Africa.

For and on behalf of
The Acceding Party



Name: **THE CULLINAN HOTEL PROPRIETARY LIMITED**

Capacity: Director

Who warrants his/her authority hereto

Address for notices:

Address: The Zone II

Lofts Office East Wing

2nd Floor, Cnr Oxford Road and Tyrwhitt Avenue

Rosebank, Johannesburg

South Africa

Email: marad@hpf.co.za/Riaan.Erasmus@tsogosun.com

For and on behalf of
The Issuer



Name: **HOSPITALITY PROPERTY FUND LIMITED**

Capacity: Director

Who warrants his/her authority hereto

Address for notices:

Address: The Zone II

Lofts Office East Wing

2nd Floor, Cnr Oxford Road and Tyrwhitt Avenue

Rosebank, Johannesburg


South Africa

Email: marad@hpf.co.za/Riaan.Erasmus@tsogosun.com

We hereby accept and acknowledge the accession by the Acceding Party to the Security Sharing Agreement, the Subordination Agreement and the Noteholder Guarantee.

For and on half of
The Debt Guarantor

HOSPITALITY GUARANTEE SPV (RF) PROPRIETARY LIMITED

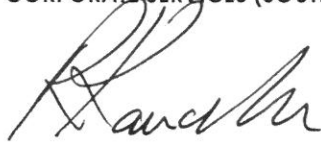


Name: **NICHOLAS CLARKE**

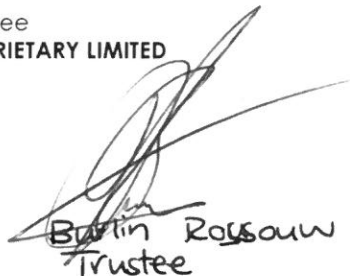
Capacity: **DIRECTOR**

Who warrants his/her authority hereto

For and on half of
The Enforcement Agent and the Noteholder Trustee
TMF CORPORATE SERVICES (SOUTH AFRICA) PROPRIETARY LIMITED



Name: Rozanne Kamalie
Capacity: Enforcement Agent
Who warrants his/her authority hereto



Berlin Rossouw
Trustee

For and on half of
FEZISOURCE PROPRIETARY LIMITED



Name: Keith Randall
Capacity: Director
Who warrants his/her authority hereto

For and on half of
HPF PROPERTIES PROPRIETARY LIMITED



Name: Keith Randall
Capacity: Director
Who warrants his/her authority hereto

DESCRIPTION OF GURANTORS AND NOTEHOLDER TRUSTEE

Under Noteholder Debt Guarantee

1. Hospitality Guarantee SPV (RF) Proprietary Limited

- 1.1 Registration Number: 2005/036268/07
- 1.2 Registered Address: 3rd Floor, 200 On Main, Cnr Main And Bowwood Roads, Claremont, 7708
- 1.3 Director(s): Clarke, Nicholas Russell
- 1.4 Business Description: Issues guarantees to certain creditors of HPF Proprietary Limited, guaranteeing payment to such creditors in respect of their claims against HPF Proprietary Limited.

Under Noteholder Guarantee

1. HPF Properties Proprietary Limited

- 1.1 Registration Number: 2005/020743/07
- 1.2 Registered Address: The Zone II Loft Offices East Wing, Cnr Oxford Road And Tyrwhitt Avenue, Rosebank, 2196
- 1.3 Director(s): Nelson, Gerald Alan
Kubukeli, Zuko Ntsele
Randall, Keith Graham
De Lima, Mara Raquel Dos Santos
- 1.4 Business Description: Property holding and property investment directly through the ownership or lease of immovable property.

2. Fezisource Proprietary Limited

- 2.1 Registration Number: 2015/305572/07
- 2.2 Registered Address: The Zone II Loft Offices East Wing, Cnr Oxford Road And Tyrwhitt Avenue, Rosebank, 2196
- 2.3 Director(s): Randall, Keith Graham
De Lima, Mara Raquel Dos Santos
McDonald, Laurelle
- 2.4 Business Description: Entity that offers hospitality management services to various customers.

3. **Cullinan Hotel Proprietary Limited**

- 3.1 Registration Number: 1988/004685/07
- 3.2 Registered Address: The Zone II Loft Offices East Wing, Cnr Oxford Road And Tyrwhitt Avenue, Rosebank, 2196
- 3.3 Director(s): Randall, Keith Graham
De Lima, Mara Raquel Dos Santos
- 3.4 Business Description: Entity that owns and operates hotel properties in South Africa.

4. **Merway Fifth Investments Proprietary Limited**

- 4.1 Registration Number: 1991/006478/07
- 4.2 Registered Address: The Zone II Loft Offices East Wing, Cnr Oxford Road And Tyrwhitt Avenue, Rosebank, 2196
- 4.3 Director(s): Randall, Keith Graham
De Lima, Mara Raquel Dos Santos
- 4.4 Business Description: Entity that owns and operates hotel properties in South Africa.

Noteholder Trustee

1. **Hospitality First Ranking Senior Secured Notes Trust**

- 1.1 Trust Number: IT 694/2013
- 1.2 Trustee: TMF Corporate Services (South Africa) Proprietary Limited with Registration Number 1967/010920/07, represented by Burlin Marsay Russouw
- 1.3 Registered Address of Trustee: 3rd Floor, 200 On Main, Cnr Main And Bowwood Roads, Claremont, 7708
- 1.4 Main responsibilities of Trustee: (i) The trustee shall have the power to appoint as custodian, on any terms, any bank or entity whose business includes the safe custody of documents or any lawyer or firm of lawyers believed by it to be of good repute; (ii) the Trustee may appoint any person to act as its nominee on any terms, subject to prior written notification thereof to the Issuer; and (iii) the Trustee shall have the power to demand, claim, sue for and recover from the Issuer any moneys, costs, charges or expenses paid or incurred by it in the execution of any of the trusts, powers and provisions of the deed.
- 1.5 Cessation of office of the Trustee: any trustee shall cease to hold office if: (i) it shall have resigned by at least 3 (three) months' written notice to the Issuer; or (ii) he, being an attorney or an auditor, shall cease to be entitled to carry on practice as such; or (iii) he, being a natural person, shall cease for any reason to be qualified for appointment as a director of a

company; or (iv) it, being a corporation, shall be placed in liquidation or under business rescue, whether provisionally or finally; or (v) it becomes disentitled in law to hold the office of Trustee (including, but not limited to, failing to satisfy the requirements of section 43(5) of the Companies Act, 2008); or (vi) it shall be removed from office by an Extraordinary Resolution of the Secured Noteholders.

GENERAL**1. Documents incorporated by reference**

The Noteholder Debt Guarantee and Noteholder Guarantee are also available on the Issuer's website, <https://www.tsogosun.com/hospitality-property-fund/investors/regulatory-documents>. In addition, the amended and restated noteholders trust deed will be available at the registered office of the Issuer as set out at the end of the Programme Memorandum upon written request addressed to the company secretary of the Issuer.

2. Litigation Statement

Save as disclosed herein, none of the Guarantors have been involved in any legal or arbitration proceedings (including any such proceedings which are pending or threatened of which each Guarantor is aware) which may have or have had a material effect on the financial position of each Guarantor.