PHABENI GATE BUSH BRAAI

PPP AGREEMENT

PUBLIC PRIVATE PARTNERSHIP AGREEMENT FOR THE

PHABENI GATE BUSH BRAAI PRODUCT

IN THE

KRUGER NATIONAL PARK

FEBRUARY 2019
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1. INTRODUCTION

1.1 SANParks has the authority, power, control and responsibility in respect of the Bush Braai Product within the Protected Area as stipulated in the Act.

1.2 SANParks wishes to expand the income generation potential of the Protected Area by granting PPPs for the design, operation, management and maintenance of the Bush Braai Product for the benefit of visitors to the Protected Area, and its employees.

1.3 SANParks has identified the Private Party as an appropriate, a reputable, and an experienced operator and wishes to grant to it a PPP for the purpose of designing, operating, managing, and maintaining the Bush Braai Product in the Protected Area, all in accordance with Good Industry Practice, and the Private Party’s Bid Submission, annexed hereto as Schedule 4, in respect of the Bush Braai Product.

1.4 In terms of the Act, SANParks wishes to appoint the Private Party and the Private Party accepts the appointment to undertake the Project as a PPP and on the terms and conditions of this PPP Agreement.

1.5 Accordingly, the Parties wish to enter into an agreement on the terms and conditions detailed below.
2. DEFINITION AND INTERPRETATION

2.1 In this PPP Agreement and its Schedules, the following terms shall, unless inconsistent with the context in which they appear have the following meanings and expressions derived from those terms that shall bear corresponding meanings:

<table>
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<td>&quot;Act&quot;</td>
<td>the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) (as amended);</td>
</tr>
<tr>
<td>&quot;Associated Agreement&quot;</td>
<td>the Private Party’s contract/s with subcontractors or sub-concessioners related to the execution and fulfilment of terms and conditions of this PPP agreement;</td>
</tr>
<tr>
<td>&quot;Authorised representatives&quot;</td>
<td>An individual or organization selected by the Private Party to represent their interests;</td>
</tr>
<tr>
<td>&quot;BEE Obligations&quot;</td>
<td>the Black Economic Empowerment requirements detailed in SCHEDULE 5 – BEE OBLIGATIONS;</td>
</tr>
<tr>
<td>&quot;Bid Submission&quot;</td>
<td>the bid as detailed in Schedule 4, for the right to carry out the Project submitted by the Private Party and accepted by SANParks;</td>
</tr>
<tr>
<td>&quot;Bush Site&quot;</td>
<td>the identified Bush Site operated by the Private party for catering/dining;</td>
</tr>
<tr>
<td>&quot;Bush Braai Product&quot;</td>
<td>The business opportunity involving game drives and bush braai/breakfast associated with this PPP Agreement and limited to this area only within the Protected Area. The site and other facilities together with all supporting infrastructure, plant and equipment, as</td>
</tr>
</tbody>
</table>
required to enable the Private Party to exercise its rights and perform its obligations included in the Project Deliverables; on the Operation Commencement Date and any new facilities constructed or developed by the Private Party during the Project Term, which is further described in Schedule 1;

| 2.1.8 | “Black Economic Empowerment” or “BEE” | an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the number of Black People who manage, own and control the country's economy, as well as significant decreases in income inequalities, as defined in the Broad Based Black Economic Empowerment Act; |
| 2.1.9 | “Business Day” | a normal business day, excluding weekends and statutory public holidays; |
| 2.1.10 | “Change in Control” | any change whatsoever in Control, whether effected directly or indirectly; |
| 2.1.11 | Confidential Information” | Any information or know-how in whatever form relating to the business affairs, trade secrets, products, operating, or marketing techniques, methods or processes, suppliers, customers or finances of either of the Parties; |
| 2.1.12 | “Consents” | all consents, permits, clearances authorisations, approvals, rulings, exemptions, registrations, filings, |
decisions, licences, certificates required to be issued by or made with any Responsible Authority in connection with the performance of any of the Project Deliverables;

2.1.13 **“Constitutional Documents”** -  the Private Party’s memorandum of incorporation and certificate to commence business, as well as the Shareholders PPP Agreement, equity subscription agreements and equity guarantees entered into and provided in respect of the Private Party and any documents or agreements in respect of any debentures issued by the Private Party, all of which are attached to this PPP Agreement as Schedule 8 and the terms of which are to be to the satisfaction of SANParks;

2.1.14 **“Control”** -  in relation to any entity, the ability directly or indirectly to direct or cause the direction of the votes attaching to the majority of its issued shares or interests carrying voting rights, or to appoint or remove or cause the appointment or removal of any directors (or equivalent officials) or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body);

2.1.15 **“CPIX”** -  the consumer price index excluding interest on mortgage bonds, for metropolitan and other urban areas (Base 2000=100) published from time to time by Statistics SA in Statistical Release P0141.1;
<p>| 2.1.16 | “Depreciated Value” | - the value of the assets calculated in accordance with depreciation presented for income tax purposes, taking into consideration the unexpired portion of the period specified in Clause 3, provided that the minimum rates of depreciation shall not be less than normal custom and practice; |
| 2.1.17 | Development Period | - the period of six (6) months from the Signature Date, during which the Private Party will refurbish the Bush Site Facility of the Protected Area in line with Private Party's Brand in order to commence with operations; |
| 2.1.18 | “Drives” | - the Open Safari Vehicle (OSV) that provide game drives for guests/tourists and transport guests/tourists to the Bush Site. |
| 2.1.19 | “Effective Date” | - the date of Operation Commencement or six (6) months from Signature Date, whichever, the earlier; |
| 2.1.20 | “EIA” or “Environmental Impact Assessment” | - the process of assessing the Environmental effects of a development or an activity and its subsequent operation, carried out in accordance with applicable Regulatory Provisions and guidelines; |
| 2.1.21 | “Employees” | - all the employees of the Business, recruited and trained by the Private Party; |
| 2.1.22 | “Environment” | - the aggregate of surrounding objects, conditions and influences that influence |</p>
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<th>Section</th>
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<th>Description</th>
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<td>2.1.23</td>
<td>&quot;Environmental Laws&quot;</td>
<td>any Laws in respect of the Environment, including (without limitation) at the Signature Date, the following statutes: the National Water Act 36 of 1998; the Water Services Act, 108 of 1997; ; the National Environmental Management Act, 107 of 1998; the National Environmental Management: Protected Areas Act, 57 of 2003; the National Environmental Management: Air Quality Act; the Hazardous Substances Act, 15 of 1973; and the National Heritage Resources Act, 25 of 1999;</td>
</tr>
<tr>
<td>2.1.24</td>
<td>&quot;Environmental Specifications&quot;</td>
<td>the requirements, conditions, obligations and specifications detailed in Schedule 7;</td>
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<td>2.1.25</td>
<td>&quot;Expiry Date&quot;</td>
<td>shall be 24h00 on the eighth (8th) anniversary of the Effective Date;</td>
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<tr>
<td>2.1.26</td>
<td>&quot;Force Majeure&quot;</td>
<td>has the meaning ascribed to it in Clause 22;</td>
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<tr>
<td>2.1.27</td>
<td>“Good Industry Practice”</td>
<td>“Good Industry Practice” is the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from time to time from a skilled and experienced contractor or professional, engaged in the same type of undertaking and under the same or similar circumstances and conditions as those envisaged by this PPP Agreement; seeking in good faith to comply with his contractual obligations and all applicable Regulatory Provisions, upholding the integrity of SANParks, the intention being that an acceptable balance shall be maintained between tourism and conservation. The industry practice will specifically refer to franchise outlets as operated outside the Protected Area and standards within the Protected Area should be in line with those outside;</td>
</tr>
<tr>
<td>2.1.28</td>
<td>“Gross Revenue”</td>
<td>“Gross Revenue” is gross revenue has the meaning as defined in Clause 15;</td>
</tr>
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<td>2.1.29</td>
<td>“Intellectual Property Rights”</td>
<td>“Intellectual Property Rights” are all registered or unregistered trademarks, service marks, patents, design rights (whether the aforementioned rights are registered, unregistered or form part of pending applications), utility models, applications for any of the aforesaid, copyrights (including copyright in any software programmes, data and documents), database rights, the sui generis rights of extraction relating to databases and any similar or analogous rights to any of the above, whether arising or granted under the Laws or any other</td>
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<td>Definition</td>
<td>Description</td>
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<td>2.1.30</td>
<td>“Laws”</td>
<td>the common law, legislation, and all judicial decisions and any notifications or other similar directives made pursuant thereto that have the force of law, issued by any executive, legislative, judicial or administrative entity in South Africa or by SANParks or the municipality in which the Project is located;</td>
</tr>
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<td>2.1.31</td>
<td>“Legislation”</td>
<td>all applicable statutes, statutory instruments, by-laws, Regulations, orders, rules, executive orders and other secondary, provincial or local legislation, treaties, directives and codes of practice having force of law in South Africa;</td>
</tr>
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<td>2.1.32</td>
<td>“Lenders”</td>
<td>means any person providing financing to the Private Party for the Project, other than shareholders of the Private Party;</td>
</tr>
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<td>2.1.33</td>
<td>“Local”</td>
<td>the geographic area specified by SANParks in respect of the Project, being either within 50 km kilometre radius of the Bush Site or within a 30 km reach of the boundary of the Protected Area fence (but excluding boundaries to the neighbouring countries)</td>
</tr>
<tr>
<td>2.1.34</td>
<td>“Losses”</td>
<td>losses, damages, liabilities, claims, actions, proceedings, demands, costs, charges or expenses of any nature;</td>
</tr>
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<td>2.1.35</td>
<td>“Minimum PPP Fee”</td>
<td>that portion of the PPP Fee that is payable by the Private Party at all times after the Effective Date, regardless of the amount</td>
</tr>
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<td>2.1.36</td>
<td>“Operation Commencement Date”-</td>
<td>the date of Operation Commencement, specifically ______________________________;</td>
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<td>2.1.37</td>
<td>“Park Management Plan”-</td>
<td>SANParks’ management plan or its impact management plan in respect of the Protected Area;</td>
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<td>2.1.38</td>
<td>“Park Manager”-</td>
<td>the manager of the Protected Area in which the Bush Braai Product falls;</td>
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<td>2.1.39</td>
<td>“Park Rules”-</td>
<td>Environmental Rules in respect of the Protected Area which may be revised and updated by SANParks from time to time;</td>
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<td>2.1.40</td>
<td>“Parties”-</td>
<td>collectively, SANParks and the Private Party;</td>
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<td>2.1.41</td>
<td>“Party”-</td>
<td>SANParks or the Private Party, as the case may be;</td>
</tr>
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<td>2.1.42</td>
<td>“Performance Bond”-</td>
<td>the guarantee to be issued by a financial institution in favour of SANParks on behalf of the Private Party, in respect of the Private Party’s obligations to perform under this agreement and to comply with the Environmental Specifications and the Project Specifications, to undertake the Project.</td>
</tr>
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<td>2.1.43</td>
<td>“Person”-</td>
<td>any individual, partnership, corporation, company, business organisation, trust, governmental agency, parastatal, Relevant Authority or other entity;</td>
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<td>2.1.44</td>
<td>“PPP Agreement”</td>
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<td>2.1.45</td>
<td>“PPP Fee”</td>
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<td>2.1.46</td>
<td>“PPP Rights”</td>
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<td>2.1.47</td>
<td>“PPP”</td>
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<td>2.1.50</td>
<td>“Private Party”</td>
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<td>2.1.51</td>
<td>“Project Assets”</td>
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<td><strong>2.1.52</strong></td>
<td><strong>“Project Deliverables”</strong></td>
<td>- the timeous achievement of the Operation Commencement Date; successful implementation of the Project, including the achievement of the BEE Obligations;</td>
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<td><strong>2.1.53</strong></td>
<td><strong>“Project Insurance”</strong></td>
<td>- those insurances that the Private Party is required by Law and this PPP Agreement to purchase and maintain in terms of Clause 18 a copy of which is attached as Schedule 9;</td>
</tr>
<tr>
<td><strong>2.1.54</strong></td>
<td><strong>“Project Term”</strong></td>
<td>- the period from the Effective Date to the Expiry Date or the Termination Date, whichever occurs first, which is further described in Clause 3;</td>
</tr>
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<td><strong>2.1.55</strong></td>
<td><strong>“Project Year”</strong></td>
<td>- each period of twelve (12) consecutive months, commencing on the Effective Date and thereafter commencing on every anniversary of the Effective Date;</td>
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<td><strong>2.1.56</strong></td>
<td><strong>“Project”</strong></td>
<td>- the project to design, operate, manage and maintain the Bush Braai Product and to execute the PPP Rights as detailed in this PPP Agreement, and if so required by the Private Party, finance, design, equip and/or prepare the Bush Site subject to the prior written approval of SANParks, and to run Bush Braai Product in the Protected Area optimally and to provide</td>
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drives and dining to the guests/visitors in Protected Area at high satisfaction levels.

| 2.1.57 | “Protected Area” | - | Kruger National Park; |
| 2.1.58 | “Rand” or “R” | - | the lawful currency of South Africa; |
| 2.1.59 | “Regulations” | - | Regulations issued in terms of the Act; |
| 2.1.60 | “Regulatory Provisions” | - | (a) the Environmental guidelines (“Environmental Specifications”) for operators operating within the Protected Area which is further described in Schedule 7, as same may be revised and updated by SANParks from time to time; and (b) collectively the prevailing laws, Regulations, ordinances, policy directives and standards of the State and any Relevant Authority which in any way affects or applies to the conducting of the Project and/or this PPP Agreement from time to time or, if the context is appropriate, any one of them and where appropriate includes the Regulations, Park Rules and Park Management Plan; |

| 2.1.61 | “Residual Value” | The depreciated value (straight line method determined by building material used, i.e. brick and mortar = 50 years and wood and prefab = 20 years) of the immovable staff houses built by the Private Party from the date they were first accounted for in the Private Parties books until the date of termination / expiry of the PPP Agreement; |
| 2.1.62 | “Responsible Authority” | - National and/or Provincial legislature, any agency, local institution, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) having jurisdiction over any or all of the Parties or the subject matter of this PPP Agreement. A Responsible Authority shall not include any Utility operator or provider; |
| 2.1.63 | “SANParks” | - South African National Parks, a statutory body established in terms of section 5 of the National Parks Act, No. 57 of 1976 and continuing to exist as a juristic person in terms of the provisions of section 54 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) and its lawfully designated representatives from time to time; |
| 2.1.64 | “Schedules” | - the schedules to this PPP Agreement, as amended, replaced and varied from time to time; |
| 2.1.65 | “Signature Date” | - the date of signature of this PPP Agreement by the last signing Party; |
| 2.1.66 | “Skills Development Spend” | - has the meaning as set out in Schedule 5; |
| 2.1.67 | “South Africa” | - the Republic of South Africa; |
| 2.1.68 | “State” | - the Government of the Republic of South Africa, acting directly or through its lawfully designated representatives; |
| 2.1.69 | “Subcontractors” | - any subcontractor of the Private Party and a third party, who has contracted directly |
| 2.1.70 | “Termination Amount” | the amount payable on termination of this PPP Agreement in terms of Clause 23.4; |
| 2.1.71 | “Termination Date” | any date of early termination of this PPP Agreement, in accordance with its terms; |
| 2.1.72 | “the Business” | the Bush Braai Product conducted on behalf of the SANParks by Private Party carried on as a going concern, but specifically excluding, for the avoidance of doubt, the Liabilities and all Debtors; |
| 2.1.73 | “the Liabilities” | all liabilities and obligations of the Business, incurred in the normal course, in respect of any period prior to the Operation Commencement Date or in respect of which the cause of action shall have arisen prior to the Operation Commencement Date, whether then due or not, including, but not by way of limitation, all actual and/or contingent liabilities, for payment of money, performance of services and obligations, supply of products and/or other performances; |
| 2.1.74 | “Utilities” | all facilities serving the public, such as water, electricity, sewage, gas and telecommunications and, where appropriate, includes the relevant provider thereof; |
| 2.1.75 | “Variable PPP Fee” | that portion of the PPP Fee that is a percentage of the Gross Revenue of the |
2.1.76 “VAT” - Value Added Tax, as defined in the Value Added Tax Act, 1991 (Act No. 89 of 1991), (the “VAT Act”) or any similar tax which is imposed in place of or in addition to such tax;

2.2 This PPP Agreement shall be interpreted according to the following provisions, unless the context requires otherwise:

2.2.1 references to the provisions of any law shall include such provisions as amended, re-enacted or consolidated from time to time in so far as such amendment, re-enactment or consolidation applies or is capable of applying to any transaction entered into under this PPP Agreement;

2.2.2 references to “indexed to CPIX” in relation to any amount of money shall mean that such amount has been expressed in April 2016 prices and shall be escalated annually as at the Effective Date and each anniversary thereof with reference to the then most recent publication of the CPIX;

2.2.3 references to “Parties” shall include the Parties’ respective successors-in-title and, if permitted in this PPP Agreement, their respective cessionaries and assignees;

2.2.4 references to a “person” shall include an individual, firm, company, corporation, juristic person, Responsible Authority, and any trust, organisation, association or partnership, whether or not having separate legal personality;

2.2.5 references to any “Responsible Authority” or any public or professional organisation shall include a reference to any of its successors or any organisation or entity, which takes over its functions or responsibilities;

2.2.6 the headings of Clauses, sub-Clauses and Schedules are included for convenience only and shall not affect the interpretation of this PPP Agreement;

2.2.7 the Introduction and Schedules to this PPP Agreement are an integral part of this PPP Agreement and references to this PPP Agreement shall include the
Introduction and Schedules;

2.2.8 the Parties acknowledge that each of them has had the opportunity to take legal advice concerning this PPP Agreement, and agree that no provision or word used in this PPP Agreement shall be interpreted to the disadvantage of either Party because that Party was responsible for or participated in the preparation or drafting of this PPP Agreement or any part of it;

2.2.9 words importing the singular number shall include the plural and vice versa, and words importing either gender or the neuter shall include both genders and the neuter;

2.2.10 references to “this PPP Agreement” shall include this PPP Agreement and its Introduction and Schedules as amended, varied, novated or substituted in writing from time to time;

2.2.11 references to any other contract or document shall include (subject to all approvals required to be given pursuant to this PPP Agreement for any amendment or variation to or novation or substitution of such contract or document) a reference to that contract or document as amended, varied, novated or substituted from time to time;

2.2.12 general words preceded or followed by words such as “other” or “including” or “particularly” shall not be given a restrictive meaning because they are preceded or followed by particular examples intended to fall within the meaning of the general words;

2.2.13 When a number of days are prescribed in this PPP Agreement, such number shall be calculated including the first and excluding the last day, unless the last day falls on a day that is not a Business Day, in which case, the last day shall be the first succeeding day which is a Business Day.

3. PROJECT TERM

3.1 The Project Term shall commence on the Effective Date, and shall continue thereafter for a period of Eight (8) years.
4. **STATUS OF THIS PPP AGREEMENT**

4.1 Notwithstanding the covenants provided in Clause 8, each Party hereto hereby represents and warrants that on and after the Signature date, this PPP Agreement is legally valid and binding upon it.

4.2 The Private Party will be responsible for all taxes of general application and without limiting the generality of the foregoing, any duties, fees or taxes assessed by any Relevant Authority in respect of the operation of the Bush Braai Product. These taxes will exclude any capital gains tax, income tax, or other taxation on income which is earned by SANParks and, notwithstanding this PPP Agreement, any tax payable by SANParks.

4.3 This PPP Agreement imposes binding obligations upon the Parties and sets out the terms on which SANParks agrees that the Private Party may operate the Bush Braai Product.

5. **PPP RIGHTS**

5.1 **Exclusive Grant of PPP Rights to operate the Bush Braai Product**

5.1.1 Subject to the terms of this PPP Agreement, the PPP Rights for the purposes of the Project are granted by SANParks to the Private Party on an exclusive basis, limited to the Phabeni Gate Bush Site during the Project Term.

5.1.2 During the period of this PPP Agreement, SANParks undertakes:

5.1.2.1 not to establish or operate any business which involve bush braais or bush breakfast operated in conjunction with game drives in the immediate Phabeni Gate area and the identified Bush Site;

5.1.2.2 not to grant to any third parties the rights to referred to in clause 5 and to ensure no third party operates or establishes any such business referred to in clause 5 in the Phabeni Gate area and the identified Bush Site. However,

5.1.2.2.1 SANParks reserves the right to manage and operate game drives with the exception of operating bush braais or bush breakfast in the Phabeni Gate; and

5.1.2.2.2 SANParks reserves the right to allow other private operators to operate morning, day, sunset, afternoon and night game drives with the
exception of the Bush Braai Product within Phabeni Gate section to serve guests or tourists visiting the Park.

5.1.3 The Private Party is obliged to operate, manage and maintain the Bush Braai Product as a public facility, open to all visitors to the Park, and shall not be permitted to bar entrance to the public.

5.1.4 For the purposes of this Clause 5, the grant of exclusive rights is limited to the PPP Rights, expressly, to conduct and operate the Bush Braai Product, including proposed services as outlined in the Business Plan that forms part of the Private Party’s Bid Submission (approved by SANParks) and/or other services approved by SANParks.

5.2 The Private Party’s Rights in this PPP Agreement

5.2.1 The grant of the PPP Rights to the Private Party shall entitle and oblige the Private Party to:

5.2.1.1 the exclusive right to operate the Bush Braai Product in the areas as outlined in Schedule 1 for gain for the duration of the PPP Agreement;

5.2.1.2 Notwithstanding Clause 5.2.1.1, SANParks reserves the right to add other opportunities as new capacity is built or added in the Protected Area;

5.2.1.3 conduct and manage all facets of the Project and to operate and maintain the Bush Braai Product, site and/or equipment used for or in connection with the Project;

5.2.1.4 focus on the game drives for tourists/guests as well as the offering of bush braai and bush breakfast in the bush in accordance to the time limits specified in Schedule 1 of the PPP Agreement.

5.2.1.5 generate, charge and collect revenues from the execution of such PPP Rights;

5.2.1.6 operate the Bush Braai Product in accordance with the terms of this PPP Agreement;

5.2.1.7 access to the Protected Area and access for the Private Party’s employees, subject to the normal Protected Area’s operating rules and hours on the same basis as SANParks’ employees;
5.2.1.8 introduce the new services as per the Private Party’s Bid Submission;

5.2.1.9 undertake the refurbishment and infrastructural development as per the Capital Investment proposed in the Private Party’s Bid Submission and detailed in Schedule 11; and

all of which rights shall be exercised in accordance with the terms of this PPP Agreement, and subject to the Regulatory Provisions, Environmental Laws, Environmental Specifications and Legislation.

5.3 **Service Delivery**

The product to be provided by the Private Party shall:

5.3.1 be a bush braai experience for guests booked for a night game drive and a bush breakfast experience for guests booked for a morning game drive;

5.3.2 Offer game drives in an open safari vehicle (OSV) and an experienced guide will drive guests/tourists for game of animals in the Phabeni Gate section of the Kruger National Park.

5.3.3 A Bush Braai commences at 16h30 in the evening, transporting guests in the late afternoon for a game drive that eventually leads to the identified site for the enjoyment of a Bush Braai dinner, that shall be finalized by 21:00 and guests departing the Park by 22:00; whereas a bush breakfast commences at 06h00 in the morning, transport of guests in the early hours of the morning for a game drive that stops for a bush breakfast in the identified site, that shall be finalized by 09:30 and the Private party departs site by 10:00;

5.3.4 be in accordance and compliance with the provisions of Consumer Protection Act No 2010, the provisions/requirements of which are set out in Clause 6.2 and Schedule 13 to this PPP Agreement; and

5.3.5 Shall be maintained in line with Schedule 2 of this agreement.

6. **OPERATION, MANAGEMENT AND MAINTENANCE**

6.1 **Operation, Management and Maintenance by the Private Party**

6.1.1 The Private Party shall be obliged during the Project Term to undertake the Operation, Management and Maintenance of the Bush Braai Product and of all
of the alterations and developments undertaken by the Private Party according to the Private Party’s standard operation procedure, SANParks restaurant and retail procedure manual and obligations of this PPP Agreement.

6.1.2 The Private Party shall furnish SANParks with a half-yearly report in an agreed format regarding the Operation, Management and Maintenance of the Bush Braai Product.

6.1.3 The Private Party shall comply with the Environmental Specifications set forth in Schedule 7.

6.1.4 The Private Party shall:

6.1.4.1 operate the Bush Braai Product properly and strictly in accordance with the provisions of the agreed operating manuals and the undertakings made by the Private Party in its Bid Submission specifically acknowledging and taking the unique characteristics of the Protected Area into account;

6.1.4.2 use its best endeavours to maintain the highest standards in all matters connected with the operation of the Bush Braai Product and shall not sell, display for sale or consumption, deliver to the end user or provide any foodstuffs or products or anything else which does not conform with Good Industry Practice or any Regulatory Provisions with regard to the standard or quality of preparation, display or sale of any foodstuffs at the Bush Site;

6.1.4.3 shall at all times maintain the equipment used in the Bush Braai Product in a clean, orderly and sanitary condition;

6.1.4.4 shall ensure that all personnel and staff employed by the Private Party in the Bush Braai Product shall at all times be clean, cleanly and tidily clothed so as to maintain uniformly high standards of presentation and delivery;

6.1.4.5 shall at all times ensure that any products or foodstuffs in stock are fresh, uncontaminated and hygienically and properly stored and shall ensure proper storage, disposal, serving and preparation of all foodstuffs and products;

6.1.5 Private Party shall be required to subscribe to a minimum of the following requirements:

6.1.5.1.1 that guides are equipped with a first aid kit, a serviceable torch and a
6.1.5.1.2 that guides and guards are trained and have the minimum qualification. Qualifications to be annexed in Schedule 16; and

6.1.5.1.3 possession of the South African Tourism Service Association (SATSA) Open Safari Vehicle (OSV) certificate from the SATSA association to be attached in Schedule 17.

6.1.5.1.4 possession of a hot work permit by SANParks for the operation of bush braai and bush breakfast;

6.1.5.1.5 that the catering staff at the Bush Site is trained in hygiene practices;

6.1.5.1.6 that the catering staff keeps the braai grind free of fat, grease and clean at all times;

6.1.5.1.7 that clean cutlery, plates and spoons are provided to guests in acceptable condition;

6.1.5.1.8 that a hand wash basin (or bowl) with biodegradable soap and a hand towel are provided.

6.1.6 The Private Party shall ensure that the following packaging is not used on the dining area of the Bush Site and during the drives as such packaging pollutes the environment:

6.1.6.1 Sachets (for sugar, tomato sauce, salt and pepper, etc.); the Private Party may use containers filled with (sugar, tomato sauce, salt and pepper, etc.);

6.1.6.2 Paper serviettes - The Private Party may use hand clothes for wiping hands before and after dining; and

6.1.6.3 Butter tubs/pads.

6.1.7 In the event that a suitable alternative is not available or practical, the Private Party will take extraordinary measures to ensure that littering through these items do not occur.

6.1.8 The Private Party undertakes to operate in line with SANParks’ Bush Braai Procedure Manual once agreed by both parties and implemented. The Manual’s objective is to assist in daily operations and allow for good
cooperation between SANParks and the Private Party. Process flows in the manual can be changed by mutual agreement in order to satisfy mutual objectives of parties.

6.1.9 The Private party shall allow SANParks access to the Bush Site and its warehouse facility outside the park to conduct regular quality audits to ensure that the quality of the foodstuffs and products prepared and sold by the Private Party consistently meet the desired standards. Such quality audits shall be conducted by way of “mystery guests”, spot checks, customer questionnaires and SANParks quality control checks or other measures as deemed necessary by SANParks.

6.1.10 The Private Party shall comply and subscribe to the minimum standards of Responsible Tourism – SANS 1162.

6.1.11 The Private Party shall comply with the Universal Accessibility Grading Council Standards.

6.2 Consumer Protection Act No 68 of 2008 (CPA) Requirements

6.2.1 CPA regulates the activities of suppliers and creates rights for consumers with the intention of promoting fair business practice and the protection of consumers from exploitation and hazardous or unsafe products.

6.2.2 Notwithstanding the generality of Clause 6.1, SANParks shall require the Private Party to comply with the provisions of CPA that affect the Business.

6.2.3 In the event of the Private Party failing to comply with the CPA provisions in Clause 6.2.1 and such Private Party Default is not remedied before the expiry of the period referred to in the notice by SANParks, SANParks may terminate this PPP Agreement in accordance with Clause 23 by written notice to the Private Party.

6.3 Unauthorised Payments

The Private Party shall not:

6.3.1 offer or give or agree to give any person in SANParks’ employment, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the execution of this or any other contract or agreement or for showing or forbearing to show
favour or disfavour to any person in relation to this or any other contract or agreement for SANParks.

6.3.2 enter into this or any other contract or agreement with SANParks in connection with which commission has been paid or agreed to be paid by any person, either personally or on such person's behalf, or to their knowledge, unless before that agreement is made, particulars of such commission and of the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to SANParks.

6.4 **Third Party Contracts**

The Private Party may use a third party or third parties through sub-contracting to carry out all or part of its operation, and management obligations under this PPP Agreement only if approved by SANParks and if SANParks is comfortable that the third party possesses the same experience and qualities as the Private Party. The terms of any such sub-contract as aforementioned shall in all material respects reflect the relevant provisions of this PPP Agreement and be subject to the prior written notification and delivery of a copy of the relevant contract to SANParks, provided that the engagement of a third party shall not release the Private Party from any of its obligations hereunder.

7. **LABOUR LAWS**

7.1 The Private Party agrees to abide by the laws in force, as amended from time to time, relating to employees engaged in the business of operating the Bush Braai Product and shall use its best endeavours to take all reasonable steps to ensure similar compliance by its contractors, sub-contractors at all levels, assignees and agents, and furthermore agrees to adhere to and ensure, as far as practicably possible, adherence to fair labour practices.

8. **PRIVATE PARTY COVENANTS**

8.1 Subject to the provisions of this PPP Agreement, the Private Party shall conduct and manage the Bush Braai Product:

8.1.1 at its own cost and risk;

8.1.2 in compliance with all applicable Regulatory Provisions and consents;

8.1.3 in compliance with all applicable health and safety standards;
8.2 The Private Party shall take all reasonable steps to ensure that all the Private Party Parties, employees, contractors, assignees, employees, guests, invitees and patrons visiting or working at the Bush Braai Product, adhere to, abide by and comply with:

8.2.1 all Regulatory Provisions, the Environmental Specifications in respect of the Protected Area and specifically in respect of the amount payable by SANParks under Clause 17.1 shall accrue interest at the rate specified in Clause 27.3.3 from the date of termination to the due date for payment as specified in Clause 27.3 and the EIA;

8.2.2 the terms of this PPP Agreement; and

8.2.3 any valid and enforceable directives or rules issued by the Park Manager from time to time. In cases where the Private Party believes that the Park Manager has issued a directive or rule that is either not valid, or that impacts materially on the commercial soundness of the Project, the Private Party shall have the right to appeal against such rule or directive with SANParks and/or any other person determined by SANParks, at its absolute sole discretion. SANParks and/or such other person determined by SANParks will verify whether the directive or rule in question was valid and consistent with practice elsewhere in the Park. Pending the results of such an appeal, the Private Party shall abide by the said directive or rule.

8.3 The Private Party shall be responsible for:

8.3.1 obtaining and keeping current all consents which may be required for the performance of its obligations under this PPP Agreement;

8.3.2 implementing each consent within the period of its validity in accordance with its terms;

8.3.3 undertaking, according to the terms of this PPP Agreement, all of its obligations within the time periods specified; and

8.3.4 maintaining and keeping the Bush Site clean including the area of responsibility described in Schedule 1 hereto.

8.4 Without prejudice to Clauses 8.3.1 and 8.3.2, the Private Party shall obtain all necessary permits, approvals and/or licences in accordance with the Regulatory Provisions and shall comply with all conditions of any permit, approval or licence granted by any Relevant Authority and shall take all other necessary action required
8.5 The Private Party shall bear all risks and costs with respect to material damage arising from the Bush Braai Product or the environment caused by the operation of the Bush Braai Product during the Project Term arising from any act or omission of the Private Party.

8.6 The Private Party shall take all reasonable steps in the performance of its obligations hereunder to prevent and limit the occurrence of any environmental or health hazards and to ensure the health and safety of staff, guests, invitees and patrons.

8.7 The Private Party shall, upon the written request of SANParks, and at no cost to SANParks, make available at all times documents which are or were required or brought into existence by the Private Party or supplied to the Private Party from other parties to the Associated Agreements for the purposes of operating the Bush Braai Product, or which the Private Party is required to prepare in terms of this PPP Agreement.

8.8 Unless otherwise agreed in writing by SANParks, the Private Party and other parties to the Associated Agreements shall have no interest in nor receive remuneration in connection with the Bush Braai Product except as provided for in the PPP Agreement or the Associated Agreements.

8.9 At the end of the Project Term or at such earlier time as may be provided herein, the Private Party shall be responsible to:

8.9.1 Hand over the Bush Braai business and its rights or interest in the Bush Braai Product to SANParks free of charge, liens, claims or encumbrances of any kind whatsoever, and free of any liabilities, in good condition, fair wear and tear excepted, in accordance with the standards set out in SANParks’ Operational Requirements (as certified by SANParks);

8.9.2 The Private Party shall not, other than as provided for in clause 22, 23, 24 and 25 of this PPP Agreement, be entitled to payment of any compensation in connection therewith.

9. COMMERCIAL BRANDING
9.1 Any commercial branding developed by the Private Party in respect of the Bush Braai Product may not be used outside the Protected Area without SANParks’ prior written consent; and

9.2 The use of any branding, logo, trademark, trade name, get up, signage, outdoor advertising, livery, promotion, promotional or marketing material, interpretation material or other proprietary intellectual property in connection with the Bush Braai Product shall require the prior written approval of SANParks

10. PROJECT SITE

10.1 Bush Site

The location and physical boundaries of the Bush Site and game drives routes shall be the areas defined in Schedule 1.

10.2 Access Following Commencement

With effect from the Signature Date, SANParks shall grant to the Private Party and shall use all reasonable endeavours to ensure that for the duration of the Project Term the Private Party, the Private Party Parties have such access to the Bush Braai site as is required by the Private Party for the carrying out of the Project therein, but subject always to the provisions of this PPP Agreement.

10.3 Suitability and Condition of the Bush Site

SANParks makes no representation and gives no warranty to the Private Party in respect of the condition and suitability of the Bush Site or any structures associated therewith or located therein, for the Project, and the Private Party accepts such Bush Site and structures in their present condition and subject to all defects.

11. THE ENVIRONMENT

11.1 To the extent that the Private Party needs to erect any structures to support the carrying out of the Project, which pursuant to the relevant Regulatory Provisions requires an EIA, the Private Party shall not commence such erection of structures until SANParks is satisfied that the said EIA has been undertaken in compliance with the relevant Regulatory Provisions and to the satisfaction of that authority.

11.2 During the Project Term, the Private Party shall conduct, manage and carry out the Project at all times in an Environmentally responsible way by adopting appropriate
operating methods and practices for conducting such a Project in a proclaimed National Park and shall adhere to the Regulatory Provisions and the Environmental Specifications.

11.3 The Private Party shall promptly bring to the attention of SANParks any matter which may, in its view, have a detrimental impact on the Environment within the Bush Braai Product and the Protected Area.

11.4 The Private Party shall take all reasonable steps in the conducting of the Project to prevent and limit the occurrence of any Environmental or health hazards and to ensure the health and safety of the Private Party Parties and the general public.

11.5 The Private Party shall comply with its statutory duties in terms of the Environmental Laws to take reasonable measures to prevent pollution or degradation from occurring, continuing or recurring or, in so far as such harm to the Environment is authorised by SANParks, the findings of the EIA or by law, to minimise and rectify such pollution or degradation of the Environment.

12. SANPARKS’ REMEDIAL RIGHTS

Without prejudice to SANParks’ rights hereunder and at law, if the Private Party fails to perform its obligations and responsibilities in accordance with this PPP Agreement or the Regulatory Provisions, SANParks may give the Private Party notice thereof and, if any such failure is not remedied within 14 (fourteen) Business Days (or such longer period as SANParks may, in its sole discretion, specify), SANParks shall be entitled to remedy such failure and to protect its rights and interests, at the expense of the Private Party which shall promptly make payment to SANParks for its costs, expenses or other damages suffered or incurred or reasonably expected to be suffered or incurred in connection with such remedial acts.

13. SANPARKS’ UNDERTAKINGS

13.1 All decisions, determinations, instructions, inspections, examinations, tests, consents, approvals, certifications, expressions of satisfaction, acceptances, agreements, exercises of discretion (whether sole or otherwise), nominations or similar acts of SANParks hereunder shall be given, made and done in writing.

13.2 SANParks shall continue, in the ordinary course of business, to market and promote the Bush Braai Product and co-operate with the Private Party in preparing marketing and promotional material so as to ensure that the Bush Braai Product is properly
marketed and promoted as an integral part of the Park and the marketing and promotional programme for the Park as a whole.

13.3 SANParks will co-operate with and assist the Private Party in whatever reasonable manner possible to ensure the continued viability of the Bush Braai Product and will not engage in acts or omissions which may materially affect the rights or interests of the Private Party in respect of the Bush Braai Product.

13.4 SANParks will operate and manage the Protected Area and will promote it in such manner as to ensure the continued viability and sustainability of the Protected Area as a National Park and as a sustainable and attractive tourist and conservation undertaking.

13.5 SANParks’ procurement processes both in relation to the Bush Braai Product in question and in relation to the conduct of this tender and the conclusion of the agreements comply to the best of SANParks knowledge and belief in all material respects with:

13.5.1 all relevant legislation, regulations and the like governing such procurement processes;

13.5.2 all current labour agreements, covenants and the like whether with individual employees or with employee organisations;

14. **BLACK ECONOMIC EMPOWERMENT**


14.2 Notwithstanding Clause 14.1 above, The Private Party shall specifically ensure that the compliance with all Regulatory Provisions relating to Black Economic Empowerment occurs at a Private Party level or during the appointment of Private Party.

14.3 If the Private Party fails to implement its BEE Obligations in accordance with this PPP Agreement, SANParks may give the Private Party notice thereof and, if any such failure is not remedied within 14 (fourteen) Business Days (or such longer period as SANParks may, in its sole discretion, specify), SANParks shall be entitled to terminate this PPP Agreement in accordance with its terms.
15. **FINANCIAL PROVISIONS AND PAYMENT**

15.1 **Gross Revenue**

15.1.1 For the purposes of this PPP Agreement and its Schedules, Gross Revenue shall be defined as:

15.1.1.1 any and all income or revenue received by or accruing to the Private Party, its Subcontractors or its cessionaries and successors-in-title from all activities carried on, at or by virtue of the Project, in any manner, directly or indirectly, as is or would normally be included in gross revenue in terms of International Financial Reporting Standards (IFRS). Without derogating from its generality, the term “gross revenue” shall mean revenue before the deduction of:

15.1.1.1.1 bad debts (or provisions therefore);

15.1.1.1.2 commissions or similar consideration paid or payable;

15.1.1.1.3 cash, credit-card or similar discounts or commissions;

15.1.1.1.4 costs and expenses other than trade discounts granted in circumstances that are not arm's-length or to a related party;

    and gross revenue shall include:

15.1.1.5 commissions received or receivable;

15.1.1.6 rentals and other fees received or receivable;

    but shall exclude:

15.1.1.7 sales tax, value-added tax and any other similar impost levied on gross revenue (or any of its components) that is normally included in or added onto the tariffs or prices charged to guests or customers and which is not normally included in gross revenue in terms of IFRS;

15.1.1.8 interest received or receivable;

15.1.1.9 the proceeds of, profit or surpluses on the disposal of non-current assets;

15.1.1.10 transfers from reserves; and
15.1.1.1.11 bad debts recovered.

15.2 **PPP Fees**

15.2.1 The monthly PPP Fees payable by the Private Party to SANParks shall be the higher of the following two figures:

15.2.1.1 the Minimum PPP Fee; or

15.2.1.2 the Variable PPP Fee

15.2.2 The minimum PPP Fee or the Variable PPP Fee will be calculated on the turnover for each of the Bush Braai Product listed in Schedule 6.

15.2.3 The monthly Minimum PPP Fee and the Variable PPP Fee are set out in detail in Schedule 6 attached hereto. Irrespective of which of these elements determines the final amount payable in any given month, the PPP Fee payment will be the higher of the Minimum PPP Fee or the Variable PPP Fee for the Bush Braai Product and shall accrue and be payable by the Private Party to SANParks within 7 (seven) Business Days following the end of each month, free of deduction or set-off, to SANParks.

15.2.4 All PPP Fees or other amounts payable by the Private Party to SANParks in terms of this PPP Agreement shall be exclusive of value-added tax (VAT).

15.2.5 The Private Party shall, notwithstanding any other provision of this PPP Agreement, not be obliged to pay rental for the period from the Signature Date up to the Effective Date, where after PPP Fees will be payable as provided for herein.

15.3 **Taxes**

15.3.1 The Private Party will be responsible for all taxes of general application and without limiting the generality of the a foregoing, any duties, PPP Fees or taxes assessed by any Relevant Authority in respect of the Bush Braai Product, or in respect of the Project or any other activities conducted within the Park or activities undertaken by SANParks relating to the regulation of this PPP Agreement. These taxes will exclude any capital gains tax, income tax; value added tax or other taxation on income which is earned by SANParks or, notwithstanding this PPP Agreement, any tax payable by SANParks.
15.3.2 Notwithstanding that all consideration payable hereunder shall be deemed to be exclusive of value added tax payable in terms of the Value Added Tax Act, 1991 (Act No. 89 of 1991), as amended (“the Act”), and any other rates, taxes, duties, charges or imposts which may be or become payable thereon, the Private Party shall be obliged, at all times, to pay value added tax, as required by the Act.

15.4 All payments to be made to SANParks by the Private Party in terms of this PPP Agreement will be made free of set-off or any other deductions whatsoever.

16. PERFORMANCE BOND

16.1 The Private Party shall provide to SANParks and on demand guarantee (the “Performance Bond”), which shall be operative from the Signature Date, in favour of SANParks issued by a bank or financial institution acceptable to SANParks substantially in the format specified in Schedule 10.

16.1.1 The Private Party shall maintain a valid Performance Bond (in accordance with the provisions hereof) from the Effective Date until 90 (ninety) Business Days after the expiry or earlier termination of this PPP Agreement.

16.1.2 Within 90 (ninety) Business Days of the expiry or earlier termination of this PPP Agreement, SANParks shall release all or so much of the Performance Bond as shall remain undrawn after such expiry or termination.

16.1.3 The amount to be guaranteed by the Performance Bond for the first twelve month period as from the Signature Date shall be the equivalent of 3 (three) months Minimum PPP Fees.

16.1.4 The Performance Bond shall be reinstated in full and its amount adjusted annually within 90 (ninety) Business Days of the end of each Project Year such that the amount to be guaranteed by the Performance Bond for the relevant Project Year is not less than the figure indicated in Clause 16.1.3 as adjusted to reflect changes in the Consumer Price Index since Bid Submission.

16.1.5 The Performance Bond shall secure the Private Party’s performance under this PPP Agreement and may be called on by SANParks to the extent of any costs, losses, damages or expenses suffered or incurred by SANParks as a result of breach by the Private Party of this PPP Agreement, including, but not limited to, compensation to SANParks for any actions taken by SANParks as a result
of breach by the Private Party of any Regulatory Provision(s), Laws, Legislation or Environmental Specifications and payment obligations hereunder. The Performance Bond may also be called upon for any delay in the payment of sums due to SANParks in respect of PPP Fee payments.

16.1.6 Prior to enforcing the Performance Bond, SANParks shall give notice to the Private Party, informing the Private Party of the breach giving rise to the right of enforcement of the Performance Bond. If such breach is not remedied within the remedy period, SANParks may enforce the Performance Bond.

16.1.7 The Performance Bond may only be enforced to the extent of any costs, losses, damages or expenses suffered or incurred and/or reasonably expected to be suffered or incurred as a result of the breach that gave rise to the right to enforce the Performance Bond.

17. **AUTOMATIC BUY-BACK**

17.1 SANParks shall, subject to the provisions of Clause 24.3 and Clause 25 at the termination of this PPP Agreement for whatever reason, be entitled to re-purchase the Business including the Capital Investment Assets.

17.2 The amount payable by SANParks under Clause 17.1 shall accrue interest at the rate specified in Clause 27.3.3 from the date of termination to the due date for payment as specified in Clause 27.3.

17.3 **Insolvency Act Publication**

17.3.1 The Parties agree that notice of this transaction will not be published as contemplated in section 34 of the Insolvency Act, 1936 (Act No. 24 of 1936) (as amended) (the “Insolvency Act”).

17.3.2 SANParks indemnifies the Private Party against any loss or damage which the Private Party may suffer as a result of notice of this transaction not being published in terms of the Insolvency Act.

17.4 The Private Party warrants to SANParks that on Operation Commencement Date it will be registered as a vendor in terms of the VAT Act. The Private Party intends to carry on the Business continuously and regularly from the Operation Commencement Date and acknowledges that it reasonably expects this activity to
18. INSURANCE

18.1 The Private Party shall insure all insurable properties within the Bush Braai Product including the Project Assets, with a reputable insurance company by no later than the Operation Commencement Date:

18.1.1 for not less than the full replacement value of the Project Assets;

18.1.2 against the risk of fire, lightning, explosion, storm, flood, earthquake, riots (including political riot), strikes and malicious damage;

18.1.3 property and casualty insurance;

18.1.4 public liability and third party insurance;

18.1.5 employer’s liability insurance;

18.1.6 business interruption insurance; and

18.1.7 all risks cover and loss of PPP Fee for six (6) months consequent upon the damage to or destruction of the Project Assets as a result of any of the aforesaid events.

18.2 All premiums, subsequent renewal premiums, all additional premiums and all stamp duties in respect of the relevant insurance policies, shall be paid by the Private Party.

18.3 Should the Private Party be in breach of the provisions of Clause 18.1, SANParks may, after consultation with the Private Party and giving the Private Party thirty (30) days within which to comply with Clause 18.1, but will not be obliged to, procure and maintain, at the sole cost and expense of the Private Party, the insurances referred to in Clause 18.1 to the extent that SANParks deems necessary. In this event, the Private Party shall be obliged to refund to SANParks all premiums disbursed by SANParks on behalf of the Private Party within a period of fourteen (14) days of receiving written notice from SANParks to do so.

18.4 The Private Party shall comply with all the terms and conditions embodied in the insurance policy or insurance policies referred to in Clause 18 and undertake not to commit any act or permit any act to be committed or omit to do anything which in any way affects or vitiates such insurance policy or policies.
18.5 The Private Party undertakes to provide SANParks with certified copies of the certificates of insurance and certified copies of the insurance policies within seven (7) days of the Operation Commencement Date to be attached to this PPP Agreement as Schedule 9. Such certificates and policies shall reflect all insurance coverage stipulated by SANParks.

19. INDEMNITIES AND LIABILITY

19.1 Private Party Indemnity

19.1.1 The Private Party shall indemnify SANParks, and hold SANParks harmless from and shall be responsible to third parties for, any liability, loss, damage, damages, cost or costs of any kind whatsoever incurred or suffered by any third party or SANParks on or after the Operation Commencement Date, including any claim against SANParks by a Relevant Authority, as a result of any act or omission of the Private Party or any Responsible Person, (including without limitation any default or failure by the Private Party under this PPP Agreement) with regard to the operation and management of the Bush Braai Product except to the extent directly caused by any gross negligence, material default or material breach of statutory duty on the part of SANParks or such Relevant Authority.

19.1.2 Without limiting the generality of the foregoing, the Private Party shall indemnify SANParks against all liability, loss, damage, damages, cost or costs and claims by third parties against SANParks in respect of:

19.1.2.1 death or injury to any Person;
19.1.2.2 any economic loss; or
19.1.2.3 loss of or damage to any property;

arising out of any such act or omission by the Private Party referred to in Clause 19.1.1 above.

It is recorded that notwithstanding the provisions of Clause 19.1.1 to and including 19.1.2 each of SANParks and the Private Party shall be responsible for loss of, or damage to its own property or personal injury or death of its own employee and each party shall hold harmless the other and waive any right of recourse against the other party in respect of such loss and shall obtain the
same waiver of right of recourse from its insurers. Each party shall obtain the agreement of its insurers in respect of the provisions of this Clause 19.1.2.

19.2 **Indemnification**

19.2.1 The Private Party will display a notice in the indemnity form to the effect that the Bush Site is operated by an independent operator under contract from SANParks and that SANParks is indemnified from occurrences at the site.

20. **GENERAL REPORTING AND FINANCIAL REPORTING REQUIREMENTS**

20.1 **General Reporting**

20.1.1 Should the Private Party propose any alterations, amendments and/or refurbishments to the Bush Braai Product, the Private Party shall supply SANParks with all documents, drawings, data, reports, specifications and other information (whether in printed form or in electronic form) produced in respect of such work, copies of all "as-built" drawings and such other technical and design information and completion records relating to the finished work as SANParks may reasonably request.

20.1.2 From the Operation Commencement Date as well as during the Project Term, the Private Party shall provide SANParks with written reports in respect of the following matters, within 30 (thirty) Business Days of the end of each Project Year:

20.1.2.1 names, identity numbers and any other relevant details of any employees of the Private Party or its Subcontractors who are engaged in respect of the Project and who have resigned or been dismissed during the relevant calendar year;

20.1.2.2 its compliance with the Environmental Specifications as detailed in Schedule 7;

20.1.2.3 the Insurance provisions of Clause 18;

20.1.2.4 its BEE Obligations contained in Schedule 5; and

20.1.2.5 its compliance with Schedule 11.
20.2 **Annual Financial Reporting**

The Private Party shall furnish SANParks, as soon as practicable but in any event not later than 4 calendar months after the end of each Project Year, with:

20.2.1 three (3) copies of the Private Party’s complete audited financial statements for such financial year (which are consistent with the books of accounts and prepared in accordance with IFRS), together with an audit report thereon, all in accordance with the requirements of the laws and Regulations pertaining to accounting;

20.2.2 a copy of any management letter or other communication sent by the auditors to the Private Party or to its management in relation to the Private Party’s financial, accounting and other systems, management and accounts;

20.2.3 an annual report by the auditors certifying that, based on its said financial, accounting and other systems, management and accounts, the Private Party was in compliance with its financial obligations in respect of the Project as at the end of the relevant Project Year or detailing any non-compliance by the Private Party therewith.

21. **DEFAULT INTEREST**

Interests shall accrue on all overdue amounts payable in terms of this PPP Agreement at the prime overdraft interest rate charged by First National Bank of South Africa plus 2% (two percent).

22. **FORCE MAJEURE**

22.1 **Definition and Procedure**

22.1.1 For the purposes of this PPP Agreement, "Force Majeure" means any of the following events or circumstances which are beyond the reasonable control of the party giving notice of force majeure, including but not limited to:

22.1.1.1 War (whether declared or not), civil war, armed conflicts or terrorism, revolution, invasion, insurrection, riot, civil commotion, mob violence, sabotage, blockade, embargo, boycott, the exercise of military or usurped power, fire, explosion, theft, storm, flood, drought, wind, lightning or other adverse weather condition, epidemic, quarantine, accident, acts or restraints of Government imposition, or restrictions of or embargos on
imports or exports; or

22.1.2 nuclear contamination unless the Private Party and/or any Sub-contractor is the source or cause of the contamination; or

22.1.3 chemical or biological contamination of the Bush Braai Product from any of the events referred to in Clauses 22.1.1.1 and 22.1.1.2 above,

that directly causes either Party to be unable to comply with all or a material part of its obligations under this PPP Agreement.

22.1.2 Subject to Clause 22.1.3, the Party claiming relief shall be relieved from liability under this PPP Agreement to the extent that it is not able to perform all or a material part of its obligations under this PPP Agreement as a result of an event of Force Majeure.

22.1.3 Where a Party is (or claims to be) affected by an event of Force Majeure:

22.1.3.1 it shall take all reasonable steps to mitigate the consequences of such an event upon the performance of its obligations under this PPP Agreement, resume performance of its obligations affected by the event of Force Majeure as soon as practicable and use all reasonable endeavors to remedy its failure to perform; and

22.1.3.2 it shall not be relieved from liability under this PPP Agreement to the extent that it is not able to perform, or has not in fact performed, its obligations under this PPP Agreement due to its failure to comply with its obligations under Clause 18.

22.1.4 The Party claiming relief shall serve written notice on the other Party within 15 Business Days of it becoming aware of the relevant event of Force Majeure. Such initial notice shall give sufficient details to identify the particular event claimed to be an event of Force Majeure Event.

22.1.5 A subsequent written notice shall be served by the Party claiming relief on the other Party within a further 5 (five) Business Days. The written notice shall contain such relevant information relating to the failure to perform (or delay in performing) as is available, including (without limitation) the effect of the event of Force Majeure on the ability of the Party to perform, the action being taken in accordance with Clause 22.1.3.1, the date of the occurrence of the event of Force Majeure and an estimate of the period of time required to overcome it.
22.1.6 The Party claiming relief shall notify the other as soon as the consequences of the event of Force Majeure have ceased and when performance of its affected obligations will be resumed.

22.1.7 If, following the issue of any notice referred to in Clause 22.1.4, the Party claiming relief receives or becomes aware of any further information relating to the event of Force Majeure and/or any failure to perform, it shall submit such further information to the other Party as soon as reasonably possible.

22.1.8 Neither SANParks nor the Private Party shall have any right to payment or otherwise in relation to the occurrence of an event of Force Majeure.

22.1.9 The Parties shall endeavor to agree any modifications to this PPP Agreement, which may be equitable having regard to the nature of an event or events of Force Majeure. Clause 27 shall not apply to a failure of the Parties to reach agreement pursuant to this Clause 22.1.9, and this PPP Agreement shall terminate in terms of Clause 22.2 if no such agreement is reached.

22.2 Termination for Force Majeure

If, in the circumstances referred to in Clause 22, the Parties have failed to reach agreement on any modification to this PPP Agreement pursuant to that Clause, within 180 days of the date on which the Party affected serves notice on the other Party in accordance with that Clause, either Party may at any time afterwards terminate this PPP Agreement by written notice to the other Party having immediate effect, provided always that the effects of the relevant event of Force Majeure continue to prevent either Party from performing any material obligation under this PPP Agreement.

23. PRIVATE PARTY DEFAULT

23.1 Definition

“Private Party Default” means any of the following events or circumstances:

23.1.1 any arrangement, composition or compromise with or for the benefit of creditors (including any voluntary arrangement as defined in the Insolvency Act, 1936 or the Companies Act, 2008) being entered into by or in relation to the Private Party;
23.1.2 a liquidator, judicial manager or the like taking possession of or being appointed over, or any judicial management, winding-up, execution or other process being levied or enforced (and not being discharged within 15 Business Days) upon, the whole or any material part of the assets of the Private Party (in any of these cases, where applicable, whether provisional or final, and whether voluntary or compulsory);

23.1.3 the Private Party ceasing to carry on business;

23.1.4 a resolution being passed or an order being made for the administration or the judicial management, winding-up, liquidation, sequestration or dissolution of the Private Party (in any of these cases, where applicable, whether provisional or final and whether voluntary or compulsory);

23.1.5 the Private Party commits a breach of any of its material obligations under this PPP Agreement, and for the avoidance of doubt for the purposes of this PPP Agreement a failure to comply with any of the obligations imposed on the Private Party as set out in the Schedules to this PPP Agreement shall be deemed to be a breach of a material obligation;

23.1.6 the Private Party breaches any of the provisions of Schedule 5 or Clause 14;

23.1.7 the Private Party fails to pay any sum or sums due to SANParks under this PPP Agreement (which sums are not bona fide in dispute) and such failure continues for 20 Business Days from receipt by the Private Party of a notice of non-payment from SANParks;

23.1.8 the Private Party breaches the provisions of Clause 6.3.1 or the standards and requirements set out in Schedule 6;

23.1.9 the Private Party breaches the provisions of Clause 6.1.3 or the standards and requirements set out in Schedule 7;

23.1.10 The Private Party or any of its directors or officers is found guilty of a criminal offence involving fraud or bribery or dishonesty, by a court of law unless such finding is the subject of an appeal that is being diligently pursued by the Private Party or relevant director of officer (as the case may be);

23.1.11 the Private Party or any of its directors or officers falsifies any report, document or information that is provided by the Private Party to SANParks;
23.1.12 any breach of any provision of this PPP Agreement has occurred more than once and:

23.1.12.1 SANParks has given an initial warning notice to the Private Party describing that breach in reasonable detail and stating that if that breach persists or recurs then SANParks may take further steps to terminate the PPP Agreement; and

23.1.12.2 SANParks has issued a second and final warning notice following the persistence or recurrence of that breach in the period of 90 days after the initial warning notice, stating that if that breach persists or recurs within the period of 30 days after the final warning notice then SANParks may terminate the PPP Agreement on 30 days’ notice to the Private Party.

23.1.13 the Private Party breaches any of the provisions relating to its financial obligations in terms of this PPP Agreement;

23.1.14 the Private Party fails to report material Related Party Transactions in accordance with this PPP Agreement or if any material Related Party Transaction is in breach of a term of this PPP Agreement and results in material damage to SANParks.

23.2 SANParks' Options

23.2.1 On the occurrence of a Private Party Default, or within a reasonable time after SANParks becomes aware of the same, SANParks may:

23.2.1.1 in the case of the Private Party Default referred to in Clauses 23.1.1; 23.1.2; 23.1.3; 23.1.4; 23.1.6; 23.1.7; 23.1.8; 23.1.9; 23.1.10 and 23.1.12 terminate this PPP Agreement in its entirety by notice in writing having immediate effect;

23.2.1.2 in the case of any other Private Party Default referred to in Clauses 23.1.5 and 23.1.13, serve notice of default on the Private Party requiring the Private Party to remedy the Private Party Default referred to in such notice of default (if the same is continuing) within 20 Business Days of such notice of default.

23.2.2 If the Private Party Default is notified to the Private Party in a notice of default in terms of Clause 23.2.1.2 and the Private Party Default is not remedied before the expiry of the period referred to in the notice, then SANParks may terminate
this PPP Agreement with immediate effect by written notice to the Private Party and the Lenders.

23.3 **SANParks’ Costs**

23.3.1 The Private Party shall reimburse SANParks with all costs incurred by SANParks in exercising any of its rights in terms of this Clause 23 (including, without limitation, any relevant increased administrative expenses).

23.3.2 SANParks shall not exercise, or purport to exercise, any right to terminate this PPP Agreement except as expressly set out in this PPP Agreement. The rights of SANParks (to terminate or otherwise) under this Clause, are in addition (and without prejudice) to any other right which SANParks may have in law to claim the amount of loss or damages suffered by SANParks on account of the acts or omissions of the Private Party (or to take any action other than termination of this PPP Agreement).

23.4 **Termination Amount on Private Party Default**

23.4.1 On termination of this PPP Agreement as a result of Private Party Default, SANParks shall not be liable for any payments to the Private Party;

23.4.2 Subject to the provisions of Clauses 23.4.1, the following amounts shall determine the amount payable in terms of Clauses 23.4.1:

23.4.2.1 the cost and expense incurred or to be incurred in the reinstatement of the Bush Braai Product as at date of termination, fair wear and tear accepted;

23.4.2.2 an amount equal to all damages recoverable at law;

23.4.2.3 all costs and expenses incurred and/or reasonably expected to be incurred in restoring or remedying material damage to the Bush Braai Product and the Environment caused by the Private Party and/or any Person for whom it is legally responsible in terms of this PPP Agreement; and

23.4.2.4 all reasonably foreseeable economic losses suffered or reasonably expected to be suffered by SANParks as a result of the breach or breaches by the Private Party of this PPP Agreement which resulted in termination of this PPP Agreement pursuant to Clause 23.2.2.

23.4.3 Should SANParks not exercise its rights to terminate pursuant to Clause 23.2.2,
the Private Party shall compensate SANParks for all damages, costs and expenses incurred by SANParks as a result of events set forth in Clause 23.

24. SANPARKS DEFAULT

24.1 Definition

“SANParks Default” means any one of the following events:

24.1.1 an expropriation of a material part of the Bush Braai Product and/or Project Assets of the Private Party by SANParks or other Responsible Authority; and

24.1.2 a breach by SANParks of the material obligations under this PPP Agreement which substantially frustrates or renders it impossible for the Private Party to perform its obligations under this PPP Agreement for a continuous period of 3 months.

24.2 Termination for SANParks Default

24.2.1 On the occurrence of a SANParks Default, or within 10 days after the Private Party becomes aware of same, the Private Party may serve notice on SANParks of the occurrence (and specifying details) of such SANParks Default. If the relevant matter or circumstance has not been remedied or rectified within 30 Business Days of such notice, the Private Party may serve a further notice on SANParks terminating this PPP Agreement with immediate effect.

24.2.2 The Private Party shall not exercise or purport to exercise any rights to terminate this PPP Agreement (or accept any repudiation of this PPP Agreement) except as expressly provided for herein.

24.3 Termination Amount for SANParks Default

24.3.1 On termination of this PPP Agreement as a result of SANParks Default, SANParks shall pay the Private Party an amount equal to the Depreciated Value of the Capital Investment Assets, set out in the annual audited books of account of the Private Party on the date of such termination.

24.3.2 Subject to the provisions of Clause 24.3.1 the following amounts shall be added to the amount payable in terms of Clause 24.3.1:

24.3.2.1 an amount equal to all damages recoverable at law;
24.3.2.2 the residual value of the staff houses that was built by the Private Party after the Operation Commencement Date;

24.3.2.3 all reasonably foreseeable economic losses suffered or reasonably expected to be suffered by Private Party as a result of the breach or breaches by SANParks of this PPP Agreement which resulted in termination of this PPP Agreement pursuant to Clause 24.3.1.

24.3.3 Should the Private Party not exercise its rights to terminate pursuant to Clause 24.3.1, SANParks shall compensate the Private Party for all damages, costs and expenses incurred by the Private Party as a result of events set forth in Clause 24.

25. **TERMINATION BY NOTICE**

Prior to the expiry of the Project Term, SANParks may, subject to Clause 27, on written notice of not less that 6 (six) months, give the Private Party notice of termination of this PPP Agreement, in which event this PPP Agreement shall terminate. On termination of this PPP Agreement in accordance with this Clause 25, SANParks shall pay the Private Party an amount equal to the Depreciated Value of Capital Investment Assets, set out in the annual audited books of account of the Private Party on the date of such termination but also pay the Private Party the depreciated value for any capital investments made after the operation commencement date.

26. **CORRUPT GIFTS AND FRAUD**

26.1 **Definition and Warranty**

The Private Party warrants that in entering into this PPP Agreement it has not committed any Corrupt Act. Any breach of this warranty shall entitle SANParks to terminate this PPP Agreement immediately in terms of Clause 23.1.5.

"Corrupt Act" means:

26.1.1 offering, giving or agreeing to give to SANParks or any other organ of state or to any person employed by or on behalf of SANParks or any other organ of state any gift or consideration of any kind as an inducement or reward:

26.1.2 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this PPP Agreement or any other contract with SANParks or any other organ of state; or
26.1.3 for showing or not showing favour or disfavour to any person in relation to this
PPP Agreement or any other contract with SANParks or any other organ of state;

26.1.4 entering into this PPP Agreement or any other contract with SANParks or any
other organ of state in connection with which commission has been paid or has
been agreed to be paid by the Private Party or on its behalf, or to its knowledge,
unless before the relevant contract is entered into particulars of any such
commission and of the terms and conditions of any such contract for the
payment of such commission have been disclosed in writing to SANParks;

26.1.5 committing any offence:

26.1.5.1 under any law from time to time dealing with bribery, corruption or extortion;

26.1.5.2 under any law creating offences in respect of fraudulent acts; or

26.1.5.3 at common law, in respect of fraudulent acts in relation to this PPP
Agreement or any other contract with SANParks or any other public body; or

26.1.5.4 defrauding or attempting to defraud or conspiring to defraud SANParks or
any other public body.

26.2 Termination Amount for Corrupt Gifts and Fraud

26.2.1 The Private Party shall reimburse SANParks with all costs incurred by
SANParks in exercising any of its rights in terms of this Clause 23 (including,
without limitation, any relevant increased administrative expenses).

26.2.2 The rights of SANParks (to terminate or otherwise) under this Clause are in
addition (and without prejudice) to any other right which SANParks may have
in law to claim the amount of loss or damages suffered by SANParks on
account of the acts or omissions of the Private Party (or to take any action other
than termination of this PPP Agreement).

27. EFFECT OF EXPIRY OR TERMINATION

27.1 On the expiry or termination of this PPP Agreement and/or the Project Term for
whatever reason and without prejudice to any rights of the Parties hereto (subject as
herein provided):
27.1.1 this PPP Agreement (other than this Clause 27 and Clauses 28, 31, 32, 33, 35, 37 and 38) shall cease to have effect, subject to all rights and obligations of the Parties existing prior to such termination;

27.1.2 such rights as the Private Party may have over the Bush Braai Product, the Project Assets and all other immovable property thereon shall terminate;

27.1.3 the Private Party shall deliver all documentation relating to the Bush Braai Product to SANParks.

27.2 Upon termination of this PPP Agreement, SANParks shall have the right to:

27.2.1 enter and take immediate control of the Bush Braai Product or

27.2.2 select and substitute a new entity to take over the operation of the Bush Braai Product.

27.3 Payment Procedure

27.3.1 Except as otherwise provided for expressly in this PPP Agreement, whenever under this PPP Agreement an amount is required to be paid by any Party, such Party shall make the same available to the other Party within 5 (five) Business Days to such account with such bank in the Republic of South Africa as the other Party may have specified for this purpose.

27.3.2 Without prejudice to any other right or remedy, each Party shall be entitled to receive interest on an amount due under this PPP Agreement, at the rate referred to in Clause 27.3.3. Interest which has accrued on an amount due under this PPP Agreement shall be paid on the same date as payment of such amount.

27.3.3 For the purposes of Clause 27.3.2, interest shall accrue at a rate equal to the prime rate charged by SANParks’ bankers. Such interest shall be computed on a daily basis from the due date of payment until the relevant amount together with accrued interest is fully paid by the defaulting Party.

27.3.4 All payments to be made under this PPP Agreement shall be made in Rand.

27.4 Other Rights and Remedies

27.4.1 No Party shall have any rights or remedies against any other Party arising on
termination save for the rights and remedies specified in this PPP Agreement.

27.5 Calculations

27.5.1 If any forecast or calculation is required to be made for the purposes of determining an amount payable by one Party to the hereunder, the same shall be made by agreement between the Parties, and failing agreement by an internationally recognised firm of accountants appointed by the Parties. In the absence of agreement, each Party shall nominate an independent expert, each of whom will produce its forecast or calculation. If the difference between the results of either forecasts or calculations is 10% (ten percent) or less, then the amount payable shall be based on the average of both results. Should the difference exceed 10% (ten percent), then both independent experts shall, by agreement, appoint a third independent expert which will make its own forecast or calculation, and the amount payable will be based on the average of the three results. In the absence of agreement on the appointment of the third independent expert, that expert shall be appointed by the President of the South African Institute of Chartered Accountants.

27.5.2 Each forecast or calculation to be made by the independent expert shall be made in accordance with prevailing Best Industry Practice. For the purpose of making any such calculation or forecast, the independent expert shall not be obliged to rely on the information submitted by the Private Party prior to the Effective Date but must have reference to the actual financial experience of the Private Party during the existence of the PPP Agreement.

28. EXIT PROVISIONS

28.1 The Private Party recognises and acknowledges that SANParks, on the termination of this PPP Agreement for whatever reason, requires continuity in the conducting of the Project. The Private Party therefore irrevocably undertakes, on termination of this PPP Agreement, if required:

28.1.1 to meet with SANParks at such times prior to the termination of this PPP Agreement and in such manner as SANParks shall reasonably require, to negotiate the manner in which this PPP Agreement shall be terminated and the delivery to SANParks, or its nominee, by the Private Party to ensure the continuity of conducting the Project;

28.1.2 to use its best efforts to assist SANParks to effect the orderly and uninterrupted
transition of conducting the Project;

28.1.3 to assist SANParks and to provide advice to SANParks in respect of specific service management issues such assistance and advice shall exclude the sharing of Private Party’s Intellectual Property and Confidential information as defined in Clauses 2.1.29 and Clauses 2.1.11 respectively.

28.1.4 to commit available resources to effect the transition;

28.1.5 for the purpose of this Clause 28, to allow SANParks reasonable access to any employee/s of the Private Party who has been employed by the Private Party in respect of conducting the Project;

28.1.6 to allow SANParks, the nominee or a new operator, to make offers of employment to employees of the Private Party who are, as at the termination of this PPP Agreement, employed by the Private Party for the purposes of conducting the Project;

28.1.7 to cede and assign to SANParks all of the contracts required by SANParks, concluded between the Private Party and third parties, in connection with the Project, however, the said contracts shall exclude Private Party’s contracts containing Confidential Information as defined in Clause 2.1.11.

28.1.8 to work with SANParks and/or the new Private Party for a smooth handover of the Business;

28.1.9 to agree with SANParks the reasonable costs, including, but not limited, to overhead expenses and management PPP Fees, payable to the Private Party in respect of the functions and obligations undertaken by the Private Party in terms of this Clause 28.

29. **CHANGES IN CONTROL**

From the Signature Date as well as for the duration of the Project Term, the Private Party shall procure that there is no Change in Control in the Private Party (or in any company of which the Private Party is a subsidiary) without the prior written approval of SANParks, which approval shall not be unreasonably withheld, provided that no Change in Control may breach the provisions of Schedule 5 in any way.
30. **CESSION, TRANSFER AND SUBSTITUTED ENTITY**

30.1 **Transfer by the Private Party**

The Private Party may not without the prior written consent of SANParks, sub-let, cede, assign or transfer:

30.1.1 this PPP Agreement or any Associated Agreement; or

30.1.2 any of its rights, interests or obligations thereunder; save, in each case, to the extent required for the financing of the operation of the Bush Braai Product as envisaged in the Loan Agreements, and in terms of the provisions of Clause 30.2.

30.2 Subject to the provisions of Clause 30.1, the Private Party may either sub-let, cede, assign or transfer the operation of the whole or a part of the Bush Braai Product, provided that:

30.2.1 the period of the sub-lease, cession, assignment or transfer shall not exceed the unexpired portion of the Project Term;

30.2.2 the Private Party shall continue to be liable for the payment to SANParks of all rentals due and payable in terms of the PPP Agreement and the fact that the Private Party enters into such an agreement shall not absolve the Private Party from any liability, existing or future, of the Private Party in terms hereof;

30.2.3 the sub-lessee shall be bound by all the same terms and conditions as set out in this PPP Agreement as if originally a party hereto.

30.3 In the event of a breach, default or transgression of the provisions of this PPP Agreement or applicable Laws and regulations by any sub-lessee of the Private Party, SANParks shall be entitled to take the necessary action and directly intervene in the operations of the relevant Bush Braai Product in order to rectify such breach, default or transgression provided that SANParks has given 30 days prior written notification to the Private Party and such sub-lessee of the breach, default or transgression and its intention to take the necessary action and directly intervene in the operations of the Bush Braai Product.

30.4 **Substitute Entity**

30.4.1 Upon the occurrence of an event in Clause 23 entitling SANParks to terminate
this PPP Agreement, and upon the expiry of the Remedy Period (in the event a Remedy Period is provided), or, where no Remedy Period is provided, upon the occurrence of such event, SANParks shall have the right to appoint a Substitute Entity, subject to agreement by the Lenders, that the Substitute Entity nominated by SANParks-

30.4.1.1 is legally and validly constituted and has the capability to enter into such agreements as may be reasonably required to give effect to the substitution;

30.4.1.2 has the financial and technical capability sufficient to perform and assume the obligations of the Private Party under the PPP Agreement and the Loan Agreements; and

30.4.1.3 has the financial capability to pay any damages or other sums outstanding which SANParks is entitled to receive from the Private Party before or at the time of such substitution.

30.4.2 In the event of SANParks appointing a Substitute Entity pursuant to this Clause 30.4, the provisions of a sale of business shall apply, mutatis mutandis.

30.4.3 The Private Party shall reimburse SANParks with all costs incurred by SANParks in exercising any of its rights in terms of this Clause 30.4 (including, without limitation, any relevant increased administrative expenses).

30.4.4 The rights of SANParks under this Clause are in addition (and without prejudice) to any other right which SANParks may have in law to claim the amount of loss or damages suffered by SANParks on account of the acts or omissions of the Private Party.

30.5 Disposal of Shares

30.5.1 SANParks will, notwithstanding the provisions of Clause 30, approve any sale of shares or other beneficial interest in the Private Party and permit that the Shareholders or beneficiaries sell any such shares or beneficial interest where such change does not bring about a change in control as understood in terms of the Companies Act 2008 (Act No. 71 of 2008) and provided that:

30.5.1.1 the Private Party informs SANParks of its intention to sell or permit the sale of such shares or beneficial interest at least 30 (thirty) Business Days before such sale is scheduled to take place;
30.5.1.2 the sale of such shares or beneficial interest does not alter the financial, BEE and technical capability of the Private Party to perform and assume the obligations of the Private Party in terms hereof.

30.5.2 SANParks shall only have the right to refuse such sale of shares or beneficial interest if either of the two criteria above are not met, or if the proposed buyer has been convicted or otherwise fined in a court of law, or other Relevant Authority, for breaches of trading or environmental regulations in the Republic of South Africa or elsewhere.

31. INTELLECTUAL PROPERTY

31.1 It is specifically recorded that all intellectual property rights whatsoever, whether capable of registration or not, regarding SANParks’ trademarks, names, logo, image and all other intellectual property matters relating to SANParks, its name, logo and/or image shall remain the sole property of SANParks.

31.2 Subject to existing rights and obligations, SANParks shall, on application by the Private Party, grant a non-exclusive right and licence to the Private Party to use SANParks’ trademarks which relate to the Protected Area. Should any of SANParks’ trademarks, names, logos, images and all other intellectual property matters be required for use outside of this PPP Agreement, they will be subject to terms and conditions negotiated with SANParks. This includes the granting of licences to trade merchandise with SANParks’ trademarks, names, logos, images and all other intellectual property matters outside of SANParks’ Bush Braai Product.

31.3 In order to establish and maintain high standards of style, quality and proprietary associated with the Protected Area, in the event the Private Party desires to use SANParks’ trademarks or logos which relate to the Protected Area in any way, the Private Party shall first submit the concept or a sample of the proposed use to SANParks for approval. Under no circumstances shall any use of SANParks’ trademarks or logos, which relate to the Park, or the image or likeness of any trademark, logo or image, which SANParks in good faith believes reflects unfavourably upon or disparages the Park, be approved. SANParks shall use its best efforts to advise the Private Party of its approval or disapproval of the concept or sample within 15 (fifteen) Business Days of its receipt of the concept or sample. If SANParks approves the concept or sample, the Private Party shall not depart therefrom in any material respect without SANParks’ further written approval.
31.4 If at any time SANParks withdraws its approval for the specified use of any trademark or logo, the Private Party shall forthwith discontinue all use of SANParks’ trademark or logo and shall remove from public sale or distribution, any previously approved product in respect of which SANParks has withdrawn approval.

31.5 SANParks may withdraw approval immediately upon 5 (five) Business Days written notice to the Private Party if the Private Party or any of its officers, directors or employees commits any act or engages in any conduct which constitutes a crime, is contrary to any Regulatory Provision or offends against public morals and decency and in SANParks’ reasonable opinion, materially prejudices the reputation and public goodwill of SANParks. The Private Party acknowledges that the name of the Park (the “Protected Name”) is associated with and peculiar to the Park and is the intellectual property of SANParks. Consequently, the Private Party agrees that the sole and exclusive ownership of the Protected Name shall vest in SANParks and should the Private Party utilise the Protected Name, it does so only in terms of this PPP Agreement and with the prior written approval of SANParks.

31.6 In circumstances where the Private Party utilises any of the Protected Names, either singularly or in combination or association with any other name, it does so only in terms of this PPP Agreement and on termination of this PPP Agreement, the Private Party shall not be entitled to operate or conduct any business using the Protected Name in combination or association with any other name.

31.7 Within 30 (thirty) Business Days after the termination of this PPP Agreement and where the Private Party has operated a company utilising the Protected Name with the permission of SANParks, the Private Party shall either:

31.7.1 de-register the company bearing the Protected Name; or

31.7.2 change the name to a name not substantially similar to the Protected Name.

32. AMENDMENTS

This PPP Agreement may not be varied or voluntarily terminated, except by an agreement in writing signed by duly authorised representatives of the Parties.

33. COMPLIANCE EVENTS

33.1 The continued existence of this PPP Agreement is dependent upon the happening of certain events detailed in Schedule 18. The Private Party undertakes to use its best endeavours to ensure that the Compliance Events detailed in Schedule 18 are
fulfilled to the satisfaction of SANParks as soon as is reasonably possible after the Signature Date.

33.2 If the Private Party fails to deliver the Performance Bond in the form defined in Clause 16 to the satisfaction of SANParks within one (1) month of the Signature Date, SANParks shall be entitled to terminate this PPP Agreement and Clause 23 shall apply.

33.3 If the Private Party fails to commence with the Bush Braai Product within 6 (six) months of the Signature Date, SANParks shall be entitled to terminate this PPP Agreement and Clause 23 shall apply.

34. ENTIRE AGREEMENT

34.1 Except where expressly provided otherwise in this PPP Agreement, this PPP Agreement constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of this PPP Agreement.

34.2 Each of the Parties acknowledges that:

34.2.1 it does not enter into this PPP Agreement on the basis of and does not rely, and has not relied, upon any statement or representation (whether negligent or innocent) or warranty or other provision (in any case whether oral, written, express or implied) made or agreed to by any person (whether a Party to this PPP Agreement or not) except those expressly contained in or referred to in this PPP Agreement, and the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a remedy available under this PPP Agreement; and

34.2.2 this Clause shall not apply to any statement, representation or warranty made fraudulently, or to any provision of this PPP Agreement which was induced by fraud, for which the remedies available shall be all those available under the law governing this PPP Agreement.

34.2.3 In the event of any conflict between this PPP Agreement and any document, contract or agreement in respect of the Project, the provisions of this PPP Agreement will prevail.
35. **VARIATION, CANCELLATION AND WAIVER**

35.1 No provision of this PPP Agreement (including, without limitation, the provisions of this Clause) may be amended, substituted or otherwise varied, and no provision may be added to or incorporated in this PPP Agreement, except (in any such case) by an agreement in writing signed by the duly authorised representatives of the Parties.

35.2 Any relaxation or delay (together “Relaxation”) by either Party in exercising, or any failure by either Party to exercise, any right under this PPP Agreement shall not be construed as a waiver of that right and shall not affect the ability of that Party subsequently to exercise that right or to pursue any remedy, nor shall any Relaxation constitute a waiver of any other right (whether against that Party or any other person).

35.3 The waiver of any right under this PPP Agreement shall be binding on the waiving Party only to the extent that the waiver has been reduced to writing and signed by the duly authorised representative(s) of the waiving Party.

35.4 The expiry or termination of this PPP Agreement shall not prejudice the rights of any Party in respect of any antecedent breach or non-performance of or in terms of this PPP Agreement.

36. **LIMITATIONS ON PRIVATE PARTY ENCUMBRANCES**

The Private Party may not cede, assign, pledge, hypothecate or otherwise encumber its assets and rights in and to this PPP Agreement, either in whole or in part, without prior written consent of SANParks, which consent shall not be unreasonably withheld. The Private Party may not cede, assign, pledge, hypothecate or otherwise encumber the rights and assets of SANParks.

37. **GOVERNING LAW AND JURISDICTION**

37.1 This PPP Agreement is to be governed by and construed in accordance with the laws of the Republic of South Africa.

37.2 Each Party agrees that the High Court of South Africa shall have exclusive jurisdiction to hear and decide any application, action, suit, proceeding or dispute in connection with the Project and this PPP Agreement, and irrevocably submits to the jurisdiction of the High Court of South Africa.
38. **STIPULATIONS FOR THE BENEFIT OF THE LENDERS**

The Parties agree that the provisions of this PPP Agreement that refer to the Lenders comprise stipulations for the benefit of the Lenders and the Lenders may at any time by written notice accept such stipulations in their favour provided that they accept the obligations imposed upon them in terms of this PPP Agreement and provides the Parties with their address for notices. Upon receipt of acceptance by the Lenders of the rights and obligations imposed upon them in this PPP Agreement, the Lenders shall be bound by the provisions of this PPP Agreement that relate to them. The Lenders’ consent shall be required in respect of any variation or amendment to any provision of this PPP Agreement that directly confers rights and/or imposes obligations on the Lenders or that reduces the Project Term and such consent may not to be unreasonably withheld.

39. **NOTICES**

39.1 Any notice or correspondence to be given under this PPP Agreement shall be in writing, in English, unless otherwise agreed and shall be delivered personally or sent by fax followed by the original delivered by hand.

39.2 The addresses for Notices are as follows:

**SANParks:**

Marked for the attention of the CEO:

c/o Legal Services

Groenkloof National Park

643 Leyds Street

Muckleneuk

Pretoria

Telephone: (012) 426-5000

Facsimile: (012) 343-0155

**Private Party:**

Marked for the attention of the Directors: ____________________

Telephone: __________________

Facsimile: __________________
39.3 A notice sent by one Party to another Party shall be deemed to be received:

39.3.1 on the same day, if delivered by hand;

39.3.2 on the same day of transmission if sent by telex or telefax and if sent by telefax with receipt confirming completion of transmission.

39.4 Either Party may change its nominated address to another address in the Republic of South Africa by prior written notice to the other Party.

SIGNED AT …………………. ON THE …………………………………… 2017.

For and on behalf of

SOUTH AFRICAN NATIONAL PARKS

who warrants his authority hereto

SIGNED AT …………………. ON THE …………………………………… 2017.

For and on behalf of

PRIVATE PARTY

who warrants his authority hereto
40. **SCHEDULE 1 – AREA OF RESPONSIBILITY**

The Bush Braai Product will include the Bush Site within the designated ‘exclusive use’ of the protected area and the roads for drives within the Phabeni Gate Section of the Kruger National Park that are not within the designated ‘exclusive use’ of the protected area.

40.1 **Bush Braai site**

40.1.1 Access to the launch site is 10 kilometers away from the Phabeni Gate and is shown by the location point (S 25.04527” E 031.23705”) of satellite map and figure 1 below;

![Figure 1](image-url)
40.1.2 The size of the Bush Site is shown S 25.04527° E 031.23705” – lower left point, S 25.04534° E 031.23765” – upper left point, S 25.04628° E 031.23752” – upper right point, S 25.04620° E 031.23694” – lower right point and the picture below. Therefore, the Private Party will be responsible for the operations and bush braai management on this site.
40.2 Game Drive Routes: Phabeni Gate Section in Kruger National Park

40.2.1 The attached Map is for the Phabeni Gate Section and the Private party shall use the marked roads during the game drives defined as follows: S3, S7 and S10.

40.2.2 The use of any of these Roads shall be reviewed and revoked by SANParks from time to time on notice due to operational requirements such as anti-poaching operations, flood disasters etc.

40.2.3 The roads shown in figure 41.1 do not fall within the designated ‘exclusive use’ of the protected area. Therefore SANParks reserves the right to allow any other operator to use the roads for any agreed purpose but with the exception to conduct a Bush Braai Product.

40.2.4 Bush Braai: commences at 16h30 in the evening; transports guests in the late afternoon for a game drive that eventually leads to the identified site for the enjoyment of a Bush Braai dinner. The Bush Braai dinner must be finalized by 21h00 and guests depart the Park by 22h00

40.2.5 Bush Breakfast: starts at 06h00 in the morning, transports guests in the early hours of the morning for a drive that eventually leads to thepha identified Bush Site for the
enjoyment of a bush breakfast. The Bush Breakfast must be finalized by 09:30 and Private party to depart site by 10:00.
SCHEDULE 2 - RESPONSIBILITY IN TERMS OF SITE MAINTENANCE

40.3  **Private Party Responsibility**

40.3.1  The Private Party shall be responsible for the maintenance of the site in accordance to the EMP conducted;

40.3.1.1  Proper erection of a secure storage facility

40.3.1.2  Site must be clearly demarcated in sound condition and clearly visible to guests;

40.3.1.3  Equipment (chairs, tables, braai grills, braai stands, fire pits) must be stacked, collapsed neatly and locked up in storage facility after the activity

40.3.2  The Private Party shall be required to develop and adhere to a five year (5) year maintenance schedule which must be aligned to SANParks’ maintenance schedule.

40.4  **SANParks Responsibility**

40.4.1  SANParks shall be responsible for the management of the entire bush environment including the protection of breakout fire and protection of animal welfare within the designated ‘exclusive use’ area.

40.4.2  The Site must be slashed a maximum of 1.5 meters outside the demarcation fence.
41. **SCHEDULE 3 – PRIVATE PARTY OPERATIONAL REQUIREMENTS**

41.1 **Promotion and conduct of business**

41.1.1 In the conduct of the Business the Private Party shall actively promote the Bush Braai Product and use its best endeavours to further the mutual business interests of SANParks and the Private Party and, without limiting the generality of the foregoing, shall provide and promote the goods and/or services required of the Business as specified herein.

41.2 **Standards of Bush Braai Product**

41.2.1 In the conduct of the Business the Private Party shall at all times maintain the Bush Braai Product and all services provided therein to the highest standard and ensure that the premises are at all times clean, secure and safe for customers.

41.3 **Service Provision**

41.3.1 In the conduct of the Business the Private Party shall keep the Bush Braai Product open for business in accordance with the reasonable requests of the Park and the requirements of any relevant statute, bye-law or regulation relating to the Business.

41.3.2 “The Private Party will be required to, for the duration of the agreement, achieve at least ______% (where ______% is the score that was obtained during tender submission evaluation) on the Business, Operational and Design Plan as contained in Schedule 4 as evaluated by a panel of four (4) external people (appointed by SANParks and the Private Party). Failure to achieve this score will imply material breach of the PPP Agreement.”

41.4 **Product Offering**

41.4.1 The Design Plan submitted by the Private Party must be adhered to unless otherwise agreed by SANParks.

41.4.2 The product offered by the Private Party should make optimal use of the game drive opportunity and site: this shall include morning drives followed by bush breakfast and night drives followed by a bush dinner/bush braai.
41.4.3 The Private Party is encouraged to introduce price differentiation providing pricing options to accommodate the varied consumer requirements (this implies that price options are available to cater for guests with varying affordability).

41.4.4 The Private Party will be obliged to adapt their menu on request by SANParks to reflect any changes that may have been identified through research, or that is otherwise offensive or undesirable.

41.4.5 “The Private Party will be required to, for the duration of the agreement, achieve at least _____% (where _____% is the score that was obtained during tender submission evaluation) on the Business, Operational and Design Plan as contained in Schedule 4 as evaluated by a panel of four (4) external people (appointed by SANParks and the Private Party). Failure to achieve this score will imply material breach of the PPP Agreement.”

41.4.6 The Private Party is obliged to provide universal access at the Bush Braai Product.

41.5 Uniforms

41.5.1 The Private Party is obliged to provide all staff with suitable and customised apparel in line with the theme proposed for the Bush Braai Product.

41.5.2 All apparel must be relevant to the specific function performed by staff members and comply with Legislation, Health, and Safety Standards.

41.5.3 Notwithstanding the generality of the aforegoing Clause 41.5.2, any member of staff serving guests in the Bush Site will not be permitted to wear open shoes or sandals.

41.5.4 The Private Party will be obliged to introduce and provide all staff with the applicable uniform on or before Operation Commencement Date.

41.6 Benchmark Pricing and Control

41.6.1 SANParks will take the necessary steps to ensure that the Private Party does not abuse the monopoly status of the Bush Braai Product. The Private Party will not be permitted to charge exorbitant fees but shall be permitted to make a fair return to their investment as agreed by both parties.
41.7 **Loyalty Card Programme**

SANParks has an active loyalty program called *WILD CARD*. SANParks would like to encourage all commercial operators in National Parks to engage with the SANParks loyalty team and conclude sustainable benefits to customers.

41.8 **Customer Survey Programme**

A Customer Survey Programme including a Mystery Guest Programme could be implemented by SANParks to measure quality. The Private Party will be required to collaborate with SANParks in the implementation of such Programmes and/or other customer surveys in the Bush Braai Product.

41.9 **Customer Feedback System**

SANParks will implement a Customer Feedback System for the experience of the Bush Braai Product. Once the system is in place, the Private Party is required to achieve an average score of seventy-five percent (75%) for the experience of the Bush Braai Product. The Survey shall request customers’ feedback on at least the following, staff friendliness and service, food presentation, quality of food, value for money, cleanliness of the site and the toilet facilities and whether they would recommend their friends to visit the Bush Braai Product.

41.10 **Bush Braai Staff and Staff Transport**

In the conduct of the Business the Private Party shall be solely responsible for all staffing requirements for the Bush Braai Product. The Private Party needs to ensure that the staff is able to arrive on business in time as per the operation hours as no staff housing shall be allocated for this opportunity within the park.

41.11 **Staff Housing**

The Private Party shall not be allocated any staff housing for this opportunity. All staff will be required to be housed outside the park.

41.12 **Advertising**

In the conduct of the Business the Private Party shall comply with all the reasonable advertising requirements as may be specified by SANParks from time to time.
41.13 **Maintain stocks**

In the conduct of the Business the Private Party shall at all times keep the Business adequately stocked in such quantity to ensure visitors to the park are properly catered for.

41.14 **Supplier Accounts**

In the conduct of the Business the Private Party shall pay properly as and when due all supplier accounts received by the Private Party pertaining to the Business in accordance with accepted business procedures.

41.15 **Utilities**

41.15.1 Water – the operation is not dependant on the use of excessive water, therefore SANParks shall not charge the Private party for water usage. The Private party shall be responsible for own supply of water. Should the Private Party rely on SANParks water sources for purposes of this PPP Agreement, terms and conditions shall apply in accordance to the Kruger National Park tariff document.

41.15.2 Electricity/Energy – the operation is not dependent on electricity. SANParks shall not charge the Private party for electricity usage.

41.16 **Meetings**

To provide for a forum where the parties can resolve disputes and agree operational issues, the Private Party is encouraged to attend Camp Management meetings (held by SANParks in camps responsible for and overseeing the specific (Bush Site) on a frequent basis. Minutes of all such meetings should be circulated to both parties to eliminate misunderstandings.

41.17 **Procedure Manuals**

41.17.1 The Private Party is obliged to comply with the Private Party’s Operational Manual submitted with the Private Party’s Bid Submission. Any significant and material changes which could change operations drastically and thus cause the Private Party to deviate from the submitted Private Party’s Operational Manual must be subject to the approval of SANParks.

41.17.2 The Private Party is obliged to adhere to SANParks’ Bush Braai Procedure
Manual once it is implemented and agreed upon by both parties. The Procedure Manual will define the roles, responsibilities and procedures with regard to housing, transport of staff, maintenance, infrastructural upgrades and expansions etc.
42. **SCHEDULE 4 – PRIVATE PARTY BID SUBMISSION**

The Private Party shall adhere to and comply with the Private Party’s Bid Submission. Notwithstanding the generality of the aforesaid, the Private Party is obliged to adhere to the Business and Operational Plan and Risk Matrix attached herewith.
42.1 Private Party Business Operational and Design Plan
42.2 Private Party Risk Matrix
43. **SCHEDULE 5 – BEE OBLIGATIONS**

In this Schedule,

43.1 any term, defined in the Broad-based Black Economic Empowerment Act, No. 53 of 2003 ("BEE Act"), or in terms of any Codes of Good Practice issued in terms of section 9 of the BEE Act, when used in the scorecard below shall have the same meaning as there defined, save where such meaning may be in conflict with the provisions of the Tourism BEE Charter and Scorecard, in which case the provisions of the Tourism BEE Charter and Scorecard will prevail.

43.2 The following terms, as used herein, shall have the following meanings:

43.2.1 "Black Empowered SMME" means a small, medium or micro enterprise (with a turnover of up to R10 million per annum) which has between 25 percent and 50 per cent direct ownership and management by Black People;

43.2.2 "Black Owned SMME" means a small, medium or micro enterprise (with a turnover of up to R10 million per annum) which has more than 50 per cent direct ownership and management by black people;

43.2.3 "Black People" means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent or who became citizens of the Republic of South Africa by naturalisation –

(a) Before 27 April 1994; or
(b) On or after 27 April 1994 and who have been entitled to acquire citizenship by naturalisation prior to that date but were precluded from doing so by Apartheid policies;"

43.2.4 "Black Person" means any such citizen;

43.2.5 “Black Women” means female Black People;

43.2.6 "Board Representation" refers to membership by Black People of the duly constituted board of directors (or equivalent structure) of an enterprise and is calculated upon the basis of the percentage that black directors hold to the total number of directors of that enterprise;

43.2.7 "Community Trust" means a trust registered in terms of the Trust Property Control Act;
43.2.8 "Community Trust Ownership" means Equity in the Private Party which must, as a mandatory provision of the Project, be acquired by a Community Trust;

43.2.9 "Direct Ownership" means ownership of an equity interest in an enterprise where such equity interest comprises:

43.2.9.1 the right to participate in the voting rights in that enterprise;

43.2.9.2 the right to receive unencumbered economic interest (such as dividends) flowing to the shareholders of that enterprise; and

43.2.9.3 Broad-based BEE schemes, employee share option schemes (ESOPs) and other employee share schemes, where the beneficiaries have the unconditional right to receive economic benefits and the capacity to elect and remove trustees, are specifically recognised as direct ownership. The flow-through principle will be applied to determine the level of black ownership represented by the employee share option scheme;

43.2.9.4 Direct ownership is measured as being the lower of the level of black participation in voting rights and black participation in the unencumbered economic interest of an enterprise, measured using the flow-through principle;

43.2.10 "Discretionary Procurement" includes all amounts expended by an enterprise subject to measurement. Discretionary procurement excludes:

43.2.10.1 employment related expenditure;

43.2.10.2 procurement from public utilities and natural monopolies; and

43.2.10.3 facilitated procurement by travel agencies or other travel distribution providers where the choice of service providers remains with the consumer;

43.2.11 "Employees with no prior working experience" refers to those employees who have no formal employment experience prior to joining an enterprise in tourism. Formal employment does not include learnerships, traineeships or short-term and temporary assignments;

43.2.12 "Enterprise Development" may take a variety of forms, including:

43.2.12.1 direct investment in Black Owned and Black Empowered SMMEs;
43.2.12.2 joint ventures with Black Owned and Black Empowered SMMEs that result in "substantive" skills transfer;

43.2.12.3 support and funding for the grading of emerging tourism companies, as well as providing mentorship, business relationships and linkages which, in turn, provide business opportunities to these enterprises; and

43.2.12.4 twinning initiatives with Black Owned and Black Empowered SMMEs which result in cost savings or revenue generation for those SMMEs.

43.2.13 "Executive Representation" refers to the participation by Black People in the senior non-board level management of an enterprise and more specifically, targets management levels which influence the strategic and operational management of an enterprise. Participation is measured upon the basis of the percentage that black executive managers hold to the total number of executive managers of that enterprise;

43.2.14 "Learnership" refers to learnerships as defined in the Skills Development Act, No. 97 of 1998, amended in 2003;

43.2.15 "Local" means the geographic area specified by SANParks in respect of the Project, being either within 50 km kilometre radius of the Picnic Site Facility or within a 30 km reach of the boundary of the Protected Area fence (but excluding boundaries to the neighbouring countries);

43.2.16 "Management" refers to all senior and middle management who do not form part of the executive management of the board of directors of the Private Party;

43.2.17 "Ownership" refers to equity participation and the ability to exercise rights and obligations, including voting rights and the rights to the flow of economic benefits, which accrue under such ownership;

43.2.18 "Preferential Procurement" refers to all spend with BEE compliant suppliers, to be calculated as follows:

43.2.18.1 one Rand (R1) for every one Rand (R1) spent with Excellent BEE Contributors, Good BEE Contributors, BEE Compliant SMMEs and Black Women Owned BEE Contributors; and

43.2.18.2 fifty cents (50c) for every one Rand (R1) spent with Satisfactory BEE Contributors;
43.2.18.3 all of which terms are defined as follows:

43.2.18.4 an Excellent BEE Contributor means a company which has scored in excess of 90 percent on a BEE scorecard under a scorecard governing that company's sector or a BEE scorecard issued in the Codes of Good Practice and under the BEE Act;

43.2.18.5 a Good BEE Contributor means a company which has scored in excess of 65 percent, but less than 90 percent, on a BEE scorecard under a scorecard governing that company's sector or a BEE scorecard issued in the Codes of Good Practice and under the BEE Act;

43.2.18.6 a Satisfactory BEE Contributor means a company which has scored in excess of 40 percent but less than 65 percent, on a BEE scorecard under a scorecard governing that company's sector or a BEE scorecard issued in the Codes of Good Practice and under the BEE Act;

43.2.18.7 a Limited BEE Contributor means a company which has scored less than 40 percent, on a BEE scorecard under a scorecard governing that company's sector or a BEE scorecard issued in the Codes of Good Practice and under the BEE Act;

43.2.18.8 a BEE Compliant SMME means a small, medium or micro enterprise (with a turnover of up to R10 million per annum) which is either an Excellent, Good or Satisfactory Contributor to BEE; and

43.2.18.9 a Black Women Owned BEE Contributor is a company which is more than 30 percent owned by black women and which is also an Excellent, Good or Satisfactory contributor to BEE.

43.2.19 "Skills Development Spend" refers to investment in skills development initiatives through both external training providers and the quantifiable costs of accredited internal training programmes. Internal training spend does not include the opportunity cost of employees attending the skills development initiatives;

43.2.20 "Supervisory" refers to the junior management and professional staff;

43.2.21 "TOMSA (Tourism Marketing South Africa) Levy Collectors" refers to tourism enterprises who are registered to raise funds on behalf of the trust;

43.2.22 "Total Employee Time" refers to the total working hours calculated as the
product of the total number of employees and their standard working hours;

43.2.23 "Total Staff" refers to all employees and/or contractors, excluding those accounted for under Strategic Representation, from whom the tourism enterprise is responsible for the collection and payment of applicable employee tax. The intention of the scorecard below is to include temporary staff in the definition of total staff, since tourism is an industry that relies heavily on temporary, casual and seasonal staff.

43.3 Milestones and Weightings

43.3.1 The Private Party shall from Effective Date comply with the commitments and

<table>
<thead>
<tr>
<th>Element</th>
<th>Element Weighting</th>
<th>Indicator</th>
<th>Measurement Category &amp; Criteria</th>
<th>Weighting Points</th>
<th>Compliance Targets</th>
<th>Bid Offered</th>
<th>Score</th>
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<tbody>
<tr>
<td>Ownership</td>
<td>26</td>
<td>Voting Rights</td>
<td>Exercisable Voting Rights in the entity in the hands of Black People</td>
<td>3</td>
<td>30%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Exercisable Voting Rights in the entity in the hands of Black Women</td>
<td>2</td>
<td>15%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Exercisable Voting Rights in the entity in the hands of a Local Community Trust</td>
<td>2</td>
<td>10%</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Economic Interest</td>
<td>Economic Interest to which Black Shareholders are entitled</td>
<td>5</td>
<td>30%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Economic Interest to which Black women Shareholders are entitled</td>
<td>3</td>
<td>15%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Economic Interest to which a Local Community Trust is entitled to</td>
<td>3</td>
<td>10%</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Net Value</td>
<td></td>
<td>8</td>
<td>As per Codes</td>
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<tr>
<td>Score out of 26</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

<p>| Management Control | 15 (+2 Bonus) | Executive Management | Black representation at Executive Management | 2 | 60% | | |
| | | | Black Female representation at Executive Management | 1 | 30% | | |
| | | | Local People representation at Executive Management | 1 | 20% | | |
| | Senior, Middle and Junior Management | Black representation at Senior, Middle and Junior management | 4 | 60% | | |
| | | Black Female representation at Senior, Middle and Junior management | 2 | 30% | | |</p>
<table>
<thead>
<tr>
<th>Element</th>
<th>Element Weighting</th>
<th>Indicator</th>
<th>Measurement Category &amp; Criteria</th>
<th>Weighting Points</th>
<th>Compliance Targets</th>
<th>Bid Offered</th>
<th>Score</th>
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</thead>
<tbody>
<tr>
<td>Skills Development</td>
<td>25 (+5 Bonus)</td>
<td>Skills Development Expenditure on Learning Programmes specified in the Learning Programme Matrix for Black People in any of the following three tourism sub-sectors as a percentage of Leviable Amount: - Accommodation; - Hospitality and related services; - Travel and related services</td>
<td>10</td>
<td>3%</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Learnerships, Apprenticeships, and Internships</td>
<td></td>
<td>Number of Black People participating in Learnerships, Apprenticeships and Internships paid for by the measured entity as a percentage of total Employees.</td>
<td>6</td>
<td>2.5%</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Bonus Points</td>
<td></td>
<td>Number of Black People absorbed by the measured entity or industry entity at the end of the Learnerships/ internship or Apprenticeship programme.</td>
<td>5</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Score out of 15

Score out of 25
<table>
<thead>
<tr>
<th>Element</th>
<th>Element Weighting</th>
<th>Indicator</th>
<th>Measurement Category &amp; Criteria</th>
<th>Weighting Points</th>
<th>Compliance Targets</th>
<th>Bid Offered</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enterprise and Supplier Development</td>
<td>30</td>
<td>Preferential Procurement</td>
<td>B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend</td>
<td>8</td>
<td>60%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black Owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend</td>
<td>5</td>
<td>30%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>B-BBEE Procurement Spend from all local Empowering Suppliers that are Exempted Micro Enterprises or Qualifying Small Enterprises based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend</td>
<td>5</td>
<td>15%</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Supplier Development</td>
<td>Annual value of all qualifying Supplier Development contributions to local entities made by the measured entity as a percentage of the target</td>
<td>7</td>
<td>2% of NPAT</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Enterprise Development</td>
<td>Annual value of all qualifying Enterprise Development contributions and Sector Specific Contributions to local entities made by the measured entity as a percentage of the target</td>
<td>5</td>
<td>1% of NPAT</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Socio-economic Development</td>
<td>Annual value of all local Qualifying Socio-Economic Development contributions by the measured entity as a percentage of the target</td>
<td>5</td>
<td>1% of NPAT</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5 (+3 Bonus)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bonus Points</td>
<td>Status as TOMSA levy collector</td>
<td>3</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Points
- 101 (+10 Bonus)

Score out of 101
- 80

43.3.2 undertakings set out in the following table.
43.4 **Milestones and Targets Post-2014**

43.4.1 The BEE Milestones and Targets for the duration of the PPP Term and in particular for the period from 1 November 2015 to the end of the PPP Term shall be determined by the restructured editions of the Tourism Charter and Scorecard as gazetted from time to time.

43.4.2 The Tourism BEE Charter was developed to be in line with the Department of Trade and Industry’s first phase of the Codes of Good Practice. Once the Codes of Good Practice has been gazetted, the Tourism Charter will be guided of how best it can be aligned to the final draft Codes of Good Practice.

43.4.3 The milestones and targets of the Tourism BEE Charter and Scorecard could thus be amended from time to time and the provisions of this Section and PPP Agreement would be modified accordingly. The Private Party would receive notification of such amendments and be provided with a satisfactory remedy period to address the amendments.

43.5 **External BEE Verification**

43.5.1 The Private Party shall appoint a reputable external verification agency to determine the Private Party’s BEE status and a copy of such an independent verification certificate shall be provided to SANParks within 15 (fifteen days) after the end of each Project Year.

43.5.2 The BEE Verification Certificate will categorise the Private Party according to the Private Party’s contribution to BEE.

43.5.3 The Private Party shall be obliged in terms of this PPP Agreement to, at a minimum, comply with the category of a Good BEE Contributor for each Project Year.

43.5.4 In the event of default by the Private Party to comply with the provisions of the foregoing Clauses and the Private Party default is not remedied before the expiry of the period referred to in the notice by SANParks, SANParks may terminate this PPP Agreement with immediate effect by written notice to the Private Party.

43.5.5 The Private Party is obliged to comply with the BEE commitments as outlined in the bid submission. In addition the Private Party is required to comply with commitments made to involve Land Claimants either as equity shareholders or
to fill vacant positions with people from the beneficiary list as determined and verified by the Chief Land Claims Commissioner. Failure to do this might result in termination of the PPP Agreement.
43.7 Private Party's BEE Proposal
44. **SCHEDULE 6 – PPP FEE**

44.1 **Variable PPP Fee**

44.1.1 The Variable PPP Fee shall be expressed as a flat percentage of Gross Revenue generated by the Bush Braai Product included under the PPP Agreement.

44.1.2 The Variable PPP Fee shall be as follows:

\[
\text{VARIABLE PPP FEE} = \text{______ \% of GROSS REVENUE}
\]

44.2 **Minimum PPP Fee**

The following Minimum PPP Fees are expressed in November 2016 South African Rand, and will be adjusted throughout the Project Term of the PPP Agreement according to movement in the Consumer Price Index:

<table>
<thead>
<tr>
<th>Packages</th>
<th>Per Month (Excl VAT)</th>
<th>Per Annum (Excl VAT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bush Braai Package</td>
<td>R 10,000</td>
<td>R 120,000</td>
</tr>
</tbody>
</table>
44.3  Private Party PPP Fee Offer
45. SCHEDULE 7 – ENVIRONMENTAL SPECIFICATIONS FOR THE OPERATION OF A BUSH SITE WITHIN THE PROTECTED AREAS

45.1 Introduction

This is an undertaking by the Private Party to conduct, manage and carry out the Project at all times in an environmentally responsible way by adopting appropriate operating methods and practices for conducting such a Project in a proclaimed National Park.

45.2 Waste Management

45.2.1 The operator shall provide vermin proof bins on site and ensure that the bins are securely anchored.

45.2.2 The operator will ensure that bins are provided with liners to aid waste removal.

45.2.3 The operator will have waste separation procedures in place to guide the following:

45.2.3.1 Removal of solid waste (tins, bottles, bags, plastics etc.) from the site immediately after the site was used (within 8 hours).

45.2.3.2 Removal of all fly ash from the fire pit and the braai stands.

45.2.3.3 Provide a secure rust free ash bin on site that shall be emptied at a suitable site when it is full.

45.2.3.4 Ensure that the site is free from any litter by conducting follow up daytime visit to clean up the site.

45.3 Noise pollution

45.3.1 The operator will ensure that there is no amplified music on the site. The use of radios, players, televisions sets is prohibited.

45.4 Light pollution

45.4.1 No permanent electric lights are allowed on site.

45.4.2 No lights shall be erected higher than 2 meters.
45.4.3 All lights will be less than the equivalent of a 40-watt incandescent bulb.

45.4.4 All paraffin lamps will be of low-pressure flame type.

45.4.5 **Site management**

The Private Party will manage the site in line with the following guidelines:

45.4.5.1 Operator will put emergency procedures in place for (fire, injury, animals, and floods, etc.)

45.4.5.2 Availability of a first aid kit.

45.4.5.3 Secure of a storage unit (if available)

45.4.5.4 Plants with a stem diameter (at 100mm above ground) of more than 20mm must not be slashed or damaged.

45.4.5.5 All chairs will be stacked and stored neatly or removed from site after the bush dinner and bush breakfast.

45.4.5.6 All tables will be collapsed and stored neatly or removed from site after the bush dinner or bush breakfast.

45.4.5.7 The site will be vacated by all personnel before 10:30 pm

45.5 **Fire and fire risk management**

45.5.1 The Private Party must ensure that the fire pit is clean and in sound condition.

45.5.2 The Private Party must ensure that dry flammable material (vegetation) is removed from the close proximity of the fire.

45.5.3 The Private party must ensure that fire protection measures are nearby and easily available. This shall include but not limited to (water, extinguishers, beaters etc.)

45.5.4 The Private party must ensure that fire protection measures are nearby and easily available. This shall include but not limited to (water, extinguishers, beaters etc.)

45.5.5 The Private Party will only be allowed to use a removable fire pit that shall not be permanently left on site.
45.5.6 A fire cover shall be available and placed over the ashes before departure.

45.5.7 Only firewood from a certified and renewable source shall be brought on site. Usage of firewood from the surrounding area is strictly prohibited.

45.5.8 Only less than 10 litres of paraffin shall be allowed on site per bush braai.

45.6 Vegetation

45.6.1 Damage to trees will be prevented at all times

45.6.2 Scrubs and other small plants shall be protected at all times

45.6.3 Surrounding trees will be free from nails and wires.

45.6.4 Plants with a stem diameter (at 100mm above ground) of more than 20mm should not be slashed or damaged;

45.7 Health and hygiene

45.7.1 The Private Party agrees to empty portable toilets after each use of a bush braai.

45.7.2 The Private Party agrees to empty toilets into a suitable and functioning sewage system.

45.7.3 The Private Party agrees to keep toilets in a clean state and supply toilet paper.

45.7.4 The Private Party agrees to have a hand wash basin (or bowl) with biodegradable soap and a hand towel.

45.8 Site security

45.8.1 The Private Party will provide the catering teams with game guards during the setup.

45.8.2 The total number of game guards to persons (catering, guides and clients) will not exceed a ratio of 1:15

45.8.3 Game guards on site will have the required qualification as tendered in the bidding documents
45.8.4 The Game guards will ensure that a serviceable torch, a firearm/rifle in sound condition is kept on site all times.

45.8.5 Guides on site will have the minimum qualification required form the bidding documents as per clause 6.1.5 of this PPP Agreement.

45.8.6 The Private Party undertakes to educate guests of dangers and emergency procedures and ensure that parents'guardians of children between 2 and 6 years old have been formally briefed before arriving on site.

45.8.7 The Private Party will ensure that only a maximum number of 30 guests are permitted on site.

45.8.8 Compliance with first aid requirements as determined in the General Health and Safety Regulations with at least the following items to be kept at site at all times.

45.9 **Road and Vehicle Management**

45.9.1 All Open Safari Vehicles (OSV) must be roadworthy conditioned.

45.9.2 Guide is required to comply with Kruger National Park speed limit.

45.9.3 Road Assistance Plans will be communicated to the guests before departure in the event of road breakdowns.
45.10 Private Party Environmental Proposal
46. SCHEDULE 8 – PRIVATE PARTY CONSTITUTIONAL DOCUMENTS
47. **SCHEDULE 9 – INSURANCE**
48. SCHEDULE 10 – PERFORMANCE BOND

48.1 PART A: FORM OF PERFORMANCE BOND

To be provided to South African National Parks having its principal place of business at 643 Leyds Street, Muckleneuk, Pretoria (hereinafter called “SANParks”)

Whereas:

(a) SANParks has awarded a PPP Agreement for the design, construction, fitting, installation, equipping, commissioning, financing, Operation, Management and Maintenance of the SANParks Phabeni Gate Bush Braai in the Kruger National Park under a PPP Agreement (hereinafter called the “PPP Agreement”) to [ ] (hereinafter called the “Private Party”); and

(b) The Private Party is obliged by the terms of the PPP Agreement to provide this Bond to SANParks to secure the performance of its obligations under the PPP Agreement.

We, the undersigned
__________________________ and ______________________________
(Name) (Name)
acting herein as
__________________________ and ______________________________
(Position) (Position)
of
____________________________________________________________
(hereinafter called the “Bank”)

being duly authorised to sign and incur obligations in the name of the Bank under and in terms of a Resolution of the Board of Directors of the Bank, a certified copy of which is annexed hereto, hereby irrevocably and unconditionally guarantee and undertake on behalf of the Bank that:

1. The Bank shall pay an amount not exceeding 3 (three) months’ payments of the Minimum PPP Fee, namely an amount of [………….] in aggregate (the “Maximum Amount”) without delay, on receipt by
the Bank of the first written demand of SANParks that the amount is due and payable and without proof of any breach or other default. The Bank shall pay such amount(s) to SANParks upon receipt of a certificate in the form attached signed by an authorised representative of SANParks certifying that SANParks is entitled to draw on this Bond pursuant to the provisions of the PPP Agreement (the “Certificate”). SANParks may make partial and/or multiple demands under this Bond provided that the aggregate of amounts paid under this Bond shall not exceed the Maximum Amount.

2. The demand for payment together with this Bond (or a certified copy hereof) and the Certificate shall constitute prima facie proof of the Bank’s indebtedness hereunder for the purposes of any proceedings including but not limited to provisional sentence proceedings instituted against the Bank in any court of law having jurisdiction.

3. Neither the failure of SANParks nor of the Private Party respectively to enforce strict or substantial compliance by the Private Party or any contractor or sub-contractor with their respective obligations nor any act, conduct, or omission by SANParks or Private Party prejudicial to the interests of the Bank including, without limitation, the granting of time or any other indulgence to the Private Party, any contractor or sub-contractor or any other person or by amendment to or variation or waiver of terms of the PPP Agreement, any sub-contract or any ancillary or related document (the “Underlying Documents”) will discharge the Bank from liability under this Bond. For the avoidance of doubt, the Bank’s liability under this Bond will not be discharged notwithstanding the winding up, dissolution or judicial management of the Private Party, any contractor or sub-contractor or any other Person and the Bond shall be honoured regardless of the invalidity, illegality or unenforceability of the Underlying Documents.

4. This Bond shall:

4.1 remain in full force and effect from the date hereof, and shall expire on the earlier of:

4.1.1 the issuance of a replacement Bond in accordance with the terms of the PPP Agreement;
4.1.2 90 (ninety) Business Days after the expiry or earlier termination of the PPP Agreement; or

4.1.3 the date when the Bank has paid to SANParks an amount which is equal to (or amounts which in aggregate total) the Maximum Amount;

4.2 exist independently of the PPP Agreement or any amendment, variation or novation thereof;

4.3 not be ceded, assigned or otherwise transferred by SANParks, or otherwise dealt with in any manner whatsoever (save for the purposes and in the manner referred to above) which has or may have the effect of transferring or encumbering or alienating SANParks’ rights hereunder;

4.4 be returned to the Bank on its expiry, cancellation, withdrawal or this Bond being fully drawn; and

4.5 be governed by the laws of the Republic of South Africa.

5. The Bank shall deposit any payment made under this Bond into an account designated by SANParks.

6. The Bank shall make any payment demanded under this Bond free, clear of and without any deduction, withholding, counterclaim or set-off of any kind. If the Bank is required by law to make payments subject to the deduction or withholding of tax, it will make such further payments as are necessary to ensure that the amounts paid to SANParks equal the amounts that would have been paid to SANParks had no such deduction or withholding been made or been required to be made.

7. The obligations of the Bank under this Bond shall not in any way be affected by the invalidity, illegality or unenforceability for any reason of the obligations of the Private Party.

8. The Bank shall have no right of recourse or claim of whatever nature against SANParks arising out of its obligation to pay or arising out of actual payment under this Bond to SANParks.

9. Addresses and Notices:
9.1 The parties hereto choose *domicilium citandi et executandi* for all purposes of and in connection with this PPP Agreement as follows:

SANParks:

Groenkloof National Park
643 Leyds Street
Muckleneuk
Pretoria

Telephone: (012) 426-5027
Facsimile: (012) 343-3849

The Bank:

---------------------------------------------

Telefax:  

---------------------------------------------

9.2 Any party hereto shall be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it shall be a physical address in the Republic of South Africa, and any such change shall only be effective upon receipt of notice in writing by the other party of such change.

9.3 All notices, demands, communications or payments intended for any party shall be made or given at such party's *domicilium* for the time being.

9.4 Any notice required or permitted to be given under this Bond shall be valid and effective only if in writing.

9.5 A notice sent by one party to another party shall be deemed to be received

9.5.1 on the same day, if delivered by hand;

9.5.2 on the same day of transmission, if sent by telefax with a receipt confirming completion of transmission.
9.6 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium citandi et executandi.

SIGNED ON ___________________________ ___________________________ 2007

AT

______________________________________________________________

(Place)

SIGNATURE ___________________________ SIGNATURE ___________________________ 

[NAME] [NAME]

[TITLE] [TITLE]

WITNESS 1 ___________________________ WITNESS 2 ___________________________
48.2 PART B: FORM OF CERTIFICATE

To: [Name and address of Bank]

Attention:

From: South African National Parks

Address:

Dated:

Dear Sirs

Performance Bond Dated [insert date] (the "Bond")

We refer to the above Bond issued by you. Terms defined in the Bond shall have the same meaning when used in this Certificate.

SANParks is entitled to call on this Bond under the PPP Agreement and we demand payment of the sum of R[......] under the Bond. Payment is to be made in accordance with the provisions of the Bond.

Payment must be made without delay to [SANParks bank account details].

Yours faithfully,

.........................

for and on behalf of

South African National Parks
48.3 Private Party Performance Bond
49. SCHEDULE 11 – CAPITAL EXPENDITURE PLAN

49.1 Introduction

49.1.1 The Private Party shall be obliged to comply with and adhere to the Capital Expenditure Plan as proposed with the Private Party’s Bid Submission.

49.1.2 Failure by the Private Party to comply with the provisions of this Schedule 11 to the PPP Agreement and the Private Party Default is not remedied before the expiry of the period referred to in the notice by the Institution; the Institution may terminate this PPP Agreement with immediate effect by written notice to the Private Party.
49.2 **Private Party Financing and Capital Plan**
50. **SCHEDULE 12 – PRIVATE PARTY LOAN AGREEMENTS**
51. **SCHEDULE 13– CONSUMER PROTECTION ACT NO. 68 OF 2008 (CPA)**

This Schedule set out certain provisions as contained in CPA that apply to the activities of the Business. The said provisions are adopted as minimum norms and standards that need to be strictly adhered to by the Private Party in executing the Project, and may lead to the termination of the PPP agreement if the Private Party does not adhere to these standards, thus fails to remedy the breach when notified by SANParks. However, it is advisable that the Private Party obtains the full version of the CPA, and professional legal advise on CPA.

51.1 **Purpose and Policy of CPA**

The purposes of CPA are to promote and advance the social and economic welfare of consumers in South Africa by:-

51.1.1 establishing a legal framework for the achievement and maintenance of a consumer market that is fair, accessible, efficient, sustainable and responsible for the benefit of consumers generally;

51.1.2 reducing and ameliorating any disadvantages experienced in accessing any supply of goods or services by consumers:-

51.1.2.1 who are low-income persons or persons comprising low-income communities;

51.1.2.2 who live in remote, isolated or low-density population areas or communities;

51.1.2.3 who are minors, seniors or other similarly vulnerable consumers; or

51.1.2.4 whose ability to read and comprehend any advertisement agreement, mark, instruction, label, warning, notice or other visual representation is limited by reason of low literacy, vision impairment or limited fluency in the language in which the representation is produced, published or presented;

51.1.2.5 promoting fair business practices;

51.1.2.6 protecting consumers from:-

51.1.2.6.1 unconscionable, unfair, unreasonable, unjust or otherwise improper trade practices; and

51.1.2.6.2 deceptive, misleading, unfair or fraudulent conduct.
The Private Party shall in the course of operating the Picnic Site Facility in the Protected Area observe the following procedures:

51.2 Disclosure and Information

51.2.1 Information in plain and understandable language

Private Party shall be required to produce, provide or display any notice, document or visual representation of anything connected with the Business in plain language.

51.2.2 Disclosure of price of products

Private Party shall be required to adequately display a written indication of price in relation to any products to be sold by the Private Party at the Picnic Site Facility, the price of which should be expressed in South African currency (Rand), and in the following manner:

51.2.2.1 the price should be annexed or affixed to, written, printed, stamped or located upon, or otherwise applied to the products or to any band, ticket, covering, label, package, reel, shelf or other thing used in connection with the products or on which the products are mounted for display or exposed for sale; or

51.2.2.2 in any way represented in a manner from which it may reasonably be inferred that the price represented is a price applicable to the products in question.

51.2.3 Product labelling and trade descriptions

The Private Party shall not:

51.2.3.1 knowingly apply to any products a trade description that is likely to mislead the consumer as to any matter implied or expressed in that trade description; or

51.2.3.2 alter, deface, cover, remove or obscure a trade description or trade mark applied to any products in a manner calculated to mislead consumers;

51.2.3.3 not offer for sale, or display any particular products if the Private Party knows, reasonably could determine or has reason to suspect that:-

51.2.3.3.1 a trade description applied to the products is likely to mislead the consumer as to any matter implied or expressed in that trade description; or

51.2.3.3.2 a trade description or trade mark applied to the products has been altered
51.2.3.4 Private Party shall be required to display a notice that discloses the presence of any genetically modified ingredients in products to be sold at the Picnic Site Facility, such notice shall be in a manner and form as described in CPA and related legislations.

51.2.4 Sales records

51.2.4.1 Private Party shall provide a written record of each transaction to the consumer to whom any products are sold.

51.2.4.2 The record must include at least the following information:

51.2.4.2.1 Private Party’s full name, or registered business name, and VAT registration number;

51.2.4.2.2 the address of the premises at which, or from which, the products were sold;

51.2.4.2.3 the date on which the transaction occurred;

51.2.4.2.4 a name or description of any products sold or to be sold;

51.2.4.2.5 the unit price of any particular products sold or to be sold;

51.2.4.2.6 the quantity of any particular products sold or to be sold;

51.2.4.2.7 the total price of the transaction, before any applicable taxes;

51.2.4.2.8 the amount of any applicable taxes; and

51.2.4.2.9 the total price of transaction, including any applicable taxes.

51.3 Fair and Honest Dealing

51.3.1 Unconscionable conduct

51.3.1.1 Private Party or any of its representatives or employees during the course of conducting the Business in the Picnic Site Facility shall not use physical force against a consumer, coercion, undue influence, pressure, duress or harassment, unfair tactics or any other similar conduct, in connection with any marketing and/or the offering for sale of any products.

51.3.2 False, misleading or deceptive representations
51.3.2.1 Private shall not, by words or conduct:

51.3.2.1.1 directly or indirectly express or imply a false, misleading or deceptive representation concerning a material fact to a consumer;

51.3.2.1.2 use exaggeration, innuendo or ambiguity as to a material fact, or fail to disclose a material fact if that failure amounts to a deception; or

51.3.2.1.3 fail to correct an apparent misapprehension on the part of a consumer, amounting to a false, misleading or deceptive representation, or permit or require any other person to do so on behalf of the Private Party.

51.4 Quality Service

51.4.1 Private Party shall be expected in the sale of its products to provide timely service and in a manner and quality that persons are generally entitled to expect. The service shall entail:

51.4.1.1 making sure that the consumer does not wait for too long in the queue, when the consumer is purchasing some product items at the Picnic Site Facility;

51.4.1.2 ensuring that the product items provided for sale in the Picnic Site Facility are free of defects such as freshness, safe, not hazardous to health and are of quality that the consumers are generally entitled to expect.

51.4.2 If a Private Party fails to perform a service to the standards contemplated in Clause 51.4.1 above, the consumer is entitled to demand from the Private Party, to either:-

51.4.2.1 remedy any defect in the quality of the service performed or goods bought; or

51.4.2.2 refund to the consumer a reasonable portion of the price paid for the services performed and goods supplied, having regard to the extent of the failure.
52. **SCHEDULE 14 – PREFERRED PEST CONTROL CHEMICALS**
53. SCHEDULE 15 - COMPLIANCE EVENTS

The following Compliance Events will apply to the Project:

53.1 The Approval of an Environmental Impact Assessment, if required for the Project, by the Relevant Authority.

53.2 Provision by the Private Party of a Performance Bond in the amount and form indicated in Clause 16.

53.3 Approval of the Detailed Design by the SANParks Design Review Panel.

53.4 The commencement of operations within 6 months from Signature Date.
54. **SCHEDULE 16 – GUARDS AND GUIDES QUALIFICATIONS**
55. **SCHEDULE 17 – SATSA CERTIFICATE**