

## Game Animal Maintenance Agreement

Dated \_\_\_\_ day of \_\_\_\_\_ 20\_\_

BETWEEN:

C. E. Findlay Farms PTY (the "Company")

And

[tbd] (the "Client")

**Whereas** the Company and the Client wish to enter into an arrangement for the purposes of raising and maintaining a stock of wild or semi-domesticated game animals (the "Stock") and:

- 1) there is no intention to create a partnership, joint venture, or any investment scheme;
- 2) the Client wishes to purchase certain Stock and to have the Company maintain and care for such stock on its properties in the Republic of South Africa;
- 3) the Company will manage the day-to-day care and upkeep of such Stock as further set out below; and
- 4) both parties understand that the Stock contemplated herein are wild game animals and that their care and upkeep is distinct from that of usual domesticated farm animals and that there are risks inherent in the keeping of such Stock that are unique to the keeping of wild animals in wilderness and outdoor grazing lands.

IT IS THEREFORE AGREED THAT:

### 1. Identification of Stock

The Company will maintain a register of the Stock which shall be the subject of the terms under this Agreement. The parties agree that, given the difficulties inherent in uniquely marking and identifying wild animals, the Company will use reasonable efforts to provide that such register will identify the Stock belonging to the Client and to distinguish such stock from that of the Company or other clients of the Company as contemplated hereunder. Such efforts may include the use of photography and the recording of unique marks, features or other identifying elements to enable the Stock to be identified. The parties agree that the determination of the Company in relation to the identity of any Stock will be final and in the sole discretion of the Company.

### 2. Purchase and Transport

The Client will arrange for the purchase and transport, at the Client's cost, of certain Stock to the premises so designated by the Company. Unless otherwise agreed in writing (which shall be deemed to include email communication), the full costs (and risks of loss) including transport, delivery and any ancillary costs in relation to any purchase, sale, transfer or assignment of Stock will be borne by the Client.

3. Liability, Discretion and Risk of Loss.

The parties agree that there are risks to wild animals such as the Stock in a game farm and wilderness (or semi-wilderness) environment that cannot be completely reduced, predicted, mitigated or managed by the Company or the Client in any commercially reasonable way. Such risks include, **but are not limited** to death (by various means natural, man-made and criminal activity such as poaching or theft), sickness, unknown loss to the wilderness or the elements (such as predation, fire, flood, climatic change or disease) and regulatory or government action (such as forced culling for the purposes of disease management, environmental considerations or otherwise). The Parties agree that the standard of care expected of the Company with respect to the care and upkeep of the stock and the management and mitigation of the risk of loss will be that of a reasonable commercial game farm manager and will not extend to include heroic or commercially unreasonable efforts as determined by Company. The Client agrees that the exercise of professional judgment by the Company in relation to the services provided and the discretionary powers exercised by the Company forms part of the services for which the Client is contracting under this Agreement and that in the absence of gross negligence or fraud the determinations of the Company under this agreement shall be final and binding. The parties further agree that any such determinations hereunder shall be in the sole discretion of the Company unless otherwise agreed in writing.

The parties expressly agree that the Company is does not owe any fiduciary duty of care to the Client and is not acting in a fiduciary capacity. However, the Company will always take into account the intent of the Client to preserve and propagate the Stock and to control costs and will whenever reasonably possible, consult with the Client prior to taking any action which may affect the Stock negatively or incur any additional costs for the Client.

4. Veterinary and Medical Care.

The parties agree and understand that the Stock are wild animals and are not normally expected to be provided with regular veterinary care or any medical attention or upkeep (other than as otherwise provided herein). However, the Company may deem it necessary or desirable in certain circumstances to provide or arrange for the provision of medical care (by way of example but not limitation, facilitating the birth of young, stitching of wounds, or prophylactic treatments) or veterinary services (whether

provided by employees of the Company or by a veterinary professional). In such cases, the Company reserves the right to charge the Client for such costs in relation to the Stock. The Company agrees that any such charges, other than those deemed to be immediately necessary or where time is of the essence due to the nature of the circumstances, will be discussed and agreed with the client prior to any costs being incurred.

## 5. Care and Upkeep of Stock

- i) the Stock will normally receive their full dietary, water and nutritional requirements from the land on which they live and to which the Company will provide access. However, the Company may (but is not obliged to) provide such supplementary feeds, water, licks or other nutrition as may be necessary to maintain the Stock in the event of drought, fire or other events that may necessitate such action. The Client agrees and understands that such care may not be provided in all circumstances as it may be cost-prohibitive, logistically unfeasible or otherwise impractical or difficult to provide. In particular, (but not by way of limitation) the provision of supplementary feed in times of drought can be exceptionally costly and the Company is not obliged to provide such feed unless the provision and costs of such feed is otherwise agreed in writing between the parties. The Client agrees that in certain circumstances it may be more cost effective to cull, allow Stock to die, or otherwise dispose of the Stock than to maintain the Stock and that the Company may, after notifying the Client, do so in the absence of alternative instructions from the Client. Any costs associated with any alternative instructions from the Client will be borne by the Client. Any proceeds from such disposal or cull will be returned to the Client minus any applicable costs.
- ii) The Company will provide the Stock with access to certain designated portions of the lands and waterways of the Company. Further, the Company will maintain fences around such lands to help prevent the loss or escape of the Stock.
- iii) The lands on which the Stock are expected to live are subject to regular fires. In the normal course of its business and management of its lands, the Company may also set (taking such reasonable precautions as may be expected in such circumstances of a professional game farm manager) intentionally to provide or improve grazing opportunities for the Stock. Fire, whether natural or made by man, is difficult to control. The Client agrees and understands that fire presents a risk of total or catastrophic loss of the Stock and assumes such risk. Further, the Client understands that although the Company may take steps to contain, fight, manage or control such fires, such efforts are not always successful and not always practical or possible.
- iv) Other Care. The Stock are wild animals and are not expected to be provided with any additional care unless agreed by the parties in writing.

6. Notices and Instructions.

Email, telephone, post and fax are valid forms of notice. The parties expect in the normal course to transact by email and telephone and agree that unless otherwise provided herein, such communications are binding on both parties and that email is deemed to be a valid form of writing for the purposes of this agreement.

The Client may at any time (and at the Clients cost) require the Company to dispose, cull, transfer or otherwise take action with respect to the Stock. The Company shall have a maximum of 28 days to comply with any such request.

The Stock (and any progeny allocated to the Client in accordance with this Agreement) will at all times remain the property of the Client and the Client retains the right to require the Company to make available the Stock (or, if not practicable, to allow access to the Client or the Clients' agents to the lands of the Company to collect such Stock) to the Client at any time upon reasonable notice.

7. Fees, Disposals and Proceeds

- i) The Company shall be compensated for the services provided hereunder by having the right to take possession and title to 50% of the young born to each species of Stock during a year. For the purposes of calculating this number, the Company shall take an annual accounting and stock-taking of the Stock every year on or around May of each year and shall update the register of Stock accordingly with such details. If the number of young born to any species of Stock is odd, the Client and the Company shall alternate on an annual basis having the benefit of their share being rounded up, starting with the Client in the first year.
- ii) Disposals and Culls. The costs of any sale, disposals, culls, transfers, assignments or otherwise shall be deducted from the proceeds of such action. The remaining proceeds shall be paid to the Client to their nominated back account (net of any foreign exchange charges, withholding tax, wire transfer or other bank charges) within 28 days. If the value received after taking such action is negative net of all taxes, costs and charges, the client shall pay to the Company its actual costs for any disbursements and costs properly incurred on the Clients behalf.

8. Jurisdiction and Dispute Resolution

This agreement shall be subject to the laws of the Republic of South Africa and the parties agree to the exclusive jurisdiction of a court in the Republic of South Africa in the Free State. The Client expressly agrees not to challenge this choice of law and jurisdiction on the basis of the venue not being convenient.

The parties agree to submit all disputes to an arbitrator based in the Republic of South Africa and chosen by [insert local arbitration services]. The parties shall share equally the costs of any such appointment.

Agreed on behalf of the Client by:

Name:

Title:

Date:

Agreed on behalf of the Company by:

Name:

Title:

Date: