

PROTOCOL NO: /2024

**NOTARIAL LEASE AGREEMENT**

**BE IT HEREBY MADE KNOWN THAT** on the            day of  
in the year of 2024, **BEFORE ME,**

..... (LPCM .....

a Notary Public, by lawful authority, duly sworn and admitted and practicing as such at Pretoria in the province of Gauteng and in the presence of the subscribing witnesses, personally came and appeared

.....

he being duly authorized thereto by:

1. **WALTER SISULU LOCAL MUNICIPALITY**

(hereinafter referred to as "WSLM")

she being duly authorised thereto by virtue of a Power of Attorney granted to her at **Burgersdorp** on the ..<sup>th</sup> day of .....**2024** by **KHAYA GASHI** in his capacity as **MUNICIPAL MANAGER**, he in turn being duly authorized thereto by the appropriate **Resolution no: .....**, signed at **Burgersdorp** on ..... **2024**, which Power of Attorney and a certified copy of which Resolution have been exhibited to me and now remain filed in my Protocol;

(" hereinafter referred to as the Lessor")

And

in her capacity as duly authorized Attorney and Agent of

2. **LIMAKATSO BOUTIQUE HOTEL PROPRIETARY LIMITED Registration**

**Number 2021/433724/07**, in Consortium with **LOUIS LATEGAN SAFARI CC Registration Number 2001/045388/23** and **CRL BEAUTY SCHOOL PROPRIETARY LIMITED Registration Number 2012/FE07/008**

(hereinafter referred to as **LIMAKATSO TSA MALETSWAI CONSORTIUM (LTMC)**) she being duly authorised thereto by virtue of a Power of Attorney granted to her at

on the day of by **MS.**

**MAMELLO LIKOBO** in her capacity as a **REPRESENTATIVE** of the **LIMAKATSO TSA MALETSWAI CONSORTIUM**, duly authorised thereto by a Resolution of the Consortium signed at on day of 2024.

(" hereinafter referred to as the Lessee")

which Powers of Attorney and a certified copy of which Resolution have been exhibited to me and now remain filed in my Protocol.

3. **AND THE APPEARER DECLARED THAT:**

**AND WHEREAS** the Lessor has agreed to let to the Lessee, and the Lessee has agreed to hire from the Lessor the abovementioned properties (hereinafter referred to as the Leased Premises);

**AND WHEREAS** the Lessor wishes to lease to the Lessee who wishes to lease from the Lessor the Leased Premises, commonly known as **Oppie Bron Flats "the flats"** (as more fully indicated on the diagram annexed to this Notarial Lease Agreement marked ANNEXURE "A")

**AND WHEREAS** the Lessee wishes to lease the Leased Premises from the Lessor and the Lessor wishes to lease out the Leased Premises to the Lessee for the commercialisation, renovate, refurbishment, upgrading, operation, maintenance and finance of municipal property by the lessee for any further development of the flats;

**AND WHEREAS** the Lessor and the Lessee have reached agreement as to the terms upon which such letting and hiring shall be made, subject to such terms being recorded in writing;

**AND WHEREAS** the parties desire to record the terms, conditions and stipulations of the said Lease;

**AND WHEREAS** the Lessor and the Lessee and are entitled in terms of the formalities in respect of the Leases of Land Act No.18 Of 1969 to register and

therefore wish to register a private long lease against the title deed of the immovable property which forms the subject matter of this Lease;

**AND WHEREAS** the parties have accordingly agreed to the following terms and conditions subject to which the property is let by the Lessor to the Lessee.

**NOW THEREFORE IT IS AGREED AS FOLLOWS:**

**4. INTERPRETATION**

- 4.1. The headings to the clauses of this Agreement are for reference purposes only and shall not aid in the interpretation of the clauses to which they relate.
- 4.2. Unless the context clearly indicates a contrary intention, words importing:
  - 4.2.1. any one gender, shall include the other two genders;
  - 4.2.2. the singular shall include the plural and vice versa;
  - 4.2.3. natural persons shall include corporations and vice versa.
- 4.3. The following expressions shall bear the meanings assigned to them hereunder and cognate expressions shall bear corresponding meanings:
  - 4.3.1. **"Approvals"** means all permissions, authorities, permits, licences, certificates, authorisations, registrations, grants, acknowledgements, exemptions, records of decision, consents,

sub-divisions, rights of way accesses, zonings, Environmental Approvals and such other approvals as may be required by Law during the occupancy of the Leased Property;

- 4.3.2. **"Authority"** means any national, provincial or local government, statutory, public or other authority or body having jurisdiction over the Property or any matter or thing relating to the Property;
- 4.3.3. **"building works"** means the construction, refurbishment and development of the flats including improvements and installation of cables on the Leased Premises by the Lessee in accordance with the Agreement;
- 4.3.4. **"Charges"** means levies, taxes, fees or other amounts payable by the Lessor to any authority having jurisdiction over the Property that arise from the ownership and use of the Property;
- 4.3.5. **"Commencement Date"** means the date of commencement of the Lease Period, being the date as the Parties may agree in writing;
- 4.3.6. **"Day"** means any day of the week, excluding Sundays and public holidays;
- 4.3.7. **"Fulfillment Date"** means the date on which the Notarial Lease Agreement is registered in the Deeds Office,
- 4.3.8. **"Lease Period"** means the period for which this lease subsists, which is **thirty (30) years** including the renewal period.

- 4.3.9. **"Leased Premises"** means a Portion of Erf 1451, measuring Four Thousand ("3665") Square metres, Aliwal North, together with all improvements effected thereon;
- 4.3.10. **"Lessee"** means **LIMAKATSO BOUTIQUE HOTEL PROPRIETARY LIMITED** Registration Number **2021/433724/07**, in Consortium with **LOUIS LATEGAN SAFARI CC** Registration Number **2001/045388/23** and **CRL BEAUTY SCHOOL PROPRIETARY LIMITED** Registration Number **2012/FE07/008** (hereinafter referred to as **LIMAKATSO TSA MALETSWAI CONSORTIUM (LTMC)**) she being duly authorised thereto by virtue of a Power of Attorney granted to her at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ by **MS. MAMELLO LIKOB** in her capacity as a **REPRESENTATIVE** of the **LIMAKATSO TSA MALETSWAI CONSORTIUM**, duly authorised thereto by a Resolution of the Consortium signed at \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_ 2024.
- 4.3.11. **"Lessor"** means WALTER SISULU LOCAL MUNICIPALITY duly represented herein by KHAYA GASHI in his capacity as the Municipal Manager of the Walter Sisulu Local Municipality, he being duly authorised thereto by virtue of a Resolution passed by the Council of the aforesaid Municipality dated at \_\_\_\_\_ on \_\_\_\_\_
- 4.3.12. **"Option Period"** means a period of **thirty (30) years, which shall commence on the day immediately following the initial termination date,**

- 4.3.13. **"Parties"** means the "Lessor" and "Lessee", and any reference to "a Party" shall refer to one of the relevant Parties as required by the context;
- 4.3.14. **"Property"** means Lease on A Portion of Erf 1451 Aliwal North, Situate in the Walter Sisulu Local Municipality, Administrative District of Aliwal North .Province of the Eastern Cape, measuring (3665 square metres) 4 hectares, as more fully depicted by the Diagram A as attached..
- 4.3.15. **"Rates"** includes council rates, water rates, sewerage rates and all other rates, assessments and fees;
- 4.3.16. **"Rent"** means the annual rent payable by the Lessee to the Lessor under this Agreement as set out in this agreement and varied in accordance with this Agreement;
- 4.3.17. **"Taxes"** includes any other property tax assessed on the Leased Premises, but excludes the Lessor's income tax and capital gains tax,
- 4.3.18. **"Termination Date"** means the date on which this Agreement terminates either as a result of effluxion of time or as otherwise provided for in this Agreement
- 4.3.19. **"Valuation"** means the determination of the value of municipal immovable property (or portion thereof) and the applicable rental,

- 4.3.20. **"Valuer"** means a professional person registered, in terms of the Property Valuers Profession Act, 2000 with the South African Council for the Property
- 4.3.21. **"year"** means a period of twelve consecutive months and "yearly" refers to a year commencing on the date on which this lease comes into operation or an anniversary of that date;
- 4.3.22. reference to notices, statements and any other communications by or from the Lessor, include Notices by or from the Lessor's agents.

## 5. **LETTING AND HIRING**

- 5.1. The Lessor hereby lets to the Lessee and the Lessee hereby hires from the Lessor, the leased premises.
- 5.2. This Agreement sets out the terms and conditions agreed upon between the Lessor and the Lessee in relation to such Lease.

## 6. **CONDITIONS PRECEDENT AND EXCLUSIVITY**

- 6.1. This Lease Agreement, save for the provisions of this clause which shall be of immediate effect, is subject to and conditional upon –

- 6.1.1. the Lessor issuing a Council resolution for the conclusion of this Lease as contemplated in the MFMA and in Lessor's own asset management policies by no later than 15 December 2024; and
  - 6.1.2. fulfilment of all Conditions Precedent to the occupation and operation of the Lease Agreement within the period of Six (06) months from Signature Date of the Lease Agreement or the Long Stop Date, unless otherwise agreed in writing between the Parties.
  - 6.1.3. The parties agree that in the event of this Notarial Lease Agreement lapsing, the parties undertake to sign the necessary termination agreement and/or documents and to take all necessary steps to give effect to the termination of this Lease Agreement.
- 6.2. Each Party shall use its best endeavours to procure the necessary resolutions and approvals contemplated in clause 6.1.1 as soon as reasonably possible before the date of execution of this Lease.
- 6.3. The Conditions Precedent set out in clause 6.1 have been inserted for the benefit of both parties and are only capable of being waived by way of written agreement amongst the parties.
- 6.4. If the Conditions Precedent are not fulfilled by the respective due dates therefore (as contained in clause 6.1) or such further period(s) as the parties may agree in writing, this Lease Agreement shall never be of any force or effect. Neither the Lessee nor the Lessor shall have any claim against each other as a result of any damages it may suffer, directly or indirectly, due to the Conditions Precedent not being fulfilled.

6.5. The Lessor shall not enter into any negotiations, agreements, discussions and/or undertakings with any party other than the Lessee in relation to the lease, use, development or other commercial exploitation of the Leased Premises during the period commencing on the Signature Date and terminating on the last day specified for fulfilment of any Condition Precedent not fulfilled by such date (i.e. The Lessee and the Lessor undertake to negotiate exclusively with one another in relation to the Leased Premises until such time as the Lease Agreement becomes unconditional in accordance with its terms or lapses on account of the failure of any of the Conditions Precedent to become fulfilled/waived by the due date therefore).

## **7. DURATION OF LEASE**

7.1. The duration of the Lease shall be for a period of 30 (thirty) years, commencing on the date of signature hereof.

7.2. The Lessee shall be granted beneficial occupation of the property on the date of signature hereof until completion of the development in terms of the Development Agreement.

## **8. OPTION TO RENEW**

8.1. The Lessee shall have the option to renew this Lease for a further period of 30 (thirty) years provided that such option is exercised not later than 1 (one) year prior to the termination of the Lease, giving the Lessor notice in writing to that effect, whereupon, the Lease shall, save for the rental, continue on

the same terms and conditions as are stated herein, and further on condition that:

8.1.1. The rental for the first year of the renewal period and the subsequently annually compounding escalations thereto shall be at the then going rate for the land value of the Leased Premises, **excluding the building** to be agreed upon between the Lessor and the Lessee within 14 (fourteen) days after the exercise of such option by the Lessee. In the event of the parties not reaching consensus in this regard, the said going rate for the rental and escalation shall be determined by the expressed written views of two reputable estate agents practising in ( **either, Maletswai (formerly Aliwal North), East London or where they can be sourced** ) and appointed for the purpose by the senior elected member for the time being of the East London branch of the Institute of Estate Agents of South Africa. Should the said two Estate Agents fail to agree, then they shall refer to a third estate agent to be similarly appointed and whose decision shall be final and binding on the Lessor and the Lessee and the Lease shall otherwise be on the same terms and conditions as this Lease save that there shall be no further right of renewal.

8.1.2. The Lessor shall not prior to the renewal period have lawfully cancelled this lease.

8.1.3. There will be no further renewal periods after expiry of the renewal period and the Lessor will take full control of the asset handed over to the Lessor together with all improvements thereon.

## 9. **RENTAL PAYABLE**

9.1. It is recorded that no rental will be payable for the first six (06) months as from date of occupation or signature hereof until the date upon which the refurbishments and or development of the Leased Premises has been completed in terms of the Agreement after the Commencement Date of this Lease, whichever may occur first.

9.2. The obligation for rental shall commence on the first day of the month following the exempted rental period as indicated in clause 9.1 above and after completion of the aforesaid, maintenance, development and refurbishments, or on the first date following the month in which the 06 (six) month period referred to above expires.

9.3. The rental payable for the initial 06 (six) month period, shall be amount to **R25 000.00 (Twenty-Five Thousand Rand)** per month.

9.4. Thereafter, from the 13<sup>th</sup> (thirteenth) Month to the 24<sup>th</sup> (twenty fourth (month) the rental shall remain at the amount to **R25 000.00 (Twenty-Five**

**Thousand Rand)** per month whereafter the rental shall escalate annually at the rate of 10% with effect from the 25<sup>th</sup> (twenty fifth (month)).

9.5. The rent payable shall be paid by the Lessee monthly and by no later than the 7th day of the following calendar month;

9.6. All amounts payable by the Lessee in terms of this lease shall be paid free of deduction to any bank account to which the Lessor may in writing direct or in such other manner the Lessor may in writing direct.

## 10. **ADDITIONAL CHARGES**

10.1. In addition to the rental, the Lessee shall be liable to pay:

10.1.1. value added tax;

10.1.2. water and electricity consumed by it in or on the leased premises, which shall include any air conditioning serving the leased premises as determined in terms of the separate meter installed by the Lessor for this purpose;

10.1.3. pay the cost related to the block burning required for the fire safety control management of the property

10.1.4. refuse removal charged by the local authority;

10.1.5. sanitary charges charged by the local authority;

10.1.6. Rates and taxes;

10.1.7. Development charges, if any.

## 11. **PAYMENTS**

11.1. The Lessee shall not withhold (unless authorised to do so by the Lessor), defer or make any deduction from any payment due to the Lessor, whether or not the Lessor is indebted to the Lessee or in breach of any obligation to the Lessee;

11.2. The rent and all other amounts payable by the Lessee shall be nett of value added tax in so far as it is applicable and such tax shall be recoverable by the Lessor from the Lessee in addition to the rent and such other amounts.

11.3. The Lessee shall be liable for interest on all overdue amounts payable under this Lease at a rate per annum equal to the interest rate as determined by the Council of the Lessor in its annual budget from time to time reckoned from the due date of such payments until they are respectively paid.

## 12. **DEVELOPMENT OF THE LEASED PREMISES**

12.1. The Lessee undertakes to refurbish, maintain and develop the property in accordance with properly approved building plans, subject to the Town Planning Scheme and National Building Regulations and in accordance with the provisions of the Development Agreement.

12.2. The cost of the development including the costs of provision of services such as water, sewerage, storm water drainage and electricity shall be borne by the Lessee.

- 12.3. The Lessee shall provide on the Lease Premises a central refuse point from which the Lessor and/or other service provider/Municipality will remove refuse from the Leased Premises.
- 12.4. The Lessee shall provide for adequate loading bays, parking bays on the Leased Premises for clients and/or tenants to the satisfaction of the Lessor and the approved building plan and Town Planning requirements relating to parking, and shall provide security for such parking/access to the Leased Premises.
- 12.5. The Lessee shall landscape the Leased Premises in terms of the Agreement and may not allow it to deteriorate and will maintain it to the satisfaction of the Lessor. Maintenance/Repairs to the landscape areas shall include all parking areas, access, roads, drive ways surrounding the development, all entrances and/or exits, retaining walls, truck service ways, loading bays, pedestrian malls and walk ways, courts, escalators, stairs, ramps and pavements, exterior stairs, first Aid stations and toilets.
- 12.6. The Lessee shall provide access, parking, toilet and other facilities necessary to reasonably accommodate wheel-chair access to and from the Leased Premises, to the satisfaction of the Lessor.
- 12.7. The Lessee shall be obliged to provide a sprinkler system for the development and comply in all respects with the sprinkler rules as laid down by the automatic sprinkler inspection bureau and/or Lessor.
- 12.8. It is recorded that the development, or improvements effected to the property in terms of the Development Agreement, shall become the property of the Lessor upon termination of this Lease and the Lessee shall not be entitled to any compensation for such improvements.

13. **CONTENTS OF PREMISES**

The Lessor shall not be responsible to the Lessee or any other person for any loss and/or damage caused to the contents of the premises leased which shall include any stock-in-trade, fittings, books, papers and any article whatsoever, whether due to any defect in the premises or any installation, fixture, fitting or appurtenances in such premises, Act of God, overflow of water supply, leakage, seepage, electrical fault, wind, rain, flood water, hail storm, burglary, theft, forcible entry or any other cause whatsoever, and the Lessee indemnifies the Lessor against any claim by its employees, invitees, licensees or any other person in respect of such damage.

14. **USE OF THE PROPERTY**

14.1. The Lessor shall give the Lessee occupation of the Leased premises on the Commencement Date.

14.2. The Lease Premises shall be used exclusively by the Lessee for the renting it out to tenants and visitors and operation of the Premises and / or Parking Areas and/or any activity or thing not inconsistent with the conditions of title relating to the Lease Area and manners reasonably ancillary thereto and may not be used for any other purpose without the prior written consent of the Lessor.

14.3. The Lease Premises shall be used for accommodation services.

14.4. The Lessee shall, with the prior written approval of the Lessor, and at its cost, at any time from the Commencement Date to Refurbish the Premises,

by making wholly or partly alterations, additions or improvements to the Lease Area.

15. **RIGHTS AND DUTIES OF THE LESSEE**

15.1. Notwithstanding anything to the contrary contained in this Agreement, the Parties record that the rights of the Lessee shall include, inter alia:

15.1.1. the right to use the Leased Premises as a place of accommodation of guests, Lessee's employees, contractors or agents including, the equipment and materials;

15.1.2. the right to install, operate and maintain such security systems as the Lessee in its sole and absolute discretion shall deem necessary for the purposes of protecting the Lessee's Property,

the Project Equipment, and the safety of all persons (including the general public) traversing over the Property;

15.1.3. unrestricted access to any portion of the Property for the purposes of, *inter alia*, –

15.1.3.1. carrying out the Works,

15.1.3.2. operating, maintaining, repairing, renewing, removing and replacing of any Project Equipment; and;

15.1.3.3. doing all such things as the Lessee, in its sole and absolute discretion, may deem necessary and desirable for the purposes of conducting the health care and medical services.

15.2. The Lessee shall be entitled to pass and register a Mortgage Bond (if required) (i.e. over the Lessee's right, title and interest in and to this Agreement) as security for any loan granted to the Lessee for the purposes of undertaking the Works, Refurbishments and to the extent required, the Lessor hereby consents to the registration of such Mortgage Bond, subject to the Lessor's internal procedures having been followed for purposes of obtaining such consent.

15.3. The Lessee shall –

- 15.3.1. conduct the accommodation activities for which the Property is let in a diligent manner and in accordance with the approvals granted by the relevant authorities;
- 15.3.2. not infringe any law, servitude, licence or permit relating to the use of water;
- 15.3.3. not contravene any of the conditions of title of the property or any of the laws, rules or regulations affecting occupiers of the Property;
- 15.3.4. not cause or commit any public nuisance;
- 15.3.5. refrain from interfering with the electrical, plumbing or gas installations or systems serving any of the Improvements, except as may be necessary to enable the Lessee to carry out its obligations of maintenance and repair in terms of this lease;

## 16. **RIGHTS AND DUTIES OF THE LESSOR**

16.1. The Lessor hereby agrees that for the duration of the Lease Period, the Lessor shall use its best endeavours —

- 16.1.1. if requested to do so by the Lessee, and at the reasonable cost of the Lessee, to provide all such assistance as the Lessee may require in support of any application for development, planning consent or Approval, or any application to amend any existing

development, planning consent or Approval, which the Lessee may decide in its sole and absolute discretion to make in connection with its use of the Leased Premises for any purpose contemplated in this Agreement.

16.1.2. to the extent required by the Lessee, to give the Lessor's consent to any application referred to in paragraph 16.1.1 which consent the Lessor shall not unreasonably withhold or delay.

16.2. Notwithstanding the aforesaid and subject to the internal procedures of the Lessor, the Lessor undertakes, to the extent necessary, -

16.2.1. to Sign and execute any Approval, consent or document;

16.2.2. to provide such information available to it; and

16.2.3. not to oppose any applications made by the Lessee as required by Law;

16.2.4. for the purpose of facilitating the Refurbishment works, construction and development of the flats, provided that such do not adversely affect the rights of the Lessor in any way;

16.2.5. further, the Lessor in particular, undertakes to grant and register such servitudes against the Leased Premises and/or the Property, as the case may be, as the Lessee may reasonably require from time to time.

**17. WAIVER AND INDEMNITY**

17.1. The Lessor shall not be liable to the Lessee, or any one of its members or servants or to any person coming upon the premises to visit or transact business or to any person whatsoever or to any person claiming through or for such person, for damages to person or property sustained directly or indirectly as the result of or from any defect or state or condition of the premises or any portion, fixture, fittings or appurtenances thereof, or any appliance or work therein or thereof, or of or from any act, neglect or omission on the part of the servants, agents, invitees or licensees of the Lessee, or the servants, agents, invitees or licensees of any other tenants in the building in which the premises are houses, or any other person whatsoever.

17.2. The Lessee will indemnify and keep the Lessor indemnified for any and all legal liability arising out of or in connection with the Leased Premises for loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon, or at the Leased premises, or the occupancy or use by the Lessee of the Leased Premises or any part thereof, occasioned wholly or in part by any act or omission of the Lessor, its officials and/or agents. In case the Lessor be made part, without fault of its part, to any litigation by or against the Lessee, then the Lessee shall indemnify the Lessor for any liability against all claims and shall pay all

legal fees (including Attorney and client fees) reasonably incurred or paid by the Lessor in connection with such litigation.

17.3. The Lessee further indemnifies the Lessor from any and all legal liability arising out of any land claim in connection with the Leased Premises the Lessor may not have been aware of during the signing of this Lease Agreement.

## 18. **SUB-LETTING AND CESSION**

18.1. The Lessee shall have the right to sub-let any portion or portions of the land and buildings in the property **ONLY** after obtaining the consent of the Lessor. Notwithstanding the foregoing, the Lessee shall remain responsible for the compliance with all the terms and conditions of this lease and shall ensure that sub-tenants comply therewith in turn.

18.2. The Lessee shall however not be entitled to cede its right, title and interest in and to this lease agreement to a third party without the prior written consent of the Lessor, which consent shall not be withheld unreasonably.

18.3. Should the Lessee be a Company, Close Corporation and or other entity or legal entity , then transfer of any of its issued shares, unissued share capital, or any future increased share capital or change in its membership whether in consequence of a sale, assignment, bequest, inheritance, operation of law or other disposition, which result in a change in the present effective voting control of the Lessee by the person or persons owning a majority of the company's shares or being a majority member on the date of signature of this lease by or on behalf of the Lessee shall be deemed to be a cession by the Lessee of its rights under this Lease

Agreement and accordingly shall be subject to the Lessor's prior written consent.

**19. MORTGAGE OF THE LEASE**

- 19.1. The Lessee may be required to mortgage this lease in favour of a bank in order to raise the capital required to finance the construction of the buildings and refurbishments. The Lessor consents to such mortgage.
- 19.2. Should the Lessee require additional finance for the development of the property, the Lessee will be entitled to further mortgage the lease or cancel any mortgage bonds and register replacement mortgage bonds in favour of another bank. The Lessor consents in advance to any such transactions.
- 19.3. the Lessor undertakes to and in favour of the holder of a mortgage bond or mortgage bonds to be registered over the lease (the bondholder) that it will not cancel the lease on breach, without first :
- (a) delivering to the bondholder by personal service or by registered post to such other address as the bondholder may appoint, a copy of any notice of breach served on the Lessee,  
and
  - (b) affording the bondholder a period of 90 (ninety) days from the date of receipt of such notice within which to remedy the breach on behalf of the Lessee,
- 19.4. Should the bondholder foreclose on the mortgage bond registered over the Lease and sell in execution the Lessee's right, title and interest in the Lease to a purchaser, the Lessor shall not unreasonably withhold its consent to the cession and assignment of this Lease to the Purchaser thereof.

19.5. Should the Lessee be placed in liquidation, the Lessor shall not unreasonably withhold its consent to the cession and assignment of this Lease by the Liquidator to a cessionary nominated by the Liquidator.

19.6. Should this Lease be cancelled or terminated, the bondholder shall, forthwith upon such cancellation or termination, acquire an option to lease the property from the Lessor upon the same terms and conditions as are contained in this Lease.

## 20. **MAINTENANCE AND REPAIRS**

20.1. The Lessee shall at its own cost and expense throughout the term of this Agreement:

20.1.1. maintain in good order and repair the interior and exterior of the Leased Premises including all waterproofing, electrical, gas, water, drainage, sanitary works, fencing, boundary walls and other installations, appurtenances, fixtures and fittings as well as the terrain surrounding any buildings on the Leased Premises, but excluding any maintenance of a structural nature (i.e. the roof, walls and engineered load-bearing elements in relation to the building erected as part of the Development on the Property), and on termination of this Agreement return to the Lessor the Leased Premises with all items referred to above in good order and repair (fair wear and tear excepted);

20.1.2. where necessary, replace fixtures and fittings with articles of equal or better quality, corresponding value and appearance, which for reference purposes may include, but shall not be limited to, wash- and lavatory basins, lavatory seats, flushing apparatus, glass panes, plate glass, taps, window-, door- and cupboard locks, hinges, fittings and keys, sinks, electrical fittings including

switches and plugs, gas fittings and regulators, light bulbs, light fixtures and fluorescent lights; and

20.1.3. promptly repair or make good all damage to the Leased Premises irrespective of its cause, unless the damage is of a structural nature, in which event the Lessee must without delay notify the Developer of such damage and the cause of such damage immediately.

20.2. In the event of either Party ("**the Defaulting Party**") failing to maintain or repair the Leased Premises in accordance with its obligations stated in this clause and remaining in default for such period as the other Party ("**the Aggrieved Party**") may reasonably stipulate in a written notice calling on the Defaulting Party to remedy the default, due regard being had to the nature hereof, then the Aggrieved Party shall be entitled to effect the necessary maintenance or repairs and to claim cost so incurred from the Defaulting Party.

20.3. On termination of this Agreement the Lessee shall deliver the Leased Premises to the Lessor in the same good order and condition, fair wear and tear excepted, as it existed at the Commencement Date or as it existed after any upgrading work or alterations and improvements had been done pursuant to the provisions of this Agreement (fair wear and tear excepted).

20.4. Should any defect manifest itself in or about the Leased Premises for the repair of which the Lessee is responsible, the Lessor shall as soon as reasonably possible after the manifestation thereof give the Lessee notice of the defect. Should the Lessee fail to effect any maintenance or repairs for which it is responsible within a reasonable time after having being given written notice to do so by the Lessor, due regard being had to the nature of

the maintenance or repair to be carried out, the Lessor shall be entitled itself to do so at the cost of the Lessee.

## 21. **ADVERTISING**

Any advertising whether in the form of signs, neon signs, signwriting or otherwise however shall only be permitted to regulations. All such advertisements which may be erected by the Lessee shall be erected and maintained in good order and appearance exclusively at the risk, cost and expense of the Lessee and provided, moreover, that the same shall be removed by the Lessee at its own cost and expense on the termination of its tenancy. The Lessee shall be responsible for any damage caused directly or indirectly by such advertisements either to the premises or to any person or property. The Lessee shall, however, not display any goods, signs or notices detached from and outside the premises or in the entrances or exists thereto.

## 22. **DAMAGE TO PREMISES**

In the event of a fire or any other disaster occurring and the leased premises being destroyed or so damaged as to render it wholly or partly unsuitable for the continuation of the business conducted thereat, the Lessee shall have the right in its sole discretion either to rebuild or repair the destroyed or damaged portion of the building and keep the lease in force, or to cancel the lease by written notice addressed to the Lessor.

## 23. **INSURANCE**

23.1. The Lessor shall be required to procure and maintain an adequate all risks insurance policy in respect of the Leased Premises in such manner form and

for such cover determined by the Lessor acting its reasonable discretion The Lessee shall however be required to procure and maintain an adequate all risks insurance policy in respect of the movable assets and/or equipment kept on or about the Leased Premises.

## **24. TERMINATION AND INSPECTION OF PREMISES**

- 24.1. The Lessor reserves to itself and its agents the right at all reasonable times to enter upon the premises to inspect same, during business hours, all without interference from or compensation to the Lessee.
- 24.2. On the expiration or earlier termination of this Lease Agreement the Lessee shall surrender the Leased Premises in good order, repair and condition, fair wear and tear excepted, and shall surrender all keys for the Leased Premises to the Lessor's Municipal Managers Office.
- 24.3. During the last 30 (Thirty) days of the Lease Term the Lessee shall remove all its trade fixtures from the Leased Premises and also to the extent required by the Lessor by written notice, and any other alterations, additions, improvements and installations affected, and shall at the Lessee's sole expense repair and make good any damage to the Leased Premises.
- 24.4. The Lessee shall be entitled to cancel this Agreement upon 3 (three) months prior written notice to the Lessor, subject to clause 23.3 above;
- 24.5. Should the Lessor and the Lessee agree on the termination of this Agreement, for whatsoever reason, such agreement shall not affect any of their rights which vested prior to such termination.

## 25. **NOTICE OF BREACH**

Due to the nature of the Lease and the risks involved in carrying out the renovations and/or conducting the accommodation activities, the Parties agree that for the purposes of calculating the notice period referred to in clause 30, below, the parties agree as follows —

### **DEFAULT BY LESSEE**

25.1. Should the Lessee:

25.1.1. contravene or permit the contravention of any one or more of the conditions of this Lease or fail in the observation of any one or more of the terms and conditions of this lease (each of which provisions, terms and conditions shall be deemed material to this Lease) and fail to remedy the default or breach within 14(fourteen) days after dispatch of notice in writing (at the expense of the Lessee) sent by registered post to the Lessee requiring it to do so, subject however to the provisions contained in clause 27 ;

25.1.2. be placed in provisional or final liquidation, under judicial management or Administration or if judgment be taken against the Lessee by default, the Lessor shall subject to the provisions contained herein above, be entitled notwithstanding any prior waiver, extension, or condonation and without prejudice to any other rights the Lessor may have hereunder, immediately and without prejudice to any other rights and remedies, to cancel this Lease and to obtain repossession of the premises and for that purpose to take whatever action may be necessary for the immediate ejectment of the Lessee

from the premises without prejudice furthermore to the Lessor's rights to claim rent already accrued and such further damages as the Lessor may sustain by reason of the Lessee's breach or default or cancellation of the Lease.

- 25.2. Alternatively, to the provisions of the preceding sub-clause hereof, the Lessor shall in any of the said events in his sole discretion be entitled to cancel the lease and permit the Lessee to remain upon the premises on a monthly tenancy terminable by one (1) month's written notice to be given by either party but subject in all other respects to all the terms and conditions of this contract.
- 25.3. Should the Lessor instruct its attorneys to make demand or institute legal proceedings against the Lessee as a result of non-payment of any rental or other breach by the Lessee of any of the terms of this Lease, the Lessee shall be responsible for and shall upon demand pay all legal costs and disbursements, including collection charges, on the scale as between attorney and client.
- 25.4. Should the Lessor cancel this Lease and the Lessee disputes the Lessor's right to cancel same and remain in occupation of the premises, the Lessee shall be obliged pending the determination of such dispute to continue to pay an amount equivalent to the monthly rental on due date and the Lessor shall be entitled to accept and to recover such payments either before or after legal proceedings have been instituted. The acceptance of such amounts shall be without prejudice to and shall not in any way affect the Lessor's claim for cancellation then in dispute.
- 25.5. Should such dispute be decided in favour of the Lessor, the payments so made shall be deemed to be payments by the Lessee on account of the

damages suffered by the Lessor by reason of the cancellation of the Lease and/or the unlawful holding over by the Lessee.

## 26. NOTICES AND DOMICILIA

26.1. For the purpose of delivery or any notice and service of any process, pleadings or documents in any action or proceedings arising out of this agreement,

26.1.1. the Lessor chooses *domicilium citandi et executandi* at:

**Physical Address:**           **Corner Church and Greyling Street  
Burgersdorp  
9744**

**Postal Address:**           **P.O. Box 13  
Burgersdorp  
9744**

**Tel No:**                       **051 653 1777**

26.1.2. the Lessee chooses *domicilium citandi et executandi* at:

**Physical Address:**       **28B Duncan Street  
Maletswai  
9750**

**Postal Address:**       **28B Duncan Street  
Maletswai  
9750**

**Email:**                       **[info@limakatso.co.za](mailto:info@limakatso.co.za)**

26.2. Any notice or communication required or permitted to be given to a Party pursuant to the provisions of this Agreement shall be valid and effective only if in writing and sent to a Party's chosen address or e mail address, provided

that documents in legal proceedings in connection with this Agreement may only be served at a Party's *Domicilium*.

26.3. Any Party may by written notice to the other Parties, change its chosen address or e-mail address to another address or e-mail address, provided that:

26.3.1. the change shall become effective on the 10<sup>th</sup> (tenth) Business Day after the receipt or deemed receipt of the notice by the addressee in accordance with the provisions of clause 26.4, and

26.3.2. any change in a Party's *Domicilium* shall only be to an address in South Africa, which is not a post office box or a poste restante.

26.4. Any notice to a Party contained in a correctly addressed envelope; and

26.4.1. sent by prepaid registered post to it at its chosen address in clause **Error! Reference source not found.** or

26.4.2. delivered by hand to a responsible person during ordinary business hours at its chosen address in clause **Error! Reference source not found.**

shall be deemed to have been received in the case of clause 26.4.1 on the fifth Business Day after posting (unless the contrary is proved) and, in the case of clause 26.4.2 on the day of delivery.

26.5. Any notice by e-mail to a Party at its e-mail address shall be deemed, unless the contrary is proved, to have been received on the first Business Day after the date of transmission.

26.6. Notwithstanding anything to the contrary contained in this clause 26, 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 or e-mail address as set out in clause **Error! Reference source not found.**

## 27. **BREACH OF THIS AGREEMENT**

27.1. Should either Party (**Defaulting Party**) breach any of the provisions of this Agreement, then the other Party (**Aggrieved Party**) may give the Defaulting Party 14 (fourteen) days' written notice or such longer period of time as the Aggrieved Party may specify in the notice, to remedy the breach. If the Defaulting Party fails to comply with the notice, the Aggrieved Party may exercise any rights that the Aggrieved Party may have under this Agreement or in law.

## 28. **HOLDING OVER**

28.1. Should the Lessor cancel this Agreement and the Lessee disputes the Lessor's right to do so and continues to occupy the Leased Premises pending the determination of that dispute, then:

- 28.1.1. the Lessee shall continue to pay all amounts which would be due by the Lessee in terms of this Agreement on the due dates thereof;
  - 28.1.2. the Lessor shall be entitled to recover and accept those payments;
  - 28.1.3. the recovery or acceptance by the Lessor of such payments shall be without prejudice to and shall not in any manner whatsoever affect the Lessor's claim to cancellation of this Agreement or for damages of any other nature whatsoever.
- 28.2. Should the dispute between the Lessor and the Lessee be determined in the Lessor's favour, then the payments made to the Lessor in terms of the above shall be regarded as amounts paid by the Lessee on account of the loss and/or damages sustained by the Lessor as a result of the holding over by the Lessee of the Leased Premises.

**29. DESTRUCTION**

- 29.1. In the event of a fire or any other disaster occurring and the Leased Premises being destroyed or so damaged as to render it wholly or partly unsuitable for the continuation of the business conducted thereat, the Lessee shall have the right in its sole discretion either to rebuild or repair the destroyed or damaged portion of the building and keep the lease in force, or to cancel the lease by written notice addressed to the Lessor.

**30. COMPLIANCE WITH LAWS AND TITLE DEEDS**

30.1. The Lessee shall comply with all applicable laws relating to operating permits, lessees or occupiers of the Leased Premises or affecting the conduct of any business carried on or in the Leased Premises. The Lessee shall not contravene or permit the contravention of any of the conditions of title under which the Leased Premises or Property is held by the Lessee in terms of any of the provisions of the town planning scheme applicable to the Leased Premises.

### 31. **OCCUPATIONAL HEALTH AND SAFETY ACT OF 1983**

31.1. The Lessee confirms that with effect from the Commencement Date it will have acquired full control in respect of the use of the Leased Premises for purpose of The Occupational Health and Safety Act, Act No 85 of 1993 ("**Occupational Health and Safety Act**"), and any of the regulations promulgated thereunder. The Lessee hereby indemnifies the Lessor against any claims arising from the Lessee's non-compliance with the provisions of the Occupational Health and Safety Act.

31.2. The Lessee shall be obliged at all times during this Agreement to comply with the provisions of the Occupational Health and Safety Act at its cost and in this regard, undertakes forthwith on demand from the Lessor to do all things necessary to ensure compliance with the provisions of the Occupational Health and Safety Act inclusive of, *inter alia*, to the electrical compliance certificate.

### 32. **GENERAL**

- 32.1. This Agreement is the whole agreement between the Parties in regard to its subject matter.
- 32.2. No addition to or variation or consensual cancellation of this Agreement, including this clause, has effect unless in writing and signed by the Parties.
- 32.3. No indulgence by a Party to another Party, or failure to strictly enforce the terms of this Agreement, is to be construed as a waiver or be capable of founding an estoppel.
- 32.4. The Parties undertake to do everything reasonable in their power necessary for or incidental to the effectiveness and performance of this Agreement.
- 32.5. Any illegal or unenforceable provision of this Agreement may be severed and the remaining provisions of this Agreement continue in force.
- 32.6. The Parties acknowledge that they have had the opportunity to obtain independent legal advice before entering into this Agreement and in the absence of having done so, have waived their right to do so.

### 33. **JURISDICTION**

- 33.1. Either party shall be entitled but not obliged to institute any proceedings arising out of or in connection with this Agreement in the Magistrate's Court

notwithstanding the fact that the amount of the claim would, but for this clause, exceed the jurisdiction of such court.

33.2. Only the Eastern Provincial Division will have a jurisdiction in respect of any dispute arising from this agreement.

33.3. Should either party take legal proceedings against the other, the successful party shall be entitled to recover costs calculated on the attorney and client scale from the other party.

34. **PRE-EMPTIVE RIGHT TO PURCHASE PROPERTY**

34.1. Should the Lessor at any time during the currency of this Lease, decide to dispose of the property it shall deliver to the Lessee a letter giving notice of the Lessee's intention.

34.2. The Lessee will have a period of 30 (thirty) days from date of delivery of the letter within which to notify the Lessor in writing if the Lessee wishes to purchase the property. In that event, the sale will be upon the following terms and conditions:

34.2.1. The purchase price of the property will be the fair market value of the land component of the property (including improvements effected by the Lessee.

34.2.2. Should the Lessor and Lessee fail to reach agreement on the purchase price of the land within a period of 30 (thirty) days

of the date upon which the Lessee informs the Lessor of its intention to purchase the property, then the determination of the purchase price shall be referred to arbitration by two estate agents or property brokers each having not less than 10 (ten) years' experience of commercial property, one arbitrator to be appointed by the Lessor and one by the Lessee;

34.2.3. The arbitrators shall determine the purchase price within a period of 1 (one) month from the date of appointment and should they fail to reach agreement, they shall jointly select an umpire who shall determine the purchase price within a further period of one month;

34.2.4. Both the Lessor and Lessee may submit written or oral representations to the arbitrators or the umpire, as the case may be. The decision of the arbitrators or umpire shall be final and binding upon all parties.

34.2.5. The Lessee shall, within 60 (sixty) days of the date on which the purchase price is agreed upon or is determined by arbitration, as the case may be, furnish the Lessor with an acceptable Bank Guarantee for the full purchase price expressed to be payable to the Lessor free of commission on the date of registration of transfer of the property;

34.2.5.1. The sale shall be *voetstoots*;

34.2.5.2. The Lessee shall pay the transfer costs including transfer duty.

34.3. Delivery of the letter referred to in sub-clause 24.1 shall be deemed to have been received by the Lessee either on the date of physical delivery of the letter to the Lessee or on a date 10 (ten) days after the date on which the letter is posted to the Lessee by prepaid registered post to the Lessee's chosen *domicilium*.

34.4. Should the Lessee elect not to purchase the property or should the Lessee fail to respond to the letter from the Lessor, then the Lessor may sell the property to any third party subject to the terms of this Lease and subject to the Lessee's rights in law, provided that the terms and conditions of such sale shall not be more favourable to such third party than those offered to the Lessee. Should the Lessee decline to purchase the property and should the Lessor thereafter intend to offer the property to a third party upon more favourable terms, the Lessor shall be obliged once more to give the Lessee written notice of such terms as provided for in sub-clause 24.1 above and the Lessee shall have a further right to purchase the property upon such terms.

## 35. **COSTS**

The costs of and incidental to the drawing of this agreement as between attorney and client, together with stamp duty payable thereon and any other charges incurred in connection herewith shall be borne by the Lessee.

36. To the extent permissible by law, no party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

**This done and signed at \_\_\_\_\_ in the presence of the undersigned witnesses on this \_\_\_\_\_ day of December 2024.**

As witnesses:

1. ....

2.....

.....

**Name: Khaya Gashi**

Designation: Municipal Manager

For and on behalf of: Walter Sisulu Local Municipality ,Who warrants that he is duly authorized to do so by way of a resolution passed by the municipal council (*the Lessor*)

**This done and signed at \_\_\_\_\_ in the presence of the undersigned witnesses on this \_\_\_\_\_ day of December 2024.**

As witnesses:

1. ....

2.....

.....

**Name: Mamello Likobo**

Designation: Director of Limakatso Boutique Hotel

For and on behalf of: Limakatso Tsa Maletswai

Consortium ,Who warrants that he is duly authorized

to do so by way of a resolution passed by the

Consortium(*the Lessee*)

## **ANNEXURE : A- DIAGRAM**

**ANNEXURE B**

**TO BE PROVIDED BY COUNCIL**

## **ANNEXURE C**

1. The Operating Costs shall include (but not be limited to) all costs associated with:
  - 1.1 keeping the inside and outside of the Leased Premises, (including the interior and exterior of all windows and doors) and all its contents clean and tidy;
  - 1.2 the maintenance of all air-conditioners on the Leased Premises and/or the air-conditioning plant serving the Leased Premises and all standby generators supplying power to the Leased Premises from time to time;
  - 1.3 maintaining the inside of the Leased Premises in a good functional order and keeping them neat, clean and hygienic and repairing all damages done to the Leased Premises, including the doors and windows, doorframes, handles, shop-fronts, window frames and window handles, fair wear and tear excluded;
  - 1.4 maintaining and repairing any plate or other glass, both internal and external and window panels contained in the Leased Premises and replacing any such glass as may be damaged, however and by whomever such damage shall be caused but specifically excluding any repairs and maintenance of a structural nature envisaged in the Agreement;
  - 1.5 ensuring that access to the Leased Premises is secure at all times;
  - 1.6 maintaining, and where necessary, replacing any fire extinguishing equipment, fire detection alarm system, power

supply and electrical systems, including, but not limited to electrical outlets, plugs and distribution boards, installed in the Leased Premises;

1.7 maintaining the drainage, plumbing installations, including but not limited to, the geysers, sanitary fittings and works in the Leased Premises and replacing any damaged or faulty installations;

1.8 maintaining all mechanical equipment, including but not limited to, the electrical installation and fire equipment in good working order and condition.

1.9 replacing at its own cost all light fittings, fluorescent tubes, stators, globes and incandescent lamps used in the Leased Premises;

1.10 replacing at its own cost all fittings and fixtures installed in the Leased Premises as at the Commencement Date and installing any further fixtures and fittings required by the Lessee during the duration of this Agreement;

1.11 being responsible for:

1.11.1 the safety, safe use and maintenance of the electrical installations in the Leased Premises;

1.11.2 the safety of the conductors connecting the electrical installations to the point of supply;

- 1.12 in the upkeep of the Premises, being responsible for painting the Leased Premises with SABS approved paint as and when it becomes necessary;
- 1.13 being responsible for any security, fencing, landscaping, cleaning, gardening costs including the services used or supplied in the running of any generators and any other equipment;
- 1.14 being responsible for the maintenance, of and for such repairs and replacements becoming necessary from time to time, in or to the Oppie Bron Flats and all parts thereof, other than those which are the responsibility of the local authority, and the Lessee's obligations in this respect shall include the maintenance and repair of the building of the Oppie Bron Flats; and
- 1.15 being responsible for the appointment of and payment to an external service provider to remove all waste from the Lease Premises at such standards and in accordance with such policies as are acceptable to the Department of Environmental Affairs and Fisheries, Department of Trade and Industry and the Department of Health.