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**DOUBLE DRIFT CO-MANAGEMENT AGREEMENT**

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**MADE AND ENTERED INTO BY AND BETWEEN THE FOLLOWING PARTIES:**

**DEPARTMENT OF DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIROMENTAL  
AFFAIRS AND TOURISM, EASTERN CAPE PROVINCE**

**And**

**EASTERN CAPE PARKS AND TOURISM AGENCY**

**And**

**LIKHAYALETHU COMMUNAL PROPERTY ASSOCIATION**

**And**

**THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**

**And**

**RAYMOND MHLABA LOCAL MUNICIPALITY**



**1. THE PARTIES**

**1.1 DEPARTMENT OF ECONOMIC DEVELOPMENT and ENVIRONMENTAL AFFAIRS and TOURISM** duly represented by Mr B Gxilishe in his capacity as the Head of Department responsible for the Department of Economic Development, Environmental Affairs and Tourism, he being authorised thereto

**1.2 EASTERN CAPE PARKS AND TOURISM AGENCY**

Duly represented by Mr V Dayimani in his capacity as the Chief Executive Officer, he being duly authorized thereto,

**1.3 THE LIKHAYALETHU PROPERTY ASSOCIATION** duly represented by Mr Mxolisi Ngesi in his capacity as Chairperson of the Communal Property Associations.

**1.4 THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**, duly represented by Mr Z Pityi in his capacity as a Chief Director Land Restitution Support, he being authorized thereto.

**1.5 RAYMOND MHLABA LOCAL MUNICIPALITY**, duly represented by Mr A. Khetelo in his capacity as the Mayor for Raymond Mhlaba Local Municipality, he being authorized thereto.

**2. DEFINITIONS AND INTERPRETATION**


2.1 The head notes to the clauses of this agreement are inserted for reference purposes only, and shall in no way affect the interpretation.

2.2 The expressions below shall bear the following meanings, unless inconsistent with the context thereof, an expression which denotes:

Any gender includes the other gender

A natural person includes an artificial person, and visa versa

The singular includes the plural and visa versa





2.3 The annexure and schedules to this agreement form an integral part hereof and words and expressions defined herein shall have the same meaning, unless the context requires otherwise.

- "Agreement"** This agreement including all schedules and annexure's hereto.
- "Biodiversity"** Means the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species, between species, and of ecosystems;
- "Claimed Land"** 23,500 hectares made up of the then Double Drift Nature Reserve Section of GFRNR The map attached hereto and marked "A" indicates the situation and extent of the land.
- "Co-Management"** Means an agreement for the management of Land by the Management Authority, being an organ of state as lead manager, and the new owners as contemplated in Section 42 of the Protected Areas Act
- "Duration"** The agreement will take effect on the date of last signature of this agreement and will expire on 30 April 2037
- "LCPA"** Means the legal entity registered on behalf of a community that owns and manages a property registered in terms of Section 8 of Communal Property Association Act No. 28 of 1996.
- "ECPTA ACT"** Means the Eastern Cape Parks and Tourism Agency Act No 2 of 2010
- "Competent Authority"** Means the organ of state or statutory body being Eastern Cape Parks and Tourism Agency having jurisdiction in respect of the Double Drift section of GFRNR
- "Conservation"** Means the conservation of the biodiversity within the Double Drift section of GFRNR which includes flora and fauna of a particular area, together with objects of geological, archeological, historical

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and other interests in such a manner that the land is retained in its natural state, as far as may be practicable, for the benefit and enjoyment of the land trust and the nation at large.

**“Commercial Activities”** Means subject to the provisions of this agreement, all income producing activities, which are conducted on this portion of the reserve and which are in accordance with the reserves Management Plan.

**“Co-Management Agreement”** Means the co-management agreement entered into between the Likhayaletu Communal Property Association (LCPA) and other parties hereto, any amendment thereof, including any further agreement as may be entered into between the said LCPA and any competent authority.

**“LCPA Community Levy”** Shall include the levy portion of any revenue collected by the ECPTA and shall include such fees charged for any commercial activities that visitors may undertake on DD section of the GFRNR apportioned to the LCPA. The exact amount of the levy shall be determined within five years of the commencement of this agreement and will be determined by the ECPTA policy currently being developed.

**“Effective Date”** The date of last signature of this agreement

**“Income”** Means all income derived from the commercial and eco tourism activities within the reserve which shall but not be limited to the conservation levy.

**“Management Authority”** Means the Eastern Cape Parks and Tourism Agency, a competent authority, to which management responsibility of the Double Drift Nature Reserve has been assigned or delegated.

**“Protected Area Management Plan”** Means the plan approved in terms of section 76 of the Eastern Cape Parks and Tourism Agency Act no 2 of 2010 or in

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terms of section 39 of NEMPAA as the case maybe. Shortened to PAMP for the purposes of the document.

**“Organ of State”**

Means an organ of State as defined In section 239 of the Constitution of the Republic of South Africa, Act 108 of 1996.

**“Restored Land”**

the land restored to the LCPA in terms of the settlement agreement signed in 2012, which is comprised of 23,500 hectares made up of Double Drift Nature Reserve section of the GFRNR The map attached hereto and marked “A” indicates the situation and extent of the land.

**“Review”**

Review of the co-management agreement will take place every 5 years by the CMC members and submitted to senior members in each signatory member

**“Rules and Regulations”**

refer to NEMPA and ECPTA Act 2 of 2010. (These are attached in Annex 2 & 3)

**“Signature”**

Means the date of last signature of this agreement.

**“Steering Committee”**

Means a committee to be established by the office of the Regional Land Claims Commission – Eastern Cape made up of different Government Departments, other relevant Organisations and Agencies, and Likhayaletu Communal Property Association registered to handle the land use planning and other post settlement agreements issues pertaining to the restored land.

**“State”**

The Republic of South Africa including all organs of state who are parties and signatories hereto.

**“Tourism Concession”**

Special consideration given to a third party in terms of a concession agreement for preferential tourism operations within the Double Drift Nature Reserve.

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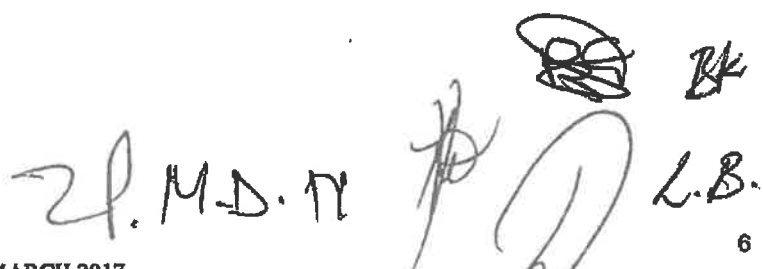





<b>"Tourism Income"</b>	All income generated from commercial activities undertaken by the LCPA and ECPTA through the granting of a Tourism Concession to a third party.
<b>"Double Drift"</b>	Double Drift Section of the Great Fish River Nature Reserve as defined in the Annexure Map
<b>"DEDEAT"</b>	Department of Economic Development, Environmental Affairs and Tourism
<b>"ECPTA"</b>	Eastern Cape Parks and Tourism Agency
<b>"LCPA"</b>	Likhayaletu Communal Property Association
<b>"DRDLR"</b>	Department of Rural Development and Land Reform
<b>"Settlement agreement"</b>	Agreement dated July 2012 between the ECPTA, DEDEAT, DRDLAC, Raymond Mhlaba Local Municipality and Double Drift Community
<b>"Protected Area"</b>	Protected area as defined in terms section 12 of the Protected Areas Act 57 of 2003

### 3. HISTORY OF THE LAND CLAIM - SETTLEMENT

The settled community is defined in the Settlement Agreement dated July 2012 and refers to the claimant community comprises of 264 households who were the original dispossessed persons who were dispossessed of their labour tenancy rights, which embodied residential and grazing rights, and had their houses demolished as a result of dispossession. The claimant's households have grown to approximately 1151 households as a result of family expansion.

The claimant community stayed on these farms as labour tenants for more than two generations and as the white farmers were not permanently resident on these farms but rather visited periodically. They claim that they were managing and running the farms. Between 1984 and 1990 notices of impending removals were issued to the labour tenants informing them that the area was to be a game reserve and informing them that their services were not


  
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required in the new venture. In 1991 families were removed by the Ciskei Department of Agriculture, Forestry and Rural Development.

Whereas the claim for restitution of land rights was lodged as a community claim by the Double Drift Community. They claimed and restored land is in respect of various farms which were consolidated together and are currently known as Double Drift portion of the Great Fish River Nature Reserve (GFRNR).


- 3.1 The parties have agreed that the settled land will be conserved and maintained as a Nature reserve in perpetuity as outlined in the Settlement Agreement.
- 3.2 The parties have agreed that ECPTA AND LCPA will co-manage this land as a Nature Reserve as part of the GFRNR.
- 3.3 This agreement is made in terms of section 12 (4) (c) ECPTA Act and the Settlement Agreement that was entered between the parties in this Co-Management Agreement. In July 2012.

#### 4. CO MANAGEMENT COMMITTEE

- 4.1. The ECPTA, DEDEAT, DRDLR, Raymond Mhlaba Municipality and the LCPA shall establish a Co Management Committee (CMC) which shall co-manage the claimed portion of the DD portion of the GFRNR and such other land as the LCPA may wish to incorporate into the GFRNR in order to give full effect to the Settlement Agreement.
- 4.2 The CMC shall at all times consist of 13 members, which shall be composed as follows;
  - 4.2.1 Seven (7) members from the LCPA. The LCPA members shall form portfolios in the following ratios with a leader in each portfolio;
    - 4.2.1.1 Employment/Skills Development
    - 4.2.1.2 People and Parks
    - 4.2.1.3 Conservation (donations and biodiversity)
    - 4.2.1.4 Tourism and Commercialization
  - 4.2.2 Three (3) members from the ECPTA (RM B&H, SRM, People and Parks

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representative)

- 4.2.3 One (1) member from DRDLR,
- 4.2.4 One (1) member from DEDEAT, and;
- 4.2.5 One (1) member from Raymond Mhlaba Local Municipality.

4.3 The quorum of CMC shall be constituted by seven (7) members of the CMC and must include three (3) representatives from the LCPA and two (2) from ECPTA. The LCPA undertakes to avail members for the CMC meetings. The CMC shall meet four (4) times annually. There may be a requirement for emergency meetings – this should be allowed for in the meeting cycle.



4.4 A chairperson, deputy chairperson, secretary, and treasurer will be elected at the first meeting of the CMC by the members of the CMC. Office bearers will hold their positions for a period of five years. This will encourage accountability for the full review period.

4.5 Meetings will be held at the DD Section of the GFRNR. The ECPTA will provide transport for LCPA members to attend the meetings for the first five years of this agreement. Thereafter each party is responsible for paying the transport costs to attend the meeting. The ECPTA operating budget will be used for reasonable catering costs for the first five years of the agreement, and thereafter if the ECPTA has available funds.

4.6 Decisions of the CMC will be taken by consensus wherever possible. If consensus is not possible, a decision will be taken by a majority vote by way of a show of hands. In the event of a deadlocked vote, the chairperson shall cast an additional and deciding vote.

## 5. FUNCTIONS AND POWERS OF THE CMC

5.1 The CMC shall ensure that the terms of the Settlement Agreement, the Co-Management agreement, the Reserve Management Plan (SMP), and the conditions of

  
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Title are complied with in so far as it is enabled to do so.

- 5.2 The CMC shall participate in the review of the Co Management Agreement and Reserve Management Plan (SMP) to conform to the ongoing objectives of the LCPA and the ECPTA in relation to the management of the DD section of the GFRNR.
- 5.3 Recommendations to amend any provisions to the Co Management Agreement may only be made by a vote of two thirds of the members of the CMC present at a meeting, combined with a vote of two thirds of the members present at an LCPA general meeting and agreement by all of the other parties. Any consensus on the part of the ECPTA shall be approved by the CEO of the ECPTA before amendments are tabled before the ECPTA Board. If the community (represented by the LCPA) or the CEO or Board of the ECPTA rejects any proposed amendment, the parties undertake to discuss the proposal again and find alternative solutions. If no solution can be found, the dispute will be referred to mediation in terms of paragraph 19 of this agreement. Notice of the meetings and details of the proposed amendment must be communicated to the members of the CMC and the LCPA at least three weeks prior to the meetings where a decision on the amendment is to be taken.
- 5.4 Pursuant to the provisions of the National Environmental Management Act in so far as it may be applicable, the ECPTA hereby authorizes the CMC to make such decisions as outlined in clause 7.2.6 below and recommendations to ensure the timely implementation of the approved PAMP.
- 5.5 In the event of the CMC not being in a position to make any decisions or exercise any authority in respect of the protected area management plans, it shall bring this to the attention of the CEO for a decision of the MEC.
- 5.6 The CMC shall be entitled to exercise such authority as may be required to ensure that all commercial activities are consistent with the approved SMP, Tourism Development Plan and CDP and comply with all relevant and applicable environmental legislation.

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## 6. CO – MANAGEMENT OF THE DOUBLE DRIFT OF THE GFRNR

The LCPA as legal owners of the claimed land and the Eastern Cape Parks and Tourism Agency, being the referred management authority, have agreed, in terms of Clause 5.3.5 of the Settlement Agreement, that the Double Drift Section of the GFRNR be co-managed, as envisaged in terms of section 12 (4) (c) of the ECPTA Act and Section 42 of National Environmental Management: Protected Areas Act.

### 6.1 LCPA FUNDS IN RELATION TO THE DDNR

The funds of the LCPA shall consist of, but will not be limited to:

- 6.1.1 Such funds derived from LCPA Community Levies sourced through the Double Drift reception office for all tourism revenue for accommodation occupied within the DD section of the GFRNR as allocated proportionately as per agreement and in terms of the policy being developed;
- 6.1.2 Such funds as may be allocated to the LCPA by the ECPTA within its accounting and auditable revenue process;
- 6.1.3 funds generated through the sale of game that is donated to the LCPA (see further detail in section 13.3 of this agreement)

### 6.2 LCPA BANK ACCOUNT

- 6.2.1 The LCPA shall open a bank account for the purposes of administering the funds generated.
- 6.2.2 The LCPA shall nominate and appoint respective signatories to this account, who shall be joint signatories to this account.
- 6.2.3 The LCPA Treasurer shall be required to keep full financial records of all the financial and income related transactions for audit purposes and make updated reports available at each meeting. ECPTA will report on the revenue and expenditure when the CMC meets;
- 6.2.4 The CMC shall be entitled to take such further steps and decisions to ensure that the financial resources of the LCPA are properly managed.

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### 6.3 AUDIT

The LCPA is obliged to appoint independent auditors to audit the financial and administrative business of the LCPA. The costs of such audit shall be borne by the LCPA.

### 6.4 USE OF LCPA FUNDS

The LCPA shall use the generated funds for the overall development of the LCPA community and shall not be used to further individuals interests within the LCPA.

## 7. OBLIGATIONS

### 7.1 OBLIGATIONS OF LIKHAYALETHU COMMUNAL PROPERTY ASSOCIATION

The LCPA shall:

- 7.1.1 Ensure that the GFRNR shall in perpetuity be conserved, maintained and managed as Provincial Protected Area.
- 7.1.2 Participate in the management of the GFRNR through the co management committee for the Double Drift section.
- 7.1.3 Endeavour to ensure the support and coherence of all community members to the provisions of the settlement agreement, the management plans, all applicable legislation and any management rules made by the co management committee.
- 7.1.4 Ensure that the community benefits from the land they have dedicated to conservation.
- 7.1.5 Ensure that whatever money is accrued must be invested and used for the development of the community.
- 7.1.6 Promote a safe and tourist friendly culture and environment in and about the Nature Reserve which shall include the effective planning of development in the surrounding areas
- 7.1.7 Contribute towards the operational costs of the management of the GFRNR as these are not separated by section. The LCPA will start contributing towards operational costs five (5) years after the commencement of the Co-Management Agreement.

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- 7.1.8 Assist in the continuation of the Park Forum structures to ensure that proper consultation continues between the CMC and the neighbors to the East – Wards and Traditional Leadership.
- 7.1.9 Members of the LCPA on the CMC shall inform the general LCPA constituency on all developments and accounting taking place through activities on the DD section of the GFRNR.

## 7.2 OBLIGATIONS OF EASTERN CAPE PARKS AND TOURISM AGENCY



The Eastern Cape Parks and Tourism Agency shall:

- 7.2.1 Co-manage the DD section of the GFRNR according to the provisions of applicable national and provincial legislation, the settlement agreement, and the approved Management Plans as amended from time to time, in co operation with the Department of Rural Development and Land Reform and the LCPA
- 7.2.2 Provide adequate/reasonable funding for the management of the GFRNR from ECPTA's annual budget.
- 7.2.3 Give effect to the principle of co management with the LCPA.
- 7.2.4 Participate in the management of the DD Section of GFRNR through the co management committee.
- 7.2.5 The ECPTA will provide progress reports on a quarterly basis which will be set out in a quarterly performance report against the Annual Operating Plan (AOP).
- 7.2.6 Communicate all major decisions to be taken regards management of the DD section of the reserve not inclusive of the following day to day management decisions;
  - 7.2.6.1 Day to day deployment of staff against operational needs.
  - 7.2.6.2 Day to day security and environmental protection services that are regarded as sensitive in nature.



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7.2.6.3 Routine management decisions regarded as necessitating immediate responses for the improvement of management operations on the reserve.

7.2.6.3 Those management decisions regarded as of low reporting value and consequence.

7.2.7 In consultation with the LCPA, contribute to the preparation of the management plans for the GFRNR in terms of ECPTA ACT and NEMPAA

### **7.3 OBLIGATIONS OF DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**

The Department of Rural Development and Land Reform shall:

- 7.3.1 Provide technical support to the ECPTA and LCPA in the co- management Committee Meetings.
- 7.3.2 Provide material or financial assistance in the form of grants.
- 7.3.3 Include the claimants as beneficiaries of a State support program for the development of the restored land through the appropriate administration and allocation of the recapitalization grant outlined in the Settlement Agreement.
- 7.3.4 Restore full ownership of the claimed land to the claimants in full and final settlement of these claims by transferring the title deeds to the claimed land into the name of the LCPA within 1 year of the date of signing this agreement;
- 7.3.5 Ensure that the land used as a DD section of the GFRNR shall continue to be utilized as such, in the best interest of community.
- 7.3.6 Ensure that the protected area belonging to the LCPA shall not be used for agricultural purposes, but will encourage eco-tourism taking into consideration the land needs for the community and within the provisions of the CDP.
- 7.3.7 Facilitate access to any other grants or subsidies that could be made available by the State to the LCPA
- 7.3.8 Assist in the establishment of the CMC made up of different government departments and other stakeholders as mentioned as mentioned in Section 42 (D) agreements.
- 7.3.9 Provide post settlement support to ensure the effective function of the CMC as a co management structure.

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- 7.3.10 Make available the funds to be utilized for the implementation of the Project or future projects for the benefit of the verified and authenticated claims of the community.
- 7.3.11 Ensure that the project funds and development grant are used only for the stated purpose and that they are accounted for as required by this agreement.
- 7.3.12 Assist with job creation opportunities for the LCPA community
- 7.3.13 Facilitate and address any problems arising from the Agreement, unless the nature thereof indicates that it should be referred to mediation or arbitration as set out in clause 23 of the Settlement Agreement.
- 7.3.14 Assist in the development of the business plan for the apportionment of the recapitalization grant towards development of the CMC agreed aspects of the LCPA community.

#### **7.4 OBLIGATIONS OF THE RAYMOND MHLABA LOCAL MUNICIPALITY**

Raymond Mhlaba Local Municipality shall:

- 7.4.1 Work together with the community to ensure that the community works towards the success of the CMC.
- 7.4.2 Ensure that the roads and infrastructure of DD Section of the GFRNR are maintained as well as the roads used to access the DD section of the ECPTA's GFRNR.
- 7.4.3 Ensure that development plans for the DD section of the GFRNR are incorporated into the Raymond Mhlaba IDP.

#### **8. DURATION AND REVISION PERIOD**

8.1 This agreement shall commence on the effective date and shall be valid for a period of 20 years, and shall be reviewed every five (5) years.

8.2 In the 2<sup>nd</sup> quarter of the 5<sup>th</sup>, 10<sup>th</sup>, 15<sup>th</sup>, and 20<sup>th</sup> years of the agreement, each party shall

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analyse the efficacy of the co management agreement and make suggestions on how to improve the agreement. Each party may propose amendments to the co management agreement. The parties shall then meet before the end of the respective year and confirm which clauses they shall amend, add, or delete. Any proposed changes to the agreement that cannot be agreed upon shall then be referred to mediation in terms of section 19.

8.3 Within three months of the 19<sup>th</sup> anniversary of the signing of this agreement, the parties shall meet and decide on the terms of the extension of the agreement.

## 9. CONDITIONS OF LAND USE

The parties agree that the restored land shall be managed as conservation area in accordance with section 42 and 50 of the Protected Areas Act 57 of 2003 as well as stipulations made in the Settlement Agreement of 2012. The use of the restored land within the DD section of the GFRNR shall be subject to the following consideration and conditions;

- 9.1 The conservation of biodiversity is paramount and development will focus on activities that compliment this objective.
- 9.2 The DD section of the GFRNR may not be used for residential purposes
- 9.3 New developments must be done in accordance with the SMP and CDP and the relevant environmental legislation.
- 9.4. The land may not be subdivided or segregated from the greater reserve known as the GFRNR.

## 10. COMMERCIAL ACTIVITIES - ECO TOURISM DEVELOPMENT

- 10.1 Pursuant to the provisions of the Eastern Cape Parks and Tourism Agency Act no 2 of 2010 Act and Section 42 of the National Environmental Management: Protected Areas Act 57 of 2003 in so far as it may be applicable, the ECPTA in recognition of the LCPA's dedication of their land to conservation, jointly agree to carry out appropriate eco tourism developments on the Double Drift Section of the GFRNR in accordance with such Tourism Development Plans and Feasibility Studies as may be approved by the CMC, the ECPTA and DEDEAT and on such further conditions as may be contained in this agreement.

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10.2 In carrying out these eco-tourism developments, the parties shall ensure that;

10.2.1 These developments do not contravene the Management Plan of the Double Drift Section of the GFRNR or any applicable environmental laws;

10.2.2 These developments are consistent with approved plans and do not depart from or differ from these plans in any way;

10.2.3 The environmental integrity of the Nature Reserve is maintained

10.2.4 The CMC established in terms hereof is central to the planning of and implementation of such developments.

10.2.5 No activity contrary to the objectives of this agreement and CDP/SMP are undertaken.

10.2.6 No contract with a third party, other than in terms of clause 5.3.2.1.4 of Settlement Agreement shall be entered into without the prior consent of the other party.

10.2.7 It adheres to such further terms and conditions as may be agreed to by the CMC during the actual operational phase of these developments;

10.3 In carrying out these developments the LPCA and ECPTA shall be entitled to:

10.3.1 Construct and erect such structures as may be necessary for the Tourism Development;

10.3.2 Take such steps as will ensure the security of visitors


10.3.3 Provide accommodation, meals and refreshments for visitors to the Double Drift Section the GFRNR and facilities in connection therewith;

10.3.4 Carry on any business or trade for the convenience of visitors to the Double Drift Section of the GFRNR;

10.3.5 Supply any other service for the convenience of visitors to the reserves;

10.3.6 Authorize any person to carry on, subject to such conditions and the payment of such charges as it may think fit, any activity, other than the sale of liquor, which may in terms of this clause as may be carried on by the CMC;

10.4 The CMC, through further consultation with senior members of ECPTA, shall procure development proposals from prospective developers and tour operators with the view to transferring the risk of operating such a development to private operators with the appropriate skills, experience and expertise in the eco tourism industry. In calling for proposals; the CMC shall ensure that:

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10.4.1 An open and transparent procurement process as provided for in the CPPP Tourism Toolkit is followed

10.4.2 Notwithstanding the aforementioned, the CMC (constituted by both the ECPTA and the LCPA) shall be entitled to:

10.4.2.1 study the draft tender requirements or criteria for any developers, as well as the agreements to be entered into between the CMC and any developers, to ensure that such documents comply with the terms and conditions of this agreement and the Protected Area Management Plan; and may recommend changes to such draft tender requirements and/or agreements;

10.4.2.2 Monitor whether the tender procedures are fair and are followed. In this regard the CMC together with guidance and leadership from ECPTA SCM management, shall be given access to the tender documents for the CMC to make a determination; and

10.4.2.3 Monitor the developments within the Double Drift Section of the GFRNR and to ascertain whether such developments comply with this agreement and the PA Management Plan.

10.5 Notwithstanding the provisions of this clause, any proposal directly related to the generation of income by means of commercial activities and any form of ecotourism development which the LCPA may be considering, shall be submitted to the ECPTA for joint discussion, prior to submission to CMC. These proposals shall be tabled and debated at CMC meetings and, once concluded and agreed upon, shall be deemed to be a decision of all the members of the CMC.

10.6 In respect of any eco tourism investment, the parties to this agreement undertake not to enter into any agreement with such a private investor without the knowledge and consent of each other which consent shall not be unreasonably withheld.

## 11. BIODIVERSITY CONSERVATION

11.1 The ECPTA shall retain responsibility and authority for the management of biodiversity in the Double Drift Section of the GFRNR, and will manage the reserve in accordance with the Reserve Management Plan, and associated policies of the ECPTA and the

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LCPA shall be kept abreast of all developments. The ECPTA's responsibilities shall include and not be limited to the following;

- 11.1.1 Conducting Strategic Environmental Assessments (SEA) and EIAs as and when necessary.
  - 11.1.2 Security, including the protection of biodiversity;
  - 11.1.3 The erection, surveillance and maintenance of boundary fencing
  - 11.1.4 The management of natural concentrations of wildlife indigenous to the region and in accordance with the best scientific practices such as conducting regular aerial game counts
  - 11.1.5 The removal of the game identified for removal in the annual game management recommendations.
  - 11.1.6 The progressive removal of alien vegetation in accordance with the reserves management plan;
  - 11.1.7 Facilitate and conduct research to support Management.
  - 11.1.8 The promotion of environmental education amongst the local communities;
  - 11.1.9 Entry of persons into the Reserve;
  - 11.1.10 Day today management of staffing and decisions relating to basic reserve biodiversity operations;
- 11.2 The management of the matters provided in 11.1 shall be undertaken within reasonable consultation with the LCPA through the CMC and in accordance with the best practices generally recognised in the disciplines of Nature Reserve Management. These will be discussed as part of a standing agenda item within the CMC meetings framework quarterly.
- 11.3 The LCPA, as representative of the surrounding communities, shall endeavor to procure respect for and compliance with the laws applicable to the Reserve as well as agreed to by the parties Rules and Regulations as stipulated by the NEMPA and ECPTA Act by the Parties hereto.
- 11.4. ECPTA shall be entitled to use the infrastructure situated on the land as may be necessary for the ECPTA to conduct its conservation and tourism management obligations,

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## 12. FINANCIAL MANAGEMENT

### 12.1. Tourism Income

The ECPTA shall, as a condition of its approval of an eco tourism development in terms of paragraph 7.1, require a Private Operator referred to in paragraph 7.4 to pay a percentage of its annual turn over to the ECPTA to ensure adequate maintenance processes are possible, and require the Private Operator to pay a percentage of its annual turnover to the LCPA (the landowners). The percentage paid to the landowners shall always be larger than that percentage paid to the ECPTA.

### 12.2. Access to Natural Resources and Heritage Sites

12.2.1 Specific biodiversity attributes for consumption must be identified by the LCPA within 12 months of the signing of the co-management agreement for incorporation into the Resource Management Plan. The access to natural resources shall remain entirely restricted until such time that the ECPTA has commenced the development of a Natural Resource Management Plan. The ECPTA will prioritize the development of the Natural Resource Management Plan in consultation with the CMC thereafter.

12.2.2 It is agreed that the LCPA community shall have access to grave, heritage sites and any other significant sites. These visits will be arranged with the Reserve Manager with at least 7 days' notice being required.

## 13. UTILISATION RIGHTS

In addition to the rights conferred in any of the other clauses of this agreement the parties shall have the following rights in respect of the land:

### 13.1 THE LCPA:

13.1.1 Access to the Double Drift Section of the GFRNR as determined by the CMC from time to time; save for such areas that are under concession, in which case access will be allowed during the period as stipulated in the concession agreement. This will be for meeting purposes and only for officially endorsed



and the mutual benefit of the LCPA and not individuals and their families.

13.1.2 Shall arrange visits with the Reserve Management for the utilization of the facilities inside the Nature Reserve cultural activities and rituals that pertain to graves and those members that may be buried in the DD Section of GFRNR at various sites.

13.1.3 LCPA membership shall qualify for overnight accommodation rebate of 50% of the total of tariff value and approved by the CMC for recommendation to the RR B&H during off peak periods and not on weekends.

### 13.2 ENTRANCE FEE

The parties hereby agree that:

13.2.1 LCPA members shall not be required to pay access to day visitor facilities. This should be arranged with reserve manager 7 days prior to the event.

### 13.3 DONATION OF GAME TO THE LCPA

13.3.1 The parties agree that, the ECPTA shall donate two buffalo to the LCPA on an annual basis for a period of two (2) years from the commencement date of this agreement.

13.3.2 The parties further agree that, the ECPTA will sell the donated buffalo on behalf of the LCPA at the ECPTA Annual Game Auction

13.3.3 LCPA will be entitled to the following culled animals removed dead for the purposes of venison for the benefit of the LCPA from the DD section of the GFRNR. These will be allocated by the CMC. Requests should be in writing and for the benefit of the LCPA as a whole and not for individual members. The following species and number apply to this removal per financial annum:

13.3.3.1 Warthog X 20

13.3.3.2 Kudu X 4

13.3.4 The proceeds of any game sold on behalf of the LCPA shall be paid to the LCPA within 30 days from the date of the Game Auction.

28, M-DN [Signature] [Signature] BK L.B.



13.3.5 Monies from the proceeds of the buffalo already sold for the benefit of the LCPA in the amount of R275,000 will be paid to the LCPA within 60 days of all parties signing this agreement, and once the LCPA have opened their own bank account.

#### **13.4 OWNERSHIP OF FIXED ASSETS AND MOVABLE ASSETS**

13.4.1 The ownership of fixed assets remains the LCPA's and ownership of and control of the movable, fixed assets and wild animals will vest with the ECPTA. The assets will be managed by the ECPTA in agreement with the LCPA and in accordance with the Asset Management Policy and other related policies applicable to the ECPTA.

#### **14. EMPLOYMENT OPPORTUNITIES**

14.1 All vacant reserve positions will be brought to the attention of the LCPA through the CMC prior to distributing the written job advertisement.

14.2 The ECPTA will apply preferential recruitment for LCPA members on Paterson Levels A and B levels. 50% of all A and B level positions will be for LCPA membership. LCPA members will also be included in the process of identifying and shortlisting A and B level post candidates.

14.3 In the event that the ECPTA wish to deviate from this undertaking for the A and B levels, the Management of the Reserve will consult with the CMC, before the position is advertised externally.

14.4 In the event that the ECPTA is unable to find a suitable local candidate after advertising, the Reserve Management will consult the CMC, before the appointment of a non-local person in that position.

14.5 The LCPA members serving on the CMC employment portfolio will be represented at interviews as observers to ensure processes are transparent.

#### **15. SKILLS TRANSFER & DEVELOPMENT**

15.1 The CMC shall facilitate, through its portfolios, the designing of a training programme

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on conservation and nature based tourism.

- 15.2 The CMC shall ensure that the training program referred to in 15.1 above shall prioritize the skilling of LCPA members.
- 15.3 The CMC shall annually review the progress made in the preceding year in the transfer of skills to the LCPA, and identify options and strategies for the forthcoming year to facilitate the transferring of skills to the members of the LCPA.
- 15.4 CMC shall consider bursary applications for further studies in conservation and tourism in writing from LCPA members. This funding will be allocated from the LCPA revenue account and administrative support provided through the ECPTA's CS department.

## 16. PROCUREMENT OF GOODS AND SERVICES

- 16.1 Procurement issues shall be dealt with by the ECPTA management in consultation on matters relating to tenders and mini-bids with the CMC that could benefit contractors and service providers on the central supplier data-base in accordance with Legislation and ECPTA's Supply Chain Management Policies.
- 16.2 The ECPTA shall run three workshops in order to capacitate the LCPA on tender procedures to and load those suppliers that are able onto the CSD enable them benefit from the ECPTA's procurement process. This will help the LCPA fully understand and appreciate procurement processes in terms of Public Finance Management Act 1 of 1999 and Treasury Regulations

## 17. BREACH

- 17.1 Should any party to this agreement commit a breach of any of the provisions of this agreement ("the defaulting party") in such a manner as to cause such a fundamental breach of the relationship between these parties that it is not practically possible to remedy the breach, either at all or in a manner which could reasonably restore the relationship, the other party ("the aggrieved party") shall be entitled to refer the matter to mediation in terms of clause 18, and should the matter not be resolved through mediation, either party may refer the matter to arbitration.

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22, M.S.N. D.S. BK  
L.B.



## 18. UNRESOLVED DISPUTES

- 18.1 In the event that the parties to the CMC are unable to reach consensus on any issue, which issue has been discussed at not less than two meetings of the CMC and has not been or is unlikely to be resolved by them, either party ("the initiating party") shall give written notice in writing of that unresolved matter to the other party. The notice shall fully describe the nature of the unresolved dispute and the resolution which the initiating party requires.
- 18.2 Within 15 (fifteen) business days of the notice referred to in clause 18.1 being delivered, the Chairperson of the LCPA and the Chief Executive Officer of the ECPTA shall meet at a mutually convenient date, time and place to discuss the unresolved matter.
- 18.3 In the event that the unresolved issue is resolved at the discussion meeting, the fact and detail shall be recorded in writing and a resolution shall be passed accepting such resolution at the immediately succeeding CMC meeting and no further procedure in terms of this clause shall take place.
- 18.4 In the event that no discussion meeting is arranged within this period, or that the discussion meeting is not attended by both the Chairperson of the LCPA and the Chief Executive Officer ECPTA, or that the discussion issue is not adequately resolved at the discussion meeting, either party shall be entitled to refer the matter to mediation in terms of clause 18 hereof.

## 19. CONFLICT MANAGEMENT AND MEDIATION

In the event of a dispute between any of the parties hereto, any party to the dispute may refer the matter to mediation.

- 19.1 If the parties to the dispute are unable to agree upon a suitable mediator to mediate the dispute within the 10 (ten) business days after mediation has been requested, the mediator shall be nominated by the National Director of the Independent Mediation Service of South Africa ("IMSSA").

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## 20. ARBITRATION

20.1 In the event of parties to a dispute being unable to resolve a dispute by means of mediation, such dispute shall be submitted and decided by arbitration.

20.2 Such arbitration shall be held subject to the provisions of this clause:

- (a) At East London
- (b) as expeditiously as possible
- (c) Otherwise in accordance with the provisions of the Arbitration Act

It being the intention that if possible it shall be held and concluded within 21 business days after it has been demanded.

20.3 The parties to the dispute shall agree on the question that the arbitrator will be asked to decide during the arbitration ("the terms of reference") within 5 (five) business days after it has been demanded, or such longer period as the parties may agree in writing.

20.4 The arbitrator shall be an independent person agreed upon between the parties.

20.5 If the parties to the dispute cannot agree upon a particular arbitrator in terms of clause 20.4. Within 5 (five) business days after the arbitration is demanded, and the issue in dispute (as determined in clause 20.3)

20.5.1 Is primarily an accounting or legal matter, any party to the dispute may approach the Arbitration Foundation of South Africa or the local law society to nominate an arbitrator.

20.5.2 In any other matter, any party to the dispute may approach National Director of the Independent Mediation Service of South Africa ("IMSSA") or its successor in title to nominate an arbitrator.

20.6 The costs of arbitration shall be borne equally between the parties to the dispute unless otherwise agreed.

20.7 Should any party to a dispute require a formal record of oral evidence at the

  
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arbitration, it may make application to the arbitrator who may direct the manner and extent to which the proceedings shall be recorded. In the absence thereof, the arbitration shall not be recorded in any formal manner, and the notes which the arbitrator or the parties to the dispute take during the proceedings shall not constitute a formal recording of the proceedings.

20.8 The arbitrator shall deliver his award within 21 (twenty one) business days after the conclusion of the hearing, or the submission of the last document to the arbitrator in the event that there is no hearing.

20.9 The parties to the dispute agree that the award shall be delivered to them by the arbitrator by post or fax to any of the addresses or facsimile number nominated by the parties hereto.

20.10 Should an arbitration award:

20.10.1 relate to the question of whether or not a decision of the Management Authority falls within the ambit of the Provincial Parks Board Act, the ECPTA shall be entitled to approach a court of competent jurisdiction for a declaratory order on the matter, if it is of the opinion that adhering to the arbitrator's award would unlawfully interfere with its statutory obligations; or

20.10.2 relate to the statutory obligations of any party to this agreement, such party shall be entitled to approach a court of competent jurisdiction for a declaratory order on the matter if it is of the opinion that adhering to the arbitrator's award would unlawfully interfere with its statutory obligations

## 21. RESIDUAL POWERS OF THE MEC

21.1 The parties agree that for the duration of this agreement the MEC has a residual obligation to ensure that conservation management of the land takes place in terms of the provisions of the Eastern Cape Parks and Tourism Agency Act and the National Environment Management: Protected Areas Act

21.2 Accordingly, should the LCPA or the ECPTA fail to fulfill its obligations in respect

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of the conservation management of the land in terms of this agreement, either party should inform the MEC of such failure and the MEC shall be entitled to give written notice that such failure has occurred, and in such notice shall set out fully its reasons therefore.

21.3 Upon receipt of written notice in terms of clause 21.2, the LCPA or ECPTA may within 21 (twenty one) business days:

21.3.1 Give the MEC written notice of its denial of the allegation, setting out its reasons for such denial in full; or

21.3.2 Admit or concur with the allegation.

21.4 In the event that the LCPA or ECPTA admits or concurs with the allegation of either party, or fails to respond to the MEC's written notice, the MEC shall be deemed to be authorized to exercise its residual power in respect of the conservation management of the land.

21.5 In the event that the LCPA or ECPTA denies the allegation by the other party and/or claims, the parties agree to deal with the dispute in terms of Clause 18, 19 and 20 hereof as the case may be.

21.6 Notwithstanding any exercise of the MEC residual powers in terms of this clause, the parties agree that in respect of any powers of the CMC unrelated to conservation management, that the CMC's powers in respect thereof shall remain unhindered.

21.7. After the MEC exercises its residual powers in terms of this clause, the LCPA or ECPTA may, if it is of the opinion that the CMC shall be able to recommence its obligations in respect of the conservation management of the land, give notice of its opinion to the MEC, setting out fully the reasons for its opinion, and requesting the restoration of the ECPTA's and LCPA residual powers in respect of the conservation management of the land to the CMC.

  
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L.B.



21.8 If within 21 (twenty one) business days of the LCPA or the ECPTA notice and the MEC fails to deny or refute the LCPA or ECPTA opinion in writing, together with its reason therefore, the powers of the CMC in respect of the conservation management of the land taken over by the MEC in terms of this clause shall be restored to the CMC.

## 22. EFFECTIVE DATE

This agreement shall come into force and effect on the effective date.

## 23. CANCELLATION OF THIS AGREEMENT

23.1 The Member of the Executive Council responsible for the Department of Economic Development and Environmental Affairs and Tourism, may cancel a co management agreement after giving reasonable notice to the parties if the agreement is not effective or is inhibiting the attainment of any of the Nature Reserve management objectives.

23.2 If agreement is cancelled, - The MEC will assume control of the nature reserve until a new co- management agreement is signed.

## 24. ADDRESSES FOR SERVICE OF DOCUMENT

The parties choose the following addresses at which service or posting of documents in relation to this agreement may be made. Service may be affected physically, alternatively by registered post, in which event the documents shall be deemed to have been received seven (7) days after such registered posting. Any amendments to these addresses shall be immediately notified to all other parties in writing.

### DEPARTMENT OF ECONOMIC DEVELOPMENT ENVIROMENTAL AFFAIRS AND TOURISM

Beacon Hill

Hockley Close

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*[Handwritten signatures and initials]*  
Z.P. M.D.N. *[Signature]* *[Signature]* *[Signature]* *[Signature]* *[Signature]*  
L.B.



King Williams Town  
5600

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**  
13<sup>th</sup> Floor Caxton House  
Terminus Street  
East London  
5200

**RAYMOND MHLABA LOCAL MUNICIPALITY**  
8 Somerset Road  
Fort Beaufort  
5720

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**EASTERN CAPE PARKS AND TOURISM AGENCY**  
No.6 Saint Marks Road  
Southernwood  
5200

**LIKHAYALETHU COMMUNAL PROPERTY ASSOCIATION**  
Khayamandi Location  
Alice  
5700

#### **24. Amendment of this Agreement**

24.1 This agreement is the sole record of the co management agreement between the parties and any amendment hereto, including an amendment to this clause, shall not be of any force and effect unless reduced to writing and signed by or on behalf of all parties.

24.2 The LCPA and the Eastern Cape Parks and Tourism Agency undertake to give mutual support to the CMC in implementing the responsibilities as recorded herein and both undertake to exercise due diligence and care in the interests of conserving biodiversity and

  
Z.P. M.D.N.  BK  
L.B.



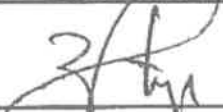
preserving the Double Drift Section of the GFRNR under best conservation and tourism practices.

Thus signed by the parties in the presence of the undersigned witnesses on the recorded dates.

SIGNED at EAST LONDON on this day 27 of MARCH 2017

  
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**For and on Behalf of ECPTA**

  
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**For and on Behalf of LCPA**

  
\_\_\_\_\_  
**For and on Behalf of DRDLR**

  
\_\_\_\_\_  
**For and on Behalf of DEDEAT**

  
\_\_\_\_\_  
**For and on Behalf of Raymond Mhlaba Municipality**

   
27. M.D.R. L.B.  
R.K.



