



iSimangaliso
Wetland Park



KOSI BAY RESORT TOURISM FACILITY CONCESSION AGREEMENT

**CONCESSION AGREEMENT FOR THE REDEVELOPMENT
AND OPERATION OF THE KOSI BAY TOURISM RESORT
FACILITY**

IN

THE iSIMANGALISO WETLAND PARK

1. INTRODUCTION

- 1.1. The iSimangaliso Wetland Park iSimangaliso Wetland Park Authority (the “iSimangaliso Wetland Park Authority”) is a statutory body established by regulation of the World Heritage Convention Act, 1999 (Act No 49 of 1999) (“WHCA”) and regulations (Government Notice 4477). The iSimangaliso Wetland Park Authority is also listed as a Schedule 3A public entity in terms of the PFMA.
- 1.2. The mandate of the iSimangaliso Wetland Park Authority is set out in regulations 2(a) to 2(d) to the WHCA and require the iSimangaliso Wetland Park Authority to:
 - 1.2.1. ensure that effective and active measures are taken for the protection, conservation and presentation of the World Heritage Convention values in the iSimangaliso Wetland Park.
 - 1.2.2. promote the empowerment of historically disadvantaged adjacent communities. promote, manage, oversee, market, and facilitate optimal tourism and related development in the iSimangaliso Wetland Park; and
 - 1.2.3. encourage sustained investment and job creation.
- 1.3. The iSimangaliso Wetland Park Authority is also governed by the Protected Areas Act which regulates environmental management and sets the parameters within which development and the associated approvals take place.
- 1.4. The iSimangaliso Wetland Park Authority holds all commercial rights in the Park under the World Heritage Convention Act. Furthermore, it is the managing authority in terms of the Protected Areas Act, and it alone can authorise development in the Park.
- 1.5. The iSimangaliso Wetland Park Authority is commercialising tourism development opportunities within the Park, with the aim of among others, to increase tourist attraction and traffic to the Park and enhance revenue generation. iSimangaliso compiled a Request for Proposal for the Public Private Partnership (PPP) for the redevelopment, operations and transfer of the Kosi Bay Resort (“the Project”).

- 1.6. Following a public tender process of the RFP, iSimangaliso has appointed the Concessionaire, referred herein as the Concessionaire, to undertake the Project.
- 1.7. Accordingly, the iSimangaliso and the Concessionaire wish to enter into this Concession Agreement to regulate the implementation of the Project on the terms and conditions set out in this Concession Agreement.

2. DEFINITIONS AND INTERPRETATIONS

- 2.1. In this Concession 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 shall bear corresponding meanings:

2.1.1. “Act”	The World Heritage Convention Act, 1999 (Act No. 49 of 1999) and the associated regulations;
2.1.2. “Affiliate”	Any person or entity that directly or indirectly through any one or more intermediaries’ controls, is controlled by or is under common control with any person or entity, where “control” means the ability to direct or cause the direction of the business affairs and management policies or practices of a person or entity;
2.1.3. “BEE Obligations”	the Black Economic Empowerment commitments
2.1.4. “BEE”	means Black Economic Empowerment and shall have the meaning ascribed to it in the BBBEE Act; and amended regulations
2.1.5. “Bid Submission”	The proposal submitted by the Concessionaire in response to the Request for Proposal and which forms the basis for the granting of the Concession;
2.1.6. “Concession”	the granting a private entity or the concessionaire, the right to design, build, finance, operate, maintain and transfer the Project, with the right to recoup their

	investment through user fees or other means, while the iSimangaliso retains ownership of the asset;
2.1.7. “Concessionaire”	a Concessionaire, entity or project company, that is granted the long-term right to redevelop, operate and maintain and transfer the Kosi Bay Resort subject to specific terms and conditions;
2.1.8. “Concession Agreement”	this agreement for the Concession, as set out in this Concession Agreement and its Schedules, as amended, extended, replaced and varied from time to time;
2.1.9. “Contract Term”	The duration of the Project of twenty (20) years from the Effective Date, comprising one (1) year for the development phase and nineteen (19) years for the operations phase,
2.1.10. “Consents”	All consents, permits, clearances authorisations, approvals, rulings, exemptions, registrations, filings, decisions, Concession Agreements, certificates required to be issued by or made with any responsible authority in connection with the performance of the Project;
2.1.11. “Constitutional Documents”	The Concessionaire's constitutional documentation set out in Schedule 1;
2.1.12. “CPI”	The annual average change in the consumer price index for the preceding 12 (twelve) calendar months as published by Statistics South Africa from time to time;
2.1.13. DBFOT	Design, Build, Finance, Operate and Transfer
2.1.14. “Development Commencement Date”	90 days after the Effective Date
2.1.15. “Development Phase”	the one (1) year period for the implementation of the Project, for activities that include, pre-design studies, site investigations, planning approvals, development of detailed designs, procurement of contractors and construction;
2.1.16. “DFFE”	Department of Forestry, Fisheries and Environment;

2.1.17. “EA”	An environmental authorisation issued pursuant to an EIA;
2.1.18. “Effective Date”	the Signature Date of the Concession Agreement;
2.1.19. “EIA”	An environmental impact assessment as required by iSimangaliso or the National Environmental Management Act, 1998 (Act 107 of 1998);
2.1.20. “EMPr”	The Environmental Management Programme for the Park as required and/or enabled in terms of the Act
2.1.21. “Environmental Specifications”	The requirements, conditions, obligations and specifications detailed in Schedule 4;
2.1.22. “Expiry Date”	the last day of the month in which the twentieth (20th) anniversary of the Operation Commencement Date occurs;
2.1.23. Ezemvelo	Ezemvelo KwaZulu Natal Wildlife established in terms of Section 20 of the KwaZulu-Natal Nature Conservation Management Act, 1997 (Act No. 9 of 1997) or its successor;
2.1.24. “Financial Close”	refers to the point where all financing agreements are finalised, all financing agreement conditions precedent are met, and funds are ready to be disbursed during, that shall be no more than ninety (90) days from Signature Date.
2.1.25. “Good Industry Practice”	the standards, practices, and methods that are commonly and reasonably expected from skilled and experienced professionals and entities in the development and operations tourism industry facilities or undertakings.
2.1.26. “Gross Revenue”	any and all income or revenue received by or accruing to the Concessionaire 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 revenue in terms of IFRS or GRAP (depending on

	the principles / standards used by the Concessionaire). Without derogating from its generality, the term “Gross Revenue” shall mean revenue before the deduction of:
2.1.26.1.	bad debts (or provisions therefore);
2.1.26.2.	commissions or similar consideration paid or payable.
2.1.26.3.	cash, credit-card or similar discounts or commissions.
2.1.26.4.	costs and expenses granted in circumstances that are not arm's-length.
2.1.26.5.	trade discounts granted in circumstances that are at arm's length;
2.1.26.6.	and Gross Revenue shall include:
2.1.26.7.	commissions received or receivable; and
	rentals and other fees received or receivable;
2.1.26.8.	but shall exclude:
	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 or GRAP (depending on the principles / standards used by the Concessionaire);
2.1.26.9.	interest received or receivable;
2.1.26.10.	the proceeds of profit or surpluses on the disposal of non- current assets;
2.1.26.11.	transfers from reserves; and
2.1.26.12.	bad debts recovered.
2.1.27. “IMP”	The integrated management plan and subsidiary plans for the Park as required and/or enabled in terms of the Act;

2.1.28. “Intellectual Property”	All registered or unregistered logos, trademarks, service marks, patents, design rights, Protected Names, utility models, applications for any of the foregoing, copyrights (including copyright in any software programmes, data and documents), database rights, the rights of extraction relating to databases and any similar or analogous rights to any of the above, whether arising or granted under the Laws;
2.1.29. “iSimangaliso”	The iSimangaliso Wetland Park Authority established by the then Minister of Environmental Affairs and Tourism in terms of Government Notice 4477 dated 24 November 2000, or any successor in title
2.1.30. “Land Claimants”	refers to individuals, communities, or groups who have lodged claims for the restitution of land rights under the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
2.1.31. “Land Owners”	Refers to individuals or communities who regained land through the Land Restitution Program;
2.1.32. “Legislation or Laws”	All applicable statutes, statutory instruments, by-laws, regulations, orders, rules, executive orders and other secondary, provincial or local legislation, treaties, directives and codes of conduct or practice having the effect of the force of law in South Africa;
2.1.33. “Local community”	a black person or persons usually resident in the uMkhanyakude or KwaMbonambi municipal areas;
2.1.34. “Long Stop Date”	1 One (1) year after the Development Commencement Date being the date by which the operations and services must have commenced, failing which iSimangaliso shall be entitled to terminate this Concession Agreement in accordance with the provisions in Clause 30.
2.1.35. “Local-Community”	the communities in the geographic area specified by iSimangaliso in the Request for Proposal issued by iSimangaliso in respect of the Project, being either

	within stipulated kilometre radius of the Project Site or areas within the uMkhanyakude district municipality and/or Sokhulu area within the uMfolozi municipality
2.1.36. “NEMPAA”	National Environment Management: Protected Areas Act No. 57 of 2003
2.1.37. “NQF”	National qualification framework;
2.1.38. “Operate or Operation”	The undertaking of operations and maintenance of the Project and equipment in accordance with the specifications and standards detailed in Schedule 2;
2.1.39. “Operations Commencement Date”	is one year after the Development Commencement Date which is the contract Long-Stop Date;
2.1.40. “Operations Phase”	the Project phase commencing on the Operations Date for the operations period of nineteen (19) years up to the Expiry Date;
2.1.41. “Park Rules”	The rules and directives, as revised from time to time by iSimangaliso relating to operational, managerial, environmental and tourism matters in the Park as set out in Schedule 6
2.1.42. “Park”	The iSimangaliso Wetland Park established by the then Minister of Environmental Affairs and Tourism in terms of Government Notice 4477 dated 24 November 2000, including any changes thereto, which for avoidance of doubt includes a marine and terrestrial component (the extent of which as may be amended by the Minister from time to time);
2.1.43. “Parties”	iSimangaliso and the Concessionaire/ Private Party;
2.1.44. “Concessionaire / Concessionaire”	<i>[insert name and registration number of the Private Party/Concessionaire company/entity];</i>
2.1.45. “Project Site”	The traversing area, routes, Park facilities and assets made available by iSimangaliso to the Concessionaire for the undertaking of the Project, as identified in Schedule 11;

2.1.46. “PPP Fee”	The fee payable by the Concessionaire to iSimangaliso in respect of the Project, as detailed in Clause 16;
2.1.47. “Project”	the project to redevelop, operate and transfer the Kosi Bay resort on a PPP basis further to the Concession Agreement entered into between iSimangaliso and the Concessionaire or the Concessionaire;
2.1.48. “Project Officer”	person who is appointed by the Accounting Officer in line with National Treasury PPP Toolkit for Tourism to manage the planning and implementation of the PPP project on behalf of the accounting officer/authority of iSimangaliso, exercising delegated authority
2.1.49. “Protected Name(s)”	The name of iSimangaliso, the Park, rivers, lakes, geographical features, or places in the Park, including the names under which the Concessionaire undertakes the Project to the extent that these includes, rivers, lakes, geographical features, or place names in the Park, the Park name or the name of iSimangaliso, whether capable of registration or not or any name used in association therewith;
2.1.50. “Remedy Period”	The period granted by iSimangaliso to the Concessionaire, during which the Concessionaire must take action to make good the damage or rectify the notified default or problem;
2.1.51. “Rand”	the lawful currency of South Africa;
2.1.52. “RFP”	The request for proposal issued by iSimangaliso in respect of Kosi Bay Resort redevelopment and operations Concession in the Park;
2.1.53. “ROD”	The record of decision issued in terms of the regulations promulgated under the National Environmental Management Act, 1998, (Act No. 107

	of 1998: Control of Vehicles in the Coastal Zone (GN Regulation 1399 of 21 December 2001). The ROD is in respect of all beaches and launch sites;
2.1.54. "Schedules"	the schedules to this Concession Agreement, as amended, replaced and varied from time to time;
2.1.55. "Signature Date"	the date of signature of the Concession Agreement by the last signing Party
2.1.56. "Termination Date"	The date of early termination of this Concession Agreement, if any.
2.1.57. "Treasury Regulations"	the Treasury Regulations issued under the PFMA that apply to iSimangaliso and/or this Concession Agreement.
2.1.58. "Variation"	any variations to the Project Deliverables in accordance with Clause 26
2.1.59. "VAT"	value added tax, as defined in the VAT Act or any similar tax which is imposed in place of or in addition to such tax; and

2.2. This Concession 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 Concession Agreement;

2.2.2. References to "Parties" shall include the Parties' respective successors-in-title and, if permitted in this Concession Agreement, their respective sub-Concessionaires, cessionaries and assignees;

2.2.3. 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;

2.2.4. 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;

- 2.2.5. The headings of clauses, sub-clauses and Schedules are included for convenience only and shall not affect the interpretation of this Concession Agreement;
- 2.2.6. 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;
- 2.2.7. References to “this Concession Agreement” shall include this Concession Agreement and its Schedules as amended, varied, novated or substituted in writing from time to time which are all an integral part of the Concession Agreement;
- 2.2.8. When a number of days is prescribed in this Concession 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, being any day other than a Saturday, Sunday or official public holiday.

2.3. Grant of Rights

2.3.1. Grant

iSimangaliso issues this Concession Agreement to the Concessionaire to undertake the Project on the terms and conditions contained in this Concession Agreement. The Concessionaire confirms that it has expertise in all matters relating to the Design, Construction, Financing, Operation and Maintenance of the Project.

2.3.2. Grant of Rights

2.3.3. The right to undertake the Project is granted on an exclusive basis for the redevelopment of the resort accommodation and non-exclusive basis for the tourism activities that may be subject to separate concession arrangements.

2.3.4. In the event of a dispute as to the nature, content and extent of the PPP Rights and the Business, the order of precedence in the interpretation of the rights and obligations of the Parties in terms hereof shall be as follows:

2.3.4.1. this Concession Agreement;

- 2.3.4.2. its Schedules;
- 2.3.4.3. the RFP; and
- 2.3.4.4. the Bid Submission of the Concessionaire to the extent accepted by iSimangaliso.
- 2.3.5. Access by the Concessionaire and its employees to the Protected Area, are subject to the normal Protected Area's operating rules and hours as set by iSimangaliso from time to time.
- 2.3.6. The right to develop, redevelop and operate the resort which complement and contribute to the economic throughput of the Park shall be as approved by iSimangaliso.
- 2.3.7. The contract model for this Concession shall be design, build, finance, operate and transfer (DBFOT) for the PPP for the Kosi Bay Resort in accordance with the terms of this Concession Agreement.
- 2.3.8. iSimangaliso reserves the right to engage an independent certifier and valuer for purposes of certifying any technical issues and works for iSimangaliso purposes and valuing the project assets as may be necessary.
- 2.3.9. The Parties acknowledge that access to the Day Visitor section of the Project Site will be open to the public, accordingly the Concessionaire shall be obliged to grant access thereto to the public every day during the operational hours of the Protected Area. Notwithstanding, iSimangaliso may facilitate incorporation of the Day Visitor facility into the project site, in which case the same facility will not be available for access by the public.
- 2.3.10. The activities at the Kosi Bay Resort that may be considered for operation subject to approval by iSimangaliso include:
 - 2.3.10.1. Game drives in open, 4X4 vehicles on existing tourist roads accompanied by a qualified guide as part of its service offering to its patrons, provided that such drives shall be conducted with vehicles complying with the standards and requirements as may be determined by iSimangaliso from time to time and subject to any limitations specified by iSimangaliso.

- 2.3.10.2. Guided walks with suitably qualified guides in areas designated by iSimangaliso, provided the Concessionaire obtains approval from iSimangaliso for the trail/s to be walked. Walks must adhere to standards and requirements as may be determined by iSimangaliso from time to time and subject to any limitations specified by iSimangaliso.
- 2.3.10.3. Boat cruises with suitably qualified guides in areas designated by iSimangaliso, provided the Concessionaire obtains approval from iSimangaliso for the boat cruise. Boat cruises must adhere to standards and requirements as may be determined by iSimangaliso from time to time and subject to any limitations specified by iSimangaliso.
- 2.3.11. Undertaking of the infrastructural development as per the capital investment proposed in the Concessionaire's Bid Submission and as approved by iSimangaliso.
- 2.3.12. Notwithstanding any provision of this agreement, iSimangaliso shall have unfettered access to the Kosi Bay Resort inter alia for emergency, operational purposes and the other reasons in the interest of the mandate of iSimangaliso.
- 2.3.13. **Obligations**
- 2.3.14. The Concessionaire shall undertake the Project at its own cost and risk. The Concessionaire undertakes that they shall be fully responsible for the project design, construction, operations and maintenance costs, under the design, build, finance, operate and transfer (DBFOT) contract model.
- 2.3.15. Timeframe from commercial close to financial close shall be 90 days. Failure to achieve financial close within the stipulated 90 days shall be deemed to be a default on the part of the Concessionaire resulting in termination of the Concession Agreement.
- 2.3.16. iSimangaliso shall not provide any guarantee, subsidy, grant or any financial support of any nature to the Concessionaire or in respect of the Project.
- 2.3.17. The Concessionaire shall be required to enter into off-take arrangements in terms of the transformation strategy of iSimangaliso.
- 2.3.18. Separate agreements shall be put in place for tourism activities. iSimangaliso reserves the right to contract out the activities such as guided walks, boat

cruise and game drives. The Concessionaire may be engaged to undertake these activities as part of the Concession, subject to signing separate activity concessions.

2.3.19. This Concession Agreement shall not grant and shall not be interpreted as granting the Concessionaire any rights or imposing any obligations or duties on iSimangaliso or any Responsible Authority, except as expressly and specifically stated in this Concession Agreement.

2.3.20. No instructions or approvals given by iSimangaliso in accordance with the Law and this Concession Agreement in respect of any aspect of the Project or the Facility will affect, alleviate, excuse or provide relief from the Concessionaire's duties, obligations, liabilities and responsibilities under this Concession Agreement and in respect of the Project.

2.3.21. Sub-licencing

2.3.22. The Concessionaire may not sub-let or subcontract the Operation of the Project to a third party without the prior written consent of iSimangaliso.

2.3.23. The Concessionaire shall be responsible for the payment, performance, acts, defaults, omissions, breaches and negligence of all its subcontractors or agents. The Concessionaire shall be responsible for the management and supervision of any third parties appointed by it to perform any part of the Project. All references in this concession to any performance, payment, act, default, omission, breach or negligence of the Concessionaire shall be deemed to include any of the same by a subcontractor or agent of the Concessionaire.

2.3.24. The Concessionaire must enter into written agreements with all its sub-Concessionaires or agents. The terms and conditions of any sub-Concessionaires or agency shall be subordinate to this Concession Agreement and any cancellation, termination or expiry of this Concession Agreement shall automatically terminate any sub-Concession Agreement or agency.

2.3.25. Nothing in this Concession Agreement is intended to create or should be interpreted as creating any contractual relationship or contract between iSimangaliso and any third parties appointed by the Concessionaire to perform

any part of the Project. The Concessionaire shall ensure that a provision to this effect is inserted into every contract entered into by it with such a third party.

2.3.26. Related Party Transactions

2.3.26.1. The Concessionaire shall not enter into any Concession Agreement, arrangement or agreement with any of its members or any Affiliate of any member in relation to the Project or this Concession Agreement unless such transaction

- (a) Is at arm's-length and on market-related terms; and
- (b) Has the prior written approval of iSimangaliso.

3. CONTRACT TERM

3.1. The Contract Term for this Concession Agreement is a duration of twenty (20) years commencing on the Effective Date.

4. PROJECT DEVELOPMENT

- 4.1. The Development Phase of the Project shall be one (1) year.
- 4.2. A Site Handover Certificate shall be issue by iSimangaliso to the Concessionaire for purposes of commencement of construction activities, on a Site Handover Date. which is the Effective Date.
- 4.3. The Long-stop date for the Operation Phase shall be one year after the Development Commencement Date.
- 4.4. If the development is not completed by the Long-stop date, the Concessionaire shall be in breach of the Concession Agreement.

5. PROJECT SITE

- 5.1. The project site is as defined in schedule 11 of this Concession Agreement.
- 5.2. The redevelopment shall be undertaken within the footprint of the existing development on the project site. Any other development outside the project site footprint may trigger an EIA and the undertaking of such and EIA shall be the responsibility of the Concessionaire.

- 5.3. The Concessionaire shall have the right to use and traverse the Project Site, solely for the uses and purposes contemplated in this Concession Agreement in respect of the Project.
- 5.4. The Concessionaire shall be liable for any damage caused by it, its subcontractors, agents, visitors, guests, employees or invitees.
- 5.5. The Concessionaire shall use the Project Site solely for the uses and purposes contemplated in this Concession Agreement in respect of the Project. The Concessionaire shall comply with the Integrated Management Plan (IMP), Environmental Management Programme (EMPr), Park Rules and Activity Rules
- 5.6. The Concessionaire shall keep the Project Site in an orderly state, ensuring good house-keeping in accordance with Good Industry Practice.
- 5.7. The Concessionaire shall be responsible for maintaining, preserving and conserving the Project Site in good condition, fair wear and tear excepted, and, for undertaking any rehabilitation of the Project Site as may be required in terms of the Consents under the Environmental Laws and the Environmental Specifications, at no cost to iSimangaliso. iSimangaliso shall maintain, preserve and conserve the Protected Area, other than the Project Site, in good condition, fair wear and tear excepted, at the cost of iSimangaliso. The Parties shall meet and discuss any intended maintenance or repair activities so as to ensure that such activities are conducted in a manner that minimises any interference with the operations of the other Party.
- 5.8. The Concessionaire agrees and acknowledges that iSimangaliso shall, as between the Concessionaire and the Institution, be the owner of the Facility.
- 5.9. The climatic, hydrological, hydrogeological, ecological, environmental, geotechnical, geological, palaeontological and archaeological conditions of the Project Site (the "Project Site Conditions") shall be the sole responsibility and risk of the Concessionaire. Accordingly, without limiting any other obligations of the Concessionaire that are included in the Project Deliverables, the Concessionaire shall be deemed as at the Signature Date to have:
- 5.9.1. satisfied itself as to the nature of the Project Site Conditions, the surface, sub-soil and ground water of the Project Site, the form and nature of the Project

Site, the load bearing, geotechnical nature of soil strata, topographical survey characteristics and other relevant properties of the Project Site, the risk of damage to property affecting the Project Site,

- 5.9.2. satisfied itself as to the adequacy of its right of passage over, access to and through the Project Site and any accommodation it may require for the purposes of fulfilling any of its obligations included in the Project Deliverables.
- 5.9.3. satisfied itself as to the precautions, times and methods of working necessary to prevent or minimise nuisance or interference being caused to any third parties.
- 5.9.4. be responsible for and it indemnifies iSimangaliso against all direct losses sustained by iSimangaliso in consequence of cleaning-up and otherwise dealing with any potentially hazardous materials (being any natural or artificial substance, whether in solid, gaseous or liquid form capable of causing harm to any human or any other living organism supported by the environment (including air, water, land, surface land and sub surface land) or capable of damaging the environment or public health or posing a threat to public safety including any pollutants and any hazardous, toxic, radioactive, noxious, corrosive or dangerous substances and all substances for which in each case liability or responsibility is imposed under applicable environment law) at the Project Site.
- 5.10. The Concessionaire shall be responsible for ensuring the security of the facilities within the Project Site and the Concession Area, in alignment with iSimangaliso's Park Rules and Activity Rules. While iSimangaliso provides security across the entire Wetland Park, the Concessionaire must manage security measures for activities occurring within the Project Site and the Concession Area.
- 5.11. All access gates into the Wetland Park are controlled and managed by iSimangaliso.

6. OPERATIONS

- 6.1. The operations period shall be nineteen (19) years.
- 6.2. The Operations Commencement Date shall be one year after the Development Commencement Date. A Certificate of Commencement of

Operations shall be issued by iSimangaliso, prior commencement of any operations by the Concessionaire.

- 6.3. iSimangaliso may require the Concessionaire to remove any plant, equipment, or vehicles that are used by it in the Park if these are, in the sole and absolute discretion of iSimangaliso, not in accordance with the Park's "sense of place", the brand guidelines and Park image, or which are not in good order and repair and fail generally to conform to iSimangaliso's standards and Good Industry Practice, or for any other reason.
- 6.4. The Concessionaire shall undertake the Operations in accordance with Good Industry Practice and in a manner and to the standard that is appropriate to the market described in its Bid Submission and adhere to the specifications and standards set out in the Schedules. The Concessionaire shall be entitled to undertake the Project, subject to the Laws, Park Rules and Activity Rules, from the Effective Date to the Expiry Date or Termination Date, whichever is the earlier.
- 6.5. The Concessionaire is responsible for marketing the Project.
- 6.6. The Concessionaire shall commit to an annual payment of a marketing fee equivalent to 3% of the gross revenue to iSimangaliso for marketing to be undertaken by iSimangaliso and its affiliates.
- 6.7. The Concessionaire shall commit to adhere to the iSimangaliso's provision of utilities and facilities management as stipulated in schedule 12
- 6.8. The Concessionaire shall subscribe to any voluntary or other grading accreditation system or function adopted by iSimangaliso, from time to time, and which is applicable to all similar Concessionaires in the Park. The Concessionaire shall ensure that all employees or subcontractors employed by it are appropriately qualified, licensed and authorised. All the Concessionaire's tour guides shall be at least NQF Level 4 guides or equivalent.
- 6.9. The Concessionaire must commence Operations within 90 (ninety) days from the Effective Date failing which iSimangaliso may terminate this Concession Agreement at its sole discretion.

- 6.10. The Concessionaire shall complete the compliance events set out in Schedule 1 Part B, and submit these to iSimangaliso for approval and/or confirmation of completion.
- 6.11. The Concessionaire may not close all or any part of the Project Site or cease or limit its Operations without the prior written consent of iSimangaliso. If the Concessionaire closes the Project in part or in whole for any length of time or ceases or limits its Operations without written approval, iSimangaliso may terminate this Concession Agreement in its sole discretion.
- 6.12. The Concessionaire shall adhere to instructions issued by iSimangaliso, from time to time, or by iSimangaliso's delegated agent responsible for managing the Park in respect of its conduct in the Park.
- 6.13. The Concessionaire shall subscribe to and comply with any relevant authority code of conduct as amended from time to time.
- 6.14. The Concessionaire shall not undertake or assist in the undertaking of commercial or promotional filming or photography in the Park, of any nature whatsoever, unless approved by iSimangaliso in writing.
- 6.15. The Concessionaire shall not undertake or assist in the undertaking of research or monitoring in the Park, of any nature whatsoever unless approved by iSimangaliso in writing.
- 6.16. The Concessionaire shall attend meetings with iSimangaliso on reasonable notice and participate in awareness programmes and events in the Park.
- 6.17. The Concessionaire shall ensure that its staff pass a Park orientation course and other educational/awareness programmes approved by iSimangaliso from time to time and shall become acquainted with policies and operational guidelines issued by iSimangaliso from time to time.
- 6.18. The Concessionaire shall take all reasonable steps to ensure that it is informed about developments in the Park generally and specifically in relation to the Project.
- 6.19. The Concessionaire agrees to participate in iSimangaliso's training programmes on a basis to be agreed annually. The Concessionaire shall in such participation be required to offer practical training for not more than two

trainees each year nominated by iSimangaliso and shall contribute to the subsistence and transport costs of such trainees.

- 6.20. Each year the Concessionaire shall make available no less than 5 beds, free of charge, to be used together, at different times, or as a single reservation, by iSimangaliso's personnel or special guests as authorised by iSimangaliso's Chief Executive Officer or his delegatee. iSimangaliso shall endeavour to give reasonable notice in respect of each such request. In addition, the Concessionaire shall be required to offer discounted rates to iSimangaliso guests for special events or functions
- 6.21. In addition to clause 6.20, each year the Concessionaire shall make available at least 5 beds for media or marketing purposes free of charge to be used together, at different times, or as a single reservation as authorised by iSimangaliso's Chief Executive Officer. iSimangaliso shall endeavour to give reasonable notice in respect of each such request. In addition, the Concessionaire shall be required to offer discounted rates not exceeding the standard tour operator rate to media if the allocation of 5 places has been used before the end of the year.
- 6.22. In order to increase domestic visitors to the Protected Area and to the various facilities in the Concession Area, iSimangaliso encourages the Concessionaire to liaise with iSimangaliso on marketing initiatives, including promoting discounted rates to domestic visitors from time to time.
- 6.23. iSimangaliso is currently exempted from paying municipal rates and taxes in accordance with the Municipal Property Rates Act, 2004 (Act No. 6 of 2004). Should regulations in this regard change in the future, the Concessionaire shall be responsible for the payment of such rates and taxes for the Kosi Bay Resort on behalf of iSimangaliso.

7. RIGHTS AND LIMITATIONS

- 7.1. iSimangaliso shall not be liable to the Concessionaire for the volume of demand, or any fluctuation or loss of demand, for the Project or for loss of income resulting from the Operation by the Concessionaire of the Project in the Park, or because of the operational activities of iSimangaliso, its staff, servants or agents, howsoever arising.

- 7.2. No warranties, representations or undertakings are given as to the accuracy or completeness of any information provided by iSimangaliso.
- 7.3. Notwithstanding anything else contained in this Concession Agreement, the Concessionaire shall not in any way be relieved from any obligation under this Concession Agreement nor shall it be entitled to claim against iSimangaliso or any other responsible authority and/or their respective officers, employees, agents and/or representatives on grounds that any information, however and from whomever it is obtained, is incorrect or insufficient and shall make its own enquiries as to the accuracy and adequacy of that information.

8. WARRANTIES AND UNDERTAKINGS

- 8.1. The Concessionaire shall be responsible for:
- 8.1.1. Obtaining all Consents which may be required in connection with the performance of the Project;
 - 8.1.2. Maintaining in full force and effect all Consents; and
 - 8.1.3. Implementing all Consents in accordance with their respective terms within the period of their validity.
- 8.2. The Concessionaire shall be responsible for the safety and security of its employees, guests, contractors, and invitees. The Concessionaire shall use all reasonable endeavours to exercise appropriate control in respect of access to the Project Site to ensure that only employees, guests, contractors, or invitees of the Concessionaire are permitted access to the Project Site in addition to other legitimate users of the Park.

9. INSURANCE

- 9.1. The Concessionaire shall take out, with a reputable insurance company by no later than the Operation Commencement Date, insurances on all insurable properties:
- 9.1.1. for not less than the full replacement value of the insurable property
 - 9.1.2. against the risk of fire, lightning, explosion, storm, flood, earthquake, riots (including political riot), strikes and malicious damage, pandemics;
 - 9.1.3. for property and casualty insurance;
 - 9.1.4. public liability and third-party insurance;
 - 9.1.5. employer's liability insurance

- 9.1.6. business interruption insurance; and
- 9.1.7. 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.
- 9.2. 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.
- 9.2.1.
- 9.3. The Concessionaire shall maintain the insurance in Clause 9.1 in accordance with Good Industry Practice and shall undertake an annual risk assessment to ensure adequate cover according to Good Industry Practice and to ensure sufficient and adequate financial cover in terms of such insurance.
- 9.4. The interest of iSimangaliso shall be noted on the policies set forth in Clauses 9.1.1 up to 9.1.7. The Concessionaire shall provide certified copies of the certificates of all such insurance on demand by iSimangaliso
- 9.5. The Concessionaire shall review the extent and adequacy of the coverage provided by the insurance in Clause 9.1 at least annually.
- 9.6. If the Concessionaire is unable to obtain insurance in the sums or on the terms required by Clauses 9.1.1, 9.1.2 and 9.2, at a reasonable commercial rate, it shall immediately notify iSimangaliso of any material areas of change in the terms or level of the insurance cover which notification shall not in any way absolve the Concessionaire of any of its liabilities and obligations under this Concession Agreement. The Concessionaire shall restore the terms and level of cover as soon as it becomes available.
- 9.7. Should the Concessionaire be in breach of the provisions of Clause 9.1, iSimangaliso may, after consultation with the Concessionaire and giving the Private Party thirty (30) days within which to comply with Clause 16.1, but will not be obliged to, procure and maintain, at the sole cost and expense of the Concessionaire, the insurances referred to in Clause 16.1 to the extent that the iSimangaliso deems necessary. In this event, the Concessionaire shall be obliged to refund to the iSimangaliso all premiums disbursed by the iSimangaliso on behalf of the Concessionaire within a period of fourteen (14) days of receiving written notice from the iSimangaliso to do so
- 9.8. The Concessionaire undertakes to provide iSimangaliso 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 Concession Agreement as Schedule 8. Such certificates and policies shall reflect all insurance coverage stipulated by iSimangaliso.

10. INDEMNITY

10.1. The Concessionaire hereby indemnifies and holds iSimangaliso harmless against all liability, loss, damages, costs and claims in relation to the Operation of the Project in respect of:

10.1.1. Death or injury to any Person; or

10.1.2. Loss of or damage to any property; or

10.1.3. Breach of a statutory duty arising under applicable law or of any provisions of this Concession Agreement, by the Concessionaire; or

10.1.4. Any economic loss,

10.1.5. Howsoever caused, irrespective of whether in the Park or accessing or egressing the Park, including, without limitation, any legal fees or costs arising from or in connection with the performance or non-performance of this Concession Agreement; save to the extent caused by the gross negligence or wilful misconduct of iSimangaliso.

10.2. The indemnity in clause 10.1 shall survive the termination of this Concession Agreement.

10.3. The Concessionaire shall throughout the Project have regard for the safety of all persons at the Project Site (whether lawfully or not) and shall keep the Project Site in an orderly state as appropriate in accordance with Good Industry Practice to avoid harm or injury to such persons.

11. CONCESSIONAIRE ACKNOWLEDGEMENT

11.1. The Concessionaire acknowledges that the fauna and flora in the Park, including the presence of dangerous animals and mammals, as well as the intrinsic features and environment of the Park constitute a potential danger to people and property. The Concessionaire shall take steps to draw the attention of all guests, visitors, invitees, employees, contractors, patrons and the like to the dangers in the Park and will obtain from such persons an

indemnity and waiver in a form which will not result in iSimangaliso being exposed to any claim whatsoever.

12. ENVIRONMENTAL OBLIGATIONS

- 12.1. The Concessionaire shall obtain all Consents that are required in respect of the Project in terms of any Environmental Laws, during the Operation Period or when effecting additional developmental requirements. The Concessionaire shall comply with such Consents.
- 12.2. To the extent that the Concessionaire needs to construct infrastructure, buildings or any other structures to support the carrying out of the Project which, pursuant to the relevant Regulatory Provisions, requires an Environment Impact Assessment ("EIA") in terms of Regulation 43 of the Environmental Impact Assessment Authorisation, 2006, the Concessionaire shall not commence such construction until iSimangaliso is satisfied that the said EIA has been undertaken in compliance with the relevant Regulatory Provisions and to the satisfaction of the Responsible Authority of the proposed land uses and activities at the Project Site, to the extent required by section 24(7) of NEMA
- 12.3. The Concessionaire shall have a site specific EMP that indicates items under clause 11 and 12.
- 12.4. During the Project Term, the Concessionaire 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 world heritage site. shall adhere to the Regulatory Provisions and the Environmental Specifications.
- 12.5. The Concessionaire shall take all necessary steps to ensure that appropriate pollution control and other environmental protection measures are taken in accordance with the Environmental Laws. The Concessionaire shall comply with the Environmental Specifications as detailed in Schedule 4.

13. BEE OBLIGATIONS (SPECIFIC GOALS)

- 13.1. The Concessionaire shall comply with the BEE Obligations as per the RFP and as set out in Schedule 5 as per the RFP BBEE/Specific Goals

commitments submitted by the bidder all of which are deemed to be a material part of this Concession Agreement.

- 13.2. the Concessionaire shall furnish the iSimangaliso annually within 90 Business Days after the end of each financial year of the Concessionaire with a report certified by the Concessionaire's auditors ("Annual BEE Commitment Report") detailing all achieved BBEE/Specific Goals commitments.
- 13.3. For the duration of the Project Term, the Concessionaire shall procure that there is no change in control in the Concessionaire (or in any company of which the Concessionaire is a subsidiary) without the prior written approval of iSimangaliso.
- 13.4. There is no dilution in the aggregate Equity holdings of the Black Shareholders below the Minimum Black Equity and there is no Change in Control (at any time) in any Shareholder that is a Black Enterprise, which will result in that Shareholder no longer being a Black Enterprise.

14. DOCUMENTS AND INTELLECTUAL PROPERTY

- 14.1. The Concessionaire shall provide to iSimangaliso all information, documents, records and the like in the possession of, or available to, the Concessionaire as may reasonably be requested by iSimangaliso for the purpose of complying with any of its statutory reporting obligations.
- 14.2. All Intellectual Property rights whatsoever, whether capable of registration or not, regarding the Park and Authority's name, trademarks, logos, image and all other intellectual property matters relating to the Park and iSimangaliso, including its name, trademarks, logos and/or image shall remain the sole property of iSimangaliso.
- 14.3. ISimangaliso may require the Concessionaire to use its Intellectual Property. This Intellectual Property must be used by the Concessionaire in accordance with iSimangaliso's brand manual or other written directive. Failure to comply with this requirement shall be deemed to constitute a material breach.
- 14.4. The Concessionaire shall use such of iSimangaliso's Intellectual Property as iSimangaliso shall determine, but the Concessionaire shall first submit the concept or a sample of the proposed use to iSimangaliso for approval, which shall be in its discretion. ISimangaliso shall use reasonable endeavours to

advise the Concessionaire of its approval or disapproval of the concept or sample within 30 (thirty) Business Days of its receipt of the concept or sample.

14.5. If iSimangaliso approves the concept or sample:

14.5.1. The Concessionaire shall not depart therefrom in any respect without iSimangaliso's further prior written approval; and

14.5.2. Subject to existing rights and obligations, iSimangaliso shall grant a non-exclusive revocable right and Concession Agreement to the Concessionaire to use iSimangaliso's Intellectual Property for a period not to exceed the , provided that the Concessionaire shall, in making such use, conform strictly with the requirements of iSimangaliso in respect of such use, as set out in this Concession Agreement and in such written guidelines in respect of such use as iSimangaliso may issue from time to time.

14.6. iSimangaliso will be entitled but not obliged to revoke its approval immediately upon 3 (three) Business Days' written notice to the Concessionaire if the Concessionaire or any of its officers, directors or employees fails to conform strictly with the requirements of iSimangaliso in respect of such use, as set out in Clause 14.5 or commits any crime or otherwise engages in conduct which violates any law, or engages in any conduct that offends against public morals and decency or, in iSimangaliso's reasonable opinion, materially prejudices the reputation and public goodwill of iSimangaliso.

14.7. If at any time iSimangaliso revokes its approval for the specified use of any Intellectual Property, the Concessionaire shall immediately discontinue all use of such Intellectual Property and shall remove from public sale or distribution any previously approved product in respect of which iSimangaliso has revoked its approval. The costs incurred by the Concessionaire as a result of such revocation shall be borne by the Concessionaire.

14.8. In circumstances where the Concessionaire or any subcontractor or successor in title, uses any of the Protected Names, either on its own or in combination or association with any other name, it shall do so only in terms of this Concession Agreement and with the prior approval of iSimangaliso. On termination or expiry of this Concession Agreement, the Concessionaire shall not be entitled to operate or conduct any business using any of the Protected Names either on its own or in combination or association with any other name.

- 14.9. Within 30 (thirty) Business Days after the termination for whatever reason or the expiry of this Concession Agreement and where the Concessionaire has operated a company utilising any of the Protected Names with the permission of iSimangaliso, the Concessionaire shall either:
- 14.9.1. De-register the company bearing any of the Protected Names; or
- 14.9.2. Change the name to a name not substantially similar to any of the Protected Names.
- 14.10. The naming of the Concessionaire's business operation shall be undertaken in consultation with iSimangaliso and subject to iSimangaliso's approval. Where the name chosen by the Concessionaire and approved by iSimangaliso is not a Protected Name, then the rights of iSimangaliso shall not be applicable and the intellectual property shall be the sole property of the Concessionaire.
- 14.11. The Concessionaire will be required to display its information in any Authority offices at the request of iSimangaliso.
- 14.12. The Concessionaire shall be required to reflect such Protected Names as determined by iSimangaliso in all publicity and marketing material, which iSimangaliso reserves the right to approve.

15. REPORTING AND FINANCIAL REQUIREMENTS

- 15.1. From the Effective Date the Concessionaire shall provide iSimangaliso with quarterly written reports in a form to be specified by iSimangaliso unless otherwise agreed in writing. The reports must be submitted 20 (twenty) days after each quarter as follows:
- 15.1.1. For the period April to June - 15 July;
- 15.1.2. For the period July to September - 15 October;
- 15.1.3. For the period October to December - 15 January;
- 15.1.4. For the period January to March - 15 April; and
- 15.1.5. If that day is not a Business Day, then on the preceding Business Day.

15.2. The Concessionaire shall report all incidents, in writing, within 24 hours to iSimangaliso.

15.3. Appointment of Concessionaire Auditors

15.3.1. The Concessionaire will be obliged to appoint a medium- to large-tier auditor (as defined by the Independent Regulatory Board for Auditors) as the Concessionaire's auditors for the Project. Failure to do so may result in termination of this Concession Agreement.

15.3.2. In furtherance of its reporting obligations as a company in terms of all applicable Laws, the Concessionaire shall at all times comply with the record keeping and reporting requirements of the Companies Act if failure to do so would be a breach of the Companies Act and shall ensure that by the Signature Date it has, at its own expense, procured the services of a reputable firm of auditors and that, by the Operation Commencement Date, the Concessionaire shall implement a suitable accounting and cost control system consistent with IFRS so as to properly prepare and record all financial information relating to the Concessionaire's activities in respect of the Project. Copies of such accounts and reports shall be provided to iSimangaliso on written request, and iSimangaliso shall have the right to have access to and the right to remove such accounts and reports if acting within its rights and if so, required in terms of applicable Laws.

15.3.3. The Concessionaire shall similarly cause the Subcontractors to make all information, books of accounts, records and other data relating to the Project available to iSimangaliso on reasonable notice if so, required in terms of applicable Laws and if reasonably required for this Concession Agreement.

15.3.4. iSimangaliso may, on reasonable suspicion of fraud or fraudulent misrepresentation by the Concessionaire which has a direct impact on iSimangaliso and without any prior notice to the Concessionaire, meet and consult with the Concessionaire's auditors regarding the Concessionaire's accounts and operations from time to time at the cost of iSimangaliso subject to clause 15.3.5 below.

15.3.5. iSimangaliso may also, on reasonable suspicion of fraud or fraudulent misrepresentation by the Concessionaire and without any prior notice to the

Concessionaire, conduct or require that a firm of independent auditors conduct additional audits of the Concessionaire, at the cost of iSimangaliso.

15.3.6. Notwithstanding the provisions of clauses 15.3.4 and 15.3.5 above, if the investigations conducted conclude that the Concessionaire has committed a fraud or fraudulent misrepresentation, as contemplated in clauses 15.3.4 and 15.3.5 above, then the Concessionaire shall be liable for the reasonable costs of meeting(s) and/or audit(s).

15.4. Bi-Annual Management Reports

15.4.1. The Concessionaire shall furnish to iSimangaliso as soon as practicable, but in any event no later than 20 (twenty) Business Days after the sixth month in each Financial Year which occurs after the Operation Commencement Date, 1 (one) hardcopy and 1 (one) electronic copy of the Concessionaire's management accounts (which must be consistent with its books of account and prepared in accordance with IFRS and consistently applied), which shall include –

15.4.1.1. a balance sheet of the Concessionaire's assets and liabilities;

15.4.1.2. an income statement; and

15.4.1.3. a cash flow statement as at the end of and for such period, and for the period from the beginning of such Financial Year to the close of such six-monthly period.

15.5. Annual Reports

15.5.1. The Concessionaire shall furnish to iSimangaliso as soon as practicable but in any event not later than 120 (one hundred and twenty) Business Days after the end of each Financial Year which occurs after the Operation Commencement Date –

15.5.1.1. Three (3) hardcopies and one (1) electronic copy of the Concessionaire's complete financial statements for such Financial Year as signed by a duly authorised officer of the Concessionaire, all in accordance with the requirements of accounting best practice (which must be consistent with the books of accounts and prepared in accordance with IFRS consistently applied), together with an audit report thereon.

- 15.5.1.2. a copy of any audit findings reports sent by the Concessionaire's auditors to the Concessionaire or to its management in relation to the Concessionaire's financial, accounting, and other systems, management, and accounts; and
- 15.5.1.3. a reconciliation of the profit and loss account and the budget for that Financial Year, and an analysis thereof.

16. CONTRACT MANAGEMENT AND COMPLIANCE MONITORING

- 16.1. iSimangaliso shall appoint a PPP Contract Manager in line with the PPP Toolkit for Tourism project cycle. The PPP Contract Manager shall be responsible for contract management and contract administration during the Operations Phase.
- 16.2. iSimangaliso and/or its representatives may take such measures as necessary to monitor the Concessionaire's compliance with this Concession Agreement.
- 16.3. iSimangaliso may conduct random inspections by using, inter alia, mystery guests, in which case, the Concessionaire shall reimburse iSimangaliso for any admission fee, fare or other charge paid by the mystery guests to the Concessionaire.

17. PARK AND PARK USERS

- 17.1. The Concessionaire shall fulfil its obligations, duties and responsibilities under this Concession Agreement so as not to interfere with the use of the Park and its facilities by other users of the Park, other than as permitted by this Concession Agreement; and where such interference cannot reasonably be avoided, the Concessionaire shall ensure that appropriate traffic and other appropriate management measures are implemented to minimise the effect of any such disruption on users of the Park. These measures shall comply at all times with the IMP, Park Rules and other measures/plans issued by iSimangaliso from time to time.
- 17.2. The Concessionaire shall also take all reasonable steps to ensure that its officers, employees, contractors, sub-contractors at all levels, sub-agents, assignees, employees, guests, invitees and patrons adhere to, abide by and comply with Legislation, Environmental Specifications generally and

specifically in respect of the Project Site and the Project, any EIA and any valid and enforceable directives or rules issued by iSimangaliso, iSimangaliso or any of its senior personnel or the nominated conservation agent of iSimangaliso from time to time. The Concessionaire shall liaise with iSimangaliso's nominee with respect to day-to-day operational issues regarding the Project Site. The name of the nominee shall be provided in writing by iSimangaliso. In cases where the Concessionaire believes that the nominee has issued a directive or rule that is not covered by the Regulations, Park policy or IMP or that is not valid, or that impacts materially on the commercial soundness of the Project, the Concessionaire shall have the right of appeal to the chief executive officer of iSimangaliso or his delegatee. The chief executive officer of iSimangaliso or his delegatee will verify, within 45 (forty-five) days of receipt of a written notice and grounds of appeal, whether the directive or rule in question was valid. Pending the results of such an appeal, the Concessionaire shall abide by the said directive or rule.

18. REMOVAL OF PERSONNEL

- 18.1. The Concessionaire shall provide a list of staff to iSimangaliso showing the names, identity numbers, positions, and qualifications of the staff. The Concessionaire shall notify iSimangaliso of any changes in writing forthwith.
- 18.2. If at any time the Concessionaire does not, in the opinion of iSimangaliso, have appropriately qualified staff, the Concessionaire, on written notice from iSimangaliso, shall be required to cease Operations.
- 18.3. iSimangaliso may require the Concessionaire to take disciplinary action or remove any employee or other personnel of the Concessionaire or any subcontractor, visitor, guest or invitee from the Project Site and the Park and the Concessionaire shall do so (provided such removal is permitted under applicable law) if in the reasonable opinion of iSimangaliso such employee or personnel or subcontractor, visitor, guest, invitee engages in any conduct which might reasonably result in a breach of any provision of this Concession Agreement or threaten public health, safety or security or cause any environmental hazard or harm, or which in the reasonable opinion of iSimangaliso impacts negatively on the reputation of the Park and iSimangaliso. The Concessionaire shall replace such employee or personnel

with suitable appropriately qualified and experienced replacements as soon as reasonably possible.

19. PPP FEE

- 19.1. The Concessionaire shall pay the monthly PPP Fee to iSimangaliso each and every month from the Operation Commencement Date.
- 19.2. The monthly PPP Fees shall be based on the annual minimum PPP Fee.
- 19.3. The Minimum PPP Fee shall be paid monthly in advance [on the [x] Business Day of the month preceding the month in respect of which that Minimum PPP Fee is being paid].
- 19.4. The Minimum PPP Fee or the Variable PPP Fee will be determined as per the PPP offer submitted in the RFP.
- 19.5. The monthly Minimum PPP Fee and the Variable PPP Fee are set out in detail in Schedule 7 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 Kosi Bay Tourism Resort and shall be payable by the Concessionaire to iSimangaliso within 30 (thirty) Business Days following the end of each month, free of deduction or set-off, to iSimangaliso.
- 19.6. For purposes of reconciling the PPP Fees payable by the Concessionaire in any given Financial Year, the Concessionaire shall, within 90 (ninety) days after the end of each Financial Year, furnish its audited financial statements to iSimangaliso, whereafter iSimangaliso shall verify and reconcile the PPP Fees due against the PPP Fees actually paid in the relevant Financial Year.
- 19.7. In the event that subsequent to the enquiry contemplated in clause 19.5 above, the PPP Fees paid by the Concessionaire are less than the PPP Fees due to iSimangaliso in the relevant Financial Year (the "Outstanding Fees"), the Concessionaire shall pay the Outstanding Fees to iSimangaliso upon demand.
- 19.8. All PPP Fees or other amounts payable by the Concessionaire to iSimangaliso in terms of this Concession Agreement shall be inclusive of VAT.

- 19.9. The Concessionaire shall, notwithstanding any other provision of this Concession Agreement, not be obliged to pay rental for the period from the Signature Date up to the Operation Commencement Date, where after PPP Fees will be payable as provided for herein.
- 19.10. Notwithstanding the end date of the development period, the PPP fee as submitted by the bidder is binding. The PPP fee is payable regardless of any phasing approach to the development
- 19.11. If any amount remains unpaid for more than 30 (ninety) days, iSimangaliso may by written notice instruct the Concessionaire to suspend and cease Operations and the Concessionaire shall immediately upon receipt of such notice suspend and cease Operating and may only recommence Operating after all overdue amounts have been paid to iSimangaliso in full.
- 19.12. If any amount is not paid by the due date, at least 30 (Thirty) days will be allowed to elapse before interest is charged. Interest will be raised at xxx by the iSimangaliso on capital based on a full month and part of a month must be deemed to be a full amount or unless specifically provided for in other agreements.
- 19.13. Debtors may be referred to a third-party debt collector after 120 days of failed collection attempts and may be placed on the National Credit Rating list.
- 19.14. All legal costs including attorney and own client costs incurred in the recovery of the arrears shall be levied against debtors' account.

20. PERFORMANCE BOND/REFUNDABLE DEPOSIT

- 20.1. The Concessionaire shall provide to iSimangaliso the Performance Bond which shall be operative from the Signature Date, in favour of iSimangaliso issued by a bank or financial institution acceptable to iSimangaliso substantially in the format specified in Schedule 9.
- 20.2. The Concessionaire shall maintain a valid Performance Bond (in accordance with the provisions hereof) from the Signature Date until 90 (ninety) Business Days after the expiry or earlier termination of this Concession Agreement.

- 20.3. Within 90 (ninety) Business Days of the expiry or earlier termination of this Concession Agreement, iSimangaliso shall release all or so much of the Performance Bond as shall remain undrawn after such expiry or termination.
- 20.4. The amount to be guaranteed by the Performance Bond for the first twelve-month period as from the Signature Date shall be the sum inserted in Schedule 9.
- 20.5. 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 amount indicated in clause 20.4 as adjusted to reflect changes in the CPI since Bid Submission.
- 20.6. The Performance Bond shall secure the Concessionaire's performance under this Concession Agreement and may be called on by iSimangaliso to the extent of any costs, losses, damages or expenses suffered or incurred by iSimangaliso as a result of breach by the Concessionaire of the terms of this Concession Agreement, including, but not limited to, compensation to iSimangaliso for any actions taken by iSimangaliso as a result of breach by the Concessionaire of any Environmental Specifications and payment obligations hereunder. The Refundable Deposit may also be called upon to compensate for any delay in the payment of sums due to iSimangaliso in respect of PPP fee payments or penalties for failing to meet empowerment or environmental obligations. The Concessionaire shall ensure that the Refundable Deposit is, notwithstanding drawdown, maintained for the full amount required throughout the duration of this Concession Agreement.
- 20.7. Prior to enforcing the Performance Bond, iSimangaliso shall give written notice to the Concessionaire, informing the Concessionaire of the penalty payable or breach giving rise to the right of enforcement of the Refundable Deposit. If such breach is not remedied within the Remedy Period notified by iSimangaliso, iSimangaliso may thereupon enforce the Refundable Deposit.
- 20.8. The Performance Bond may only be enforced to the extent of any penalties specified herein, 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. If the

Performance Bond it is called on the Concessionaire must, within 10 (ten) Business Days, reinstate the full amount of the Refundable Deposit.

- 20.9. The Performance Bond shall be returned to the Concessionaire within 90 (ninety) Business Days after the end of the Project Term.

21. SURETY

- 21.1. As additional security for its obligations under this Concession Agreement, the Concessionaire shall procure that each of the Shareholders shall, on or before the Signature Date, execute the Suretyship in terms of which each of the Shareholders shall bind itself as surety for the Concessionaire and co-principal debtor in solidum with the Concessionaire to iSimangaliso for the due and punctual performance by the Concessionaire of its obligations under this Concession Agreement.

22. PENALTIES OR SUSPENSION

- 22.1. iSimangaliso shall be entitled to levy penalties for environmental infractions, poor conduct that may be deemed to be damaging to the reputation of iSimangaliso and the Park, in the sole discretion of iSimangaliso, failure to conform to acceptable Operating standards, other breaches including a failure to meet BEE obligations among other. The penalty shall be determined by iSimangaliso and shall be commensurate with the nature of the offence. From time to time iSimangaliso may publish schedules of penalties.
- 22.2. In addition to a penalty or as an alternative thereto, iSimangaliso may by written notice instruct the Concessionaire to suspend and cease Operations and the Concessionaire shall immediately upon receipt of such notice suspend and cease Operating and may only recommence Operating after further notice by iSimangaliso that the transgression by the Concessionaire has been remedied or such reasonable period has elapsed commensurate with the nature of the offence.
- 22.3. In addition to the transgressions set out in clause 22.1 the failure to comply with any of the following shall be considered transgressions warranting suspension and cessation of Operations if the Concessionaire:

- 22.4. Or any of its members, directors, partners, or shareholders has an unappealable judgment granted against it;
- 22.5. Is in arrears in respect of any amounts owing to iSimangaliso;
- 22.6. Has contravened any Park Rule, directive, existing contractual agreement, or environmental law in the last three years;
- 22.7. Has received any verbal warnings subsequently confirmed in writing or written warnings in respect of its conduct in the Park or any banning or eviction notices that have been upheld for a period of more than one month, or conviction for a wildlife or environmental crime;
- 22.8. Has been convicted of any offence under the Companies Act without the option of a fine, or of fraud or corruption or any dishonesty-related criminal offence or Corrupt Act;
- 22.9. Has, in the opinion of iSimangaliso, attempted to exercise any Corrupt Act deed or influence during and in respect of the Concession Agreement; or
- 22.10. Operates its business or any other business of the Concessionaire is operated illegally.

23. FORCE MAJEURE

23.1. definition and procedure

- 23.1.1. For the purposes of this Concession Agreement, "Force Majeure" means any of the following events to the extent that they are uninsurable:
 - 23.1.1.1. war, civil war, armed conflicts or terrorism, revolution, invasion, sabotage, flood, lock down due to pandemics; government imposition or restrictions of or embargos, or imports, or
 - 23.1.1.2. nuclear contamination unless the Concessionaire and/or any Sub-contractor is the source or cause of the contamination; or

- 23.1.1.3. chemical or biological contamination of the Works and/or the Facilities and/or the Project Site from any of the events referred to in clause 23.1.1.1 and 23.1.1.2 above,
- 23.1.1.4. epidemic and pandemic declared as a state of national disaster in terms of the Disaster Management Act 57 of 2002,
- to the extent that by direct reason of the Force Majeure either Party is unable to comply with all or a material part of its obligations under this Concession Agreement.
- 23.1.2. Subject to clause 23.1.3, the Party claiming relief shall be relieved from liability under this Concession Agreement to the extent that it is not able to perform all or a material part of its obligations under this Concession Agreement as a result of an event of Force Majeure.
- 23.1.3. Where a Party is (or claims to be) affected by an event of Force Majeure:
- 23.1.3.1. it shall take all reasonable steps to mitigate the consequences of such an event upon the performance of its obligations under this Concession Agreement, resume performance of its obligations affected by the event of Force Majeure as soon as practicable and use all reasonable endeavours to remedy its failure to perform; and
- 23.1.3.2. it shall not be relieved from liability under this Concession Agreement to the extent that it is not able to perform, or has not in fact performed, its obligations under this Concession Agreement due to its failure to comply with its obligations under clause 23
- 23.1.4. 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.
- 23.1.5. A subsequent written notice shall be served by the Party claiming relief on the other Party within a further 5 Business Days, which 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 23.1.3., the date of the occurrence

of the event of Force Majeure and an estimate of the period of time required to overcome it and/or its effects.

- 23.1.6. 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 can be resumed.
- 23.1.7. If, following the issue of any notice referred to in clause 23.1.5, 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.
- 23.1.8. Neither iSimangaliso nor the Concessionaire shall have no right to payment or otherwise in relation to the occurrence of an event of Force Majeure.
- 23.1.9. The Parties shall endeavour to agree any modifications to this Concession Agreement which may be equitable having regard to the nature of an event or events of Force Majeure. This Concession Agreement shall terminate in terms of clause 23.2 if no such agreement is reached.

23.2. Termination for Force Majeure

- 23.2.1. If, in the circumstances referred to in clause 23.1.9, the Parties have failed to reach agreement on any modification to this Concession 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 Concession 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 Concession Agreement.

24. AMENDMENTS

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

25. VARIATIONS

- 25.1. iSimangaliso and the Concessionaire reserve the right to initiate variations to the Concession Agreement in accordance with Clause 25.
- 25.2. Variations may be necessary to cater for changes in iSimangaliso's and Concessionaire's requirements which could not be anticipated or quantified at Signature Date or changes imposed by external factors for which iSimangaliso has retained responsibility. must be notified of all Variations prior to their implementation.
- 25.3. Variations to the proposal as submitted by the Concessionaire that materially affect the bid proposal will not be allowed prior to signing of the PPP agreement. The relevant Treasury must be notified of all Variations prior to their implementation. After signing the PPP agreement, variations as referred to in clause 32, may be applied for as follows:
- 25.4. Variations that Involve No Additional Cost
- 25.4.1. In circumstances where a proposed variation involves no additional costs for either party, no formal variation procedure is required. iSimangaliso and the Concessionaire will meet to discuss the best way of implementing the proposed change. If the variation will result in a reduction in costs, then the two parties will need to reach agreement about how to distribute such savings. In the case of a variation proposed by iSimangaliso, savings should accrue to iSimangaliso and/or end users, while savings derived from a variation proposed by the Concessionaire should be divided between iSimangaliso and the Concessionaire. The two parties would be expected to reach agreement on implementing this category of variation without recourse to dispute resolution procedures.
- 25.5. Changes in Small Works
- 25.5.1. iSimangaliso requires the Concessionaire to provide a schedule of rates for a range of likely small works at the beginning of each year. Any dispute between the parties relating to small works variations must be determined in accordance with the dispute resolution procedures.
- 25.6. iSimangaliso-Initiated Variations
- 25.6.1. iSimangaliso variations will be limited to changes to the services requirements, the specified constraints on inputs, and the limits or scope of the project

insurances. If iSimangaliso wishes to make a change to the project deliverables, it must first submit a variation proposal to the Concessionaire. The variation proposal must describe the nature of the variation and require the Concessionaire to provide an assessment of the technical, financial, contractual, and timetable implications of the proposed change within a specified period.

25.6.2. After meeting with the Concessionaire to consider its response, iSimangaliso must decide whether it or the Concessionaire should finance the variation.

25.7. Concessionaire-Initiated Changes

25.7.1. If the Concessionaire wishes to introduce a variation, it must submit a Concessionaire variation proposal to iSimangaliso, setting out the details of the variation and the likely impact thereof on the PPP agreement. After meeting with the Concessionaire and providing it with an opportunity to modify its variation proposal if necessary, iSimangaliso will make a submission to National Treasury for approval. The variation can only be effected after approval by National Treasury.

25.7.2. Generally, Concessionaire-initiated changes will be at no cost to iSimangaliso or end-users, unless where the change is beneficial to both parties.

25.8. All variations to this agreement shall be discussed and mutually agreed by both parties for approval prior to effecting any such variations.

26. CONCESSIONAIRE DEFAULT

26.1. Definition; "**Concessionaire Default**" means any of the following events or circumstances:

26.1.1. any arrangement, composition or compromise with or for the benefit of creditors (including any voluntary arrangement as defined in the Insolvency Act, No. 24 of 1936 or the Companies Act) being entered into by or in relation to the Concessionaire;

26.1.2. a liquidator, business rescue practitioner or the like taking possession of or being appointed over, or any business rescue proceedings, winding- up, execution or other process being levied or enforced (and not being discharged within ten (10) Business Days) upon, the whole or any material

- part of the assets of the Concessionaire (in any of these cases, where applicable, whether provisional or final, and whether voluntary or compulsory);
- 26.1.3. the Concessionaire ceasing to carry on business;
 - 26.1.4. a resolution being passed or an order being made for the business rescue proceedings, winding-up, liquidation or dissolution of the Concessionaire (in any of these cases, where applicable, whether provisional or final and whether voluntary or compulsory);
 - 26.1.5. the Concessionaire commits a breach of any of its material obligations under this Concession Agreement, which is not specifically mentioned in this clause 26.1. For the avoidance of doubt for the purposes of this Concession Agreement a failure to comply with any of the obligations imposed on the Concessionaire as set out in the Schedules to this Concession Agreement shall be deemed to be a breach of a material obligation;
 - 26.1.6. the Concessionaire fails to pay any sum or sums due to iSimangaliso under this Concession Agreement including but not limited to the requirements contained in schedule 7 (which sums are not bona fide in dispute) and such failure continues for 10 (ten) Business Days from receipt by the Concessionaire of a notice of non-payment from iSimangaliso;
 - 26.1.7. the Concessionaire or any of its directors is found guilty of a criminal offence involving fraud or bribery or dishonesty, by a court of law, with punishment imposed of a fine of not less than R 500,000 (five hundred thousand Rand) or imprisonment for a period exceeding six (6) months unless such finding is the subject of an appeal that is being diligently pursued by the Concessionaire or relevant director of officer;
 - 26.1.8. the Concessionaire or any of its directors falsifies any report, document or information that is provided by the Concessionaire to iSimangaliso;
 - 26.1.9. breach of any provision of this Concession Agreement has occurred at least 3 (three) times in any Financial Year and the Concessionaire having failed to remedy such breach within the time stipulated thereof in terms of a

breach notice issued to it by iSimangaliso in terms of this Concession Agreement;

- 26.1.10. the Concessionaire breaches any of the provisions relating to its financial obligations, including failure to achieve Financial Close within 90 days of the Signature Date, in terms of this Concession Agreement;
- 26.1.11. the Concessionaire fails to obtain and maintain any Project Insurances as required in terms of this Concession Agreement;
- 26.1.12. the Concessionaire fails to commence trading at the Concession Area on the Operation Commencement Date;
- 26.1.13. Concessionaire fails to obtain all the required permits, authorisations, licences and permits; or
- 26.1.14. Concessionaire fails to provide a Bid Bond and Performance Bond in the amount and form indicated in Clause 19.

26.2. **iSimangaliso's Options**; on the occurrence of a Concessionaire Default, or within a reasonable time after iSimangaliso becomes aware of the same, iSimangaliso may:

- 26.2.1. in the case of the Concessionaire Default referred to in Clauses 26.1.1, 26.1.2, 26.1.3, 26.1.4, 26.1.6, 26.1.7, 26.1.8, 26.1.9 and 26.1.11 terminate this Concession Agreement in its entirety by notice in writing having immediate effect;
- 26.2.2. in the case of any other Concessionaire Default referred to in Clauses 26.1.5, 26.1.10 and 26.1.12, serve notice of default on the Concessionaire requiring the Concessionaire to remedy the Concessionaire Default referred to in such notice of default (if the same is continuing) within ten (10) Business Days of such notice of default; or
- 26.2.3. request that the Concessionaire put forward, within 10 (ten) Business Days of a notice of default, a reasonable programme for remedying the Concessionaire Default or to remedy the underlying cause of such Concessionaire Default ("**Remedial Programme**"). The Remedial Programme shall specify in reasonable detail the manner in and the latest date by which, such Concessionaire Default is proposed to be remedied.

The Concessionaire shall only have the option of putting forward a Remedial Programme if it first notifies iSimangaliso within 5 (five) Business Days of such notice of Concessionaire Default that it proposes to do so.

- 26.2.4. If the Concessionaire Default is notified to the Concessionaire in a notice of default in terms of Clause 26.2.2 and the Concessionaire Default is not remedied before the expiry of the period referred to in the notice, then iSimangaliso may terminate this Concession Agreement with immediate effect by written notice to the Concessionaire and the Lenders.

- 26.3. **Remedy Provisions;** where the Concessionaire puts forward a Remedial Programme in accordance with Clause 26.2.3, iSimangaliso shall have 20 (twenty) Business Days from receipt of the same within which to notify the Concessionaire that it does not accept the Remedial Programme, failing which iSimangaliso shall be deemed to have accepted the Remedial Programme. iSimangaliso shall act reasonably in rejecting the Remedial Programme and shall give reasons for its decision. Where iSimangaliso notifies the Concessionaire that it does not accept the Remedial Programme, the Parties shall endeavour within the following 5 (five) Business Days to agree any necessary amendments to the Remedial Programme put forward. In the absence of agreement within 5 (five) Business Days, the question of whether the Remedial Programme (as the same may have been amended by agreement) will remedy the Concessionaire Default in a reasonable manner and within a reasonable time period. If -

- 26.3.1. the Concessionaire Default is not remedied before the expiry of the period referred to in the notice; or
- 26.3.2. where the Concessionaire puts forward a Remedial Programme which has been accepted by iSimangaliso, the Concessionaire fails to achieve any material element of the Remedial Programme or to complete the Remedial Programme by the specified end date for the Remedial Programme; or
- 26.3.3. any Remedial Programme put forward by the Concessionaire is rejected by iSimangaliso as not being reasonable, and the dispute resolution procedure does not find against that rejection,
- 26.3.4. then iSimangaliso may terminate this Concession Agreement in its entirety by written notice to the Concessionaire with immediate effect; provided that

for the purposes of clause 26 if the Concessionaire's execution of the Remedial Programme is adversely affected by the occurrence of an event of Force Majeure, subject to the Concessionaire complying with the mitigation and other requirements in this Concession Agreement concerning Force Majeure, the time for execution of the Remedial Programme or any relevant element of it shall be deemed to be extended by a period equal to the delay caused by the Force Majeure event which is agreed by the Parties.

26.4. **iSimangaliso's Costs;** the Concessionaire shall reimburse iSimangaliso with all costs incurred by iSimangaliso exercising any of its rights in terms of this clause 26 (including, without limitation, any relevant increased administrative expenses and attorney and client costs, where applicable).

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

27. iSIMANGALISO'S DEFAULT

27.1. Notwithstanding the provisions in this Concession Agreement, iSimangaliso Default shall mean a breach by iSimangaliso of the material obligations under this Concession Agreement which substantially frustrates or renders it impossible for the Concessionaire to perform its obligations under this Concession Agreement for a continuous period of at least three (3) months.

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

- 27.3. The Concessionaire shall not exercise or purport to exercise any rights to terminate this Concession Agreement (or accept any repudiation of this Concession Agreement) except as expressly provided for herein.

28. TRANSFER AND SUBSTITUTION IN AN EXISTING AGREEMENT

- 28.1. Upon the occurrence of an event entitling iSimangaliso to terminate this Concession 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, iSimangaliso shall have the right at its sole discretion subject to the PFMA to license a substitute entity to conduct the Operations on its behalf.
- 28.2. Immediately following the licensing of a substitute entity, the Concessionaire shall make available its Operating equipment and assets for a period not exceeding 90 (ninety) days. The Operating equipment shall be used at the cost and risk of the substitute entity.
- 28.3. The rights of iSimangaliso under this Clause are in addition (and without prejudice) to any other right which iSimangaliso may have in law to claim the amount of any proven loss or damages suffered by iSimangaliso on account of the acts or omissions of the Concessionaire.
- 28.4. iSimangaliso will, notwithstanding the provisions of clause 28, approve any sale of shares or other beneficial interest in the Concessionaire 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 and provided that:
- 28.4.1. the Concessionaire informs iSimangaliso 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;
- 28.4.2. the sale of such shares or beneficial interest does not alter the financial, B-BBEE and technical capability of the Concessionaire to perform and assume the obligations of the Concessionaire under the Concession Agreement and the Financing Agreements; and
- 28.4.3. iSimangaliso cannot reasonably object to the sale for any reason.

29. TERMINATION

- 29.1. Notwithstanding other clauses iSimangaliso shall have the right to terminate this Concession Agreement upon the occurrence of any of the following events:
- 29.1.1. The commencement of any court action for the dissolution and/or liquidation of the Concessionaire (except for the purposes of amalgamation or reconstruction on terms approved in advance by iSimangaliso in writing) which is not dismissed within 60 (sixty) days of its commencement; or
 - 29.1.2. The Concessionaire receives a court order to be placed into judicial management or to commence liquidation procedures or passes a resolution for its winding up; or
 - 29.1.3. The Concessionaire committing 2 (two) material breaches of any of its obligations under this Concession Agreement within a period of 3 (three) calendar months; or
 - 29.1.4. There is change in control in the Concessionaire without the prior written approval of iSimangaliso on the understanding that in the case of the Concessionaire, it ceases to be beneficially owned as to at least 51% (fifty one percent) by Black persons (as the term "Black" is defined in the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003)), and the requisite number of shareholders fail to approve in writing, which shall be deemed to be unreasonable, any reasonable proposed remedy of the situation which arises as a result of the event in question within 60 (sixty) days of the event in question having occurred, and the sole criteria for determining whether or not approval has been reasonably or unreasonably withheld will be based upon the identity of any beneficial shareholder of the Concessionaire and its empowerment credentials; or
 - 29.1.5. There is any material representation in the Concessionaire's Bid Submission which is proved to be false or misleading in any material respect. A fraudulent misrepresentation is deemed to be material; or
 - 29.1.6. The Concessionaire fails to commence Operations within 3 months from the Effective Date; or

- 29.1.7. All or substantially all the capital contributions of the shareholders undertaken in the Concessionaire's Bid Submission are not made; or
- 29.1.8. A change in the Laws, ROD, or EA renders it impossible or unlawful to undertake the Operation of the Project; or
- 29.1.9. The Concessionaire commits a material breach in respect of the performance of any of its other material obligations hereunder and fails to rectify same within the Remedy Period.
- 29.2. iSimangaliso shall, prior to exercising its rights to terminate this Concession Agreement under this clause 29, send a written notice to the Concessionaire notifying it of the event giving rise to such right and requesting the Concessionaire to remedy the event giving rise to such right of termination within the Remedy Period; provided, however, that no Remedy Period shall be required if iSimangaliso wishes to exercise iSimangaliso's right to terminate this Concession Agreement because a court order placing the Concessionaire in liquidation is made or the Concessionaire passes a resolution for its winding up.
- 29.3. If such events are not remedied by the Concessionaire by the expiry of the said period or the relevant event does not require such a period, and iSimangaliso has not exercised its rights to appoint a Substituted Entity pursuant to clause 28, iSimangaliso shall have the right to terminate this Concession Agreement forthwith by notice in writing to the Concessionaire.
- 29.4. iSimangaliso shall be entitled to claim reimbursement from the Concessionaire for all damages recoverable at law which are suffered by iSimangaliso as a result of such termination from the Concessionaire and, where appropriate to call on any relevant Refundable Deposit.
- 29.5. In circumstances where it is impossible for the Concessionaire to perform its obligations under this Concession Agreement for a continuous period of 3 (three) months, the Concessionaire may terminate this Concession Agreement by written notice to iSimangaliso having immediate effect.
- 29.6. On termination of this Concession Agreement by written notice, and save as provided for herein, all rights and obligations of iSimangaliso and the Concessionaire under this Concession Agreement shall cease and be of no

further force and effect and the Concessionaire shall remove all its assets from the Project Site and shall restore the Project Site to the condition it was in before the Concessionaire was granted access to it, fair wear and tear accepted.

30. CORRUPT GIFTS, FRAUD AND FRONTING

30.1. The Concessionaire warrants that it has not committed any Corrupt Act. Any breach of this warranty shall entitle iSimangaliso, notwithstanding any other provision of this Concession Agreement to terminate this Concession Agreement immediately on written notice. "Corrupt Act" means:

30.1.1. Offering, giving or agreeing to give to iSimangaliso or any other organ of state or to any person employed by iSimangaliso or engaged in the Park on behalf of iSimangaliso or employed by any other organ of state any gift or consideration of any kind as an inducement or reward:

30.1.2. For doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Concession Agreement or any other contract with iSimangaliso or any other organ of state; or

30.1.3. Accepting this Concession Agreement or any other contract with iSimangaliso or any other organ of state in connection with which commission has been paid or has been agreed to be paid by the Concessionaire 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 iSimangaliso;

30.1.4. Committing any offence:

30.1.4.1. Under any law from time to time dealing with bribery, corruption or extortion;

30.1.4.2. Under any law creating offences in respect of fraudulent acts; or

30.1.4.3. At common law, in respect of fraudulent acts in relation to this Concession Agreement or any other contract with iSimangaliso or any other public body; or

- 30.1.4.4. Defrauding or attempting to defraud or conspiring to defraud iSimangaliso or any other public body.
- 30.1.5. Participating in or supporting, materially or otherwise, any fronting practice.
- 30.1.6. A fronting practice means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the Broad-Based Black Economic Empowerment Act, Act No. 46 of 2013 ("BEE Act") and any subsequent amendments or the implementation of any of the provisions of the BEE Act, including but not limited to practices in connection with a B-BBEE initiative:
- 30.1.7. In terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise.
- 30.1.8. Involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- 30.1.9. Involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers.
- 30.2. On termination of this Concession Agreement due to a breach of this clause 30, iSimangaliso shall not pay the Concessionaire any amount.

31. EFFECTS OF TERMINATION

31.1. Termination

Notwithstanding any provision of this Concession Agreement, on service of a notice of termination, this Concession Agreement shall only terminate in accordance with the provisions of this clause 31 (Effects of Termination).

31.2. Transfers to iSimangaliso of Concession Area on Termination

On termination of this Concession Agreement for any reason in accordance with its terms the Concessionaire shall:

- 31.2.1. handover the Concession Area/ Concession Area, the Camp(s), all Concession Assets (excluding all New Concession Assets) and its rights or interest in the development to iSimangaliso free of charge, liens, claims or encumbrances of any kind whatsoever, and free of any liabilities, in good condition, fair wear and tear accepted in accordance with the standards set out in iSimangaliso' Requirements. The Concessionaire shall procure handover of any assets and or Concession Area managed and/or operated by the Subcontractors;
- 31.2.2. transfer all rights in respect of Concession Area to iSimangaliso on payment of outstanding Capital Amount plus interest. In the event of the Concessionaire Default, the Concessionaire shall transfer all rights in respect of the Concession Area to iSimangaliso free of charge irrespective of whether or not the Capital Amount plus interest due and payable by iSimangaliso is paid in full or not;
- 31.2.3. deliver to iSimangaliso (as far as not already delivered to iSimangaliso) one complete set of:
 - 31.2.3.1. maintenance, operation and training manuals for the Concession Area and where they do not exist, the Concessionaire has an obligation in terms of this Concession Agreement to acquire or prepare them; and
 - 31.2.3.2. the historical operating data and plans of the Concession Area, its furniture, fittings and equipment in a format acceptable to iSimangaliso;
- 31.2.4. use all reasonable endeavours to procure that the benefit of all manufacturer's warranties in respect of mechanical and electrical equipment used or made available by the Concessionaire under this Concession Agreement and included in the Project Assets are assigned, or otherwise transferred, to iSimangaliso;
- 31.2.5. ensure that provision is made in all relevant contracts of any description whatsoever to which the Concessionaire or any Subcontractor is a party to ensure that iSimangaliso will be in a position to exercise its rights, and the

Concessionaire will be in a position to comply with its obligations in accordance herewith;

- 31.2.6. remove from the Concession Area and Concession Area all property not required by iSimangaliso and if it has not done so within 10 (ten) Business Days after any notice from iSimangaliso requiring it to do so, iSimangaliso may (without being responsible for any loss, damage, costs or expenses) remove and sell any such property and shall hold any proceeds less all costs incurred for the credit of the Concessionaire;
- 31.2.7. deliver to iSimangaliso:
 - 31.2.7.1. any keys, remote access apparatus and computer access cards to the Concession Area;
 - 31.2.7.2. complete asset registers and data registers pertaining to the PPP Opportunity; and
 - 31.2.7.3. vacate the Concession Area and shall leave same in a safe, clean and orderly condition.

If the termination is as a result of the expiry of the Project Term and the Concessionaire is required by iSimangaliso to handover the Concession Area to a new concessionaire. Such handover will be subject to the principles set out in the Handover Agreement to be availed by iSimangaliso.

- 31.2.7.4. the Concessionaire shall co-operate fully with iSimangaliso and/or any successor providing services to iSimangaliso in the nature of any of the Project Deliverables or any part of thereof in order to achieve a smooth transfer and to avoid or mitigate in so far as reasonably practicable any inconvenience or any risk to the health and safety of iSimangaliso Employees and members of the public;
- 31.2.7.5. if iSimangaliso wishes to conduct a tender process with a view to entering into a contract for the provision of services (which may or may not be the same as, or similar to, the Project Deliverables or any of them) following the expiry or earlier termination of this Concession Agreement, the Concessionaire shall co-operate with iSimangaliso fully in such tender process including (without limitation) by:

31.2.7.5.1. providing any information which iSimangaliso may reasonably require to conduct such tender excluding any information which is commercially sensitive to the Concessionaire (and, for the purposes of this Clause 31.2.7.5.1, "commercially sensitive" shall mean information which would if disclosed to a competitor of the Concessionaire or Subcontractor give that competitor a competitive advantage over the Concessionaire or Subcontractor and thereby prejudice the business of the Concessionaire or Subcontractor); and

31.2.7.5.2. assisting iSimangaliso by providing all (or any) participants in such tender process with access on reasonable notice and at reasonable times to the Concession Area subject to the Concessionaire's safety rules and regulations.

31.3. **Continuing Obligations;** Save as otherwise expressly provided in this Concession Agreement:

31.3.1. termination of this Concession Agreement shall be without prejudice to any accrued rights and obligations under this Concession Agreement as at the date of termination; and

31.3.2. termination of this Concession Agreement shall not affect the continuing rights and obligations of the Concessionaire and iSimangaliso under this clause 31 or under any other provision of this Concession Agreement which are expressed to survive termination or which are required to give effect to such termination or the consequences of such termination.

31.4. **Termination by reason of Expiry;**

For the avoidance of doubt, the Parties agree that notwithstanding anything to the contrary in this Concession Agreement:

31.4.1. if this Concession Agreement terminates on the Expiry Date; or

31.4.2. if this Concession Agreement terminates as a result of a iSimangaliso Default, a Concessionaire Default, an event of Force Majeure or a Corrupt Act, other than the Concessionaire's right to receive the Termination Amount where clause 31.4.2 applies, iSimangaliso shall not be liable for payment of any compensation to the Concessionaire or any Subcontractor

or any third party by virtue of any transfer or other effect of termination provided for in this clause 31 (Effects of Termination).

32. DISPUTE RESOLUTION

32.1. The provisions of this Clause 32 shall, save where expressly provided otherwise, apply to any dispute arising in relation to or in connection with any aspect of this Concession Agreement between the Parties.

32.2. Internal Referral

32.2.1. in the first instance, be referred to the Parties' respective representatives, who shall attempt to resolve the dispute amicably between themselves within 10 (ten) Business Days of the dispute arising, and if the dispute is still unresolved, then

32.2.2. in the second instance, be referred to the Chief Executive Officer ("CEO") of iSimangaliso and the Chairman of the Concessionaire, who shall attempt to resolve the dispute within 10 (ten) Business Days, and if it still remains unresolved then it shall go for arbitration

32.3. Arbitration

32.3.1. the said arbitration shall be held subject to the provisions of this clause: at Durban; informally. otherwise in accordance with the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965), as amended.

32.3.2. it being the intention that, if possible, it shall be held and concluded within 21 (twenty-one) Business Days after it has been demanded.

32.3.3. the arbitrator shall be, if the question in issue is: primarily an accounting matter, an independent accountant agreed upon between the Parties.

32.3.4. primarily a legal matter, a practising Senior Counsel of no less than 10 (ten) years standing agreed upon between the Parties.

32.3.5. any other matter, a suitably qualified and experienced independent person agreed upon between the Parties.

32.3.6. If the Parties cannot agree upon a particular arbitrator in terms of Clauses 32.3.3, 32.3.4 and 32.3.5, as the case may be, shall be made by the

President of the Attorneys Association of KwaZulu-Natal within 7 (seven) Business Days after the parties have so failed to agree.

32.3.7. the Parties irrevocably agree that the decision in these arbitration proceedings:

32.3.7.1. shall be binding on them;

32.3.7.2. shall be carried into effect; and

32.3.7.3. may be made an order of any Court of competent jurisdiction.

32.3.8. Pending any attempt at amicable settlement or any award of an arbitral panel, both parties shall continue to perform their obligations hereunder unless iSimangaliso requires the Licensee to suspend the operation, or as agreed in writing.

32.3.9. The costs of arbitration shall be paid by the unsuccessful Party, irrespective of whether iSimangaliso or the Licensee referred the matter to arbitration.

32.3.10. Notwithstanding any other provision of this clause 32 all disputes involving biodiversity management or conservation management shall be referred by the Concessionaire to iSimangaliso's designated conservation agent or at iSimangaliso's discretion an independent specialist appointed at the cost of the Concessionaire for formulation in scientific terms by that agent for presentation to iSimangaliso within 15 (fifteen) days of such referral to it. Any dispute referred to iSimangaliso in terms of this procedure shall be determined by iSimangaliso whose decision shall be final and binding on the Concessionaire.

32.4. Performance to Continue

32.4.1. No reference of any dispute to any resolution process in terms of this clause shall relieve either Party from any liability for the due and punctual performance of its obligations under this Concession Agreement, including the payment of any monies due hereunder.

33. CONFIDENTIALITY

33.1. Each Party shall, subject to law, keep all confidential information of the other Party confidential while this Concession Agreement remains in force and for a

period of 5 (five) years after it terminates for any reason. Furthermore, the Concessionaire shall not disclose any aspect of this Concession Agreement or make any public announcements to the media in connection herewith without iSimangaliso's prior written approval.

- 33.2. The Concessionaire warrants and undertakes that it shall not under any circumstances issue any public statement or press release to any third party including but not limited to the printed or electronic media, radio or television stations, magazines or newspapers without the prior written consent of iSimangaliso excluding material for the purposes of marketing and advertising of the operation.

34. MISCELLANEOUS MATTERS

34.1. Notices and Legal Service

- 34.1.1. All notices by either Party in terms of this Concession Agreement or relating to it shall be given in writing and sent by registered post, or delivered by hand, or transmitted by facsimile to the recipient Party at its relevant address set out below:

- 34.1.1.1. If to iSimangaliso, at:

Physical Address:

The Dredger Harbour

St. Lucia Estuary

St. Lucia

KWAZULU-NATAL

For the attention: Executive Manager Tourism and Business Development

Postal address:

Private Bag X05

St Lucia 3936

Facsimile number: (035) 590-1601

34.1.1.2. If to the Concessionaire, at:

Physical Address:

Postal address:

Email Address: _____

Marked for the attention of _____

34.1.2. Either Party may, by written notice to the other Party, change any of the addresses at which or the designated person for whose attention those notices or other communications are to be given.

34.1.3. Any notice given by any Party to the other Party which:

34.1.3.1. Is sent by registered post to the addressee at its specified address shall be rebuttably presumed to have been received by the addressee on the 7th day after the date of posting; or

34.1.3.2. Is delivered by hand to the addressee during the normal business hours of the addressee at its specified address shall be rebuttably presumed to have been received by the addressee at the time of delivery; or

34.1.3.3. Is transmitted by facsimile to the addressee during the normal business hours of the addressee at its specified facsimile number shall be rebuttably presumed to have been received by the addressee on the date of transmission as indicated on the sender's facsimile transmission report; or

34.1.3.4. The previous provisions of this clause shall not invalidate any notice or other communication given and received otherwise than as described in those provisions.

34.1.4. The Parties choose their respective physical addresses in Clause 34.1.2 as their respective domicilia citandi et executandi at which all documents relating to any legal proceedings to which they are a party may be served. If that address is changed to another address which is not a physical address in the Republic of South Africa, then the original address shall remain the domicilium citandi et executandi of the relevant Party until it nominates a new physical address within the Republic of South Africa in writing to be its new domicilium citandi et executandi.

34.2. Statement of Indebtedness

34.2.1. In the event of dispute, a statement signed by the Chief Executive Officer or Chief Financial Officer of iSimangaliso reflecting:

34.2.2. Any monies owing by the Concessionaire to iSimangaliso under this Concession Agreement;

34.2.3. Any obligations owing by the Concessionaire to iSimangaliso under this Concession Agreement; and

34.2.4. The due date for payment of such monies or for performance of such obligations

34.2.5. Shall be prima facie proof thereof.

34.3. Variation, Cancellation And Waiver

34.3.1. No provision of this Concession 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 Concession Agreement, except (in any such case) by an agreement in writing signed by the duly authorised representatives of the Parties.

34.3.2. Any relaxation or delay (together "Relaxation") by either Party in exercising, or any failure by either Party to exercise, any right under this Concession 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).

34.3.3. The waiver of any right under this Concession 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.

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

34.4. Severability

34.4.1. Whenever possible, each provision of this Concession Agreement shall be interpreted in a manner which makes it effective and valid under applicable Law, but if any provision of this Concession Agreement is held to be illegal, invalid or unenforceable under applicable law, that illegality, invalidity or unenforceability shall not affect the other provisions of this Concession Agreement, all of which shall remain in full force.

34.5. Cession and Delegation

34.5.1. Save as expressly permitted hereunder, the Concessionaire shall not, without the prior written approval of iSimangaliso sub-Concession Agreement, assign, cede, delegate, transfer or otherwise dispose of any right or obligation under this Concession Agreement to which it is a party to any other person or use this Concession Agreement as guarantee or security for any credit or financial facility of any kind to which the Concessionaire is a party. iSimangaliso may withhold consent.

34.5.2. Should the Concessionaire permit and register the sale or disposal of any transfer of any rights, interests and/or obligations held by any Shareholder in the Concessionaire, or any portion or part interest thereof, it shall pay iSimangaliso a transactional levy equal to 5% of the gross proceeds of such sale, disposition or transfer, whichever is the greater.

34.6. Language

34.6.1. All notices or communications under or in connection with this Concession Agreement shall be in English.

34.7. Governing Law

34.7.1. This Concession Agreement shall be governed by the laws of the Republic of South Africa.

SIGNED AT _____ ON _____ 2025

Chief Executive Officer

For and on behalf of

THE iSimangaliso WETLAND PARK AUTHORITY

SIGNED AT _____ ON _____ 2025.

For and on behalf of Concessionaire

35. SCHEDULE 1 - RESPONSIBILITY IN TERMS OF MAINTENANCE OF THE BUILDING AND INFRASTRUCTURE FACILITIES AT THE KOSI BAY RESORT

1. Concessionaire Responsibility

- 1.1. The Concessionaire shall be solely responsible for the maintenance and insurance of the Kosi Bay Resort – buildings and assets;
- 1.2. The Concessionaire shall be responsible for the maintenance and refurbishment of all finishes and fittings of the interior of the Kosi Bay Resort including electrical light fittings, sanitary ware, ironmongery, tiling, plastering, and painting. iSimangaliso will not be responsible for any maintenance at the Kosi Bay Resort.
- 1.3. The Concessionaire will be responsible for electricity provision to the site, which will include maintenance thereof. The installation of a low decibel back-up generator is allowed, subject to iSimangaliso's requirements. Maintenance will be the Concessionaire's responsibility.
- 1.4. The Concessionaire shall ensure that the electrical supply and installations comply with the required statutory standards (registered electrician to issue a certificate of competence). However, prior to Commencement Date iSimangaliso shall provide the Concessionaire with certificate of competence from the registered electrician confirming that the Kosi Bay Resort's electrical supply and installations comply with the required statutory standards.
- 1.5. The Concessionaire shall be responsible for all equipment related to the Kosi Bay Resort and the maintenance thereof.
- 1.6. The Concessionaire shall maintain all walkways, stairs, handrails, retaining structures, fencing and drainage structures to ensure that it is in good working order and safe for public use.
- 1.7. The Concessionaire shall ensure that there are sufficient firefighting equipment.
- 1.8. The Concessionaire shall be required to compile and adhere to a five year (5) year major maintenance schedule.
- 1.9. In essence, the Concessionaire will be responsible for the maintenance of the entire Kosi Bay Resort inclusive of but not limited to buildings, fittings, gardens, sewerage works, electricity provision, water provision as well as the access road.

- 1.10. The Concessionaire shall commit to undertake major maintenance for the Kosi Bay Resort no later than two (2) years prior Expiry Date of the Concession Agreement.

2. iSimangaliso Responsibility

- 2.1. iSimangaliso as the management authority of the park, is responsible for overseeing the overall management of the Park in accordance with the World Heritage Convention Act No 49 of 1999, its regulations and other related legislative prescripts.
- 2.2. iSimangaliso reserves the right to check that the maintenance of this tourism infrastructure and rehabilitation of the Project Sites is to its current standards.

3. The Concessionaire's Manuals

- 3.1. The Operator to submit the following documents for approval by iSimangaliso:
 - 3.1.1. Environment Management Plan
 - 3.1.2. Business and Operational Plan
 - 3.1.3. Marketing Plan
 - 3.1.4. SMME development Plan
 - 3.1.5. B-BBEE (Specific Goals) Commitment Plan

36. SCHEDULE 2 – CONCESSIONAIRE OPERATIONAL REQUIREMENTS

1. Promotion and conduct of business.

- 1.1. In the conduct of the Business the Concessionaire shall actively promote the Kosi Bay Resort and use its best endeavors to further the mutual business interests of ISimangaliso and the Concessionaire and, without limiting the generality of the foregoing, shall provide and promote the goods and/or services required of the Business as specified herein.

2. Standards of Kosi Bay Resort

- 2.1. In the conduct of the Business the Concessionaire shall at all times maintain the Kosi Bay Resort and all services provided therein to the highest standard and ensure that the premises are at all times clean and safe for customers.

3. Branding

- 3.1. Concessionaire's branding shall be in line with the iSimangaliso branding manual, policy.

4. Service Provision

- 4.1. In the conduct of the Business the Concessionaire shall keep the Kosi Bay Resort open for business in accordance with the reasonable requests of the Protected Area and the requirements of any relevant statute, bye-law or regulation relating to the Business.

5. Product Offering

- 5.1. The Design Plan submitted by the Concessionaire must be adhered to unless otherwise agreed by iSimangaliso.
- 5.2. The Concessionaire will be obliged to adapt their operations on request by ISimangaliso to reflect any changes that may have been identified through research, or that is otherwise offensive or undesirable. For the purposes of this Clause 5.3 as well as any other additional Clauses in this Concession Agreement that makes reference to iSimangaliso' approval, such approval shall be deemed to vest with the iSimangaliso CEO.

- 5.3. Where food is prepared and served to visitors to the Park, iSimangaliso reserves the right to implement quality and hygiene audit mechanisms. These will be agreed with the Concessionaire and cost for these services will be agreed.
- 5.4. The Concessionaire is obliged to provide universal access at the Kosi Bay Resort.

6. Uniforms

- 6.1. The Concessionaire is obliged to provide all staff with suitable and customised apparel in line with the theme proposed for the Kosi Bay Resort.
- 6.2. All apparel must be relevant to the specific function performed by staff members and comply with Legislation, Health, and Safety Standards.
- 6.3. Notwithstanding the generality of the foregoing Clause 6.2, any member of staff serving guests in the Kosi Bay Resort will not be permitted to wear open shoes or sandals.
- 6.4. The Concessionaire will be obliged to introduce and provide all staff with the applicable uniform on or before Operation Commencement Date.

7. Customer Survey Programme

- 7.1. A Customer Survey Programme including a Mystery Guest Programme could be implemented by iSimangaliso to measure quality. The Concessionaire will be required to collaborate with iSimangaliso in the implementation of such Programmes and/or other customer surveys in the Kosi Bay Resort.

8. Customer Feedback System

- 8.1. A Customer Survey Programme including a Mystery Guest Programme could be implemented by iSimangaliso to measure quality. The Concessionaire will be required to collaborate with iSimangaliso in the implementation of such Programmes and/or other customer surveys in the Kosi Bay Resort.

9. Kosi Bay Resort Staff and Staff Transport

- 9.1. In the conduct of the Business the Concessionaire shall be solely responsible for all staffing requirements at the Kosi Bay Resort. The Concessionaire is responsible for the transport of their employees between from the workplace to

the living quarters, particularly after-hours transport where living quarters are logistically distanced from the Kosi Bay Resort. Where staff resides outside the park, iSimangaliso will issue early entry and late exit permits to allow for after hour staff transport. The Concessionaire is responsible for the transport of their staff to the required medical facilities. In the event that iSimangaliso' transport can be utilised, the related cost of transport will be for the Concessionaire 's account.

- 9.2. The Concessionaire will be required to do standard background security checks (Inclusive of criminal record checks) for all employees that will work in the park.
- 9.3. The Concessionaire is required to institute integrity testing (Polygraph) as a Condition of Service before and employee takes up employment in the park (as per iSimangaliso' current Policy and Procedures).

10. Staff Housing

- 10.1. A model where all non-essential staff resides outside the park remains desirable. Essential staff to use staff accommodation on a shared basis when on duty.
- 10.2. The Concessionaire will be obliged to conclude separate Housing Rental Agreements with iSimangaliso for any employees that reside in iSimangaliso' housing. The Concessionaire will be directly accountable to settle all housing rentals with iSimangaliso within 30 (thirty) days following the end of each calendar month. iSimangaliso will not be accountable for the recovery thereof from individual employees of the Concessionaire.
- 10.3. The Concessionaire will be obliged to provide iSimangaliso with a housing deposit equal to 2 (two) months housing rentals.
- 10.4. In the event that iSimangaliso is unable to provide the necessary building/s for staff housing or accommodation as envisaged by Clause 10 or such a building is in such a state that it needs repairs and/or renovations and iSimangaliso is not able to undertake such repairs or renovations immediately, then the Concessionaire has a right to build or repair and/or renovate such a building/s subject to Concessionaire negotiating and agreeing on terms with iSimangaliso for building, or renovating, and/or repairing such building/s.

10.5. On contract termination iSimangaliso will pay the Concessionaire the Residual Value for staff accommodation that was built by the Concessionaire.

11. Advertising

11.1. In the conduct of the Business the Concessionaire shall comply with all the reasonable advertising requirements as may be specified by iSimangaliso from time to time.

Maintain stocks

11.2. In the conduct of the Business the Concessionaire shall at all times keep the Business adequately stocked in such quantity to ensure visitors to the Protected Area are properly catered for.

12. Supplier Accounts

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

13. Meetings

13.1. To provide for a forum where the parties can resolve disputes and agree operational issues, it is encouraged that the Concessionaire attends concession meetings that will be arranged from time to time.

14. Procedure Manuals

14.1. The Concessionaire is obliged to comply with the Concessionaire's Operational Manual submitted with the Concessionaire's Bid Submission. Any significant and material changes which could change operations drastically and thus cause the Concessionaire to deviate from the submitted Concessionaire's Operational Manual must be subject to the approval of iSimangaliso.

14.2. The Concessionaire is obliged to adhere to iSimangaliso's Procedure Manual as amended from time to time. The Procedure Manual will define the roles, responsibilities and procedures with regard to housing, transport of staff, maintenance, infrastructural upgrades and expansions etc.

15. Quality Audit

15.1. The Concessionaire shall participate in and work together with iSimangaliso in conducting and establishing quality audits.

16. Games

16.1. The Concessionaire shall not be entitled to introduce any arcade type amusement or gaming machines into the Kosi Bay Resort without the prior written approval of ISimangaliso.

17. Electrical Certificate of Compliance

17.1. iSimangaliso shall supply the Concessionaire with an electrical certificate of compliance (CoC) for the Kosi Bay Resort during handover of the site to the Concessionaire

17.2. The Concessionaire shall supply iSimangaliso with an electrical certificate of compliance (CoC) for the Kosi Bay Resort before handing the site back after Contract Termination.

18. Problem Animal Management

18.1. The Concessionaire will be required to implement the following measures to avoid the “development” of problem animals.

18.2. The concessionaire will apply the following strategy:

18.2.1. To have functional fences around facilities, waste storage facilities and along borders.

18.2.2. To remove or secure potential food sources, where possible, to prevent attracting unwanted attention which might corrupt animals and birds and cause them to become problematic.

18.2.3. To prevent animals from gaining access to these food sources, and

18.2.4. to educate and sensitise staff, contractors, guests, and visitors on the issues related to problem animals.

18.2.5. No food or food waste may be left unattended from the beginning of the handover phase and during the operational phase.

- 18.2.6. All solid and wet waste must be stored in bins in scavenger-proof storage areas, and cleared regularly.
- 18.2.7. The scent of food left lying around also attracts animals. For this reason, the bins that are used for storing waste must seal as tightly as possible in order to reduce odours. When the bins are emptied, they must be washed and disinfected thoroughly.

19. Conservation and Community Fund Levy

- 19.1. The Concessionaire guests shall be required to pay the Conservation Fees as required from iSimangaliso' guests, which differentiates between local and foreign visitors and will be payable for every day spent in the Protected Area.
- 19.2. The Concessionaire guests shall be required to pay the Community Fund Levy as required from iSimangaliso' guests.

20. Drives

- 20.1. The Concessionaire shall develop an After-Hours Travel Procedure to be approved by the iSimangaliso, which will take night drive and other activities in consideration. If permitted, night drive travel times should be in line with that of iSimangaliso. Any travel outside the agreed After Hours Travel Procedure will apply to the normal procedure of Late Permits. This includes late arrivals of guests.
- 20.2. Game drives operated outside of official gate times are subject to approval by iSimangaliso. Activities will need to be coordinated with iSimangaliso and its partners, to ensure there is no conflict between activities. This may entail specific routes or areas being designated for use by the Concessionaire.

37. SCHEDULE 3: CONCESSIONAIRE BID SUBMISSION

1. Save for any agreed variations between the Parties, the Concessionaire shall adhere to and comply with the Concessionaire's Bid Submission. Notwithstanding the generality of the foregoing, the Concessionaire is obliged to adhere to the Business, Operational and Design Plan and Risk Matrix attached herewith.

1.1. Concessionaire Business Operational and Design Plan

[ATTACHED]

1.2. Concessionaire Risk Matrix

[ATTACHED]

38. SCHEDULE 4 – ENVIRONMENTAL SPECIFICATIONS FOR THE OPERATION OF KOSI BAY RESORT WITHIN THE WETLAND PARK

1. Introduction

- 1.1. This is an undertaking by the Concessionaire 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 Wetland Park.
- 1.2. The Concessionaire undertakes to take all reasonable steps in 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 Parties and the general public.

2. Legislative Basis for these Guidelines

- 2.1. iSimangaliso is bound by a number of statutes with relevance to environmental management of Parks, including (without limitation) the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) (NEMPAA); the National Water Act 36 of 1998; the Water Services Act, 108 of 1997; the National Environmental Management Act, 107 of 1998 (NEMA); the National Environmental Management: Air Quality Act; the Hazardous Substances Act, 15 of 1973; and the World Heritage Resources Act.
- 2.2. Authorization of any development in a Protected Area is governed by the NEMA and the NEMPAA, and regulations. Any changes to infrastructure or operations require written approval from iSimangaliso and are subject to the prescribed policies and procedures.
- 2.3. The process for operations and maintenance of Kosi Bay Resort will be undertaken as per iSimangaliso internal policies and procedures, and authorizations given by the Department of Environmental Affairs and Tourism where relevant and iSimangaliso.
- 2.4. The EIA laws and Regulations do not specifically require an EIA for a development such as the refurbishment and/or expansion of a Kosi Bay Resort. However, given that the development is taking place within a protected area such as a Wetland Park, iSimangaliso requires environmental scoping to be conducted on any proposal to expand or modify the existing Kosi Bay Resort

that is being bid for. Modifications include both structural changes to the facility and additions to the facility or its environs, including signage. The scoping report must be submitted to the "relevant environmental authority" as defined in the EIA Guideline documents.

- 2.5. Concessionaire proposing significant expansions or structural modifications should anticipate that an EIA will be required, and should factor the cost of carrying out the EIA into their financial projections.
- 2.6. iSimangaliso will have a role in the EIA process, both as an Interested and Affected Party (IAP), and as the regulatory authority with jurisdiction over the Protected Area. It will be relevant authority's responsibility to determine whether, on the basis of information provided in the scoping report, a detailed EIA needs to be carried out.

3. Guidelines Based on iSimangaliso Internal Requirements

- 3.1. The EIA Regulations cover many of the issues that will arise during the assessment of developments within Wetland Parks. In addition, iSimangaliso undertook a review of its internal policies that may impact on such developments.
- 3.2. As a result, some of the Guidelines contained herein flow from internal iSimangaliso management documents, such as the Management Plan. In some instances, however, these documents were neither sufficiently comprehensive nor sufficiently detailed as to the allowable parameters for development by commercial operators. Where this occurred, iSimangaliso undertook an internal effort to develop the necessary Guidelines. In the case of the iSimangaliso, the 'relevant environmental authority' for review of EIAs conducted in Wetland Parks is the national Department of Environmental Affairs and Tourism.

4. Precautionary Principle

- 4.1. Ecological and natural resource processes are not always clearly understood, nor are the interactions among such processes. iSimangaliso recognises that issues may arise suddenly, or circumstances change, due to limitations in current knowledge. iSimangaliso has endeavoured to identify these limitations wherever possible, and to design the concession process in a way that minimises the environmental risk to the national assets under its control.

However, situations may arise where changes which have not been anticipated may cause iSimangaliso to require adaptations to the management of the area.

5. Code of Conduct

- 5.1. The Concessionaire undertakes to induct all staff employed on the iSimangaliso Wetland Park Code of Conduct.
- 5.2. The Concessionaire confirms that the Code of Conduct is understood and will be complied with.

6. Environmental Impact

- 6.1. The Concessionaire undertakes to bring to the attention of iSimangaliso any matter which may, in its view, have a detrimental impact on the Environment within the Kosi Bay Resort and the Protected Area.
- 6.2. The operator needs to subscribe to the South African Seafood Initiative (SASSI) and only sell/include fish on the menu with green status or SASSI certified.

7. Water Management and Guidelines

- 7.1. The Concessionaire undertakes to implement water conservation measures in the design and implementation of their operations;
- 7.2. The Concessionaire undertakes to:
 - 7.2.1. Monitor the use of water;
 - 7.2.2. Educate staff via on-site notices on the use of water;
 - 7.2.3. Set water usage targets (monitored weekly/monthly) and manage these targets;
 - 7.2.4. Aim to avoid accidental loss through effective maintenance, installing quality storage and reticulation systems and implementing leak detection systems

8. Chemical Substances

- 8.1. The Concessionaire undertakes to not sell or use (including staff of the Concessionaire) any of the chemicals that are banned from use in Wetland Park (as determined by any Environmental Manager in Park);

- 8.2. The Concessionaire acknowledges that all chemicals listed as “Prohibited” may not be brought into, sold or used in any Park. The products include items such as Rattex, Finale, Dyant, Doom and Target (an extensive list is outlined in iSimangaliso’s Pest Control and Bat Management Policy);
- 8.3. The Concessionaire undertakes to ensure safe storage and disposal of chemicals and their containers;
- 8.4. The Concessionaire undertakes to have a specific disposal system for toxic or other waste regarded as being dangerous under supervision of the Technical Services Department;
- 8.5. The Concessionaire undertakes to use environmentally friendly and biodegradable detergents and cleaning agents;

9. Waste Management

9.1. Liquid Wastes

- 9.1.1. Liquid waste refers to sewerage as well as grey water;
- 9.1.2. The Concessionaire undertakes to manage liquid waste in accordance with national and local legislation requirements;
- 9.1.3. The Concessionaire undertakes to design management techniques to be both economically viable and environmentally sustainable;
- 9.1.4. The Concessionaire undertakes to implement waste procedures that optimize the principles of waste reduction and waste recycling and ensures that the end product do not pollute the environment;
- 9.1.5. The Concessionaire undertakes to install a grease trap for:
 - 9.1.5.1. Pot and Rinse Sinks attached to Dish Washers;
 - 9.1.5.2. Fixtures or drains through which significant amount of fats, oils or grease may be introduced;
 - 9.1.5.3. Soup Kettles or similar devices;
 - 9.1.5.4. All sinks that are used to clean any dishes, pots, pans or cooking utensils.

9.1.6. The Concessionaire undertakes to implement processes and procedures which stipulates the following:

- 9.1.6.1. Kitchen staff should inspect grease traps and interceptors at least monthly and maintain a log sheet of each trap inspection detailing condition of the trap and any maintenance activity;
- 9.1.6.2. that grease traps are cleaned when 25% of the liquid level of the trap is grease or oil; and
- 9.1.6.3. That waste recovered from the grease traps be removed from the park and disposed of at an authorized facility.

9.2. Solid Wastes

9.2.1. The Concessionaire undertakes to manage all waste that are generated in such a way that direct and indirect impacts are kept to a minimum.

9.2.2. The Concessionaire undertakes to achieve Solid Waste Management Best Practices which implies the following:

- 9.2.2.1. Manage solid waste from source to disposal;
- 9.2.2.2. Strive to eliminate non-recyclable or hazardous packaging or containers at the procurement phase;

9.2.3. The Concessionaire undertakes to include the following policies in the waste management:

9.2.3.1. Green Procurement Policy: This policy defines the procedures that the Concessionaire will implement to ensure that all produce, containers and packaging comes from suppliers that under-write environmental principles, and that waste be recyclable as far as possible;

9.2.3.2. Hazardous Waste Policy: The Hazardous Waste Policy defines procedures that the Concessionaire will implement to manage any hazardous waste, to ensure that it is firstly minimized, but also that it is stored and discarded in a safe and legal way.

9.3. The Concessionaire will follow the following guidelines to minimize the effect of the solid waste on the ecosystem:

- 9.3.1. Minimize solid waste production at all sources, by striving for the minimization of all waste
- 9.3.2. Maximize the recycling of solid waste. Glass, tin, paper and cardboard must be sorted on site for recycling, while actual recycling will take place off site at the approved camp waste disposal site.
- 9.3.3. All waste must be removed to the respective approved camp waste disposal site and incinerator for disposal and recycling. The dumping and disposal of waste other than at the approved waste site is strictly prohibited and failure to comply may result in a penalty.
- 9.3.4. Waste storage and sorting areas must be properly constructed and maintained. Back-of-house waste cages and waste storage areas must remain clean and secure from problem animals.
- 9.3.5. Waste storage areas must remain visually hidden from visitors to the park.
- 9.3.6. Packaging and containers given to visitors to the park must be environmentally friendly, bio-degradable and recyclable.
- 9.3.7. The distribution of plastic bags to visitors is strictly prohibited and only brown paper bags are allowed to be given for the purpose of carrying items purchased.
- 9.3.8. Ensure that the all areas are kept free of litter by:
 - 9.3.8.1. Promoting an ethic amongst guests and staff alike.
 - 9.3.8.2. Soliciting the co-operation of all staff to pick up litter wherever they find it.

10. Pest Control

- 10.1. The Concessionaire undertakes to comply with the integrated pest management plan as outlined in iSimangaliso's Pest Control and Bat Management Policy.
- 10.2. Where and if required the Concessionaire undertakes to control bats as outlined in iSimangaliso's Pest Control and Bat Management Policy.
- 10.3. The Concessionaire undertakes to make use of preferred pest control chemicals as outlined in iSimangaliso's Pest Control and Bat Management Policy.

11. Visual Impacts

- 11.1. Describe building materials to be used (where applicable) for all structures and obtain approval from iSimangaliso where appropriate;
- 11.2. Describe efforts to minimise the visual impacts of the development, including lighting;
- 11.3. Provide locations of lightning arrestors and radio masts (where applicable) and how the visual impacts of these will be minimised;
- 11.4. Specifically outline how brand signage and colours will be mitigated to complement the environment; and
- 11.5. The Concessionaire undertakes to implement mitigation measures in order to reduce the visual impact in the park.

12. Monitoring

- 12.1. The Concessionaire agrees to cooperate with iSimangaliso in compiling a monitoring checklist that encompasses all environmental conditions. The checklist would be used for auditing purposes and would be conducted once every 4 months; and
- 12.2. The Concessionaire agrees that iSimangaliso will monitor, evaluate and score the operations (based on the line items in the checklist) and that a score of less than 85% for three (3) consecutive audits would imply material breach of the Concession Agreement.

13. Concessionaire Environmental Proposal

39. SCHEDULE 5 – B-BBEE OBLIGATIONS (SPECIFIC GOALS)

1. In this Schedule,
 - 1.1. any term, defined in the Broad-based Black Economic Empowerment Act, No. 53 of 2003 ("**B-BBEE Act**"), or in terms of any Codes of Good Practice issued in terms of section 9 of the B-BBEE 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 B-BBEE Charter and Scorecard, in which case the provisions of the Tourism B-BBEE Charter and Scorecard will prevail.
 - 1.2. The following terms, as used herein, shall have the following meanings:
 - 1.3. "**B-BBEE Reporting Period**" means a period of 12 (twelve) months falling within a period of 12 months after the Effective Date of the Concession Agreement;
 - 1.4. "**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;
 - 1.5. "**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;
 - 1.6. "**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;
 - 1.7. "**Black Person**" shall have a corresponding meaning;
 - 1.7.1. "**Black Women**" means female Black People;
 - 1.7.2. "**Local Community Trust**" means a trust of the local community trust

registered in terms of the Trust Property Control Act;

1.7.3. **"Community Trust Ownership"** means Equity in the Concessionaire which must, as a mandatory provision of the PPP Opportunity, be acquired by a Community Trust;

1.7.4. **"Direct Ownership"** means ownership of an equity interest in an enterprise where such equity interest comprises:

1.7.4.1. the right to participate in the voting rights in that enterprise;

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

1.7.4.3. Broad-based B-BBEE 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;

1.7.4.4. 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;

1.7.4.5. employment related expenditure;

1.7.4.6. procurement from public utilities and natural monopolies; and

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

1.7.5. **"Enterprise Development"** may take a variety of forms, including:

1.7.5.1. direct investment in Black Owned and Black Empowered SMMEs;

1.7.5.2. joint ventures with Black Owned and Black Empowered SMMEs that result in "substantive" skills transfer;

1.7.5.3. 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

- 1.7.5.4. twinning initiatives with Black Owned and Black Empowered SMMEs which result in cost savings or revenue generation for those SMMEs;
- 1.7.6. "**Land Claimants**" refers to individuals, communities, or groups who have lodged claims for the restitution of land rights under the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);
- 1.7.7. "**Land Owner**" refers to individuals or communities who regained land through the Land Restitution Program;
- 1.7.8. (iSimangaliso acknowledges that there are certain land claims lodged for certain portions of land in the Park. These claims may have not been settled in accordance to the Land Restitution Program, or settled but ownership not yet achieved, however it purports that such communities whose land claim have been settled be considered as special communities who have a special interest in the Park and must be treated as such.)
- 1.7.9. "**Learnership**" refers to learnerships as defined in the Skills Development Act, No. 97 of 1998, amended in 2003;
- 1.7.10. "**Local**" means the geographic area specified by iSimangaliso in respect of the PPP Opportunity, being either within 100 km kilometre radius of the Concession Area or within a 30 km reach of the boundary of the Protected Area fence (but excluding boundaries to the neighbouring countries);
- 1.7.11. "**Local Communities**" means communities within 100km radius of the Concession Area;
- 1.7.12. "**Management**" refers to all senior and middle management who do not form part of the executive management of the board of directors of the Concessionaire;
- 1.7.13. "**Mandatory Partners**" refers to the Land Claimants and Land Owners as defined by iSimangaliso;
- 1.7.14. "**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;

1.7.15. **"Preferential Procurement"** refers to all spend with B-BBEE compliant suppliers, to be calculated as follows:

1.7.15.1. one Rand (R1) for every one Rand (R1) spent with Excellent B- BBEE Contributors, Good B-BBEE Contributors, B-BBEE Compliant SMMEs and Black Women Owned B-BBEE Contributors; and

1.7.15.2. fifty cents (50c) for every one Rand (R1) spent with Satisfactory B- BBEE Contributors;

1.7.15.3. all of which terms are defined as follows:

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

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

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

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

1.7.15.8. a B-BBEE 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 B-BBEE; and

1.7.15.9. a Black Women Owned B-BBEE 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 B-BBEE;

1.7.16. **"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;

1.7.17. **"Tourism B-BBEE Charter"** means the Amended Tourism B-BBEE Sector Codes in terms of section 9(1) of the B-BBEE Act, as amended, gazetted on 20 November 2015, Government Gazette No. 39430.

1.8. **B-BBEE Milestones and Weightings**

The Concessionaire shall from Operation Commencement Date comply with the commitments and undertakings set out in the B-BBEE Scorecard (Specific Goals) below.

1.9. **Milestones and Targets**

1.9.1. The B-BBEE Milestones and Targets for the duration of the PPP Term shall be determined by the restructured editions of the Tourism Charter and Scorecard as gazetted from time to time, as well as Integrated Management Plan and iSimangaliso Commercialization Strategy.

1.9.2. The Amended Tourism B-BBEE Charter was developed to be in line with the Department of Trade and Amended Codes of Good Practice to advance the objectives of the B-BBEE Act, and to provide a framework and establish the principles upon which B-BBEE will be implemented within the Tourism Sector.

1.9.3. The milestones and targets of the Tourism B-BBEE Charter and Scorecard could thus be amended from time to time and the provisions of this Section and Agreement would be modified accordingly. The Concessionaire would receive notification of such amendments and be provided with a satisfactory remedy period to address the amendments.

1.10. **External B-BBEE Verification**

1.10.1. The Concessionaire shall appoint a reputable external verification agency to determine the Concessionaire's B-BBEE status and a copy of such an

independent verification certificate shall be provided to iSimangaliso within 15 (fifteen days) after the end of each Project Year.

1.10.2. The B-BBEE Verification Certificate will categorise the Concessionaire according to the Concessionaire's contribution to B-BBEE.

1.10.3. The Concessionaire shall be obliged in terms of this Agreement to, at a minimum, comply with the category of a Good B-BBEE Contributor for each Project Year.

1.10.4. In the event of default by the Concessionaire to comply with the provisions of the foregoing Clauses and the Concessionaire default is not remedied before the expiry of the period referred to in the notice by iSimangaliso, iSimangaliso may terminate this Agreement with immediate effect by written notice to the Concessionaire.

1.10.5. The Concessionaire is obliged to comply with the B-BBEE commitments as outlined in the bid submission. In addition, the Concessionaire is required to comply with commitments made to involve Local Communities either as equity shareholders or to fill vacant positions with people from the beneficiary list as determined and verified as residence from Local Communities. Failure to do this might result in termination of the Agreement.

1.11. B-BBEE Penalties

1.11.1. In the event the Concessionaire fails to meet the Compliance Targets set out in Column 4 of the B-BBEE Project Scorecard at the end of the B-BBEE Reporting Period, the Concessionaire shall be subject to the B-BBEE penalties calculated in accordance with the formulae set out in clause 1.12 (B-BBEE Measurement Principles) and.

1.11.2. The penalties which shall be levied on the Concessionaire shall not exceed 5% of the aggregate monthly PPP Fee instalments paid by the Concessionaire over a period of 12 (twelve) months.

1.11.3. Any B-BBEE penalties levied on the Concessionaire shall be paid by the Concessionaire to iSimangaliso within a period of 6 (six) months from the date of confirmation of penalties incurred by the Concessionaire for the relevant B-BBEE Reporting Period, and shall not be carried forward to the next B-BBEE Reporting Period.

1.12. BBBEE COMMITMENT (SPECIFIC GOALS)

ELEMENT	Element Weighting	Sub-element Weighting	Measurement and Criteria	Target	Bid Offer Compliance Target Year 1	Bid Offer Compliance Target Year 3
Ownership	33.3 points or 30%	16.7 points or 50%	Percentage share of exercisable voting rights and economic benefit as reflected by direct shareholding by Black People in the Concessionaire, to which Black People are entitled.	40%		
		4.5 points or 13.5%	Percentage share of exercisable voting rights and economic benefit as reflected by direct shareholding by Black Women/Youth in the Concessionaire, to which Black Women/Youth are entitled.	40%		
		4.5 points or 13.5%	Percentage share of exercisable voting rights and economic benefit as reflected by direct shareholding by Black Women/Youth in the local community in the Concessionaire.	15%		
		7,70 points or 23%	Percentage share of exercisable voting rights and economic benefit as reflected by direct shareholding by Mandatory Partners.	10%		
Management Control & Employment Equity	30 points or 27%	2.5 points or 8%	Black People as a percentage of board of all directors in the Concessionaire.	50%		
		2 points or 7%	Black Women as a percentage of board of all directors in the Concessionaire.	30%		
		2.5 points or 8%	Black People as a percentage of executive management in the Concessionaire	50%		

		2 points or 7%	Black women as percentage of executive management in the Concessionaire	30%		
		2.5 points or 8%	Black People as a percentage of middle management in the Concessionaire.	70%		
		2 points or 7%	Black Women as a percentage of middle management in the Concessionaire	40%		
		2.5 points or 8%	Black People as a percentage of junior management & supervisors in the Concessionaire.	70%		
		2 points or 7%	Black Women as a percentage of junior management & supervisors in the Concessionaire.	40%		
		2 points or 7%	Local Black Women/Youth as a percentage of junior management & supervisors in the Concessionaire.	45%		
		2 points or 7%	Black People as a percentage of total staff	75%		
		2 points or 7%	Black Women as a percentage of total staff	40%		
		3 points or 10%	Local Black People as a percentage of total staff	70%		
		3 points or 10%	Local Black Women/Youth as a percentage of total staff	45%		
Skills Development	12 points or 11%	3.5 points or 29%	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 Leivable Amount: -Accommodation. -Hospitality and related services; -Travel and related services. (Targets for Black People must be split according to the Economically Active Population)	3% of Payroll		

		3.5 points or 29%	Number of Black Employees participating in Learnerships, Apprenticeships and Internships paid for by the measured entity as a percentage of total Employees (Targets for Black People must be split according to the Economically Active Population)	75%		
		3.5 points or 29%	Number of learnerships as a percentage of total employees (of which all should go to local black women & youth unemployed learners)	5%		
		1.5 points or 13%	Number of Black Learners participating in Learnerships, Apprenticeships and Internships paid for by the measured entity as a percentage of number of total Employees Targets for Black People must be split according to the Economically Active Population	80%		
Preferential Procurement & Enterprise & Supplier Development	31.5 points or 28%	Preferential Procurement: 15.5 points or 50%				
		3.0 points or 19%	B-BBEE Procurement Spend from all Empowering Suppliers based on the B-BBEE Procurement Recognition Levels 1 and 2 as a percentage of Total Measured Procurement Spend	60%		
		2.5 points or 14.5%	B-BBEE Procurement Spend from all local community Empowering Suppliers that are Qualifying Small Enterprises based on the applicable B-BBEE. Procurement Recognition Levels as a percentage of Total Measured Procurement Spend (50%	15%		

			Black Women & Youth Owned)			
		2.5 points or 14.5%	B-BBEE Procurement Spend from all local community Exempted Micro Enterprises Based on the applicable BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend (EMEs (50% Black Women & Youth Owned)	15%		
		4 points or 26%	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	40%		
		4 points or 26%	B-BBEE Procurement Spend from Empowering Suppliers that are at least 51% Black Women/Youth Owned based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	25%		
		Enterprise Supplier Development: 15.5 points or 50%				
		4.5 points or 29%	Annual value of all qualifying Supplier Development contributions to local community entities made by the measured entity as a percentage of the target	3% of NPAT		
		4.5 points or 29%	Annual value of all qualifying Enterprise Development contributions and Sector Specific Contributions to local community entities made by the measured entity as a percentage of the target	0.5% of NPAT		
		6.5 points or 42%	The company or SPV must implement a minimum number of 4 Enterprise	4		

			Development programmes over the duration of the contract. The company or SPV to commit in assisting the Local community with setting up of the companies dealing with the following services: Laundromat, Cleaning and Maintenance.			
Social Development	4 or 4%	2 points or 50%	Annual value of all local Qualifying Socio- Economic Development contributions by the measured entity as a percentage of the target	0.5% of NPAT		
		2 points or 50%	Mandatory CSI contribution to iSimangaliso	0.5% of NPAT		
Total BEE Points	111					

40. SCHEDULE 6: PARK AND ACTIVITY RULES

These Park Rules shall apply to the Concessionaire, its guests, invitees and contractors, who, and the Concessionaire shall procure that its guests, invitees and contractors shall not:

1. VEHICLES, VESSELS AND MACHINERY

- 1.1. Drive elsewhere than on an authorized road or track;
- 1.2. Operate a vessel on inland waters or at sea other than from an authorized jetty or launch site, and other than in area set aside and zoned for use by vessels;
- 1.3. Exceed the indicated speed limit on land or water
- 1.4. Drive a vehicle or park in a manner that is a nuisance or a disturbance or an inconvenience to any other person
- 1.5. Operate a vessel or moor or anchor in a manner that is a nuisance or a disturbance or an inconvenience to any other person
- 1.6. Drive a vehicle, or operate any vessel or machinery without the appropriate statutory legal requirement such as a drivers license or operators certificate
- 1.7. Use or operate any vehicle, vessel or machinery that does not meet the statutory legal safety and licensing or registration requirements
- 1.8. Start or run any outboard motor on dry land unless in a designated area
- 1.9. Operate any vehicle, vessel or machinery whilst under the influence of drugs or alcohol
- 1.10. Drive a vehicle in the Park one hour before official sunset or before official sunrise except in a designated area or without permission
- 1.11. Allow any passenger to ride on the back of an open vehicle unless in a designated area or if the vehicle is a tour vehicle approved for use in the Park
- 1.12. Use a motorcycle in the Park except in a designated area
- 1.13. Use a bicycle in the Park except in a designated area

2. DISTURBANCE OR NUISANCE

- 2.1. Play music / radio / TV in or out of accommodation or from a vehicle or vessel, which disturbs other visitors
- 2.2. Use a cell phone or any other communications device at any public place, hide, view site, or on any conducted or non-conducted walk so as to cause a nuisance or disturbance to other visitors or any wildlife
- 2.3. After 21h30 and before 06h30 cause any noise which is likely to disturb any other person
- 2.4. Disturb, hinder or harass any manager, researcher, contractor, consultant, operator, Park Authority employee or Concessionaire who is employed in the application of his or her authorized duties
- 2.5. Engage in any act which in the opinion of an authorized officer, is causing a nuisance, disturbance or danger to other visitors

3. FIRES

- 3.1. Discard any burning object, or light a fire except in a designated area
- 3.2. Fail to extinguish any fire lit in a designated area, once it has been used for its intended purpose.

4. WILDLIFE

- 4.1. Injure, disturb or feed any form of wildlife

5. LITTER AND FISH CLEANING

- 5.1. Discard any article or refuse otherwise than by placing it in a receptacle or place intended therefore
- 5.2. Clean or gut fish unless in a designated fish cleaning area
- 5.3. Discard any fish or fish offal unless in a designated fish cleaning area

6. DAMAGE TO PROPERTY

- 6.1. Place any name, letter, figure, symbol, mark or picture on any object
- 6.2. Damage, deface or alter any building, sign, public amenity, machinery, water or electrical reticulation, vehicle, vessel, gate, fence, litter bin, bench, braai facility,

shade structure or any other Park property

7. WEAPONS

- 7.1. Fail to declare any firearm, bow, crossbow, catapult, blowgun, air gun or other mechanism or object capable of being used for hunting or injuring any wildlife, upon entry to the Park

8. OVERNIGHTING

- 8.1. Stay overnight in any rest camp or other designated overnight area without a valid booking

9. PERMIT REQUIREMENTS

- 9.1. Unless in possession of a specific permit issued or endorsed by the Park Authority:
- 9.2. Uproot, pick, cut or damage any plant, or be in possession of any plant or plant material, including seaweed
- 9.3. Disturb or collect any marine or terrestrial biological material, whether alive or dead
- 9.4. Collect any firewood or driftwood
- 9.5. Disturb or collect any fossils, shells, rocks, sand or any other substrate
- 9.6. Be in possession of any explosives, including fireworks, or any unsealed or loaded firearm
- 9.7. Introduce into the Park any pets or livestock, whether domestic or otherwise
- 9.8. Travel in the Park during times other than those laid down by the regulations
- 9.9. Stay overnight in any place other than a rest camp or designated overnight stop
- 9.10. Advertise any goods or services
- 9.11. Offer any goods or services for sale or hire
- 9.12. Conduct any business within the Park

- 9.13. Film, make sound recordings, or take still photographs for financial gain
- 9.14. Collect any money from the public, including for any charitable organization Give public entertainment for reward
- 9.15. Conduct any research or experiment
- 9.16. Conduct or arrange any organized event, whether for gain or not
- 9.17. Land any aircraft, including helicopters and micro-lights, in any area except those that may be demarcated for public use
- 9.18. Alight from a vehicle or vessel in areas other than those designated
- 9.19. Operate any internal combustion driven generator or compressor

10. GENERAL

- 10.1. Fail to obey any regulatory sign, whether permanent or temporary
- 10.2. Fail to obey any lawful instruction given by any authorized officer, including an authorized Park Authority officer, Kwazulu-Natal Wildlife manager or Fisheries Control Officer
- 10.3. Contravene any other Act or Regulation, International, National or Provincial which applies in the Park
- 10.4. Due to the presence of sharks, crocodiles and hippopotamus, no person may wade or swim in any river mouth, lake, estuary or river
- 10.5. Interfere with property belonging to or utilized by local residents e.g., fish traps, crops, livestock, buildings, graves and palm wine stems, nor shall they interfere with local resident activities.

11. ACTIVITY RULES

- 11.1. Disobey specific rules for specific activities.

BOAT CRUISE (SMALL)	
1. Activity concept	Guided trips for visitors in small vessels on the St Lucia estuary

2. Area of operation	• Kosi Bay
3. Infrastructure & facilities	• All storage facilities and infrastructure must be within the concession area or outside the Park. • Boats can be serviced within the concession area or outside the Park.
4. Access	• From an approved jetty or launch site.
5. Key environmental issues	<u>General concerns:</u> • Disturbance of animals, particularly during breeding season. • The potential for wild animals to become used to human presence and/or associate humans with food and either become scavengers and/or dangerous to humans. • Impinging on the Park's "sense of place" by means of noise, the visual presence of infrastructure, flashlights, lighting, fires, evidence of waste, and vegetation disturbance. <u>Estuary-boating-specific concerns:</u> • The introduction of foreign plant or animal species from other water bodies via boats and boating equipment. • Damage to habitat due to erosion of banks and channels, compaction of banks, retardation of drainage lines, and trampling of vegetation, especially in areas is used for breeding or which have low regenerative characteristics. • Collection and removal of animal, plant and heritage resource material by visitors. • Damage to natural and cultural heritage resources. • Potential for motorised lake tours to conflict with other lake or estuary activities. • The risk to visitor safety due to presence of potentially dangerous animals such as hippo and crocodile. • Risk to visitors from high winds making mooring and launching difficult and potentially dangerous. • Seasonal and cyclical fluctuations in lake levels and shifting underwater sandridges, making certain areas difficult or impossible to navigate. • Adverse impacts on "sense of place" due to noise and visual presence of boats and their occupants. • Disturbance of wildlife at game sightings by approaching too close to animals. • Water pollution from boat fuels, domestic sewage and waste. • Littering.
6. Licensee operating rules	• The Licensee may be required to supply scavenger-proof waste bins at the jetty or launch site from which the tours depart at its own

	cost and service these. The bins must be emptied at least daily, and the waste removed to an approved location. <u>Nuisance caused by baboons & other animals:</u> • The feeding of any animals, including baboons, monkeys, fish and birds is prohibited. <u>Water & vegetation pollution:</u> • Tours off designated routes are prohibited. • The Licensee shall take all reasonable steps to prevent undue disturbance to vegetation along water courses. • Encroachment into indigenous areas is prohibited and any disturbance whether planned or accidental, shall be rectified at the Licensee's cost. • The Licensee shall ensure that: ○ its boat does not leak oil or diesel into the lake ○ its boat's engine is not backwashed into the lake ○ all maintenance of its boats and equipment only take place within a designated maintenance area above the 100-year flood line as specified above ○ install catch-pits around maintenance work areas for the containment of spills and runoff water ○ immediate appropriate action is taken to contain and repair any chemical or fuel spills <u>Other:</u> • The Licensee shall, at the request of the iSimangaliso Wetland Park Authority, institute and maintain a monitoring programme for crocodile and hippo presence and activity. • The Licensee must: ○ familiarise itself with the restrictions pertinent to the relevant zone(s) and abide by those restrictions at all times ○ possess a sound knowledge of the encountered environment. All of the Licensee's guests and staff must sign an indemnity in favour of the iSimangaliso Wetland Park Authority
7. Equipment requirements	• Up to 2 vessels that meet the following specifications: ○ max 12 passengers ○ able to operate in moist and humid environment as follows: ▪ air temperature 5 - 45 degrees Celsius ▪ estuary water temperature - 5 - 32 degrees Celsius ▪ relative humidity up to 98% ▪ water depth max 1.5m

	▪ aircraft at R618 bridge ▪ presence of mud, grass and other suspended materials ▪ presence of crocodiles, hippos, birds and other animals ○ may not be longer than 10m; length to be optimised to minimise waves by the vessel ○ beam may not be less than 3m ○ draft at full load may not be more than 1m (including the keel where applicable) ○ freeboard as required by regulation for the vessel length ○ maximum speed not more than 10 knots ○ speed to be achieved at least 5 knots ○ fuel storage sufficient to complete a full day's tours without having to refuel during the day ○ vessel must be arranged as pontoon-type should only operate in full displacement mode ○ construction ▪ lightweight material strong enough to withstand wave action of up to 1.5m ▪ should be such that vibration is minimised ▪ should include a suitable collision bulkhead compliant with SAMSA construction requirements ▪ should be able to land on a rough riverbank ▪ anti-foul used for underwater areas should be reputable and eco-friendly ▪ colour scheme for above water area may not be bright and should blend in with surroundings ▪ internal colour scheme should not be bright and should complement the external colour scheme ▪ appearance should represent and environmentally friendly solution ○ must have adequate seating for up to 12 passengers ○ should have sanitary facilities and refreshment station ○ should be laid out in such a manner that passengers can enjoy all views without having to crowd to a particular spot ○ should be able to provide all passengers with adequate protection from weather ○ should have a proper platform for boarding guests from commercial and Siyabonga jetties ○ may include a sun-deck for better viewing noting the aircraft at the R618 bridge
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	○ provide the skipper with the largest possible view angle ○ provide a skipper with a view of at least one vessel length ○ should locate/arrange the propulsion equipment to: ▪ minimise noise and vibration especially in passengerspaces ▪ maximise efficiency; and ▪ enable/facilitate pulling off from a riverbank ○ should include a platform to enable passengers to alight and board from arough bank ○ should have adequate storage for equipment such as braais ○ should have adequate storage for safety equipment ○ minimum of two 4-stroke engines capable of using eco-friendly fuel andlimited to 60hp; engines should be able to operate at low speeds ○ sufficient storage for water for a day's trips ○ sufficient storage for sewage for a day's trips ○ shall comply with SAMSA's construction requirements or ClassificationSociety Rules ○ shall comply with SAMSA's requirements for inland passenger vessels ○ must have all certification for equipment and safe operation ○ should satisfy buoyancy requirements ○ must meet the following intact stability specification ▪ not be able to heel 7 degrees with crowding of passengersto one side ▪ not heel more than 7 degrees when turning hard from fullspeed ○ should be able to maintain directional stability in shallow drafts ○ be able to turn a radius of 1.5 times the vessel length ○ be able to stop completely from full speed in 1 times the vessel length ○ should have communication systems as required by SAMSA ○ should have a public announcement system ○ should have navigation equipment in accordance with Safety of Navigation Regulations ○ should have safety equipment specified by SAMSA ○ should have enough electrical power and lighting as may be required ○ Boats shall be serviced on a regular basis and continuously maintained in aseaworthy condition
8. Time of operation	Day only

9. Carrying capacity & staff-to-visitor ratio	2 staff members per vessel
10. Other operational parameters	• An EMP covering the establishment, operation and decommissioning of the activity shall be submitted by the Licensee to the iSimangaliso Wetland Park Authority for its approval. • Associated infrastructure, may be closed by or under the iSimangaliso Wetland Park Authority's approval (without notice or compensation to the Licensee) due to scheduled burns, game-capture or game-introduction activities, the seasonal presence of breeding or nesting sites, cultural events/ceremonies, special events, problem animals, maintenance or any other essential management function deemed to pose a risk to hiker safety or the well-being of the environment. • Water bodies, or portions thereof, and associated infrastructure may be closed and/or boat trips curtailed (without notice or compensation to the Licensee) for rehabilitation purposes if, in iSimangaliso Wetland Park Authority's opinion, there is evidence that the activity is or has created an adverse impact on the environment above an acceptable level.
11. Compliance events	• The Licensee shall submit the following for the iSimangaliso Wetland Park Authority's approval prior to the commencement of operations: ◦ boat designs for approval by the iSimangaliso Wetland Park Authority; ◦ EMP; ◦ a safety and rescue plan; ◦ samples of proposed marketing collateral; ◦ a map of the proposed boat-trip routes;

GAME DRIVES - DAY/NIGHT	
1. Activity concept	• Guided game drives on public roads in the Park.
2. Area of operation	<i>Area of operation specific to Licence</i> • Eastern Shores • Western Shores • Kosi Bay
3. Infrastructure & facilities	• Game-drive routes, clearly marked, for 4x4 and 2x4 vehicles. • The Licensee may not construct any infrastructure in the Park.
4. Access	• Through Park gate.

5. Key environmental issues	<u>General concerns:</u> • Alignment, marking and cutting of roads and tracks. • Impacts associated with establishment and use of roads and tracks such as damage to vegetation, disturbance of animals and visitors, poaching of animals, illegal harvesting of plant material, littering, pollution of water bodies and soil, and noise. • Disturbance of animals, particularly during breeding season. • Pollution: ◦ of surface and ground water from soaps used for bathing and washing of cookware, and from sewage disposed of in or close to water bodies; ◦ due to the disposal of solid waste, including littering along the roads and tracks or at stop-off points. • The potential for wild animals to become used to human presence and/or associate humans with food and either become scavengers and/or dangerous to humans. • Impinging on the Park's "sense of place" by means of noise, the visual presence of infrastructure, flashlights, lighting, fires, evidence of waste, and vegetation disturbance. <u>Game-drive-specific concerns:</u> • Damage to indigenous, rare or endemic flora along roads and tracks as a result of the cutting of cutting or construction of the routes, and also from vehicle movement. • Collection and removal of animal, plant and heritage resource material by passengers. • The erosion of substrate on non-hardened tracks and shoulders due to wind and water action or steep gradients where vegetation cover has been removed for roads or tracks, or due to continual disturbance caused by vehicles, and exacerbated by drivers deviating from established roads or tracks and/or indiscriminate off-road driving which may also result in soil compaction and increased water-runoff rates. • The introduction and/or spread of alien invasive plant species to disturbed areas and corridors by vehicles acting as agents for seed dispersal. • Damage to natural and cultural heritage resources (if present) when roads and tracks are established. • Potential for game drives to conflict with other activities along or in the vicinity of roads or tracks. • Safety risks to passengers due to presence of potentially dangerous animals such as hippo, crocodile, buffalo, leopard, elephant and venomous snakes in certain areas of the Park. • Uncontrolled fires as a result of guides and other people under the control of the Licensee making fires in non-designated areas, or not putting their fires out fully, with the potential of burning and
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	damaging indigenous vegetation. Fires may also damage Park infrastructure and destroy forests. • Damage caused by the continual use of roads and tracks, viz: ○ soil compaction ○ adverse impacts when driving on clay soils too soon after rain ○ retardation of water regimes in wetland areas ○ erosion and sedimentation of watercourses from driving in riverbeds and on drainage lines ○ soil and water contamination from vehicle-fluid leakage. • Adverse impacts on “sense of place” due to noise and visual presence of vehicles and passengers, and during night drives, vehicle lights and spotlights. • Disturbance of wildlife at game sightings, approaching too close to animals, and the shining of spotlights onto them
6. Licensee operating rules	<u>Establishment & maintenance of roads & tracks:</u> • A map demarcating the roads and tracks for use by the Licensee will be provided by the iSimangaliso Wetland Park Authority. Additional roads and tracks may not be used or opened up by the Licensee. The Licensee may however propose changes or additions to the road network in writing. The iSimangaliso Wetland Park Authority is under no obligation to approve these requests. The proposals must conform to the following: ○ Roads and tracks must be aligned in a way that is sympathetic to the topography. ○ Winding routes are preferred. Straight lines should therefore be avoided. • Where necessary, at the request of the iSimangaliso Wetland Park Authority, the Licensee shall: ○ undertake approved surface erosion-protection at its cost. ○ institute storm-water drainage must to control runoff and prevent erosion at its cost. ○ re-vegetate disturbed areas susceptible to erosion at its cost. ○ undertake remedial works on roads and tracks at its cost • Structures may not be placed across drainage channels without the iSimangaliso Wetland Park Authority’s express written approval. • The crossing of rivers is to be handled in an approved, environmentally-friendly manner. Major crossings require an EIA. • Roads and tracks must be established and used in a manner which does not disturb or damage cultural artefacts or historical relics. • Burning is not permitted. • Dead organic material must be left in natural areas.

	<u>Game drives generally:</u> • The Licensee shall ensure that every game drive is under the control of a qualified ranger who is in possession of: ◦ a valid driver's license ◦ the relevant FGASA registration ◦ a valid first aid certificate. • The maximum game-drive speed is 25km/hour on field tracks and 40km/hour on gravel roads and tar roads. • The vehicle must be fitted with a communication system to be used <i>inter alia</i> in case of emergency. • During night drives, headlights are to be turned off and spotlights turned away when approaching a vehicle or a sighting. • A game drive may be accompanied by a tracker: • No ranger or tracker shall partake of alcohol before or during a game drive. • No vehicle with guests may be left unattended; either the ranger or the tracker must be present at all times. • Where water has collected in puddles in the road, the ranger must drive slowly through the puddle or mud and not around it, unless there is a real danger of becoming stuck. Should a fallen tree be blocking a road, the ranger or tracker must drag it out of the way, if possible (rather than drive around it). If the tree is too large to remove the matter must be reported immediately to the iSimangaliso Wetland Park Authority. • The Licensee and its staff shall, at all times during the conduct of the activity, comport themselves in professional, sober and tourist-friendly manner and not indulge in any action or behaviour which could discredit either the Park or the class of activity in question. <u>Behaviour at sightings:</u> • Any single sighting is restricted to a maximum of three vehicles or only one vehicle in the case of animals with young or animals that are acting strangely or displaying signs of stress. In this case the other vehicles must move to a standby position, out of sight and earshot of the animal – with their engines and lights switched off – until the solitary vehicle has moved away from the sighting. Only one vehicle is allowed on standby per sighting. • At stationary sightings, only one vehicle may be mobile at any time. • The maximum approach distance to Big 5-game is 20 metres. • Drivers and passengers are prohibited from causing or attempting to cause any deliberate stress to any animal or interfering or disturbing any animal in any way. • The spotlighting of prey animals, cheetah and wild dog is prohibited. Encountered elephant and rhino may be viewed at night
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	with spotlights turned tilted towards the ground and not at the animals" eyes. • Should a hunting predator be encountered at night, all lights must be switched off during the stalk, and may only be switched on again after the prey has been caught or has escaped. • Escape routes from the sighting are to be continually assessed by the ranger. • Rangers may not return to the same sighting more than once with the exception of lions, should these be introduced by the iSimangaliso Wetland Park Authority. The same pride may be viewed once before sunset and once after sunset. <u>Guest safety & behaviour:</u> • Visitors may not alight from the vehicle other than at designated areas during daylight hours. Visitors may not alight from the vehicles at night while in the Park. • No guest may occupy the tracker's seat. <u>Disturbance of environment:</u> • The Licensee's activities must be so organised as to prevent interruption to animal movement as far as possible. • Staff and visitors must be cautioned against the feeding of animals or any other act which could result animals associating humans with the source of food. • The Licensee, its guests and staff shall: ○ as far as possible maintain a safe distance from all animals; ○ not interfere with any scientific markers, Park equipment or infrastructure; ○ not dispose of any waste in the Park (All waste shall be removed and disposed of off-site at an approved landfill site.); ○ not travel off designated roads and tracks, take short cuts or widen the tracks; ○ not interact with animals; ○ not collect firewood; ○ not remove any flora or fauna from the Park whether alive or dead ○ not in any other way detract from or impinge upon the Park's "sense of pace". • Open fires are not permitted. • All disturbed sites must be monitored for colonisation by invasive alien plant species. The iSimangaliso Wetland Park Authority may require the Licensee to remove these at the Licensee's cost according to an approved programme of eradication.
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	<u>Waste:</u> • Before the commencement of each game drive, the ranger must entreat passengers not to dispose of any debris other than in the garbage-disposal bag or other receptacle placed in the passenger section of the game-drive vehicle especially for this purpose. • The Licensee may not dispose of any waste or debris by burning or burying. • The Licensee may be required to supply and service scavenger-proof waste bins at designated places in the Park where visitors alight. The bins must be emptied at least daily, and the waste removed to an approved location. <u>Nuisance caused by baboons & other animals:</u> • The feeding of any animals, including baboons, monkeys, fish and birds is prohibited <u>Water & soil pollution:</u> • Drives are not permitted in drainage lines and riverbeds except at designated crossing points designated by the iSimangaliso Wetland Park Authority. • Driving off the designated route, taking short cuts, widening the path on steep slopes, or on sensitive and/or clay soils too soon after rain is prohibited. • The Licensee shall take all reasonable steps to prevent undue disturbance to vegetation. <u>Other:</u> • The Licensee must: ◦ familiarise itself with the restrictions pertinent to the relevant zone(s) and abide by those restrictions at all times ◦ possess a sound knowledge of the encountered environment. • All of the Licensee's guests and staff must sign an indemnity in favour of the iSimangaliso Wetland Park Authority.
7. Equipment requirements	• 4x4 one-ton passenger vehicles must be used. • Additionally, game-drive vehicles that are to operate within the fenced sections of the Park (namely uMkhuze, Ozabeni, Eastern Shores and Western Shores) must comply with the following specifications: ◦ the tare weight may not exceed 2500kg, excluding the seat frame ◦ the vehicle must be completely surrounded by sides including doors ◦ the seat sides to be closed in 350mm above the seat (starting from the base of the seat and not the cushion), and gaps

	between the seats must have gates with the same height as the sides on the left to allow passengers to enter and exit the vehicle ○ the vehicle must have SABS-approved seat belts for all passengers ○ any cutaway in the bin of the vehicle must be closed to the original height of the bin ○ the vehicle must carry a serviceable fire extinguisher with a current certification ○ the vehicle must be fitted with at least three roll bars of at least a 50mm thickness ○ if the vehicle has a canvas roof, it may not be removed while inside the Park ○ the entrance/exit should only be on the left-hand side of the vehicle; the right-hand side should be closed off permanently ○ the vehicle must have the capacity for a maximum of 12 seated passengers ○ the vehicle must have a valid carrier permit and a valid roadworthy certificate. Licenses and permits are to be displayed on the windscreen, other than the open-vehicle permit, which must be displayed on the right-hand fender next to the driver's door ○ the driver's cab must be cut away to allow him/her unrestricted access to his/her passengers, which may require removal of the cab roof and rear wall to the height of the bin ○ Game-drive vehicles must be equipped with an appropriate first-aid kit when carrying passengers. ○ Vehicles must be kept in good working order and properly maintained on a regular basis.
8. Time of operation	• Day or night.
9. Carrying capacity & staff-to-visitor ratio	• 1 guide per tour group (max 12 people) provided guests have been briefed on the use of communication equipment in case of emergency
10. Other operational parameters	• An EMP covering the establishment, operation and decommissioning of the activity shall be submitted by the Licensee to the iSimangaliso Wetland Park Authority for its approval. • Game drives may be cancelled by or under the iSimangaliso Wetland Park Authority's approval (without notice or compensation to the Licensee) or certain roads and tracks closed due to scheduled burns, game capture or game-introduction activities, the seasonal presence of breeding or nesting sites, cultural events/ceremonies, special events, special events, problem animals, maintenance or any other management function deemed to pose a risk to visitor safety or well-being of the environment. • A road or track may be closed (without notice or compensation to the Licensee) for rehabilitation purposes if, in the iSimangaliso Wetland Park Authority's opinion, there is evidence that the activity is or has created an adverse impact on the environment above an acceptable level.

11. Compliance events	• The Licensee shall submit the following for the iSimangaliso Wetland Park Authority's approval prior to the commencement of operations: ○ EMP; ○ a safety and rescue plan; ○ samples of proposed marketing collateral; ○ a schedule of the intended erosion-control measures.
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GUIDED WALKS & WALKING TRAILS	
1. Activity concept	• Travel by foot to indicated viewpoint or node for day trails (i.e. trails are between sunrise and sunset).
2. Area of operation	• On designated routes in the Kosi Bay section of the Park
3. Infrastructure & facilities	• None permitted.
4. Access	• Guests and staff enter the Park from designated points • Free entry through the Bhangazi gate is permitted for vehicles entering the Park for emergency purposes, eg to attend to ill or injured guests or staff.
5. Key environmental issues	<u>General concerns:</u> • Alignment and marking routes and trails. • Impacts associated with the establishment and use of trails such as damage to vegetation, disturbance of animals and visitors, poaching of animals, illegal harvesting of plant material, littering, pollution of water bodies and soil, and noise • Disturbance of animals, particularly during breeding season.
	• Pollution: ○ of surface and ground water from soaps used for bathing and washing of cookware, and from sewage disposed of in or close to water bodies; ○ due to the disposal of solid waste, including littering along the trail or at the camps or stop-off points. • The potential for wild animals to become used to human presence and/or associate humans with food and either become scavengers and/or dangerous to humans. • Impinging on the Park's "sense of place" by means of noise, the visual presence of infrastructure, flashlights, lighting, fires, evidence of waste, and vegetation disturbance. <u>Additional hiking-specific concerns:</u>

	• Damage to indigenous, rare or endemic flora along hiking routes as a result of the cutting of trails or foot traffic. • Collection and removal of animal, plant and heritage resource material by hikers. • The erosion of substrate due to wind and water action or steep gradients in areas where vegetation cover has been removed for trails, or due to continual disturbance caused by foot traffic. • The introduction and/or spread of alien invasive plant to disturbed areas and corridors by hikers acting as agents for seed dispersal. • Damage to natural and cultural heritage resources (if present) when trails are established. • Potential for hiking trails to conflict with other activities along or in the vicinity of trails. • Safety risks to hikers due to presence of potentially dangerous animals such as hippo, crocodile, buffalo, leopard, elephant and venomous snakes in certain areas of the Park. • Uncontrolled fires as a result of hikers making fires in non-designated areas, or not putting their fires out fully, with the potential of burning and damaging indigenous vegetation. Fires may also damage Park infrastructure and destroy forests.
6. Licensee operating rules	• The Licensee must at all times maintain all its equipment in a safe and good working order. • The Licensee must at all times have current valid CORs and PDPs for all vehicles used to transport guests, visitors and staff. • The Licensee may not permit children under 12 years of age to participate in hikes or walks in dangerous-game areas. • The Licensee, its guests and staff shall: ○ as far as possible maintain a safe distance from all animals; ○ not interfere with any scientific markers, park equipment or infrastructure; ○ not dispose of any waste in the Park (All waste shall be removed and disposed of off-site at an approved landfill site.); ○ not walk off designated routes, take short cuts or widen the paths; ○ not interact with animals; ○ not collect firewood; ○ not remove any flora or fauna from the Park whether alive or dead; ○ not in any other way detract from or impinge upon the Park's "sense of place". • Surface-erosion-protection measures shall be taken by the Licensee on all soil types with the prior written approval of the iSimangaliso Wetland Park Authority where slopes are steeper than 1:8. • The Licensee may be required to vegetate areas susceptible to erosion.

	• The Licensee shall take all possible precautions to avert or minimise the risk to guest safety: ◦ due to the presence of potentially dangerous animals such as hippo, crocodile, buffalo, leopard, elephant and venomous snakes in certain areas of the Park; and ◦ from other users of the routes e.g. horses, bicycles.
7. Equipment requirements	• The following equipment must be carried: ◦ a communication system; ◦ a first-aid kit.
8. Times of operation	Trails may only take place during daylight hours.
9. Carrying capacity & staff-to- visitor ratio	1:12 in nature park
10. Other operational parameters	• An EMP covering the establishment, operation and decommissioning of the activity shall be submitted by the Licensee to the iSimangaliso Wetland Park Authority for its approval. • Hiking trails may be closed by or under the iSimangaliso Wetland Park Authority's approval at the sole discretion of the iSimangaliso Wetland Park Authority for <i>inter alia</i> conservation-related activity or environmental reasons, the seasonal presence of breeding or nesting sites, cultural events/ceremonies, special events, problem animals, maintenance or any other essential management functions deemed to pose a risk to hiker safety or the well-being of the environment. • A hiking trail may be closed, at the sole discretion of the iSimangaliso Wetland Park Authority, for rehabilitation purposes if, in the iSimangaliso Wetland Park Authority's opinion, there is evidence that the activity is or has created an adverse impact on the environment above an acceptable level.
11. Compliance events	• The Licensee shall submit the following for the iSimangaliso Wetland Park Authority's approval prior to the commencement of operations: ◦ EMP; ◦ a safety and rescue plan; ◦ samples of proposed marketing collateral; ◦ all names and identification numbers of staff requiring access to the Park; ◦ a sample of staff cards issued to its staff

41. SCHEDULE 7 – PPP FEE

1.1 Variable PPP Fee

1.1.1 The Variable PPP Fee shall be expressed as a flat percentage of Gross Revenue generated by the Kosi Bay Resort included under the Concession Agreement.

1.1.2 The Variable PPP Fee shall be as follows:

VARIABLE PPP FEE = _____% of GROSS REVENUE.

1.2 Minimum PPP Fee

The following Minimum PPP Fees are expressed in March 2025 South African Rand, and will be adjusted throughout the Project Term of the Concession Agreement according to movement in the Consumer Price Index:

MINIMUM PPP FEE	
Per Month (Excl VAT)	Per Annum (Excl VAT)

1.3 Concessionaire PPP Fee Offer

42. SCHEDULE 8 – INSURANCE

43. SCHEDULE 9 – PERFORMANCE BOND

To: iSimangaliso Wetland Park Authority

[Name of bidder] (“the bidder”) is to submit to iSimangaliso a bid to enter into Concession Agreement with

iSimangaliso for the purpose of the refurbishment, finance and operation of the

Kosi Bay Resort in the Wetland Park;

And you require the bidder to include in the bid a bond for the amount of Two Hundred and Fifty Thousand Rand (R 250,000);

And we have agreed to give you such a bond.

We hereby irrevocably and unconditionally undertake to pay you, upon your first written demand and without objection or argument, the sum of Two Hundred and Fifty Thousand Rand (R 250,000), upon any or all of the following occurrences:

- any material misrepresentation made by the bidder in its bid submission or any other information and documentation submitted by it under the request for qualifications or the request for proposals;
- the withdrawal or modification of its bid during the period of bid validity;
- Any default or breach by the Concessionaire during the term of the agreement; and
- Any event caused by the Concessionaire that resulted in losses to iSimangaliso.

The bond is valid from Bid Submission until the expiry of the Concession Agreement. This shall be governed by the laws of the Republic of South Africa.

SIGNATURE AND SEAL

Name of bank _____

Address _____

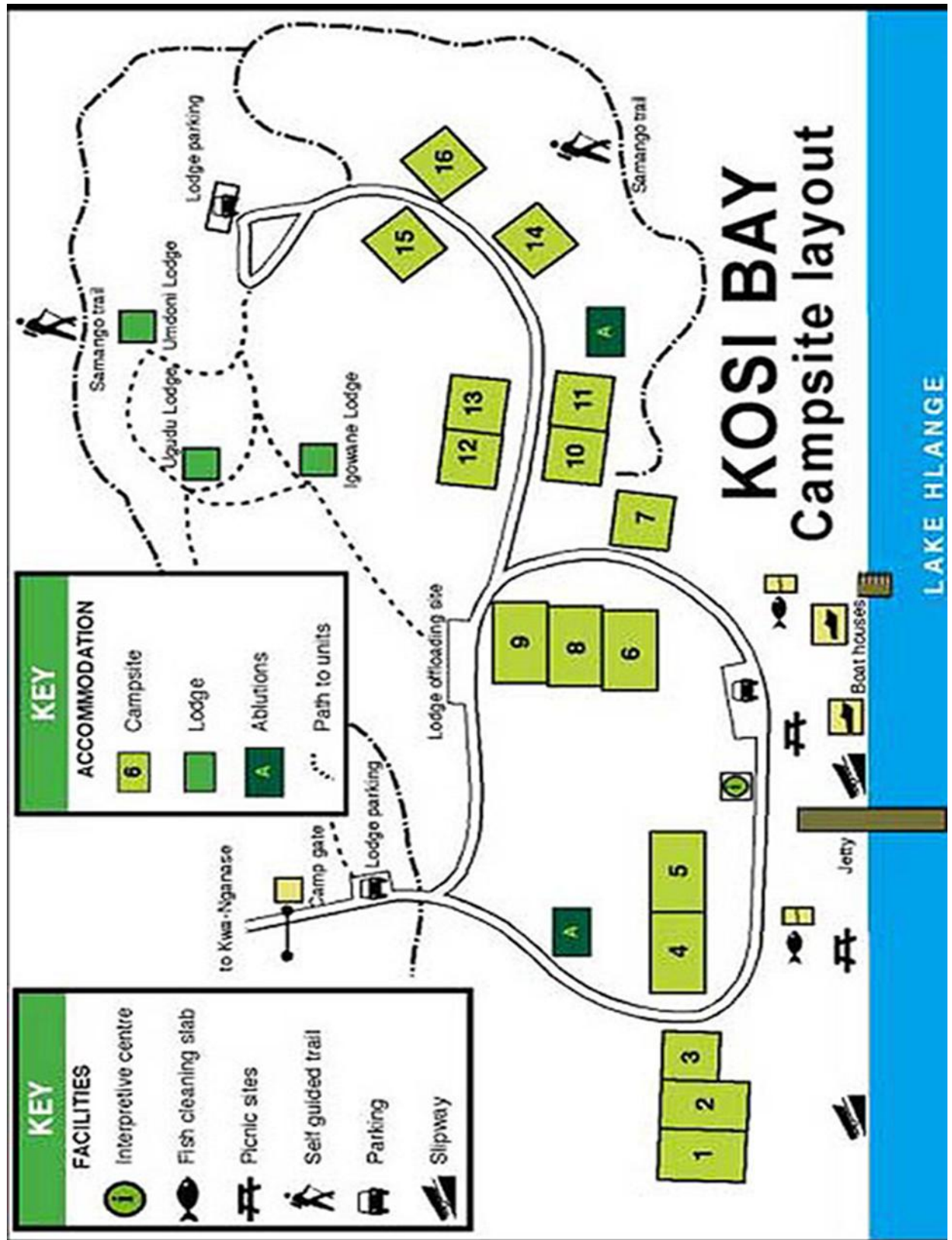
Date _____

44. SCHEDULE 10 – HANDOVER AGREEMENT

45. SCHEDULE 11A – MAP OF THE PARK



46. SCHEDULE 11B – PROJECT SITE LAYOUT



47. SCHEDULE 11C – DESCRIPTION OF PROJECT SITE

The Project Site is indicated in the layout map in Schedule 11B.

Site Location and Access

Kosi Bay Resort is located on the coast in the top north-east corner of Kwa-Zulu Natal and forms part of the Park. The resort is along the north-western shore of Lake Nhlanga. The Mozambique border forms the northern boundary of the Park and the Indian ocean forms the eastern boundary. The resort is approximately five-hour drive from Durban. The site is well known for being a home to a large variety of birds and animals including hippopotamus and crocodile.

Kosi Bay camping area offers fifteen shady open campsites in a beautiful coastal bush setting that can accommodate up to seven guests each. Each site has running water, barbecue facilities and a plug point. Two modern ablution blocks, which are serviced daily, feature hot and cold running water, flushing toilets and showers, but no dishwashing or laundry facilities. Five of the sites provide a stunning view of the lake and two are paraplegic friendly.

The site is a 2x4 access, via manned Kosi Bay access control gate to the camp. The access road is in a poor condition and poorly aligned and road braiding is very common. The infrastructure components to be packaged for potential PPP procurement are indicated in the tables below. Day visitors site and kiosk has been separated from the camp.

#	Description	Quantity
1.	5 Bed Unit - Lodge	1
2.	6 Bed Units - Lodge	1
3.	2 Bed Units - Chalets	1
4.	Camping sites with power	5
5.	Camping sites without power	10

48. SCHEDULE 12 - UTILITIES AND FACILITIES MANAGEMENT

1. One of the key objectives for iSimangaliso as a conservation entity is to reduce reliance on energy mainly derived from Eskom and diesel (i.e., generators) which in the main is to assist in the climate change strategy and saves on operating costs and boost the value of tourism-related activities unaffected by load shedding.
2. Renewable energy will reduce electricity and fuel costs, and the savings and income derived will be redirected towards core biodiversity conservation activities. As such iSimangaliso is currently completing the feasibility studies for renewable energy facility management, processes, financial model and delivery vehicle.
3. iSimangaliso through a power purchase agreement is looking to produce renewable energy within the iSimangaliso. The metered renewable energy will be delivered from the Renewable Energy Installation and metered by iSimangaliso Wetland Park Authority to all tourism operators within iSimangaliso Wetland Park.
4. All Concession Agreements and/or leases will have material clauses obligating private operators to purchase renewable energy as and when iSimangaliso finalise the facility management initiative.
5. iSimangaliso intends to provide other utilities such as solid waste removal, water and wastewater treatment services to the private operators within the park. The utilities are as follows:
 - 5.1. Sewer: overseeing wastewater and drainage systems to maintain sanitation standards. Includes regular inspection, unclogging pipes, and managing wastewater treatment facilities for eco-friendly disposal.
 - 5.2. Broadband: Provision and maintenance of high-speed internet connectivity for homes, businesses, and communal spaces. Includes setup, troubleshooting, bandwidth management, and upgrades for optimal user experience.
 - 5.3. Water: ensures the continuous and safe supply of potable and non-potable water for in the Park. The scope will include leak detection, water quality testing, and maintenance of pumps, pipelines, and storage systems