



HANDOVER AGREEMENT

ADDENDUM TO THE CONCESSION CONTRACT

between

THE SOUTH AFRICAN NATIONAL PARKS

and

[CONCESSIONAIRE]

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1. DEFINITIONS AND INTERPRETATION

1.1. All capitalised terms defined in the Concession Contract shall, unless the context otherwise requires, bear the same meanings in this Addendum.

1.2. In this Addendum, the following words shall, unless otherwise stated or inconsistent with the context in which they appear bear the following meaning and cognate words shall bear corresponding meaning: -

- 1.2.1. **“Addendum”** means this addendum to the Concession Contract together with the schedules and annexures attached hereto;
- 1.2.2. **“Base Date Calculation”** means date falling at the end of the concession period in terms of the Concession Contract;
- 1.2.3. **“Business Day”** means any day other than a Saturday, Sunday or proclaimed public holiday in South Africa;
- 1.2.4. **“Concession Area”** Has the meaning ascribed to in clause 1.6 of the Concession Contract;
- 1.2.5. **“Concession Assets”** has the meaning ascribed to in clause 1.6 of the Concession Contract and any such asset that SANParks has allowed to be included in the calculation of the Residual Value, notwithstanding that such asset is not included in the definition of clause 1.6 of the Concession Contract as listed in **Annexure A** hereto;
- 1.2.6. **“Concession Contract”** means the concession contract entered into between the Concessionaire and SANParks on or about 04 December 2002; *[Drafting note: The date will vary according to each concession]*
- 1.2.7. **“Concessionaire”** has the meaning ascribed to in clause 1.6 of the Concession Contract;

- 1.2.8. **“Concessionaire Exit Date”** means the date agreed upon between the Concessionaire and the Private Party for complete exit and/or vacation of the Concessionaire from the Concession Area, which date shall be prior to the expiry of the Handover Period;
- 1.2.9. **“Concessionaire Representative”** has the meaning ascribed to it in clause 3.8;
- 1.2.10. **“Confidential Information”** shall mean all information relating to the Disclosing Party and/or any of its subsidiaries or Affiliates, disclosed by the Disclosing Party in relation to the Disclosing Purpose including but not limited to information relating to the business affairs and financial results, statements or data, trade secrets, know how, technical data, clients and marketing data, which may be disclosed to the Receiving Party in connection with the Handover Process and without prejudice to the generality of the forgoing, any other information that is disclosed to the Receiving Party that is marked as or expressed to be confidential which is disclosed to the Receiving Party in connection with the Handover Process shall exclude:
- 1.2.10.1. information that is publicly known at the time of disclosure;
- 1.2.10.2. information which, after disclosure becomes publicly known otherwise than through a breach of this Agreement;
- 1.2.10.3. information that is developed independently by the Receiving Party;
- 1.2.10.4. information which the Receiving Party can show was made available to it by a third party who had a right to do so and who had not imposed any

obligation of confidentiality or restricted use in respect thereof;

1.2.10.5.

information which is required to be disclosed pursuant to a court order or order of other competent authority, provided that in these circumstances, the Receiving Party shall advise the Disclosing Party in writing within a reasonable time prior to such disclosure to enable the Disclosing Party to take whatever steps it deems necessary to protect its interests in this regard; provided further that the Receiving Party will disclose only that portion of the information which it is legally required to disclose and the Receiving Party will use its reasonable endeavours to protect the confidentiality of such information to the widest extent possible in the circumstances;

1.2.10.6

information which is disclosed by the Receiving Party:

1.2.10.6.1

information that is publicly known at the time of disclosure;

1.2.10.6.2

with the prior written approval of the Disclosing Party; and

1.2.10.6.3

confidential information shall include information received by the Concessionaire relating to the Tender Process and the Private Party;

1.2.11.

"Deed of Adherence"

means the deed of adherence to be executed by the Private Party at Financial Close substantially in the form attached in **Annexure B**;

- 1.2.12. **"Disclosing Purpose"** means the purpose for which the disclosure of the Confidential Information relates, which in this case is the Tender Process;
- 1.2.13. **"Extension Period"** means the period from the date of extension of the Concession Contract ending on 31 March 2025;
- 1.2.14. **"Financial Close"** means the achievement and/or fulfilment of all financial close terms and conditions in terms of the new PPP Agreement subsequent to the Tender Process, being the date on which SANParks unconditionally appoints the preferred bidder as the Private Party operator for the Concession Area;
- 1.2.15. **"Handover Period"** means a period not exceeding 12 (twelve) months commencing on 1 April 2025, falling 1 (one) day after the expiry of the Extension Period, or on Financial Close, whichever occurs first;
- 1.2.16. **"Handover Process"** means the handover process outlined in clause 3 below;
- 1.2.17. **"Lock in period"** means the first 3 (three) months after Financial Close;
- 1.2.18. **"LRA"** means the Labour Relations Act 61 of 1995, as amended from time to time;
- 1.2.19. **"Parties"** means the parties to this Agreement and **"Party"** means any one of them as the context may indicate;
- 1.2.20. **"PPP Agreement"** means the new concession contract to be concluded between SANParks and a Private Party; or SANParks and the Concessionaire (in the event the Concessionaire is selected as a preferred bidder for the Concession Area) subsequent to the Tender Process;

- 1.2.21. **“Protected Name”** has the meaning scribed to in clause 3.8.5 of the Concession Contract;
- 1.2.22. **“Private Party”** means the new concessionaire, selected as the preferred bidder for the Concession Area subsequent to the Tender Process, who will take over the operations of the Concession Area from the Concessionaire;
- 1.2.23. **“Private Party Representatives”** has the meaning ascribed to in clause 3.8 of this Addendum;
- 1.2.24. **“Residual Value”** has the meaning ascribed to in clause 1.6 of the Concession Contract;
- 1.2.25. **“SANParks”** South African National Parks, a juristic person established in terms of section 5 of the National Parks Act, No. 57 of 1976 and continuing to exist as such in terms of the provisions of section 54 of the Protected Areas Act;
- 1.2.26. **“SANParks Representative”** has the meaning ascribed to in clause 3.8 of this Addendum;
- 1.2.27. **“Signature Date”** means the date of the last signature to this Addendum; and
- 1.2.28. **“Tender Process”** means the open tender process to be undertaken by SANParks for procurement of an operator for the Concession Area subsequent to the expiry of the term of the Concession Contract, as extended from time to time.

1.3. Any reference in this Agreement to: -

1.3.1. a clause is, subject to any contrary indication, construed as a reference to a clause of this Agreement;

1.3.2. law is construed as any law including common law, statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other

measure of any Government, local Government, statutory or regulatory body or Court having the force of law; and

- 1.3.3. person is construed as a reference to any natural or juristic person, firm, company, corporation, Government, state, agency or organ of a state, association, trust or partnership (whether or not having separate legal personality).
- 1.4. Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 1.5. Headings do not govern or affect the interpretation of this Agreement.
- 1.6. If any provision in a definition confers rights, or imposes obligations on any Party, effect is given to it as a substantive provision of this Agreement.
- 1.7. Unless the context indicates otherwise an expression which denotes any gender includes the other gender; reference to a natural person includes a juristic person; the singular includes the plural, and the plural includes the singular.
- 1.8. Any number of days prescribed in this Agreement excludes the first day and includes the last day.
- 1.9. Unless the context indicates otherwise if the day for payment of any amount or performance of any obligation falls on a day which is not a Business Day, that day will be the next Business Day.
- 1.10. The words “**including**” and “**in particular**” are without limitation.
- 1.11. Any reference to legislation is to that legislation as at the Commencement Date, as amended or replaced from time to time.
- 1.12. Any reference to a document or instrument includes the document or instrument as ceded, delegated, novated, altered, supplemented or replaced from time to time.
- 1.13. A reference to a Party includes that Party’s successors-in-title and permitted assigns.
- 1.14. A time of day must be construed as a reference to Johannesburg time.

- 1.15. The rule of interpretation that, in the event of ambiguity, the contract must be interpreted against the Party responsible for the drafting of the contract does not apply.
- 1.16. The termination of this Agreement does not affect those of its provisions which expressly provide that they will operate after termination, or which must continue to have effect after termination, or which must by implication continue to have effect after termination.

2. RECORDAL

WHEREAS:

- 2.1. the term of the Concession Contract expires on 31 March 2025;
- 2.2. clause 3.9 of the Concession Contract provides that, at the end of the Concession Period (being the expiry date of the Concession Contract) or at such earlier time as may be provided therein, the Concessionaire shall hand over the Concession Area, the Camp, all Concession Assets (other than all moveable Concession Assets) and its rights or interest in the Developments to SANP free of charges, liens, claims or encumbrances of any kind whatsoever, and free of any liabilities, in good condition, fair wear and tear expected, in accordance with the standards set out in SANP's requirements (as certified by SANP);
- 2.3. clause 17.3.2 of the Concession Contract provides that upon termination of the Concession Contract, SANParks shall have the right to take immediate control of the Camp, Concession Area and all Concession Assets (other than all moveable Concession Assets) and all Construction Works;
- 2.4. clause 21.3 of the Concession Contract provides that, all additions, amendments, variations and any consensual cancellation of the Concession Contract shall be binding only if in writing and signed by duly authorised representatives of each of the Parties;
- 2.5. the parties under the PPP Agreement having reached Financial Close, and the PPP Agreement coming into effect, such shall trigger the Handover Process in terms of this Addendum to commence;

AND AS SUCH:

- 2.6. SANParks and the Concessionaire wish to conclude this Addendum in order to provide for the efficient handover of the Camp, Concession Area and all Concession Assets (other than all moveable Concession Assets) at the end of, and upon expiry of the Concession Contract Extension Period; and
- 2.7. notwithstanding the provisions of the Concession Contract, regulate the implementation of the Handover Process as envisaged in clause 3.9 of the Concession Contract on the terms and conditions set out below.

3. **HANDOVER PROCESS**

- 3.1. Upon achievement of Financial Close, the Private Party shall accede in writing to the provision of this Addendum and shall execute a Deed of Adherence substantially in the form set out in **Annexure B**.
- 3.2. The Private Party shall be bound by the terms of this Addendum and shall, in accordance with the terms and conditions set herein, work with the Concessionaire to ensure the completion of the Handover Process within the Handover Period.
- 3.3. The Parties agree and undertake to cooperate with each other to effect an orderly and efficient handover of the Concession Assets to SANParks (or to any successor Private Party designated by SANParks).
- 3.4. In the event the Concessionaire successfully bids and is selected as a preferred bidder in respect of this Concession Area and subsequently appointed as Private Party on achievement of Financial Close, the Handover Process shall be dispensed with and this Addendum shall fall away. The Concessionaire shall conclude the PPP Agreement with SANParks, which shall commence on the scheduled commencement date or effective date defined in the PPP Agreement.
- 3.5. The parties agree to comply with the following procedures, which each Party acknowledges constitute material covenants, undertakings and conditions of this Addendum:

3.6. **Commencement of Handover Process**

- 3.6.1. Within 5 (five) business days from the date on which the preferred bidder has been notified of the outcome of the Tender Process, SANParks shall notify the Concessionaire in writing of the date of the anticipated Financial Close in terms of the PPP Agreement.

3.6.2. Within 5 (five) business days from the date of achievement of Financial Close, SANParks shall issue a written notice to the Concessionaire and Private Party in writing confirming achievement of Financial Close.

3.6.3. The notification from SANParks shall include the details of the Private Party and the contact details of the Concessionaire to enable the Parties to negotiate the Handover Process.

3.7. **Lock in Period**

3.7.1. The Concessionaire shall not handover the Concession Assets during the Lock-In Period.

3.7.2. During the Lock-In Period the Concessionaire and the Private Party shall negotiate and agree all aspects and particulars of the handover of the Concession Area referred to below.

3.7.3. The Private Party and the Concessionaire shall reduce in writing the agreed terms and conditions of the handover of the Concession Area and submit such terms to SANParks on or before the last day of the Lock-In Period.

3.7.4. The Concessionaire and the Private Party shall, jointly or separately, cause communication to be made through their official channels of communication (e.g website, social media platforms etc) of the transition of operations from the Concessionaire to the Private Party. Such communication shall be sent to SANParks prior to its release.

3.7.5. If at the end of the Lock-In Period the Concessionaire and the Private Party have not reached agreement on the terms and conditions of handover of the Concession Area, SANParks shall arrange a meeting between the Concessionaire and the Private Party with a view to facilitate resolution of outstanding issues.

3.7.6. If the parties fail to reach agreement within the time frames stipulated by SANParks at the aforesaid meeting, within 5 (five) days from the date of receipt of communication that the Parties have failed to reach agreement on the outstanding issues, SANParks shall issue a notice to the Concessionaire and the Private Party advising of the date on which the Concessionaire must exit the Concession Area and for the Private Party to take full occupation.

3.8. Payment of the Concession Fee

3.8.1. The Concessionaire shall continue to be liable for payment of the Concession Fee during the Handover Period up to the Concessionaire Exit Date.

3.8.2. The Private Party's obligation to pay the Concession Fee shall commence 1 (one) business day after Concessionaire Exit Date and shall continue until shall date prescribed and in accordance with the PPP Agreement.

3.9. Handover Governance and Relationship Management

3.9.1. The Parties acknowledge and agree to the importance of implementing good governance procedures in relation to the operation of this Addendum in order to aid a good and effective working relationship between the Concessionaire, SANParks and the Private Party during the Handover Process.

3.9.2. The Concessionaire shall appoint a Concessionaire Representative to manage the relationship with SANParks and the Private Party on a day-to-day basis with regards to any issues related to the Handover Process and will notify SANParks of the identity of the same. The Concessionaire shall also appoint a senior executive to oversee and make key decisions in relation to this Addendum during the Handover Process and will notify SANParks of the identity of the same.

3.9.3. The Private Party shall appoint a Private Party Representative to manage the relationship with SANParks and the Concessionaire on a day-to-day basis with regards to any issues related to the Handover Process and will notify SANParks of the identity of the same. The Private Party shall also appoint a senior executive to oversee and make key decisions in relation to this Addendum during the Handover Process and will notify SANParks and the Concessionaire of the identity of the same.

3.9.4. SANParks shall appoint a SANParks Representative who will be the main point of contact between SANParks, the Concessionaire and Private Party, be responsible for receipt of reports on the Handover Process, and

SANParks shall notify the Concessionaire and the Private Party of the identity of the same.

- 3.9.5. the Concessionaire shall provide SANParks with bi monthly progress reports on the Handover Process.
- 3.9.6. To the extent required the Parties may hold meetings to discuss matters arising from the Handover Process. Prior to such meeting, SANParks Representative will notify the Concessionaire Representative and Private Party Representatives (and vice versa) of any points relating to the Handover Process that they wish to discuss. At the meeting, the Parties will cooperate to agree a plan to address the issues arising from the Handover Process.
- 3.9.7. SANParks role during the Handover Process shall be that of a facilitator and not a decision maker. SANParks shall not be involved in interactions between the Concessionaire and Private Party unless required to do so in terms of clause 3.7.5 and 3.7.6 above and clause 6 (Dispute Resolution Provisions). The Concessionaire and the Private Party shall be responsible to implement the Handover Process.

3.10. **Intellectual Property**

- 3.10.1. Save where agreed otherwise, the provisions of clause 3.8 of the Concession Contract shall apply. An extract of clause 3.8 is attached herewith marked, **Annexure C (Intellectual Property)**.
- 3.10.2. Name of the Concession Area
- 3.10.2.1. Without derogating from the provisions of clause 3.8 (*Intellectual Property*) of the Concession Contract, where the Concession Area operates under the SANParks Protected Name, SANParks shall retain the name of the Concession Area and the Concessionaire shall cease to operate or conduct any business using the Protected Name in singular, combination or in association with any other name.
- 3.10.2.2. Notwithstanding the provisions of clause 3.8.9 of the Concession Contract, where the chosen name of the Concession Area by a Concessionaire is linked to a landmark surrounding the Concession Area, the name shall be deemed to be SANParks Protected name and

the provisions of clause 3.8 of the Concession Contract regarding use of SANParks protected name shall apply.

3.10.2.3. For avoidance of doubt, reference to landmark shall carry the ordinary dictionary meaning and shall include, a name of a mountain, road, river, prominent or indigenous vegetation, objects or any feature the Concession Area or Kruger National Park Protected Area is recognised for.

3.10.3. Branding and Websites

3.10.3.1. The Concessionaire shall cease to utilise any branding used in combination of the SANParks Protected Name, trademarks and logos on all of its proprietary material and official websites within 7 (seven) days from the date of completion of the Handover Process.

3.10.3.2. SANParks shall cease to utilise and shall remove any material incorporating the Concessionaire's IP on all of its official websites, promotional material, and other publications distributed in the course of business (including signage and maps), within 10 (ten) Business Days from the Concessionaire Exit Date.

3.10.4. Operating Systems and Manuals

3.10.4.1. The Parties agree and confirm that the operating system, software and related licences utilised by the Concessionaire during the operation of the Concession Area is the intellectual property of the Concessionaire and shall be retained by the Concessionaire at the end of the term of the Concession Contract.

3.10.4.2. Nothing in this subclause prevents the Concessionaire and the Private Party from agreeing otherwise regarding use and/ or transfer of the Concessionaire's operating system, software and related licences, subject to such agreement not limiting SANParks rights and entitlements to prescribe the Concession Area's operating requirements and limiting the Private Party's obligation to operate the Concessionaire in accordance with its contractual obligations.

3.11. **Movable Assets**

On the Hand Over Date, the Concessionaire shall remove all its movable assets in the Concession Area. Nothing in this subclause prevents the Concessionaire and the Private Party from agreeing otherwise regarding movable assets in the Concession Area.

3.12. **Forward Bookings**

3.12.1. If the Concessionaire has guest bookings for a period post the Concessionaire Exit Date the Concessionaire shall inform such guests either on its own or jointly with the Private Party, through official modes of communication, of the transition of operations from the Concessionaire to the Private Party.

3.12.2. The Private Party shall honour all future bookings / reservations for use of Concession Area that have been confirmed and paid for prior to the end of the term of the Concession Contract, at the same cost to the guests/ patrons. The Concessionaire shall provide such other relevant information necessary for the successor Private Party to honour such upcoming reservations at the Concession Area.

3.12.3. Paid Bookings

To the extent applicable the Concessionaire and the Private Party shall agree on the commission payable to the Concessionaire for paid bookings and the dates for the transfer of the booking fees to the Private Party.

3.13. **Marketing Activities and Costs**

To the extent applicable the Concessionaire and the Private Party shall agree on the marketing activities and allocation of costs during the Handover Period.

3.14. **Access to the Concession Area**

3.14.1. Access to the Concession Area during the Bidding Stage

3.14.1.1. SANParks and the Concessionaire shall agree on the date and time in order for the Concessionaire to allow the bidders access to the Concession Area for site inspection for the purpose of preparation of bids during the Tender Process.

3.14.1.2. The bidders shall be given access to the Concession Area on a single day and at the same time as provided for in the procurement documents for the Tender Process.

3.14.2. Access to the Concession Area during Handover Process.

3.14.2.1. The Concessionaire shall ensure that during the Handover Process SANParks and Private Party are granted access to the Concession Area on terms agreed and subject to the provisions of the Concession Contract, this Addendum, Park Rules and Concession Operation Manual amended from time to time.

3.14.2.2. Access to the Concession Area shall be granted by the Concessionaire on a request made within a reasonable time prior to the required date and time of access, and which shall not be unreasonably withheld.

3.15. **Transfer of Concessionaire's Existing Employees**

3.15.1. SANParks has determined that the termination and/or expiry of the term of the Concession Contract triggers the requirements of section 197 of the LRA, regarding the transfer of the existing employees of the Concessionaire exclusively employed within the Concession Area to the Private Party.

3.15.2. In the event the Concessionaire is unsuccessful in the process of retender for procurement of an operator and a Private Party is appointed as a new operator for the Concession Area, the Concessionaire shall facilitate the section 197 of the LRA transfer of the existing employees of the Concessionaire.

3.15.3. Section 197 places a duty of care on the new and previous employer who conclude a transfer of employee contracts of employment or a business to ensure that the same benefits of the employees are reserved. As such, the Concessionaire shall prepare and provide SANParks a report within 30 (thirty) days from the Signature Date of this Addendum containing, but not limited to, the following information:

3.15.3.1. the total number of all employees employed to provide services within the Concession Area;

3.15.3.2. sample of employment contract for each level/ grade of employees;
and

3.15.3.3. designation (positions), skills and expertise of the employees.

3.15.4. For the avoidance of doubt nothing contained in this clause shall preclude a Concessionaire from offering its employees employment elsewhere in its other operations or offering early retirement packages to those employees that qualify for early retirement or do not wish to be transferred to the Private Party.

3.15.5. Furthermore, only employees that consent to be transferred to the Private Party shall form be considered for transfer in terms of this clause.

3.16. **Residual Value of the Concession Area**

3.16.1. The Parties agree and confirm that calculation of the Residual Value of the Concession Area shall be premised on the principles laid in clause 1.6 (*Residual Value*) of the Concession Contract.

3.16.2. For avoidance of doubt, the recognised Base Date Calculation / period for calculation of Residual Value, being the date when the Concession Assets were first accounted for in the books of the Concessionaire until the expiry of the term of the Concession Contract.

3.16.3. The Residual Value shall be calculated by applying CPI after Depreciation.

3.16.4. The Residual Value payable in respect of **[insert name of the facility]** shall be as reflected in Annexure D to this Agreement.

3.16.5. Notwithstanding the recognised Base Date Calculation as outlined in 3.16.2 above and to the extent the Concessionaire has undertaken additional improvements to the Concession Assets after the Base Date Calculation, which improvements increase the Residual Value calculation, the calculation of Residual Value reflected in Annexure D to this Agreement will be adjusted at Concessionaire Exit Date.

3.16.6. SANParks shall pay 90% of the Residual Value amount to the Concessionaire on the last day of the Lock-In Period.

3.16.7. SANParks shall withhold 10% of the Residual Value amount which shall be payable to the Concessionaire within 30 (thirty) days from the date of receipt of notification from the Concessionaire of completion of the Handover Process.

3.17. **Permits and Environmental Authorisations**

3.17.1. The Concessionaire shall maintain and keep valid, all permits, licences and authorisations required for operation of the Concession Area during the Handover Period.

3.17.2. The Concessionaire may to the extent applicable, be required to transfer to SANParks all permits, licences and authorisations required for operation of the Concession Area and SANParks shall be responsible for all administrative costs.

3.17.3. The transfer of all permits, licences and authorisations for operation of the Concession Area referred to above, shall at all times to effect such a transfer be subject to regulatory and statutory process and requirements.

3.18. **Insurances**

Save where agreed otherwise, the provisions of clause 14 of the Concession Contract shall apply during the Handover Period. An extract of clause 14 is attached herewith marked **Annexure E (Insurances)**.

3.19. **Good Faith Undertaking**

3.19.1. The Concessionaire shall co-operate with SANParks and the Private Party, and assist the Private Party in any manner as may reasonably be necessary to ensure successful handover of the Concession Area.

3.19.2. The Concessionaire shall not engage in acts or omissions which may materially affect the Handover Process, cause harm to the business operations of the Concession Area and interest of the, cause harm to the name of the Kruger Nation Park, SANParks, the Private Party and Concession Area.

3.19.3. Any damages incurred by SANParks and the Private Party as a result of failure by the Concessionaire to adhere to the above undertakings shall

entitle SANParks and the Private Party to pursue its rights and entitlements in law for damages.

4. **DEED OF ADHERENCE BY THE PRIVATE PARTY.**

The Private Party shall accede to the provisions of this Addendum by executing a Deed of Adherence substantially in the form set out in **Annexure B** hereto, which shall be signed by the Private Party at Financial Close.

5. **CONFIDENTIALITY**

5.1. Each Party ("**Receiving Party**") must treat and hold as Confidential all information, which they may receive from the other party ("**Disclosing Party**") or which becomes known to them concerning the Disclosing Party during the subsistence of this Agreement and any extension thereof.

5.2. **Confidentiality and Standard of Care**

5.2.1. The Receiving Party agrees and undertakes to the Disclosing Party as follows:

5.2.1.1. the Receiving Party will not, without the Disclosing Party's prior written consent, publish, disclose or otherwise reveal in any way whatsoever nor make commercial use (other than for the Handover Process) of any of the Confidential Information disclosed by the Disclosing Party to the Receiving Party;

5.2.1.2. the Receiving Party shall subject to the prior written approval of the Disclosing Party, be entitled to disclose the Confidential Information to the extent necessary to the third parties in the course of undertaking the Handover Process, provided that such third parties shall undertake in writing to strictly adhere to the confidentiality provisions as expressed herein;

5.2.1.3. all Confidential Information will be treated as confidential by the Receiving Party and shall not, without the Disclosing Party's prior written consent, be disclosed to any third party other than to the Receiving Party's directors and, employees who have a need to know the Confidential Information;

5.2.1.4. the Receiving Party shall use its reasonable endeavours not to permit or procure any other party to have access to the Confidential Information and to keep it in a safe place and to destroy or return it to the Disclosing Party (as the Disclosing Party may direct); and

5.2.1.5. the Receiving Party shall ensure that its directors and employees to whom disclosure of the Confidential Information is made shall adhere to the terms of the Agreement.

5.2.2. The Receiving Party agrees that any unauthorised publication or disclosure of the Confidential Information other than as permitted in this Agreement may cause irreparable loss, harm and damage to the Disclosing Party.

5.3. **Own Benefit and Title**

5.3.1. The Receiving Party shall use the Confidential Information disclosed to them solely in respect of the Disclosing Purpose and not for its own benefit or for the benefit of any third party.

5.3.2. All information disclosed by the Disclosing Party to the Receiving Party is acknowledged by the Receiving Party to be proprietary to and owned by the Disclosing Party and no rights therein of whatever nature shall be conferred upon the Receiving Party.

5.4. **Disclosure to the Private Party**

5.4.1. The above provisions of paragraph 4 shall apply to information disclosed to the Private Party for purposes of handover of the Concession Area.

5.4.2. During the Handover Process, the information set out in **Annexure F (List of Prohibited Disclosures)**, shall not be subject to disclosure to the Private Party.

6. **DISPUTE RESOLUTION**

6.1. In the event where there is a dispute between the Concessionaire and the Private Party during the Handover Process, the Concessionaire Representative and Private Party Representative shall first endeavour to meet and resolve the dispute between themselves.

- 6.2. If the Concessionaire and the Private Party fail to reach an amicable solution to the dispute at the aforesaid meeting between their representatives, SANParks may intervene and facilitate further engagements between Concessionaire Representatives and Private Party Representative, failure to reach an amicable solution, SANParks with its own discretion will indicate the date on which the Concessionaire must exit the Concession Area and for the Private Party to take occupation.
- 6.3. Notwithstanding 6.1 and 6.2, Any dispute between the Parties in regard to a matter arising out of the Handover Process may be resolved in accordance with the provisions of clause 19 (*Governing Law and Resolution of Disputes*) of the Concession Contract. The extract of clause 19 of the Concession Contract is attached herewith as **Annexure G(Dispute Resolution Mechanism)**.

7. JURISDICTION

- 7.1. This Addendum shall be governed by, and construed in accordance with, the laws of South Africa.
- 7.2. The Parties agree that any legal action or proceedings arising out of or in connection with this Addendum may be brought against it in the Gauteng Local Division of the High Court, Johannesburg (or any successor to that Court), and irrevocably submits to the non-exclusive jurisdiction of such Court.

8. CO-OPERATION

Each of the Parties undertakes at all times to do all such things, perform all such acts and take all such steps, and to procure the doing of all such things, within its power and control, as may be open to it and necessary for and incidental to the putting into effect or maintenance of the terms and conditions of this Addendum.

9. RELAXATION

No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other Parties in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any Party arising from this agreement, and no single or partial exercise of any right by any Party under this Addendum, shall in any circumstances be construed to be an implied consent or election by such Party or operate as a waiver or a novation of or otherwise affect any of the Party's rights in terms of or arising from this Addendum or estop or preclude any such

Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

10. **VARIATION, CANCELLATION AND WAIVER**

No contract varying, adding to, deleting from or cancelling this Addendum, and no waiver of any right under this Addendum, shall be effective unless reduced to writing and signed by or on behalf of the Parties.

11. **CESSION AND ASSIGNMENT**

The Agency shall not be entitled to cede or assign its rights and/or obligations under this Addendum.

SIGNED by the Parties on the following dates and at the following places respectively:

Signed at

On

2024

Witnesses:

For: **THE SOUTH AFRICAN NATIONAL
PARKS**

who warrants his/her authority

Signed at

On

2024

Witnesses:

For: **[NAME OF CONCESSIONAIRE]**

PROPRIETARY LIMITED

who warrants his/her authority

Draft

ANNEXURE A (LIST OF CONCESSION ASSETS)

[Drafting Note: List of Concession Assets to be attached.]

Draft

ANNEXURE B (DEED OF ADHERENCE)

1. Whereas undersigned, [name of Private Party], [registration number], wish to become a party to the Handover Agreement in its capacity as a Private Party.
2. Terms defined in this document (this “**Deed of Adherence**”) which do not bear their own definitions, shall bear the meanings attributed thereto in the Handover Agreement.
3. By its signature hereto, and with effect from the date of signature of this Deed of Adherence by the Private Party (the “**Signature Date**”), the Private Party hereby confirms that the Private Party:
 - 3.1. intends to be a party to the Handover Agreement in the capacity of Private Party;
 - 3.2. undertakes to perform all obligations expressed in the Handover Agreement to be assumed and performed by a Private Party;
 - 3.3. agrees that it shall be bound by all the provisions of the Handover Agreement in the capacity of Private Party, as if it had been an original party to the Handover Agreement; and
 - 3.4. nominates as its domicilium and notices address for the purposes of the Handover Agreement, the following address and telefacsimile number:
 - 3.4.1. Address: [●]
 - 3.4.2. Telefacsimile number: [●]
4. The terms of this Deed of Adherence shall be governed by and interpreted in accordance with the laws of the Republic of South Africa.

For and on behalf of the Private Party:

Name: _____

Capacity: _____

who warrants his authority hereto

ANNEXURE C (INTELLECTUAL PROPERTY PROVISIONS)

[Extract of clause 3.8 of the Concession Contract attached]



Annexure A
(Intellectual Property f

Draft

ANNEXURE D (RESIDUAL VALUE)

**[Drafting Note: Residual Value calculation for the Concession Area to be attached
when Finalised – only for the purposes of signatories]**

Draft

ANNEXURE E (INSURANCE PROVISIONS)

[Extract of clause 14 of the Concession Contract attached]



Annexure B
(Insurance Provisions)

Draft

ANNEXURE F (LIST OF PROHIBITED DISCLOSURES)

[Drafting Note: The list will be developed following further engagements with SANParks and the Concessionaires.]

ITEM NO#	LIST OF INFORMATION	
1.	Financial Information	Annual Financial Statements Management Accounts
2.	Marketing Strategies	Occupancy Rates Customer Segmentation and Source Markets Rates Contracts with any supplier Photography and Video procured by the concessionaire and its guests since 2002 Social media content Existing printed or digital copy, imagery, design, concept Any past media reporting, articles or blogs published in any domain or public space Any copy or presentation created by the concessionaire in context to the concession area or the facilities is subject to plagiarism norms
3.	BEE & SED Strategies	BEE Compliance Plans SED Compliance Plans

		<p>Names and details of the social development initiatives and supply chains created by the concessionaire</p> <p>Information in regards to the BEE groups, foundations and associations affiliated with Imbali</p> <p>Statistics from annual and monthly reporting to SANParks on the employment equity, social ecology and SMME support of the concession</p>
4.	Performance Reporting	<p>Environmental Performance Reports</p> <p>BEE & SED Performance</p> <p>Quarterly environmental audits and reports</p> <p>Environmental Management Plans prepared by our Environmental control officer</p> <p>EIA and ROD</p> <p>Any correspondence or documentation between DFFE and ourselves and SANParks</p> <p>Minutes of audit meeting, meetings with SANParks environmental teams</p> <p>BEE & SED Performance</p> <p>Statistics from annual and monthly reporting to SANParks on the employment equity, social ecology and SMME support of the concession</p>
5.	Operations, Systems and Intellectual Property Information	<p>Staff lists and CV's</p> <p>Menu's, Directories of service, guest information</p> <p>Standard Operating Procedures</p>

		Systems of operation
6.	Subcontractor Information	List of suppliers and subcontractors Contracts with suppliers
7.	Future plans, maps and drawings	Any design and plans which have been submitted at any stage to SANParks technical services or operational or environmental teams
8.	Operational	Reservation Processes Contacts or reference to ANY current staff associated with the Concessionaire

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ANNEXURE G (DISPUTE RESOLUTION MECHANISM)

[Extract of clause 19 of the Concession Contract attached]



Annexure C (Dispute
Resolution Mechanism)

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