JOZINI PARADISE ESTATE

Protocol No.

NOTARIAL DEED OF SUB-LEASE NO.
i.r.o. On-Grid Build

KNOW ALL MEN WHOM IT MAY CONCERN:

THAT on this the ______ day of _______________________________ in the year of Our Lord Two Thousand and Sixteen (2016) before me,

KAREN HEPBURN (or her nominee)
of Pietermaritzburg, KwaZulu-Natal, Notary Public, by lawful authority duly sworn and admitted and in the presence of the undersigned subscribing witnesses personally came and appeared:

GERT SCHEEPERS

in his capacity as the majority member of AMHAPPY 18 INVESTMENTS CC, a close corporation duly incorporated under the Close Corporation Laws of the Republic of South Africa with CK No: 2001/041000/23, acting under and by virtue of a Resolution of the members of the close corporation passed at PONGOLA on the _____ day of ________________________ 2016 which Resolution has this day been exhibited to me and remains filed in my protocol.

(hereinafter referred to as “the Lessee”); and
WHEREAS, in terms of a Long-Term Lease dated 17 February 2016, WARREN ELBERT ROBIN RAUBENHEIMER in his capacity as a duly authorised member of the KwaZulu-Natal Ingonyama Trust Board (hereinafter “the ITB”) has leased to the Lessee, Lease 17 on Portion 1 of the Farm RESERVE No. 16 No. 15836-HV in extent 129, 9837 (one two nine
comma nine eight three seven) Hectares, as depicted on Surveyor General’s Diagram No. 469/2015 (hereinafter “the Property”);

AND WHEREAS, the Property is situated in the Lebombo Mountains, bordering the Jozini Dam, and adjacent to the town of Jozini, a region with inherent but underutilised potential;

AND WHEREAS, the Property and the water mass of the Jozini Dam has been identified as an ideal site for the establishment of a private lodges development and an adjacent leisure resort, which developments are to be known as Jozini Paradise Estate and Jozini Paradise Lodge, respectively.

AND WHEREAS, the Long-Term Lease of the Property endures for an initial period of 40 (forty) years from 1 March 2016.

AND WHEREAS, the Long-Term Lease may be extended for a further period of 40 (forty) years thereafter;

AND WHEREAS, the ITB has consented to the registration of the Long-Term Lease as against the Certificate of Registered Title of the greater property, of which the Property is a portion;

AND WHEREAS, the ITB has consented to the Lessee sub-letting individual surveyed Stands on the Property;

AND WHEREAS, the Lessee wishes to sub-lease surveyed Stands to Purchasers of leasehold rights to such Stands;

AND WHEREAS, the Lessee has in terms of an agreement dated the _____ day of ______________________ 201__ granted to the Sub-Lessee the right to build a private lodge on a Stand and to occupy that Stand within the Estate known as Jozini Paradise Estate, known as Stand No. ________________ measuring ______________________ square metres (hereinafter “the Stand”).
AND WHEREAS, the Lessee wishes to sub-lease to the Sub-Lessee (hereinafter collectively “the parties”), who wishes to lease the Stand, upon the following terms and conditions.

NOW THEREFORE, these presents witness that the parties have agreed upon the following terms:

1. **INTERPRETATION**

   1.1. The singular shall include reference to the plural and vice versa.

   1.2. Any reference to a gender shall include a reference to other genders and to any body corporate, and vice versa.

   1.3. The headings to the clauses of this Notarial Deed of Sub-Lease are for the purposes of reference only and shall not govern its interpretation.

   1.4. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the Notarial Deed of Sub-Lease, notwithstanding that it is only contained in the interpretation clause.

   1.5. If any period is referred to in this Notarial Deed of Sub-Lease by way of reference to a number of days, the days 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 day shall be the next succeeding business day.

   1.6. Any reference to days shall be reference to business days.

   1.7. In this Notarial Deed of Sub-Lease, unless the context clearly indicates the contrary, the following words, phrases and expressions shall have the respective meanings assigned to them hereunder:-
1.7.1. “the agreement” means the Sale of Leasehold Rights Agreement and its annexures, to which this Notarial Deed of Sub-Lease is annexed;

1.7.2. “the Association”, means the Jozini Paradise Estate Lodge Owners’ Association (a non-profit association to be incorporated in terms of the Companies Act 71 of 2008);

1.7.3. “the bulk infrastructure”, means the provision of roads, water, sanitation, electric power, and stormwater control to the development to the standards set by the professional engineer appointed by the Lessee in respect of the development of Jozini Paradise Estate;

1.7.4. “the Conveyancers”, means Walther & Associates Attorneys, Hilltops Office Park, Block D, 73 Villiers Drive, Clarendon, Pietermaritzburg, KwaZulu-Natal, tel: 033 394 6644, fax: 033 394 7339, email: info@waltherattorneys.co.za.

1.7.5. “date of registration”, means the date of registration of this Notarial Deed of Sub-Lease of the Stand in favour of the Sub-Lessee with the office of the Registrar of Deeds, Pietermaritzburg, KwaZulu-Natal;

1.7.6. “effective date”, means the date on which the parties have signed this Notarial Deed of Sub-Lease;

1.7.7. “the Estate”, means Jozini Paradise Estate, the boundaries of which are shown on the surveyor general’s plan no. 469/2015, annexed hereto marked “SL1”;

1.7.8. “Long-Term Lease”, means the Long-Term Lease dated 17 February 2016, signed by Warren Elbert Robin Raubenheimer in his capacity as a duly authorised member of the KwaZulu-Natal Ingonyama Trust Board leasing the Property to the Lessee;
1.7.9. “the Notarial Deed of Sub-Lease”, means this Notarial Deed of Sub-Lease of the Stand, in terms of which the Stand is sub-leased to the Sub-Lessee;

1.7.10. “on-grid build”, means the development of a private lodge and associated buildings on the Stand that are tied into and reliant on the bulk infrastructure and related services; and built in accordance with the provisions of the Architectural Guidelines and Conditions of Establishment;

1.7.11. “the Property”, means Lease 17 on Portion 1 of the Farm RESERVE No. 16 No. 15836-HV in extent 129, 9837 (one two nine comma nine eight three seven) Hectares, as depicted on Surveyor General’s Diagram No. 469/2015;

1.7.12. “the Stand”, means the surveyed Stand depicted on annexure “SL2” in respect of which the Sub-Lessee is purchasing the leasehold rights in terms of this Notarial Deed of Sub-Lease, and on the terms and conditions of an agreement.

2. **SUB-LEASE OF THE STAND**

2.1. The Lessee hereby subleases to the Sub-Lessee, who hereby sublets the Stand, upon the terms set out herein.

2.2. The initial period of the Notarial Deed of Sub-Lease of the Stand to the Sub-Lessee shall be 40 (forty) years calculated from the 1st (first) day of March 2016.

2.3. The initial period of the Notarial Deed of Sub-Lease of the Stand to the Sub-Lessee may be extended for a further period of 40 (forty) years.
3. **ANNUAL RENTAL FOR THE STAND**

3.1. The Sub-Lessee shall pay the Lessee an annual rental of R2 280.00 (Two thousand two hundred and eighty Rand), which amount is VAT inclusive.

3.2. The Sub-Lessee shall pay the first annual rental within 7 (seven) days of date of registration of this Notarial Deed of Sub-Lease in the office of the Registrar of Deeds, Pietermaritzburg, KwaZulu-Natal.

3.3. The abovementioned annual rental shall increase at 5% (five percent) per annum, with the annual anniversary of such increase being the 31st (thirty first) day of January in each year.

3.4. The Sub-Lessee shall pay subsequent annual rentals annually in advance by no later than the 31st (thirty first) day of January in each year.

4. **POSSESSION OF THE STAND**

4.1. The Sub-Lessee shall take possession and occupation of the Stand in accordance with the terms of the agreement.

4.2. All risk and benefit in and unto the Stand shall pass to the Sub-Lessee on the date of registration.

5. **OBLIGATION TO BUILD**

5.1. The Sub-Lessee shall erect a private lodge/dwelling house on the Stand.

5.2. The Sub-Lessee shall erect a private lodge on the Stand in accordance with the terms and conditions set out in the agreement in terms of which the Sub-Lessee obtained from the Lessee the right to occupy and build on the Stand, and in accordance with the provisions of the Architectural Guidelines, the Rules of the Association, and the Conditions of Establishment.
5.3. The Sub-Lessee shall build or erect a structure/s on the Stand upon receiving approval from the Architectural Review Committee, which shall have been formed by the Lessee, and from the Jozini Local Municipality.

5.4. The Sub-Lessee shall be entitled to:-

5.4.1. appoint the architect and building contractor nominated by the Lessee, to erect his private lodge on the Stand, in which event the lodge will be built in accordance with the construction program determined by the Lessee in conjunction with the contractors; or

5.4.2. appoint his own architect and/or building contractor subject to the following conditions, namely:-

5.4.2.1. the Sub-Lessee (including without limitation any and/or all subsequent Purchasers of the Stand) shall be obliged to complete the construction of the private lodge on the Stand within 36 (thirty six) months of the date of registration; and

5.4.2.2. notwithstanding anything to the contrary contained herein, the Sub-Lessee (including without limitation any and/or all subsequent Purchasers of the Stand) shall be obliged to complete the construction of the private lodge on the Stand within 12 (twelve) months of the date of commencement of construction.

6. **ON-GRID BUILD**

6.1. The Sub-Lessee hereby undertakes to the Lessee that he/it will build an on-grid private lodge on the Stand, subject to the terms and conditions of the agreement.
6.2. Notwithstanding that the on-grid build concept is reliant on the bulk infrastructure, the Sub-Lessee undertakes to incorporate a solar electrical system in the building plans and design.

6.3. For sake of clarity, the abovementioned solar electrical system will be required, and must have the capacity to power all lighting and plug points of the private lodge, with the exception of air conditioner units which will operate entirely off the electrical grid provided in terms of the bulk infrastructure.

6.4. Only gas stoves/ovens will be allowed, and no electric stoves/ovens will be allowed.

6.5. In the interests of an eco-estate, the Sub-Lessee further undertakes to install solar water heating, alternatively, gas geysers for the private lodge’s hot water requirements, as electric geysers will not be allowed.

6.6. The Sub-Lessee undertakes to first submit building plans and designs to the Architectural Review Committee for approval, in terms of the Architectural Guidelines contained in the Lodge Owners Handbook, prior to submitting such plans and designs to the Jozini Local Municipality in terms of the Conditions of Establishment. The Sub-Lessee acknowledges having received, read and understood the Lodge Owners Handbook.

6.7. For sake of clarity, this on-grid build means that the Notarial Deed of Sub-Lease will be registered in the name of the Sub-Lessee, as soon as possible after the effective date, and upon fulfilment or waiver of the suspensive conditions in the agreement.

6.8. The Sub-Lessee may commence construction on the Stand prior to the issue of the written confirmation of the Engineer that the installation of bulk infrastructure has been completed, provided that the suspensive conditions in clauses 8.1.1, 8.1.2 and 8.1.3 of the agreement, have been fulfilled.
7. **MEMBERSHIP OF THE ASSOCIATION**

7.1. The Sub-Lessee shall become and remain a member of the Association when it is duly constituted.

7.2. The Sub-Lessee shall abide by the provisions of the Rules of the Association, as may be imposed, from time to time.

7.3. The Sub-Lessee acknowledges being in possession of a copy of the Rules of the Association and that he has read and is fully acquainted with the provisions thereof.

7.4. The Sub-Lessee shall be liable for all levies and dues in respect of the Stand, as determined by the Association, from time to time.

8. **LONG-TERM LEASE**

The Sub-Lessee acknowledges having received a copy of the Long-Term Lease, having read and understood same, and considers the Sub-Lessee to be bound by the terms and conditions of the Long-Term Lease, to the fullest extent possible, and within the context of this Notarial Deed of Sub-Lease.

9. **CESSION AND ASSIGNMENT OF THE NOTARIAL DEED OF SUB-LEASE**

9.1. The Sub-Lessee shall not, without the prior written consent of the Lessee and the Association, be entitled to cede or assign this Notarial Deed of Sub-Lease, unless and upon the following terms and conditions:-

9.1.1. The Sub-Lessee makes the person to whom he intends to cede and assign this Notarial Deed of Sub-Lease to be fully aware of the terms and conditions of the Rules of the Association.
9.1.2. The person to whom the Sub-Lessee intends to cede and assign this Notarial Deed of Sub-Lease has accepted in writing to be bound by the terms and conditions of the Rules of the Association.

9.1.3. The Association has approved the person to whom the Sub-Lessee intends to cede and assign this Notarial Deed of Sub-Lease. The Association shall not be entitled to unreasonably withhold its approval of the person to whom the Sub-Lessee intends to cede and assign this Notarial Deed of Sub-Lease.

10. **DEFAULT BY SUB- LESSEE**

10.1. Should the Sub-Lessee fail to make any payment of the annual rental due to the Lessee, or to pay any levies or dues to the Association, on due date or commit a breach of any of the terms and conditions of this Notarial Deed of Sub-Lease and fail to make payment of any such amount within 30 (thirty) days of being called upon to do so or to remedy such breach within 30 (thirty) days of the receipt of written notice requiring the Sub-Lessee to make such payment and/or remedy such breach (provided that if such breach is not capable of being remedies within the said period of 30 (thirty) days or should circumstances have arisen or arise during the period of such notice and which being partly or entirely beyond the control of the Sub-Lessee prevent him from so remedying the breach within the said period of 30 (thirty) days then the Sub-Lessee shall be given such additional period as is reasonably required therefore). Then the Lessee shall be entitled in addition to any other remedy which it may have forthwith to cancel this Notarial Deed of Sub-Lease. Such cancellation shall be without prejudice to any right of action or remedy which the Lessee may have by reason of any such breach of this Notarial Deed of Sub-Lease or cancellation thereof.

10.2. In the event of the Sub-Lessee failing or neglecting to erect or complete a private lodge on the Stand within the time periods stipulated above, the Lessee shall be entitled, but not obliged, to sell the leasehold rights to the Stand by public auction and after deducting all costs and commission,
including any arrear levies or other amounts due by the Sub-Lessee, shall then pay the balance to the Sub-Lessee.

10.3. In the event of this Notarial Deed of Sub-Lease being cancelled in terms of this clause 10, and the Sub-Lessee already having commenced or completed construction of a private lodge, and/or any associated buildings, then the Lessee is hereby irrevocably entitled, but not obliged, to sell the Stand as developed, by public auction, and after deducting all costs and commission, including any arrear rentals, levies or dues, or other amounts due by the Sub-Lessee, the balance shall then be paid to the Sub-Lessee.

10.4. On the termination of this Notarial Deed of Sub-Lease the membership of the Sub-Lessee of the Association shall immediately cease.

10.5. The Sub-Lessee shall be liable for any costs, including all attorney and client costs arising out of or in connection with any breach by the Sub-Lessee of any of the provisions of this Notarial Deed of Sub-Lease or any other matter relating thereto.

10.6. No indulgences granted by the Lessee shall constitute an estoppel or waiver of any of the rights of the Lessee under this Notarial Deed of Sub-Lease. Accordingly, the Lessee shall not be precluded as a consequence of having granted such indulgence from exercising any rights against the Sub-Lessee which may have arisen in the past or which may arise in the future.

11. **DOMICILIIUM CITANDI ET EXECUTANDI**

11.1. The parties hereby choose *domicilium citandi et executandi* for all purposes under this Notarial Deed of Sub-Lease at the following addresses:-

11.1.1. The **Lessee** at: c/o **Walther & Associates Attorneys**

Hilltops Office Park, Block D,
73 Villiers Drive, Clarendon,
Pietermaritzburg, KwaZulu-Natal,
Tel: 033 394 6644
Fax: 033 394 7339
Email: info@waltherattorneys.co.za.
11.2. Any notice given in terms of this Notarial Deed of Sub-Lease shall be in writing and must either be:-

11.2.1. delivered by hand during normal business hours of the recipient; or

11.2.2. sent by prepaid registered post to the address chosen by the addressee.

11.3. A notice in terms of the provisions of this Notarial Deed of Sub-Lease will be considered to be duly received:-

11.3.1. if hand delivered, on the date of delivery;

11.3.2. if sent by prepaid registered post, 10 (ten) days after the date it was posted, unless the contrary is proven.

12. **WHOLE AGREEMENT**

This Notarial Deed of Sub-Lease, read with the agreement to which it is annexed, contains all the terms and conditions in respect of the sub-lease of the Stand to the Sub-Lessee and any representations, terms, conditions or warranties not contained in this Notarial Deed of Sub-Lease shall not be binding on the parties.
13. **VARIATION AND CANCELLATION**

No agreement varying, adding to, deleting from or cancelling this Notarial Deed of Sub-Lease shall be effective unless reduced to writing and signed by or on behalf of both parties before a Notary Public and registered with the office of the Registrar of Deeds for Pietermaritzburg, KwaZulu-Natal.

14. **GENERAL**

14.1. Upon expiry of the Long-Term Lease and consequently this Notarial Deed of Sub-Lease, including the renewal period, after 80 (eighty) years, the dwelling house and other permanent structures on the Stand shall become the Property of the Ingonyama Trust Board, alternatively, their successors in-title.

14.2. The Sub-Lessee shall have no claim of any nature whatsoever against the Lessee in respect if his occupation of the Stand. The Sub-Lessee hereby indemnifies the Lessee against any claim which may be made against the Lessee by any third party arising out of such third party being in occupation of the Stand.

14.3. The indemnity granted by the Sub-Lessee to the Lessee extends to any loss, injury or damages that may be sustained by the employees, trustees, investors or the general public arising out of being in occupation of the Stand or any part thereof.

14.4. The Sub-Lessee at its own cost and expense must insure and keep insured the dwelling house and structures to be erected on the Stand, for the full value thereof. Such insurance shall be against risk of loss and damage by fire, riot, flood, civil disturbances, earthquake, and such other causes against which a dwelling house is ordinarily insured. Such insurance shall also be against risk of loss, damage by political riot, malicious damage and similar cause to the extent commercially available.
14.5. The Sub-Lessee shall be entitled to apply the proceeds of the insurance policies for the restoration of the dwelling house, structures or any part thereof which shall have been damages or destroyed.

15. **REGISTRATION OF THIS NOTARIAL DEED OF SUB-LEASE**

15.1. This Notarial Deed of Sub-Lease shall be registered by the Conveyancers with the office of the Registrar of Deeds, Pietermaritzburg, KwaZulu-Natal.

15.2. It is recorded that the Lessee shall pay all the Conveyancers costs and fees in respect of the registration of this Notarial Deed of Sub-Lease.

15.3. The Conveyancer shall sign or procure the signature of this Notarial Deed of Sub-Lease for the purposes of registration thereof.

15.4. The Sub-Lessee shall furnish all such information and sign all such documents necessary for the registration of this Notarial Deed of Sub-Lease as shall be required by the Conveyancers, immediately upon being called upon to do so.

16. **VALUE OF STAND AND TRANSFER DUTY**

16.1. To the best of the Lessee’s knowledge, there is no transfer duty payable in respect of the registration of this Notarial Deed of Sub-Lease and the consequent leasehold rights in and unto the Stand, to the Sub-Lessee.

16.2. However, in the event that any such transfer duty is declared payable by the South African Revenue Services, alternatively, the Registrar of Deeds, Pietermaritzburg, KwaZulu-Natal, then the Lessee declares the value of the Stand for such purposes to be R100 000.00 (One hundred thousand Rand).
16.3. The Sub-Lessee accepts the abovementioned value of the Stand as determined by the Lessee and agrees to pay any transfer duty that may be levied thereon.

THUS DONE, SIGNED AND EXECUTED AT PIETERMARITZBURG ON THE DAY, MONTH FIRST AFOREMENTIONED IN THE PRESENCE OF THE SUBSCRIBING COMPETENT WITNESSES AND OF ME, NOTARY PUBLIC.

AS WITNESSES:-

1. ___________________________ ___________________________ THE LESSEE

2. ___________________________ ___________________________ THE SUB-LESSEE

BEFORE ME,

__________________________
NOTARY PUBLIC

Date : 31 March 2016
Ref : AKW/sm/114-253
Draft 2