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Ministry of Environment, Forestry and Tourism
Directorate of Environmental Affairs
Private Bag 13306
Windhoek
Namibia

MINISTRY OF ENVIRONMENT,
FORESTRY AND TOURISM
REFERENCE: ECC-104/2017-LET-02-D
19th June 2020

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Received By Name: _____
Date: 19 JUN 2020
Signature: _____
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Signature:

FOR ATTENTION: THE ENVIRONMENTAL COMMISSIONER (MR. TIMOTEUS MUFETI)

Dear Mr. Timoteus Mufeti,

RE: APPLICATION FOR ENVIRONMENTAL CLEARANCE CERTIFICATE FOR THE PROPOSED DEVELOPMENT OF THE DRIEFONTEIN SAFARI LODGE IN THE TORRA CONSERVANCY, KUNENE REGION, NAMIBIA.

Environmental Compliance Consultancy (ECC) has been engaged by the proponent (Driefontein Safari Lodge (Pty) Ltd) to act on their behalf for the environmental clearance certificate application for the proposed development of the Driefontein Safari Lodge in the Torra Conservancy, Kunene Region, Namibia.

In terms of Section 32(1) of the Environmental Management Act, No. 7 of 2007, ECC has determined that the Ministry of Environment, Forestry and Tourism is the competent authority for the proposed project.

The development of the Driefontein Safari Lodge will attract tourists to the region, thereby presenting opportunities for development in the region whilst exposing tourists to a full cultural experience. As part of the proposed project, the following construction activities are envisaged, which shall be further defined as the project develops:

- Creation of new access tracks,
- Earthworks (ground excavations),
- Construction of a 30 room luxury lodge,
- Construction of powerline and
- Construction of water pipeline.

Due to the nature of the proposed project, the potential limited effects on the environment and society and the implementation of industry best practice mitigation measures, ECC has undertaken a high-level environmental assessment in order to produce an Environmental Scoping Report and Environmental Management Plan as per attached.

Therefore, ECC hereby submits the attached application for your consideration and review:

- **COMPLETED FORM 1 (ATTACHED)** – Environmental Management Act, No. 7 of 2007, section 32 Application Environmental Clearance Certificate
- **ENVIRONMENT SCOPING REPORT**– The assessment report

ENVIRONMENTAL COMPLIANCE CONSULTANCY CC
PO BOX 91193 WINDHOEK, NAMIBIA
MEMBERS: J L MOONEY & JS BEZUIDENHOUT
REGISTRATION NUMBER: CC/2013/11404



- **PROJECT SPECIFIC ENVIRONMENTAL MANAGEMENT PLAN (EMP)** – Project specific EMP has been developed for the proposed project

Should you or your office require our assistance with the details contained within this letter or any project specific details, please do not hesitate to contact us and we will gladly assist.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Bezuidenhout'.

Stephan Bezuidenhout

Environmental Compliance Consultancy

Contact: 081 669 7608

Email: stephan@eccenvironmental.com

A handwritten signature in black ink, appearing to be 'J. Bezuidenhout Mooney'.

Jessica Bezuidenhout Mooney

Environmental Compliance Consultancy

Contact: 081 669 7608

Email: jessica@eccenvironmental.com



LEASE LAND AND AUTHORITY AGREEMENTS

Joint Venture Agreement


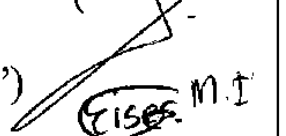
**JOINT VENTURE
AGREEMENT**

For
TORRA LODGES

Made and entered into by and between:

THE TORRA CONSERVANCY

Herein represented by Mr. TORI ADAMS
in his capacity as Chairman
(Herein after referred to as "the Conservancy")


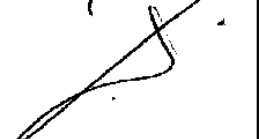


Eises M.I.

AND

MALDIVE ISLAND INVESTMENTS (PTY) LTD

Herein represented by Mr. Christophe Van de Vijver
in his capacity as Director
(Herein referred to as the "the Operator")

(Joint herein referred to as "the Parties")



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Joint Venture Agreement

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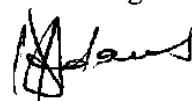
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Joint Venture Agreement

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ANNEXURES:

Annexure A:	Terms and Conditions
Annexure B:	Conservancy Management Plan (including Zonation Schedule)
Annexure C:	Certificate of Leasehold
Annexure D:	Environmental Clearance Certificate
Annexure E:	Environmental Management Plan
Annexure F:	Empowerment Plan
Annexure G:	Annual Benefit Summary Report



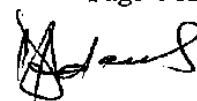
Joint Venture Agreement

Whereas

- a) The Conservancy has the objective of conserving the natural and cultural heritage of the Conservancy Area for the benefit and enjoyment of its residents and visitors.
- b) The Conservancy wishes to generate income and community benefits from tourism developments and activities within the Conservancy.
- c) The Conservancy has selected the Operator as its preferred partner to implement a joint venture tourism partnership and has allocated the Operator a right to establish 3 Lodge Sites, access to the Conservancy Area and traversing rights (exclusive and non-exclusive) in the Conservancy Area.
- d) The Operator has expertise in the development and operation of tourism infrastructure, tourism services and activities for visitors and in the marketing of tourism products.
- e) The Operator will develop and operate the Lodges on the Lodge Sites in the Conservancy Area as agreed upon with the Conservancy.
- f) The Operator will submit a proposal to the Conservancy (Annexure B) for operating the Lodges and utilizing the tourism traversing rights.
- g) The Parties wish to implement this Agreement to achieve the commercial objectives of the Operator whilst simultaneously achieving the conservation, tourism and community related objectives of the Conservancy referred to in (a) and (b) above.

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION



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Joint Venture Agreement

1.1 In this Agreement the following words and expressions shall have the meanings hereby assigned to them when said terms are used with a capitalised first letter.

- "Agreement" shall mean this joint venture Agreement and any Annexure hereto.
- "Conservancy" shall mean the Torra Conservancy acting through its duly appointed Committee.
- "Conservancy Area" shall mean the geographic area registered as the Torra Conservancy.
- "Day" shall mean any calendar day including a week-end day and a public holiday.
- "Effective Date" shall be the date specified in Annexure A and determines when the rights and obligations of this Agreement become binding on the Parties.
- "Exclusive Area" shall mean the area within the Conservancy where the right to develop and operate tourism facilities is restricted to the Operator.
- "Financial Year" shall mean the annual accounting period used by the Operator to provide information on the financial achievement and position of the Lodge and associated activities.
- "Lodge Assets" shall mean the Lodge, any existing and new fixed assets on the Lodge Site including but not limited to the Lodge structures and staff accommodation. For the avoidance of doubt, the following classes of assets shall be considered to be fixed or immovable: fences; buildings and all their associated fixtures and fittings whether embedded in the ground or not; all other accommodation, storage or service structures whether with or without foundations (including, but not limited to, tents and timber shelters) and all their associated fixtures and fittings whether embedded in the ground or not; all transport infrastructure including airstrips, roads, bridges; and all infrastructure associated with the provision of power, water and sanitation (including, but not limited to, solar installations, power lines, dams, boreholes, wildlife waterholes, windmills, storage tanks, water-pumps and sewerage systems);
- "Lodges" shall mean the lodges constructed on the Lodge Sites within the Conservancy Area.
- "Lodge Sites" shall mean the areas on which the Lodges are built as covered by the Right of Leasehold.

Joint Venture Agreement

- "Minimum Fee"** shall mean the minimum annual amount payable for the rights to operate a tourism business by the Operator to the Conservancy.
- "Net Turnover"** shall mean all monies, generated by the Lodge and Lodge activities that is received or receivable by the Operator, excluding;
- commission of bona fide travel agents and tour operators
 - levy to the Namibia Tourism Board.
 - other government levies.
 - damages claimed
 - interest earned
 - insurance proceeds
 - capital gains realized on disposal of moveable assets, and
 - Value Added Tax received by the Operator.
- For any given year this Net Turnover must be consistent with that presented in the Operator accounts for tax purpose for the appropriate Financial Year as certified by the Operators auditor.
- "Parties"** shall mean the Conservancy or nominee and the Operator or nominee.
- "Operating Fee"** shall mean the amount payable for the rights to operate a tourism business by the Operator to the Conservancy.
- "Operator"** shall mean the counterparty to the Conservancy hereunder.
- "Right of Leasehold"** shall mean the lease rights over the Lodge Sites which shall be acquired in terms of the Communal Land Reform Act.
- "Traversing Area"** shall mean all remaining areas within the Conservancy Area that is available for traversing purposes by the Operator, but to be shared with other tourist operators and tourists, as recorded in the Conservancy Management Plan and the Zonation Schedule.
- "Zonation Schedule"** shall mean a zoning plan agreed by the Parties which shall include at least the delineation of the Lodge Site and Exclusive Area.
- 1.2 Words in this Agreement that references to a particular gender shall include the other gender.
- 1.3 Words in this Agreement that reference to the singular shall include the plural and vice versa.
- 1.4 Words in this Agreement that reference to natural persons shall include the legal persons and vice versa.

Joint Venture Agreement

- 1.5 Headings and sub-headings in this Agreement are for ease of reference only and shall not be used in the interpretation of this Agreement.

2 FRAME WORK

2.1 Right to Utilisation

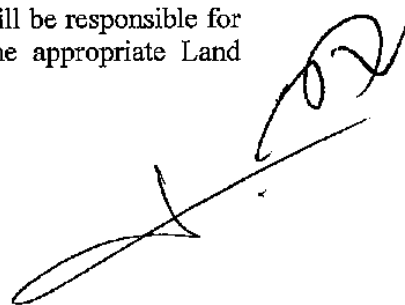
- 2.1.1 Subject to the terms of this Agreement, the Conservancy makes available to the Operator for conducting agreed upon tourism activities as per the Terms and Conditions of this Agreement (Annexure A).

2.2 Effective Date and Agreement Period

- 2.2.1 The Effective Date shall be the date specified in Annexure A.
- 2.2.2. The Agreement Period shall be for the term as contained in Annexure A subject to termination in accordance with this Agreement.

2.3 Right of Leasehold

- 2.3.1 The Right of Leasehold shall be acquired as contained in Annexure A.
- 2.3.2 Should the Right of Leasehold be in the Operators name then the following should apply:
- 2.3.2.1 The Operator cannot sell or transfer this Right of Leasehold unless it has prior written permission from the Conservancy. This permission shall not be unreasonably withheld nor delayed.
- 2.3.2.2 The Operator cannot use the Right of Leasehold as collateral for other creditors or businesses unless it has prior written permission from the Conservancy which shall not be unreasonably withheld nor delayed.
- 2.3.2.3 If this Agreement expires or is terminated for any reason before the Right of Leasehold expires, the Operator will be required to transfer the Right of Leasehold into the name of the Conservancy.
- 2.3.3 Whichever party holds the Rights of Leasehold will be responsible for the payment of lease fees as determined by the appropriate Land Board, failing which by the relevant Ministry.



Joint Venture Agreement

2.4 Operator's Capital Contribution

- 2.4.1 The Operator shall be responsible for all capital required for the development and operation of the Lodge and associated activities outlined in Annexure A or as otherwise agreed upon by the Parties.

2.5 Operating Fee Payment

- 2.5.1 The Operating Fee shall be paid by the Operator as contained in the Annexure A.
- 2.5.2 If an audit of the Operator's account for a given year revises the Operating Fee the difference will be paid by the Operator to the Conservancy or deducted by the Operator from future payments to the Conservancy within 60 [sixty] Days of such audit and receipt of official notification.
- 2.5.3 If a Party is obligated to pay taxes, levies or other fees ("New Taxes") to a relevant state authority, which the Party was not obligated to pay at the Effective Date, and the payments of the New Taxes have the effect of rendering the commercial objectives of either Party as unviable, the parties shall meet forthwith to consider the situation and seek in good faith to renegotiate and amend Section 2.5 and Clause 6 in Annexure A to give relief to the Party obligated to pay the New Taxes.

3 THE CONSERVANCY'S OBLIGATIONS

3.1 Conservancy Support

- 3.1.1 The Conservancy shall do everything within its powers to support any application brought by the Operator for the granting of all licenses or other authorities as may be required by the Operator to use the Lodge Sites. Notwithstanding this provision, the Operator shall be responsible for obtaining all such licenses or authorities at its sole risk and cost.
- 3.1.2 The Conservancy shall do everything within its powers to support all other such things and steps as may be open to them and necessary for putting into effect the terms and conditions of this Agreement.

3.2 Conservancy Management

- 3.2.1 The Conservancy will take responsibility for the management of the Conservancy Area in a manner that will support the operations of the Operator as contemplated in this Agreement.
- 3.2.2 It shall be responsible for the ongoing management of wildlife and other natural resources in the Conservancy Area, and in particular shall:

Joint Venture Agreement

- 3.2.2.1 Integrate any rules of use developed by the Joint Management Committee into the Conservancy's Management Plan.
- 3.2.2.2 Prohibit any form of hunting at the Lodge Sites or within the Exclusive Area and No-hunting Areas, except in the event that an animal is sick, injured or wounded, or declared a problem animal, in which case the Operator must be informed by the Conservancy prior to the hunt taking place.
- 3.2.2.3 Inform the Operator of all hunting activities that are taking place in the Conservancy.
- 3.2.2.4 Undertake problem animal control within the Conservancy Area with due consideration for the tourism activities of the Operator.
- 3.2.2.5 Develop and implement a management strategy for excluding new settlements, cattle and other domestic animals and reducing the impact of tree cutting, burning and ploughing or any other agreed activities which could have a negative impact on the success of the Lodge within the Exclusive Area.
- 3.2.2.6 Implement within its authority the Conservancy Management Plan.
- 3.2.3 The Conservancy shall undertake to do everything within its authority to provide unimpeded and free access to the Lodge Site within the Conservancy Area.
- 3.2.4 The Conservancy shall submit to the Operator a copy of the Conservancy's annual report within 6 [six] months of the end of the Conservancy year end, which shall include; a summary of benefit distribution and a report of the natural resource management activities undertaken during the year under report.

3.3 Tourism Control

- 3.3.1 The Conservancy undertakes to:
 - 3.3.1.1 Assume responsibility for controlling tourism activities within the Conservancy Area as enabling legislation become available.
 - 3.3.1.2 Reject other operators and private individuals from building and operating tourism facilities within the Exclusive Area.
 - 3.3.1.3 Refer to relevant tourism plan, policies and guidelines when planning new tourism developments in the Conservancy Area.

Joint Venture Agreement

- 3.3.1.4 Discuss with the Operator any proposal for future tourism related developments in the Conservancy Area. This should ensure that such development will not undermine the existing partnership between the Conservancy and Operator.

4 THE OPERATOR'S OBLIGATIONS

4.1 Operator's Support

- 4.2 The Operator shall do everything within its powers to support all other such things and steps as may be open to them and necessary for putting into effect the terms and conditions of this Agreement.

4.3 Auditing and Reporting

- 4.3.1 The Operator shall within 6 [six] months of the end of the Operator's financial year provide the Conservancy with a copy of the certified financial statements.
- 4.3.2 The Conservancy shall have the rights to a monthly report summarized into an annual report in prescribed formats, including the use of the Joint Venture Financial Dashboard that reflects the number of guests and any other information that may be necessary for the Conservancy to determine and verify the Operators Fee for a particular month or year under review.

4.4 Environmental Management Plan

- 4.4.1 The Operator undertakes to:
- 4.4.1.1 Obtain an Environmental Clearance Certificate and develop an Environmental Management Plan (EMP) in respect of the construction and management of the Lodges and Lodge Sites. The application for an Environmental Clearance Certificate and the drafting of the EMP should be prepared by an independent environmental consultant in accordance with the Environmental Management Act.
- 4.4.1.2 Take responsibility for the disposal of any waste associated with, or resulting from, the construction and operation of Lodge.
- 4.4.1.3 Adhere to the Zonation Schedule and relevant sections of the Conservancy Management Plan, copies of which are annexed to this Agreement (Annexure C).
- 4.4.1.4 Develop and adhere to a written Environmental Management Plan covering the operation of the Lodges and management of the Lodge Sites that conforms to established best practice.

Joint Venture Agreement

4.4.1.5 The Operator shall provide a copy of the Environmental Management Plan to the Conservancy.

4.4.1.6 The Operator shall submit written reports on the implementation of the plan to the Conservancy at regular intervals, but no less than once per annum.

4.5 Local Empowerment

4.5.1 The Operator's 5 [five] year empowerment plan shall become part of this Agreement on the Effective Date. This plan shall include the Operator's undertaking in terms of local employment, training, procurement and any other forms of assistance. the Operator intends, offering targets and time frames for the undertaking described.

4.5.2 The Empowerment Plan shall reflect a clear commitment by the Operator to optimize employment, skills development and other benefits to members of the Conservancy. The Operator shall provide a copy of the Empowerment Plan to the Conservancy.

4.5.3 Wherever possible the Operator shall employ members of the Conservancy at the Lodges and, where specific skills required at the Lodges are not immediately available among members of the Conservancy, shall include in its empowerment plan a skills development plan designed to build such skills amongst members of the Conservancy.

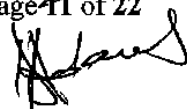
4.5.4 The Operator shall submit written reports regarding the implementation of its empowerment plan at least once per annum. These reports provide information on the number of local and outside staff employed at the Lodges. This report shall outline the skills developments and training activities conducted for the benefit of Conservancy members, and any other benefits or activities relating to the empowerment of the Conservancy and its members that have been undertaken.

4.5.5 The Operator shall provide adequate accommodation facilities and meals or food for those employees whose responsibilities require them to overnight at the Lodges.

4.5.6 The Operator shall furnish the Conservancy with a copy of the employment policies for the Lodges.

4.5.7 All human resource management decisions made will be made by the Operator only, with due regard to the provisions of the Labour Act 11 of 2007 or any other labour legislation in force at the time.

4.5.8 The Operator will look for opportunities for 'preferential procurement' of goods and services from local business. Where possible, the Operator will support local entrepreneurial activities, including those that support the Lodges' operations.


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Joint Venture Agreement

4.6 Maintenance

- 4.6.1 All maintenance and repair of the Lodge Assets shall be the responsibility of the Operator. The Operator shall be required to keep the facilities in proper working order, and maintain all structures in line with generally accepted industry standards and recognized level of maintenance.
- 4.6.2 In the event that pursuant to 4.6.1 major renovations are deemed necessary the Operator may request the Conservancy prior to any renovations for a full or partial suspension of fee payments for a reasonable duration of the renovation. The written request should not be withheld unreasonable by the Conservancy. Any disagreement as the viability of the written request shall be resolved in terms of the dispute resolution procedure outlined under Section 8.
- 4.6.3 Maintenance of access roads to and from the Lodge shall be the responsibility of the Operator.

4.7 Insurance and Liabilities

- 4.7.1 The Operator shall be obliged at its own cost to take out and keep in force for the duration of this Agreement insurance policies as customarily carried by a tourism Operator. This shall include amongst others cover for the Lodge Assets and third-party liability.
- 4.7.2 The Operator when called upon to do so shall furnish the Conservancy with a copy of the insurance policy for the Lodge Assets.
- 4.7.3 The Operator shall not have any claims of any nature against the Conservancy for any loss damage or injury which the Operator its guests or invites or employees may suffer in the Conservancy Area.
- 4.7.4 The Conservancy or any of its members shall not have any claims of any nature against the Operator for any loss or damage which the Conservancy or any of its members relatives or guests may suffer in the Conservancy Area arising out of negligent or accidental action by the management, a staff member or guest of the Operator beyond the Operator's control.

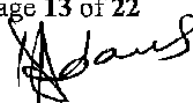
4.8 Material Change in Partnership

- 4.8.1 The Operator shall notify the Conservancy as soon as practically possible before any significant change to its business or ownership of the Operator or claim against the Operator or its business which is reasonably likely to have a material effect on the partnership between Operator and Conservancy.

5 JOINT MANAGEMENT COMMITTEE

Joint Venture Agreement

- 5.1 The Conservancy and the Operator agree to establish a Joint Management Committee and arrange for its first meeting within 60 [sixty] Days of signing of this Agreement.
- 5.2 The Parties shall agree on the composition of the Joint Management Committee including the number of representatives to be designated by each Party, the number of representatives from each Party required to form a quorum, and whether the Joint Management Committee should include representatives of other parties operating tourism facilities or conducting hunting activities within the boundaries of the Conservancy.
- 5.3 The Joint Management Committee shall not intervene with day to day management activities at the Lodge Sites, except at the request of the Operator.
- 5.4 The purpose of the Joint Management Committee shall be to:
- 5.4.1 Take responsibility for overseeing the implementation of this Agreement and ensuring the commitments of both Parties are met.
- 5.4.2 Negotiate any issues not covered by this Agreement or any amendments to this Agreement, on the understanding that both Parties reserve the right to take such matters back to their members or shareholders for decision.
- 5.4.3 Nominate and / or recommend candidates for employment and to facilitate the resolution of any disputes that might arise between the Parties in relation to the employment of persons in terms of this Agreement, provided that the ultimate decisions regarding such matters are with the Operator and in line with the Labour Act 11 of 2007.
- 5.4.4 Resolve issues of concern to the Parties, such as the movement of tour operators within the Exclusive Area, and address the conduct of members of the Conservancy when it is in conflict with the tourism activities of the Operator, or the conduct of the Operator's clients and employees when it is in conflict with the Conservancy or community development related objectives of the Conservancy.
- 5.4.5 Discuss questions and issues relating to the quarterly and annual financial reports of the Lodge. Each of the Parties may nominate a person to represent its interest and to liaise with the other if any matter requires in-depth discussion.
- 5.4.6 Consider and decide upon the use of other areas within the Conservancy boundaries for tourism activities by the Operator.
- 5.4.7 Air grievances and propose solutions with respect to conflict or disputes arising from this Agreement.
- 5.4.8 Develop rules and regulations for use of the Traversing Areas by the Operator subject to the provisions of this Agreement.



Joint Venture Agreement

5.4.9 Furnish one another with any information and / or documents deemed necessary for decision making and the smooth implementation of this Agreement.

5.4.10 As far as meetings are concerned:

5.4.10.1 The Joint Management Committee shall meet as often as it deems necessary but not less than once every year.

5.4.10.2 All meetings shall be minuted and minutes shall be kept on file.

5.4.10.3 If deemed necessary by the Parties hereto meetings of the Joint Management Committee may be facilitated by a mutually acceptable, neutral facilitator.

6 EXPIRY OF THE AGREEMENT

6.1 Should the Operator not renew this Agreement for a further period, this Agreement will then expiry in accordance to the following conditions.

6.1.1 The Operator shall at all reasonable times during the last 6 [six] months of the Agreement, allow prospective partners of the Conservancy to enter and review all parts, including the interior of the Lodge.

6.1.2 At the end of the Agreement, including any renewals hereto, or at such earlier time as may be provided herein, the Operator shall vacate the Lodges, the Lodge Sites and Exclusive Area and leave such areas, and Lodge Assets thereon, clean and in good working condition, or as otherwise agreed to in writing by the Parties.

6.1.3 As stipulated within the Communal Land Reform Act of 2002, the Operator shall not be entitled to an automatic compensation in respect of any improvements effected by him or her from the State or any other authority if the Right of Leasehold is terminated for reasons other than breach of the contract.

6.1.4 Should the Operator at the end of the Agreement intend disposing of non-fixed assets used by the Lodge, the Conservancy shall have the first option to buy these items from the Operator at a market-related price, as negotiated and agreed to by the Parties. If the Conservancy has not purchased the non- fixed assets from the Operator within 90 [ninety] days of receiving the offer from the Operator, the Operator shall be entitled to sell the non- fixed assets to another purchaser at a price not less than the offer to the Conservancy unless the Conservancy has in writing waived its rights of first option to purchase.

7 TERMINATION OF THE AGREEMENT

Joint Venture Agreement

7.1 Termination by the Conservancy

- 7.1.1 The Conservancy shall have the right to terminate this Agreement if;
- 7.1.1.1 the Operator defaults in any payments due under this Agreement, after being notified by the Conservancy of such default and not correcting the default within 7 [seven] days of receiving the notice, or
 - 7.1.1.2 the Operator commits a material breach of its terms in this Agreement in any other way.
- 7.1.2 The right to terminate is without prejudice to any alternative or additional right of action or remedy available to the Conservancy in the circumstances, to cancel this Agreement with immediate effect.
- 7.1.3 The Operator shall furthermore be deemed to be in breach of this Agreement in the event that it commits an act of insolvency, being voluntarily or otherwise liquidated, being placed under judicial management, or a civil judgment being obtained against it and such judgment remains unsatisfied by the Operator for longer than 30 [thirty] Days. In such an event the Conservancy will be entitled to cancel the Agreement without any notification to the Operator.
- 7.1.4 Upon termination pursuant to Section 7.1.1 and 7.1.3 the Conservancy shall be entitled to repossess, take transfer and cession of the Right of Leasehold and recover from the Operator damages for default or breach including all reasonable foreseeable economic losses suffered by the Conservancy and other costs and expenses incurred as a result of the termination.
- 7.1.5 Section 7.1.1 and 7.1.3 shall not be construed as excluding the ordinary lawful consequences of a breach of this Agreement by the Operator and in particular any right of cancellation of Agreement on the ground of material breach going to the root of this Agreement.
- 7.1.6 In the event of the Conservancy having cancelled this Agreement justifiably but the Operator remaining in occupation of the land, with or without disputing the cancellation and continuing to tender payments of operating fee and any other amounts which would have been payable to the Conservancy but for the cancellation, the Conservancy may accept such payments without prejudice to and without affecting the cancellation, in all respects as if they had been payments on accounts of the damages suffered by the Conservancy by reason of the unlawful holding over on the part of the Operator.
- 7.1.7 On termination due to material breach by the Operator, the Conservancy shall be entitled to be compensated for the value of "loss of business" from either the Operator or by an approved third party purchaser. The value of "loss of business" shall to be determined by an independent valuation.

Joint Venture Agreement

7.2 Termination by the Operator

7.2.1 The Operator shall have the right to terminate this Agreement if;

7.2.1.1 the Conservancy commits a material breach in respect of the performance of any of its obligations under this Agreement excluding breaches relating to its general obligations listed under Section 3, and

7.2.1.2 the Conservancy fails to remedy such default within 30 [thirty] Days or any other agreed period after receiving a written demand that it be remedied.

7.2.2 The right to terminate is without prejudice to any alternative or additional right of action or remedy available to the Operator in the circumstances, to cancel this Agreement with immediate effect.

7.2.3 Upon termination pursuant to Section 7.2.1 the Operator shall be entitled to recover from the Conservancy damages for default or breach including all reasonable costs and expenses incurred as a result of the termination. An independent valuation shall determine the value of damages.

7.3 Effect of Termination

7.3.1 Upon termination or expiry of this Agreement for whatever reason and without prejudice to any rights of the Parties hereto:

7.3.1.1 All rights as the Operator may have been granted by the Conservancy under this Agreement shall cease to have effect.

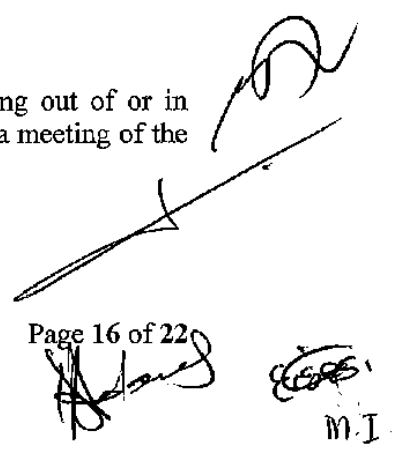
7.3.1.2 The Operator shall forthwith relinquish all interest in any immovable property within the Conservancy in favour of the Conservancy.

7.3.1.3 The Operator shall within a period of 60 [sixty] Days remove all of its movable assets and reinstate the Lodge Site to the acceptable standards.

7.4 The provision of Section 7.3 shall be suspended pending the final outcome of any arbitration or legal proceedings between the Parties concerning the validity of the termination of this Agreement.

8 DISPUTE RESOLUTIONS

8.1 Subject to Section 7 any dispute between the Parties arising out of or in connection with this Agreement, shall first be considered in a meeting of the Joint Management Committee.

Handwritten signatures and initials are present at the bottom right of the page. There is a large, stylized signature that appears to be 'M.I.' and another signature below it. To the right of these, there are some initials and a date '2006'.

Joint Venture Agreement

- 8.2 Should the Parties acting through their representatives on the Joint Management Committee be unable to resolve the dispute, it shall then be submitted to and decided by arbitration on the following terms and conditions:
- 8.2.1 The Arbitrator shall be a mutually appointed by the Parties, failing which the President of the Namibia Law Society shall make such an appointment. Preference should be given to an admitted practicing Legal Practitioner, practicing as such for at least 10 years.
- 8.2.2 The terms of reference of the arbitration will be determined by the Arbitrator.
- 8.2.3 The decision of the Arbitrator will be final and binding on the Parties.
- 8.3 The costs of such arbitration shall be paid as determined by the Arbitrator in his sole discretion. The Arbitrator may direct that the Parties share the costs of arbitration or that either party bear all the arbitration costs, or that the Parties pay unequal parts of the arbitration costs as the Arbitrator deems fit in the circumstances.
- 8.4 This arbitration Section shall not preclude a Party from seeking urgent relief in a court of appropriate jurisdiction, where grounds for urgency exist.
- 8.5 The provisions of this Section;
- 8.5.1 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and no Party shall be entitled to withdraw there from or claim at any such proceedings that it is not bound by such provisions,
- 8.5.2 are severable from the rest of this agreement and shall remain in effect despite the termination of or invalidity for any reason of this agreement, and
- 8.5.3 shall not be applicable if any one of the Parties refuses to subject itself to the dispute resolution procedure as set out in this Section 9 (the refusing Party) in which event the other Party may proceed to institute legal action in any Court of competent jurisdiction.
- 8.6 Any notice, demand or other communication properly addressed by an Party to another Party at the latter domicilium in terms hereof for the time being and sent by prepaid registered post shall be deemed to be received by the latter on the 14th Day following the date of posting thereof.
- 8.7 Any Party may change its nominated address to another address in the Republic of Namibia by prior written notice to the other Party.
- 9 **DAMAGE TO OR DESTRUCTION OF LODGE ASSETS**

Joint Venture Agreement

- 9.1 Should the Lodge Assets be damaged to an extent which diminishes the Operator's enjoyment thereof but which falls short of the event contemplated in 9.2 then the following provision shall apply;
- 9.1.1 this Agreement shall not be cancelled,
- 9.1.2 the Operator shall continue to be liable for the fee, and
- 9.1.3 the Operator shall at its own cost reinstate the Lodge Assets as quickly as is reasonably possible in the circumstances and shall apply the proceeds of any insurance policy relating to the Lodge Assets for such purpose.
- 9.2 If as a consequences of vis major or casus fortuitous, the Lodge Assets be damaged or destroyed to an extent that even with the proceeds of insurance policy, the Lodge Assets are commercially unviable and incapable of beneficial use then the Operator shall be entitled to terminate this Agreement by written notice to the Conservancy.
- 9.3 Should the Parties not agree on whether the Lodge Assets have been damaged or destroyed to an extent which renders them commercially unviable or incapable of beneficial use the matter shall be referred to the Joint Management Committee for resolution and failing which to the dispute resolution procedure in terms of Section 8 of this Agreement.
- 9.4 The right of termination pursuant in Section 9.1 must be exercised within 30 [thirty] Days of the date on which the event giving rise to the right occurs or determination by the Joint Management Committee or Arbitrator as the case may be failing which such right shall lapse. If the Operator exercises its rights to terminate this Agreement under Section 9.1 then this Agreement shall terminate with effect from the date of the event in question.
- 9.5 If the Operator does not exercise its rights to terminate in terms of Section 9.1 then the following provisions shall apply:
- 9.5.1 The Operator shall reinstate at its own cost the Lodge Assets and the Exclusive Area as quickly as is reasonably possible in the circumstances, and shall apply the proceeds of any insurance policy relating to the improvements for such purpose;
- 9.5.2 The Operator shall not be liable for payments until the damage has been restored, but will continue to be liable for the Operating Fee under this Agreement once the improvements have been restored;
- 9.5.3 The Agreement period shall be extended by the period during which the Operator was deprived of the use of the improvement and during which period the Operating Fee was not payable.
- 9.6 The Parties shall not have any claims against each other as a result of such cancellation or loss of occupation of the Lodge Assets unless the damage or destruction was caused by an act or omission for which a Party is responsible in terms of this agreement or in law.

Joint Venture Agreement

10 FORCE MAJEURE

10.1 "Force Majeure" defined

"Force Majeure" shall mean an event resulting in consequences of a material nature beyond the control of either Party, whose occurrence could not have been reasonably foreseen at the date of the execution of this Agreement which specifically but not exclusively includes:

10.1.1 war, civil war or terrorism, or floods, storm, earthquake, landslip, volcanic activity or other forces of nature; and

10.1.2 which directly causes either Party to be unable to comply with all or a material part of its obligations hereunder.

10.2 Notice of Force Majeure

Each Party shall promptly notify the other of the occurrence of a perceived event of Force Majeure and when such event has ceased. Any disagreement as to whether an event of Force Majeure has occurred shall be resolved in terms of the dispute resolution procedure in Section 9.

10.3 Consequences of Force Majeure

10.3.1 If the Parties agree or it is determined under Section 10.2 that an event of Force Majeure has occurred the Conservancy and the Operator shall promptly consult to agree a mutually satisfactory resolution to the changed circumstances resulting from the event of Force Majeure.

10.3.2 If an event of Force Majeure (or its consequences) shall continue for 60 (sixty) or more consecutive Days and the Parties have not reached a mutually satisfactory resolution to the changed circumstances and the effect of the Force Majeure continues, this Agreement may, upon 20 (twenty) Days prior notice, be terminated by either the Conservancy or by the Operator.

11 WHOLE AGREEMENT

11.1 This is the entire Agreement between the Parties.

11.2 Neither Party relies in entering into this Agreement on any warranties, representatives, disclosures or expressions of opinion which have not been incorporated into this Agreement as warranties or undertakings.

11.3 No variation or consensual cancellation of this Agreement shall be of any force or effect unless reduced to writing and signed by both Parties.

Joint Venture Agreement

12 NO WAIVER.

Neither Party shall be regarded as having waived, or precluded in any way from exercising, any right under or raising from this Agreement by reason for such Party having at any time granted any extension of time for, or having shown any indulgence to the other Party with reference to any payment or performance hereunder, or having failed to enforce, or delayed in the enforcement of, any right or action against the other Party.

13 WARRANTY

- 13.1 The person signing this Agreement on behalf of the Parties expressly warrants their authority to do so.

14 DOMICILIARY AND NOTICES

- 14.1 Each Party has chosen (see Annexure A) as its address for all purposes under this Agreement ("chosen address"), whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from this Agreement ("notice").
- 14.2 Any notice required or permitted under this Agreement shall be valid and effective only if in writing.
- 14.3 Any Party may by notice to the other Party change its chosen address to another physical address in the Republic of Namibia and such change shall take effect on the seventh day after the date of receipt by the Party who last receives the notice.
- 14.4 Any notice to a Party contained in a correctly addressed envelope and:
- 14.4.1 sent by prepaid registered post to it at its chosen address; or
 - 14.4.2 delivered by hand to a responsible person during ordinary business hours at its chosen address,
 - 14.4.3 shall be deemed to have been received on the fourteenth business day after posting (unless the contrary is proved).

15 SALE, CESSION, SUBLETTING AND ENCUMBERMENT

- 15.1 Subject to Section 2.3.2 the Operator shall not be entitled except with the prior written consent of the Conservancy which cannot be unreasonably withheld nor delayed:

15.1.1 To change substantially its ownership structure in relation to the operation of the Lodge which would result in a change in entity or person holding majority ownership of the Operation.

Joint Venture Agreement

15.1.2 To cede all or any of its rights under this Agreement.

15.1.3 To sublet or give up possession of the Lodge Assets, Lodge, Lodge Site or Exclusive Area, in whole or part, any third party or

15.1.4 To encumber the Lodge and or Lodge Site or any portion thereof or any right arising out of this Agreement in any manner whatsoever or use same as security for any of the obligations of the Operator unless otherwise agreed to in writing by the Parties.

15.2 In the event that the Operator decides to sell the Lodge and Lodge activities then subject to Annexure A conditions the Operator shall pay a proportion of the sale proceeds to the Conservancy.

16 PROSPECTIVE TENANTS / PURCHASERS

16.1 Should the Parties not agree to extend the Agreement for a further period, the Operator shall at all reasonable times during the last 6 [six] months of the Agreement period, allow prospective tenants or purchasers of the Lodge Assets, to enter and view the interior of the Lodge Assets.

17 ORDER OF PRECEDENCE

17.1 Where discrepancies exist between this Agreement and its Annexure the Agreement shall take precedence.

18 REPLACEMENT OF EARLIER AGREEMENTS

18.1 At the date of signing this Agreement replaces all earlier agreements between the Parties and between the Operator and any other third parties in relation to the Lodge.

19 SUCCESSORS IN TITLE

19.1 This Agreement shall be binding on the Operator's creditors, liquidators, successors in title, heirs, legates, executors, administration and beneficiaries.

19.2 This Agreement shall be binding on the Conservancies successors in title and heirs.

20 SUSPENSIVE CONDITIONS

20.1 Should any one of the suspensive conditions contained in Annexure A not be fulfilled within 6 [six] months from the Effective Date of this Agreement, then the Agreement will become null and void.

Joint Venture Agreement

21 CONFIDENTIALITY

- 21.1 Each of the Parties shall at all times use its best endeavours to keep confidential any information which it has acquired or may acquire in relations to this Agreement, except with consent of the other Party.

22 GOVERNING LAW

- 22.1 This Agreement shall be governed by the laws of the Republic of Namibia.

23 GOOD FAITH

- 23.1 The parties to this agreement acknowledge that at all times they will act in the spirit of cooperation, fairness and good faith to enable the underlying principles and objectives in this document to be successfully achieved.

The undersigned representatives being duly authorised thereto by their respective institutions have signed this Agreement.

SIGNED AT Windhoek ON THE DAY OF 13th July 2018.

Name: Toni J. Adams

AS WITNESSES

Position: CHAIRPERSON

Name: Daniel Adams





For and on behalf of the *Conservancy*

SIGNED AT Windhoek ON THE DAY OF 13th July 2018.

Name: CHRISTOPHE VAN DE VEC

AS WITNESSES

Position: DIRECTOR

Name: Maria Catherine Eises





For and on behalf of the *Operator*



TORRA CONSERVANCY

P.O. Box 462, Bergsig, Khorixas, Kunene, Namibia

Tel/Fax: +264 (0)67-697063 • Cell: +264 (0) 813 345 308

E-mail:torraconservancy@gmail.com

9th November 2018

Nuvella Managerial and Management Services (PTY) LTD

P O Box 90538

Windhoek

Att: Chistophe Van De Vijver

Lease agreement

We hereby confirm that the Leasehold at Driefontein in Damaraland Communal area of 34.2 ha is leased to Torra Conservancy from 8th January 2014 until 8th January 2024 by the Kunene Communal Land Board, Certificate Number: KUNCLB-LE100062. We hereby fully confirm that the abovementioned area is subleased to Nuvella Managerial and Management (PTY) LTD until the end of our operational agreement.

We trust on our ongoing partnership.

Yours in Conservation

Thomas Adams

Chairman

