

**RENTAL POOL AGREEMENT**

between

**LIMPOPO-LIPADI BOTSWANA INVESTMENTS LIMITED**

a company incorporated  
under the laws of Botswana  
represented herein by [            ]  
or its nominees or assigns  
("the Company")

and

[            ]  
in his/her personal capacity

or

[            ]  
a company incorporated according to the laws of [    ]  
represented herein by [    ], director  
("the Owner")

## 1. PREAMBLE

### 1.1 Interpretation

- 1.1.1 Headings are for reference purposes only and shall not affect the interpretation of this Agreement;
- 1.1.2 Words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);
- 1.1.3 Any reference in this Agreement to “date of signature hereof” shall be read as meaning a reference to the date when the party signing last in time signs it.
- 1.1.4 Any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time, as the case may be.
- 1.1.5 Expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own definitions.
- 1.1.6 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause.
- 1.1.7 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses do not expressly provide for this.
- 1.1.8 The rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of the agreement, shall not apply.

## 2. DEFINITIONS AND INTERPRETATION

This Agreement is subject to the provisions as set out in the Company Constitution and Wilderness Agreement and as such any and all definitions shall not be repeated in this document. Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings:

**“Camp”** means one of the specified areas within the Property designated specifically for the development of private lodges (For example: Island Lodge, Kirkia or Wilderness Camps);

**“Company”** means Limpopo Lipadi Botswana Investments Limited, a company duly incorporated in accordance with the laws of Botswana with registration number 2004/4109;

**“Facilities”** means the common property owned or utilised by the Company and its shareholders and includes recreation areas, picnic areas, the airstrip, hides and any improvements on the Game Reserve which by their nature have been established for the benefit and use of the Shareholders of the Company.

**“Limpopo Lipadi Game Reserve”**, for the purposes hereof, means all the property owned or leased by the Company from time to time for the purposes of carrying on the activities of a game reserve and all activities ancillary thereto;

**“Lodge”** means the Lodge Unit No [ ] constructed within in the [ ] Camp

**“Owner”** means a Platinum or Diamond Shareholder with specific and exclusive rights to the Lodge.

**“Property”** means all the property comprising the Limpopo-Lipadi Game Reserve;

**“Quarter”** means the 3-month period ending on 30 September, 31 December, 31 March and 30 June each year;

**“Rental Rates”** means the rates for accommodation and use of Facilities in a Scheme Lodge as determined in accordance with clause 5;

**“Renter”** other shareholders in the Company (other than the Owner) or means SBUs of any such Shareholder in the Company (other than the Owner) or members of the public that rent the Lodge;

**“Repair Costs”** means the cost of repair, replacement or refurbishment due by the Owner to the Company in terms of clause 7;

**“SBU”** means Specific Beneficial User as defined in the Wilderness Agreement;

**“Scheme Member”** means an Owner who has elected to make the Lodge available for rent;

**“Scheme Lodge”** means a Lodge which is made available by the Owner thereof for rental in the Scheme;

**“Scheme Income”** means the amount of income earned in the rental pool for each Camp;

**“the Scheme”** means the scheme set forth in Clause 4;

### **3. RENTAL POOL CONCEPT**

Platinum and Diamond Shareholders have the option to register their Lodge in the Rental Pool operated by the Company. The concept of the Rental Pool is to provide shareholders with a facility which affords an opportunity to generate an income from the use of their Lodge. This income can then be used to offset some of the running costs and levies. It is not intended to be a commercialisation of the private lodges where lodges are rented out for extended periods.

### **4. RENTAL POOL SCHEME**

- 4.1 The Owner hereby elects to join the Scheme, and make the Lodge available to the Company, in the Scheme for at least 4 (Four) months in every calendar year. The Lodge thereby becomes a Scheme Lodge;
- 4.2 The Owner shall indicate by no later than 31 January each year the days and periods during which he or his SBU and or guests or invitees shall occupy the Scheme Lodge, and the days and periods the Scheme Lodge be shall available in the Scheme;
- 4.3 The Rental Pool Scheme including all reservations will be administered and managed by the Company;
- 4.4 Diamond Site Holders, by arrangement with Management, will have the option to market their Lodges personally and in such instances, will be solely responsible for all related costs. The marketing of all other accommodation in the Scheme shall be undertaken by or on behalf of the Company who shall be responsible for all related costs;
- 4.5 The Company shall be entitled to rent the Lodge to Renters, at the prevailing Rental Rates as determined in accordance with clause 5;
- 4.6 The Company shall be responsible for administering the Scheme and for the collection of all monies payable by a Renter in respect of Rental Rates;
- 4.7 Maintenance costs, normal wear and tear and other running costs during the rental period are for the account of the Owner.

- 4.8 The Owner/s will receive { %} and the Company { %} of the Scheme Income. Each Party to the Agreement will meet their respective costs from their share of the Scheme Income;
- 4.9 The portion of the Scheme Income by Camp, attributable to each Owner shall be calculated pro rata to the number of rooms in each Lodge divided by the total number of rooms in all Lodges in the Scheme;
- 4.10 Where applicable, all proceeds and expenses under the Scheme will be subject to Value Added Tax (VAT) payable under Botswana law. Scheme Income and net Scheme Income referred to above will therefore be net of VAT where applicable.

## **5. RENTAL RATES**

The Rental Rates to be charged to Renters for accommodation in the Lodges will be the prevailing rates set by the Company from time to time. These rates will be based on the rates charged for other types of accommodation available on the Game Reserve, which are set annually in advance at the Annual General Meeting of the Company. The Company also benchmarks its proposed rental charges against other tourist accommodation available with the Tuli Block area of Botswana.

## **6. ACCOUNTING**

- 6.1 The Company shall account to the Owner/(s) at the end of every Quarter, via a statement of account for the preceding Quarter, for its Share of the net Scheme Income calculated in terms of Clause 4.
- 6.2 The Company shall be entitled to set off against the amount due to the Owner, any monies which, at the end of the Quarter, are payable by the Owner to the Company, including Opex levies or user charges. By signing this Agreement, the Owner authorises the Company to make such set offs against a statement of account detailing the relevant amounts.
- 6.3 The Company shall keep proper books and records of the Scheme detailing amounts received on behalf of the Owner and expenses deducted and shall, on request, make such records available to the Owner.
- 6.4 The Company shall provide annually, an auditors certificate verifying the income, expenses and distributions to Owners under the Scheme. Such certificate is to be provided by no later than the date of the company's Annual General Meeting immediately following the end of the previous financial year.

## **7. COMMUNICATION**

The Company shall on a monthly basis, advise the Owner of the reservations made in respect of their Lodge.

## **8. INSPECTION AND DAMAGES**

- 8.1 The Scheme Lodge shall be furnished to an acceptable standard to be determined by the Aesthetics Committee. Annually an inspection by the Company management and the Owner of Lodge furniture, fittings, appliances equipment, crockery, cutlery and soft furnishings, shall be undertaken, and agreement reached on any additional items required, and those items requiring repair or replacement. The cost of repairs and replacements to for the account of the Owner.
- 8.2 At the conclusion of each Lodge rental the Company shall conduct an inspection and undertake an inventory of the Scheme Lodge's fixtures, furnishings, fittings, appliances and equipment to determine whether any damages, breakages, or missing items have occurred during the stay of a Renter. Where applicable these damages or losses will be confirmed in writing with the Renter. The cost to replace or make good the damage, breakages or loss shall be for the account of the Renter and the Company shall be responsible for the collection of such amounts. In this regard the Renter will be required at the commencement of the Rental to pay a "good tenancy deposit" via a credit card pre-authorisation in favour of the Company and authorise the company to deduct from the pre-authorised amount, the cost and any breakages or damages.
- 8.3 In the event that the Company fails to collect any amount from a Renter to cover the extent of any damage breakage or loss, the Company shall be obliged at its own cost to replace the loss or to remedy the damage or breakage.

## **9. COMPLIANCE**

The Company shall procure that any Renter and his family and guests comply with the rules and regulations for use of the Facilities. All visitors to the Game Reserve will be required to sign an indemnity form as part of these rules.

## **10. LAW**

This Agreement and the operation of the Scheme, shall be governed by the laws of the Republic of Botswana.

## **11. ARBITRATION**

11.1 Should any dispute arise between the parties in connection with the existence of; implementation of; interpretation or application of the provisions of the Agreement; the parties respective rights and obligations in terms of or arising out of, or the breach or termination of; the validity, enforceability, rectification, termination or cancellation, whether in whole or in part thereof or any documents furnished by the Parties pursuant to any provision(s) of this Agreement, or which relates in any way to any matter affecting the interest of the parties in terms of this Agreement, that dispute shall, unless resolved amongst the parties to the dispute, be referred to and be determined by arbitration as determined in the Constitution of the Company.

## **12. WAIVER**

In the event of the Company not enforcing immediately the due or full compliance with all or any of the terms and conditions of this Agreement or neglecting to do so, or in the event of extension being granted by the Company to the Owner for due observance of any of the terms and conditions of this Agreement, such failure, neglect or indulgence by the Company shall not in any way be taken to be a waiver on the part of the Company of their rights under and in terms of this Agreement, and notwithstanding any such failure, neglect or indulgence on the part of the Company they shall be entitled to call upon the Owner at all or any time to comply with all or any of the terms and conditions of this Agreement.

## **13. WHOLE AGREEMENT**

13.1 This Agreement constitutes the whole agreement between the parties as to the subject matter hereof and no agreements, representations, or warranties between the parties other than those set out herein are binding on the parties and no addition to or variation, or consensual cancellation or novation of this Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force and effect unless reduced to writing and signed by both parties or signed by their duly authorised representatives.

13.2 The Parties agree that if any provision of this Agreement conflicts with any provisions of the law of Botswana or is unenforceable for any other reason whatsoever, such provision shall be regarded as *pro non scripto* and of no force and effect, consequently such provision

shall be deemed to be separable and severable from this Agreement without in any way affecting the validity of the remaining provisions of this Agreement.

**14. SALE AND ASSIGNMENT**

14.1 In the event that the Company sells the Properties the Company shall give notice to the Owner that this Agreement will be terminated following the sale, unless the purchaser indicates a willingness to continue the Scheme.

14.2 The Company shall be entitled on notice to and without the prior consent of the Owner to assign the rights and obligations arising to it under this Agreement (by way of cession and delegation) to a third party.

**DOMICILIUM CITANDI ET EXECUTAND**

14.3 The Company:

Physical:

Postal:

Facsimile: [ ]

14.4 The Owner

Physical:

Postal:

Facsimile: [ ]

SIGNED THIS DAY OF 2017

Witnesses:

1.....

2.....

for and on behalf of **the Company**



SIGNED THIS DAY OF 2017

Witnesses:

1.....

2.....  
.....  
for and on behalf of **the Owner**