

# **AGREEMENT**

**BETWEEN**

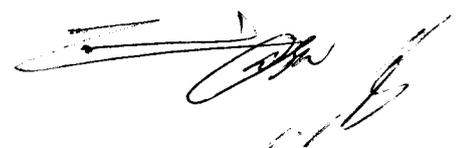
**THE GOVERNMENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA  
(MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT)**

**AND**

**THE SOUTHERN NATIONS, NATIONALITIES AND PEOPLES REGIONAL STATE**

**AND**

**AFRICAN PARKS (ETHIOPIA) PLC  
CONCERNING THE MANAGEMENT OF THE OMO NATIONAL PARK**

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This AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_ This AGREEMENT is made this 4 day of November 2005,

**Between**

**The Ministry of Agriculture and Rural Development** of the Government of the Federal Democratic Republic of Ethiopia and **The Southern Nations, Nationalities and People's Regional State** (jointly and severally hereinafter referred to as "**the Government**") on the one part,

**And**

**African Parks (Ethiopia) PLC** (hereinafter referred to as "**the Company**") on the other part.

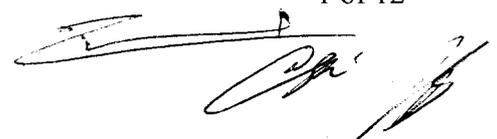
**WHEREAS:**

- a) The Government wishes to have Omo National Park (hereinafter referred to as "**the Park**") managed according to best conservation and business practice and desires to outsource this responsibility on a build, operate and transfer basis;
- b) African Parks (Ethiopia) PLC (hereinafter "**the Company**") is a company limited by shares incorporated in Ethiopia under the Commercial Code of Ethiopia, with the Stichting African Parks Foundation, established in the Netherlands with its registered address at Post Office Box 313, Doorn, the Netherlands and its nominees together holding 100% of the shares therein;
- c) "**the Company**" has the required capacity to upgrade and manage the Park in accordance with the Government's guidelines, but only undertakes to do so on the express condition that Government grants exemption of import taxes and duties on all aircraft, vehicles, equipment, materials or goods required for the purpose of giving effect to this agreement;

**NOW, THEREFORE** it is hereby agreed and declared by the Parties as follows:

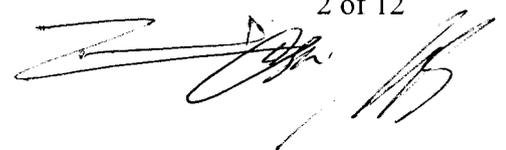
**1. Rights and Obligations of the Company**

- 1.1. The Company shall be responsible for all Park management including, but not limited to, road and building construction, maintenance, fencing construction and maintenance, fire breaks, burning programmes and other range management practices, water provisioning, culling, tourism and visitor use management (including but not limited to day drives, walking trails, overnight stays and night drives), game introduction, community involvement, staff housing and management, problem animal control, fishing and boating, all of which to be



executed in an environmentally sound manner and in accordance with best conservation and business practice and in compliance with the Wildlife Policy of Ethiopia and all official permits, rules and regulations.

- 1.2. The Company shall take over management of the current allocation of law enforcement personnel and other staff of the Park, and even though these individuals shall remain in the formal employment of the Government, the Company shall have sole power to dismiss staff for good cause and shall be responsible for their training, discipline, work ethics, work schedules and performance as is necessary for them to continue to enforce the law and perform their functions. The Company shall compensate the Government, monthly in arrear, for the wages and salaries of the said personnel provided they are market related. Pension or other benefits remain the responsibility of the Government. The Company shall be entitled to reward exceptional service by individuals through payment of a bonus or incentive.
- 1.3. The Company shall take over, without compensation, all Government assets, including but not limited to, vehicles, equipment, buildings and other infrastructure in the Park.
- 1.4. The Company undertakes, as far as is practically possible to take community interests into consideration. A joint Liaison Committee (including representatives of the Government) will be established with the local communities and existing Community Based Organizations which will meet on a quarterly basis. Local communities will be the primary beneficiaries of employment opportunities. The Company intends to establish a structure together with third parties that will focus on the establishment of small businesses, the creation of employment opportunities and support of development programmes in the surrounding communities. The Company will also establish a community anti-poaching fund to which it will make monthly contributions.
- 1.5. Subject to the prior written notification to the Government, the Company shall have the exclusive right to grant up to two commercial lodge concessions on terms determined by itself to operate in the Park but on the express understanding that at the end of the agreement the facilities shall become the property of the Government unless otherwise agreed. The sites for these lodges must be chosen in such a way as not to disrupt wildlife corridors, concentration areas or most favoured habitats. Materials and design should, as far as possible, blend with the environment.
- 1.6. Subject to the prior written notification to the Government, the Company shall have the exclusive right to grant up to 7 non-commercial lodge concessions for private use in the Park on terms that at the end of the contract period the private lodges shall become the property of the Government unless otherwise agreed.

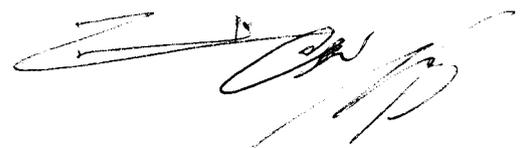
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These lodges shall not be in violation of the IUCN criteria for Category II Protected Areas annexed hereto as Appendix A and should also comply with the environmental conditions set out in 1.5 above.

- 1.7. In the event of non-compliance with its obligations by the Government, and subject to the provisions of clause 8.4 hereunder, the Company exercises its right to terminate prior to the end of twenty-five years, all concessionaires shall have the right to cancel their leases and to be compensated by the Government for the higher of the book or then market value of their respective lodges.
- 1.8. The Company shall offer for relocation to other protected areas in Ethiopia any animals that are surplus to Park requirements. If they are animals that have been imported a selling price will be negotiated with the Company.
- 1.9. The Company may acquire and import live animals of species indigenous to Ethiopia for the stocking of the Park, provided conditions in the Park are suitable and Government authorizes such importation.
- 1.10. The Company may charge and collect for its own use entrance fees and other user fees associated with the use of the Park for all visitors other than Government Wildlife Experts, senior Government officials and members of the Diplomatic Corps with written permission.
- 1.11. The Company shall encourage independent research that is relevant and which may be carried out by scientists attached to universities and other appropriate institutions that are approved by the Government.
- 1.12. The Company may negotiate to lease land-use rights from the neighbouring communities or local authorities on such terms as are agreed by the Government, the Company and the neighbouring communities or local authorities and to manage this land as if it were part of the Park. The Government will use its good offices to assist in this process.
- 1.13. The Company shall be entitled to employ any Ethiopian national as part of its staff complement either on a temporary or permanent basis and will not be restricted to employing only Government staff.
- 1.14. If necessary the Company shall be entitled to employ up to three expatriate staff, and their spouses or partners, to support park management efforts.

## **2. Rights and Obligations of the Government**

- 2.1. The Government undertakes to consult the Company on the proposed alignment of the road that is proposed to be constructed linking Maji (on the western side of the Park) to a point south of the Park and on the possible environmental and other impacts that the road may have. If the alignment approved by the Government will render the project non-viable for tourism or conservation purposes, then the

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agreement shall expire and the Government will refund the Company all funds in US dollars expended on the project since its inception.

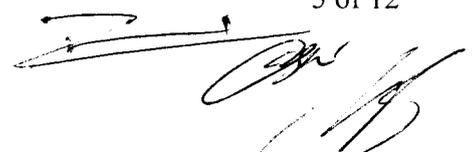
- 2.2. The Government undertakes to support the efforts of the Company to secure international funding for the management of the Park.
- 2.3. The Government undertakes to support the Company in its work with local communities, so that they should benefit from the park chiefly through employment but also through the development of tourism, business and other opportunities whenever requested by the Company.
- 2.4. The Government undertakes to provide work and residence permits for up to three expatriate staff and their spouses or partners. These expatriate staff will be exempted from paying park entrance fees. The Government also undertakes to provide work and/or residence permits for relevant expatriate staff and their partners or spouses that may be required for managing the commercial lodge concessions and non-commercial lodge concessions.
- 2.5. The Government undertakes to take appropriate measures to grant the Park legal personality with all the attendant rights, and to declare it as National Park.
- 2.6. The Government undertakes to provide all necessary permits for the import and operation of modern radio and satellite communication that cannot be provided by the Ethiopian Telecommunications Corporation.
- 2.7. The Government undertakes to assist with the restocking of the Park by allowing the Company to capture animals in other national parks, game reserves, sanctuaries, controlled hunting areas (subject also to agreement by any concession holder with rights to the utilization of such animals) or other land in Ethiopia provided such translocation is not detrimental to the welfare of the species and populations concerned. The species to be considered are detailed in Appendix B. The Company will cover only the cost of capture and transportation of such animals. Animals thus captured remain the property of the Government.
- 2.8. The Government guarantees to provide free of costs any permits, licences and aircraft operating licences necessary for the lawful carrying out of any and all operations and activities allowed for in this Agreement in a manner and extent that enables the Company to fulfill the terms and conditions of this Agreement.
- 2.9. In view of the Company's expressed desire to introduce disciplines and incentives common in business that may not suit some of the current staff at the Park and to employ staff on a one year contract, the Government undertakes to re-deploy:
  - i) staff considered by the Company not suited to the system and
  - ii) those employees whose contracts have not been renewed, which staff the Company will replace. The Company will pay for the transport costs involved.

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- 2.10. The Government guarantees to accord relevant personnel employed by the Company the status of Honorary National Parks Officer that will allow such personnel the powers of law enforcement enjoyed by Government employees.
- 2.11. The Government guarantees to facilitate and support law enforcement in the Park which is beyond the Company's capacity.
- 2.12. Both the Regional Government and the Federal Government shall have jurisdiction over implementation and enforcement of the contract.
- 2.13. The Government and the Company shall jointly establish a Steering committee to advise on all non-disruptive scientific monitoring and research regarding the ecology, distribution and population dynamics of game in the Park as well as the condition of the habitat with a view to assessing the organization's compliance with this Agreement and any impact on the ecosystem that the Company's activities may have. The composition and functions of the Steering committee shall be defined subsequently.

### **3. Financing of the Company**

- 3.1. The Stichting African Parks Foundation or its nominees shall provide the initial funding for the Company to be reflected in the books of the Company either as a grant or as an interest-bearing loan (accruing at a rate of 3% above the United States of America ten-year Government Bond rate ruling from time to time) designated in US Dollars.
- 3.2. The Company shall be entitled to any income arising from the management of the Park including, but not limited to, entrance fees, tourism concession income, lease payments and the proceeds from the sale of any surplus game that may be culled. Live capture and sale of game may be only be undertaken after permission is obtained from the relevant authorities. The main source of income for the Company is expected to be from tourism.
- 3.3. The Company will also be entitled to bring indigenous animals (e.g. black rhinoceros) into the Park in order to enhance the tourism attractions. The Company will be entitled to trade these animals or their progeny for financial gain.
- 3.4. The Company shall over and above the funding referred to in 3.1 above make every effort to access donor funding operations, and other attendant expenses of the Park. This donor funding will be channeled into the capital and operational requirements through the Company. The Government will support such applications for donor funding.



#### **4. Treatment of Surplus Funds**

- 4.1. When the Company is in a profit situation (cumulative income exceeds the cumulative expenses over the period from the start of the project) as determined by an annual audit report in terms of clause 8.2 a profit share will be paid to Government. The quantum of this profit share will be negotiated at the time of the Company entering a profit situation. This will not exceed 33% of the total pre-tax profits of the Company on a profit up to US\$ one million, and 49% of any profit exceeding US\$ one million.

#### **5. Duration of the Contract**

- 5.1. This Agreement shall be for a term of twenty-five years from the date on which the Agreement is signed unless it is previously terminated as hereinafter provided.
- 5.2. The Company may at the expiration of the term hereby apply for a renewal of the agreement for a further 15 years on reasonable terms and conditions to be agreed upon at that time.

#### **6. Expiration and Termination**

- 6.1. This Agreement shall expire if after three years the future activities of the Company are not adequately funded by external sources at the sole discretion of the Company. It shall also expire twenty-five years from the commencement date first above written unless the Company exercises its option to extend this Agreement in terms of clause 5.2.
- 6.2. Upon termination or expiration of the agreement, ownership of all fixed assets of the Company, and all Government assets taken over by the Company at the commencement of the agreement as per clause 1.3 and still in commission and the then animal population shall vest in the Government.
- 6.3. In the event of non-compliance with its obligations by the Government, and subject to the provisions of clause 8.4 hereunder, the Company may terminate this agreement by giving the Government six months written notice, and the Government shall pay the Stichting African Parks Foundation or its nominees the US dollar value of the grants or loans provided to the Company at the time of such termination.
- 6.4. In the event of non-compliance with it's obligations by the Company, and subject to the provisions of clause 8.4 hereunder, the Government may terminate this agreement by giving the Company six months written notice to remedy the situation failing which the Stichting African Parks Foundation or its nominees shall transfer its assets and liabilities relating to the project to the Government at

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their US Dollar value. The value of such assets and liabilities will be determined by an independent auditor or valuator approved by the parties to this agreement.

- 6.5. In the event of termination of this agreement in terms of clause 6.3 or 6.4, the Government or the Company respectively undertakes to comply with the terms and conditions of any agreements with lessees or concession holders. Should Government, nevertheless, wish to terminate the agreements with lessees and concession holders, then such will be compensated in US dollars for the book or market value of their investments, whichever is the higher amount.

## **7. Warranty**

- 7.1. Government warrants that devolving the management and financing of the Park is permissible in terms of the Laws of Ethiopia.

## **8. General**

- 8.1. The parties to this Agreement undertake to co-operate fully and do all that is possible to make the venture a success and the Park a model Park while retaining its wilderness nature.
- 8.2. The Government may request an annual independent audit of the books of the Company to satisfy itself as to the profitability or otherwise of the company's operations.
- 8.3. This Agreement shall be subject to and construed in accordance with the Laws of Ethiopia.
- 8.4. All disputes, differences and questions whatsoever which may at any time hereafter arise between the parties hereto concerning anything contained in or arising out of this agreement or as to the rights duties or liabilities of the parties hereto respectively or their respective assignees shall be amicably resolved. Failing which, such disputes will be referred to a panel of arbitrators to be agreed upon by the parties or failing agreement to be nominated on application of any party by the Chairman of the Arbitration Forum of the Addis Ababa Chamber of commerce in accordance with the Civil Code of Ethiopia.
- 8.5. The terms and conditions contained in this agreement and the appendices hereto supersede all other terms, conditions representations or undertakings made by the parties hereto and nothing said or written during the course of negotiations between the parties hereto shall have contractual or other legal effect unless expressly incorporated herein by reference.
- 8.6. No variation to the terms of this Agreement or the appendices hereto shall be effective unless agreed upon in writing and signed by the authorized representatives of the parties hereto.



- 8.7. Any notices to be given pursuant to this Agreement shall be in writing and may be given by sending the same by paid registered post, fax, or recorded personal delivery addressed to the party concerned at its address given hereunder or such other address as such party may have notified in writing to the other party for this purpose or by delivering the same to the party concerned at such address any notice so given shall be deemed to have been served:
- a) If served by registered post: within ten days from the date of posting;
  - b) If sent by recorded delivery: on the day on which delivery was acknowledged;
  - c) If sent by fax: within two hours of receiving a remittance advice of successful transmission.

For purposes of this clause the address for the parties hereto are as follows:

**The Federal Government:** The Minister of State  
Ministry of Agriculture and Rural Development  
P.O.Box 62347  
Addis Ababa  
Ethiopia

**The Regional Government:** The President  
Southern Nations, Nationalities and Peoples Regional State  
P.O.Box 18  
Awassa  
Ethiopia

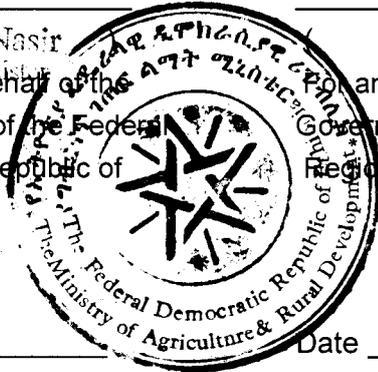
**The Company:** African Parks (Ethiopia) PLC  
P.O.Box 182  
Arba Minch  
Ethiopia

IN WITNESS WHEREOF the undersigned being the duly authorized representatives of the Government and the Company have signed this Agreement at \_\_\_\_\_ on the day and year first above written.

*Langbroek*

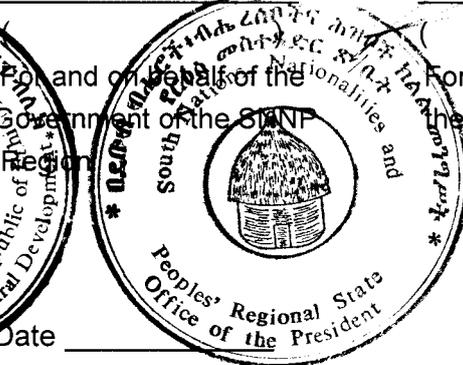
*Ahmed Nasir*

( Ahmed Nasir  
State Minister  
For and on behalf of the  
Government of the Federal  
Democratic Republic of  
Ethiopia



Date \_\_\_\_\_

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Date \_\_\_\_\_

*[Signature]*

( \_\_\_\_\_ )  
For and on behalf of the  
the Company



Date \_\_\_\_\_

*4 November 2017*

*[Signature]*

## **Appendix A**

### **IUCN Criteria for National Parks**

#### **Introduction**

Through its World Commission on Protected Areas (formerly known as the Commission on National Parks and Protected Areas or CNPPA) the IUCN aims to give international guidance on the categorization of protected areas. Among the most important purposes of this is to reduce the confusion which has arisen from the adoption of many different terms to describe the different kinds of protected areas, and to provide international standards to help global accounting and comparisons between countries. The first preliminary set of international guidelines for protected area categories was published by the IUCN in 1973, and this was followed by a final version in 1978. The 1978 categories were later subjected to a wide-ranging review by the international protected area constituency over a number of years. The review resulted in the latest guidelines which were published by the IUCN in 1994.

#### **The Categories Of Protected Areas And The Definition Of A National Park**

The starting point in the 1994 categorization is the basic definition of a protected area:

*An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.*

All categories of protected areas conform to this global definition. However, the purpose for which protected areas are managed may differ greatly. It is on the basis of primary management objective that the IUCN (1994) recognizes the following six categories:

- I Strict protection (i.e. Strict Nature Reserve/Wilderness Area)
- II Ecosystem conservation and recreation (i.e. National Park)
- III Conservation of natural features (i.e. Natural Monument)
- IV Conservation through active management (i.e. Habitat/Species Management Area)
- V Landscape/seascape conservation and recreation (i.e. Protected Landscape or Seascape)
- VI Sustainable use of natural ecosystems (i.e. Managed Resource Protected Area)

IUCN (1994) emphasizes that that assignment to a category is not a commentary on management effectiveness.

The following description of Category II, a National Park, is given by IUCN (1994):



### *Definition*

Natural area of land and or/sea, designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and ( c ) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.

### *Objectives of Management*

1. to protect natural\* and scenic areas of national and international significance for spiritual, scientific, educational, recreational or tourist purposes;
2. to perpetuate, in as natural a state as possible, representative examples of physiographic regions, biotic communities, genetic resources, and species, to provide ecological stability and diversity;
3. to manage visitor use for inspirational, educational, cultural and recreational purposes at a level which will maintain the area in a natural or near natural state;
4. to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation;
5. to maintain respect for the ecological, geomorphologic, sacred or aesthetic attributes which warranted designation;
6. to take into account the needs of indigenous people, including subsistence resource use, in so far as these will not adversely affect the other objectives of management.

### *Guidance for selection*

- The area should contain a representative sample of major natural regions, features or scenery, where plant and animal species, habitats and geomorphological sites are of special spiritual, scientific, educational, recreational and tourist significance.
- The area should be large enough to contain one or more entire ecosystems not materially altered by current human occupation or exploitation.

### *Organizational Responsibility*

Ownership and management should normally be by the highest competent authority of the nation having jurisdiction over it. However, they may also be vested in another level of government, council of indigenous people, foundation or other legally established body which has dedicated the area to long-term conservation.

### Reference

Anon. (1994). Guidelines for protected area categories. IUCN World Commission on Protected Areas, Gland, Switzerland.

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\* Definitions of 'natural' are inherently controversial. IUCN (1994) defines natural as: "Ecosystems where since the industrial revolution (1750) human impact (a) has been no greater than that of any other native species, and (b) has not affected the ecosystem's structure. Climate change is excluded from this definition."



## **Appendix B**

### **INDICATIVE NUMBERS AND SOURCES OF ANIMALS FOR STOCKING THE PARK**

In terms of Clause 3.4 of this Agreement the Government will issue all necessary permits, and will allow the capture of the animals listed below from any protected or other areas as may be agreed upon, and their transport to the Park. The numbers given are the indicative numbers required. The time period over which the animals are translocated to the Park will be negotiated.

The species and indicative number of each are as follows:

<b><u>Species</u></b>	<b><u>Number</u></b>
Beisa oryx	40
Greater kudu	40
Grevy's zebra	40
Buffalo	100
Reticulated giraffe	20
Lion	10
Leopard	10
Cheetah	10
Burchell's Zebra	100

