

## **TOUR OPERATOR / TOURIST GUIDE AGREEMENT**

entered into between

\_\_\_\_\_  
Registration Number: \_\_\_\_\_

Duly authorised and represented herein by \_\_\_\_\_

(“the **Tour Operator**”)

and

\_\_\_\_\_  
Identity Number: \_\_\_\_\_ Registration No. \_\_\_\_\_

(“the **Tourist Guide**”)

(collectively referred to as “the Parties”)

### **WHEREAS:**

- A. The **Tour Operator** carries on business as a tour operator, offering various tourism related services to its clients, including but not limited to guided tours, transfers and transport; and
- B. The **Tourist Guide** has the requisite skills, knowledge and ability to deal with *inter alia* guided tours, transfers and transport; and
- C. The Parties are desirous of entering into an agreement recording and regulating the terms and conditions under which the **Tourist Guide** will act as a driver or guide or driverguide for the **Tour Operator** within the Republic of South Africa and/or its neighbouring countries

### **NOW THEREFORE IT IS AGREED AS FOLLOWS:**

#### **1. APPOINTMENT**

- 1.1 The **Tour Operator** hereby appoints the **Tourist Guide** as an independent driver or guide or driverguide to operate as such on its behalf, and to render to it the services set out in clause 3.1 below, within the Republic of South Africa and/or neighbouring countries, which appointment the **Tourist Guide** hereby accepts.

- 1.2 Nothing in this agreement shall be construed as consisting a partnership or an employment relationship in any shape or form between the **Tour Operator** and the **Tourist Guide** (the **Tourist Guide** is referred in this regard to Annexure C hereto), nor shall anything in this agreement be construed as authorising the **Tourist Guide** to incur any liability on behalf of the **Tour Operator**, unless otherwise provided.

2. **QUALIFICATIONS**

This appointment is subject to the following qualifications :

- 2.1 The **Tourist Guide** acting as a guide must be registered under the regulations of CATHSSETA (Culture, Art, Tourism, Hospitality and Sport Education and Training Authority) for the regions related to the appointment, in accordance with The **Tourism Act 3 of 2014 chapter 6**
- 2.2 The **Tourist Guide** acting as a driver or **driverguide** must possess a valid Professional Public Drivers Permit (PrDP).

3. **PERIOD OF THE APPOINTMENT**

- 3.1 This appointment is from \_\_\_\_\_ to \_\_\_\_\_ and the **Tourist Guide** is required to do the following on behalf of the **Tour Operator**:

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This appointment may be terminated by either party by giving the other party notice in writing to such effect, on not less than 30 (thirty) days notice, same which must be prior to the commencement date of the appointment without penalty. Cancellation within 30 days of the commencement date of the appointment by the **Tour Operator** will result in a cancellation fee equal to 50% (fifty percent) of the fees due in terms of the appointment being payable by the **Tour Operator** to the **Tourist Guide**

4. **RATE OF PAY**

- 4.1 The rates applicable, as agreed, are as per Annexure A attached. These rates may be revised by agreement between the Parties from time to time. All amounts referred to in this agreement shall be **inclusive of Value Added Tax**.
- 4.2 The **Tourist Guide** will invoice the **Tour Operator** in respect of services rendered, for payment within 7 (seven) days after completion of the tour.
- 4.3 The **Tour Operator** will be liable to pay the **Tourist Guide** the agreed rate within 14 (fourteen) days from receipt of the abovementioned invoice.

## 5. DRIVER AND TOURIST GUIDE ALLOWANCES

- 5.1 The following allowances are claimable by **Tourist Guide** during the appointment:
- 5.1.1 Meal allowances: A maximum meal allowance per day to cover breakfast, lunch and dinner as detailed on Annexure B is applicable. Should an accommodation reservation be made on behalf of the **Tourist Guide** including any of the above, he will be entitled to only the balance of the allowance per day not so covered by the aforesaid reservation.
- 5.1.2 Vehicle cleaning: It is the **Driverguide's** responsibility, when on tour and when passengers are being carried, that the vehicle is cleaned inside and outside before the tour commences each day. The **Driverguide** will only be refunded on producing a receipt if there were costs involved. See Annexure B for the maximum daily rate per microbus or sprinter owned by the **Tour Operator**.
- 5.1.3 Porterage fees: Porterage fee allowances are limited to a rate per person per loading (rates as per Annexure B). Any deterioration in service resulting from pressurisation for increased tips should be reported to the **Tour Operator** in order that the matter may be taken up with the respective organisations. A receipt for all porterage fees will be expected from the **Tourist Guide**.
- 5.2 All rates applicable to the above will continue unless agreed otherwise and reduced to writing and signed by the Parties.

## 6. EQUIPMENT SUPPLIED BY THE COMPANY

- 6.1 The **Tour Operator** will supply the **Driverguide** with the appropriate vehicle to enable the **Tourist Guide** to render the required services in terms of clause 3.1 above.
- 6.2 The **Tour Operator** shall ensure that the aforesaid vehicle supplied will be roadworthy, have all of the necessary road transport permit(s), the necessary passenger liability insurance, and all necessary equipment in order to perform the services required. The **Driverguide** is required, when the appointment commences, to compile a checklist on which all markings, dents and scratches to the vehicle at such time must be noted and a checklist with all the equipment furnished.
- 6.3 The **Driverguide** is to ensure that vehicles and equipment issued are not lost or damaged as a result of negligence.
- 6.4 It is the **Driverguide's** responsibility to ensure that all emergency tools and spare parts are loaded before departure and returned at the end of each trip.

- 6.5 It is the **Driverguide's** responsibility to check and control the abovementioned equipment and to determine if the equipment is compatible with the vehicle to be used. If its is not, the Tour Operator must furnish the **Driverguide** with equipment that is compatible with the vehicle to be used.

## **7. GENERAL RESPONSIBILITIES OF THE TOURIST GUIDE**

- 7.1 The **Tourist Guide** is required to report for each trip on time to conduct all necessary checks and receive all necessary instructions.
- 7.2 The **Tourist Guide** is required to ascertain that all necessary details and instructions on the services to be performed are clearly understood eg. in relation to routes, addresses and venues.
- 7.3 The **Tourist Guide** is required to ascertain that all special requirements of clients are clearly understood and carried out.
- 7.4 The **Tourist Guide** is required to ensure that all instructions received from the tour consultant regarding the program and the excursion cost sheet are strictly adhered to. The **Tourist Guide** may not change any point of itinerary, services or timings without prior authority from the **Tour Operator**.
- 7.5 The Traffic Regulations regarding speed and road safety are to be strictly adhered to, as well as any specific rules of the **Tour Operator** which are to be communicated to the **Tourist Guide** in writing prior.
- 7.6 The **Tourist Guide** is required to ascertain that the **Tour Operator's** instructions, policy procedures and relevant information on emergencies are clearly understood and adhered to.
- 7.7 Under no circumstances may the the **Tourist Guide** discuss with clients of the Tour Operator any of the **Tour Operator's** policies, procedures or internal relations.
- 7.8 The **Tourist Guide** is required to give his undivided loyalty to the **Tour Operator** at all times when performing services for the **Tour Operator** and to work in the interests of the **Tour Operator** and to uphold its image at all such times.
- 7.9 When on a day at leisure or at any other time when acting as a driverguide for the **Tour Operator**, the **Tourist Guide** may not canvas any business from the passengers or offer any services to the passengers for personal gain. Any additional services requested by the **Tour Operator's** clients and passengers must be sanctioned by the relevant authorised **Tour Operator** employee.
- 7.10 The **Tourist Guide** is under no circumstances to abuse any hospitality offered either by suppliers or clients. The **Tourist Guide** is required not to indulge in excessive eating or drinking which might result in the incapacitation or impediment

of the services to be performed by him. When on driving duties no indulging in any drinking of alcoholic beverages is permitted whatsoever.

- 7.11 It is essential that the **Tourist Guide** ensures that he/she is fresh and alert at all times when on duty.
- 7.12 The **Tourist Guide** is required to take all necessary and reasonable precautions to ensure the safety of passengers and their personal belongings at all times.
- 7.13 The **Tourist Guide** is required to be courteous, helpful and efficient at all times.
- 7.14 On return from a tour the **Driverguide** is responsible for the cleaning of the microbus or sprinter inside and outside, before he/she returns the vehicle to the **Tour Operator**.
- 7.15 The **Tourist Guide** is to adhere to and uphold the **Code of Conduct** applicable to **Tourist Guides** at all times.

## **8. COMPANY FUNDS**

- 8.1 The **Tourist Guide** may be issued with funds, in the form of cash, credit cards or any negotiable instrument, for the purpose of paying suppliers, as directed by the **Tour Operator**, for services such as meals, entrance fees, portorage, etc. These funds may be used solely for the specified purposes. Under no circumstances may it be used for personal or any other purposes.
- 8.2 The **Tourist Guide** is required to take strict precautions to ensure the safety of the **Tour Operator's** funds, relevant credit cards or any other negotiable instruments issued.
- 8.3 All expense returns, together with the relevant supporting documents and receipts, together with any remaining funds, must be submitted by the **Tourist Guide** to the **Tour Operator** not later than 2 (two) days after the termination of a specific job. These returns are required to be clear and correct.
- 8.4 The Company reserves the right to deduct from the fee payable to the **Tourist Guide** the amount of any shortfall in funds issued to the **Tourist Guide** proven to be so.

## **9. LOSS OR DAMAGE TO EQUIPMENT AND FINES**

- 9.1 The **Tour Operator** reserves the right to claim from the **Tourist Guide** the amount of any damage or loss suffered by it as a result of damage to or loss of equipment due to the **Tourist Guide's** negligence.
- 9.2 The **Tour Operator** reserves the right to claim from the **Driverguide** the amount of any traffic fines incurred by the **Driverguide** while operating the **Tour Operator's** vehicle.

## 10. INDEMNITY

The **Tour Operator** hereby indemnifies the **Tourist Guide** against all and any claims made against the **Tourist Guide** by inter alia any clients or suppliers of the **Tour Operator** in all cases of the **Tourist Guide** performing in terms of this agreement.

## 11. GENERAL

- 11.1 The Schedule(s) form part of this Agreement and shall have the same force and effect as if set out in the body of this Agreement and references to this Agreement include the Schedule(s).
- 11.2 The headings of this Agreement shall not affect the interpretation of this Agreement.
- 11.3 Any indulgence by one party to another shall not prejudice the rights of that party under this agreement, nor be deemed to be a novation hereof or a waiver of that party's rights against the other.
- 11.4 This agreement constitutes the entire agreement between the parties with regards to the various matters contained herein, and all prior oral or written representations, undertakings or agreements are hereby cancelled by the signing hereof.
- 11.5 No variation, modification, waiver or consensual cancellation of any provision of this agreement or consent to any departure therefrom (including this sub-clause), shall be of any force or effect unless the same shall be confirmed in writing and signed by the parties.
- 11.6 The Parties agrees that neither shall not cede, delegate, assign or transfer or purport to assign or transfer or cede or delegate any of its rights or obligations under this Agreement without the other Party's prior written consent which shall not be unreasonably withheld.

**12. NOTICES AND INFORMATION**

12.1 Any notice or other communication under or in connection with this Agreement shall be in writing and shall be delivered personally or sent by telefax, to the Party due to receive the notice and to the address and telefax number specified below in clause 12.2.

12.2 The address ,telefax and email address of each of the Parties and the person or persons for whose attention each notice or other communication should be marked are as follows:-

**12.2.1 the Tour Operator:**

Address: \_\_\_\_\_  
Fax No: \_\_\_\_\_  
Email: \_\_\_\_\_

**12.2.2 the Tourist Guide:**

Address: \_\_\_\_\_  
Fax No: \_\_\_\_\_  
Email: \_\_\_\_\_

12.3 Any notice or other communication delivered or sent in accordance with sub-clauses 12.1 and 12.2 above shall be deemed to have been duly given:

12.3.1 if delivered personally, at 10 a.m. local time in the place of receipt on the 1<sup>st</sup> (first) Business Day after being left at the address referred to in sub-clause 12.2 above;

12.3.2 if sent by telefax, at 10 a.m. local time in the place of receipt on the 1<sup>st</sup> (first) Business Day after completion of its transmission.

12.4 The Parties shall co-operate to provide each other with copies of all invoices, tax notices, documents and other information relating to this Agreement as either Party may reasonably request of the other.

**SIGNED** at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ **20**\_\_.

\_\_\_\_\_  
Witness the **Tour Operator** (duly authorised)

**SIGNED** at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ **20**\_\_.

\_\_\_\_\_  
Witness the **Tourist Guide**

**ANNEXURE "A"****TOURIST GUIDE OR DIVER/GUIDE RATES:****DATE:** \_\_\_\_\_ Valid until \_\_\_\_\_

| <b>GUIDES</b>           | <b>LOCAL</b> | <b>OVERLAND</b> |
|-------------------------|--------------|-----------------|
| <b>Half day touring</b> |              |                 |
| <b>Full day touring</b> |              |                 |
| <b>Dinner transfer</b>  |              |                 |
| <b>Driver/Guides</b>    |              |                 |
| <b>Full day</b>         |              |                 |

"Local" shall mean: \_\_\_\_\_

"Overland" shall mean: \_\_\_\_\_

**PLEASE NOTE:** If the **Tourist Guide** is on an overland tour and the visitors have a day off or afternoon at leisure, the **Tourist Guide** must be **paid in full** for that day.**ANNEXURE "B"****TOURIST GUIDE ALLOWANCES**

The following allowances are claimable by Tourist Guides during the appointment:

**Meal Allowances**A maximum meal allowance of R \_\_\_\_\_ per day will be allowed to drivers and guides on overland trips. (as per clause 5.1.1) :

|                      | <b>Agreed</b> | <b>Suggested</b> |
|----------------------|---------------|------------------|
| <b>Breakfast</b>     |               | included         |
| <b>Lunch</b>         |               | R120             |
| <b>Dinner</b>        |               | R200             |
| <b>Total per day</b> |               | R320             |

**Vehicle Cleaning**

A maximum of R \_\_\_\_\_ per day per Sprinter or R \_\_\_\_\_ per day per Microbus, may be claimed for vehicle cleaning. This would obviously apply only when on tour and when passengers are being carried.

**Portarage**

A maximum allowance of R \_\_\_\_\_ will be paid for portarage per person per loading.

## ANNEXURE "C"

### NOTICE TO DRIVERS OR GUIDES OR DRIVERGUIDES

Please take note that your contractual relationship with the **Tour Operator**, as a **Freelance Driver or Guide or Driver/Guide**, is that of an independent contractor and not an employee. As such it is your responsibility and not that of the **Tour Operator** to ensure that amongst other things you have made your own arrangements for the following :

- adequate personal insurance cover for medical expenses, disablement or death;
- set up a suitable annuity or similar fund to ensure that you make adequate provision for your retirement;
- register with the Receiver of Revenue as being self-employed and make the necessary arrangements to ensure that your personal tax matters are in order and up to date.

Obviously, as a **Freelance Driver or Guide or Driver/Guide** and independent contractor you have the advantage of freedom of choice as to whom you work for or when you wish to work. It is also entirely at your discretion as to what extent or arrangements you make, with regards to your insurances, savings and tax matters. Understandably therefore you will appreciate that you cannot also enjoy the benefits that may be available to an employee (such as Workmen's Compensation, Medical Aid and Pension).

Accordingly, please take further notice that the **Tour Operator** cannot be held responsible for your medical or other personal expenses incurred nor can it accept liability for any loss of income you may suffer as a result of your temporary disablement from an accident, illness or any other reason. Similarly the **Tour Operator** cannot accept any responsibility for any of your tax liabilities or tax payments.

**Tourist Guides** are therefore urged in their **own** interest to regularly review their portfolio to ensure that these important personal matters are all in order.

## ANNEXURE "D"

### **Suggested Rates for 2018:**

- |                                  |                       |
|----------------------------------|-----------------------|
| • Guide full day Overland        | R1550-00 per day;     |
| • Driver/guide full day Overland | R2100-00 per day;     |
| • Guiding full day local         | R1350-00 per day;     |
| • Guiding ½ day local (max 5hrs) | R1100-00;             |
| • Transfers                      | R900-00 per transfer; |
| • Transfers After hours          | R1050-00 per transfer |
| • Dinner transfers (stand alone) | R950-00               |
| • Language Guides                | Additional 10%        |