

# Appendix C

## Example of Addendum to MoA

### ADDENDUM No.1 to the MEMORANDUM OF AGREEMENT

Concluded Between

Represented by

In his capacity as

(Herein after referred to as the )

And

XXXX NPO and PBO XXXXX

Represented by XXXX

In his/her capacity as XXXXXXXX, being duly authorised thereto

(Herein after referred to as the PARTY)

This Variation Agreement (the "Variation Agreement") is dated .....  
(the "Variation Effective Date") and is entered into by and between:

#### 1. PREAMBLE

WHEREAS the parties have entered into a co-operative agreement to affirm the areas of cooperation and to promote a cooperative relationship between the Parties;

AND WHEREAS the party is a voluntary, non-profit and non-political association of interested and affected members of the community;

AND WHEREAS the Parties entered into a Memorandum of Agreement dated (the "Agreement"); \_

AND WHEREAS the Parties now wish to amend the terms of the Agreement in the manner set out in this Variation Agreement pursuant to clause 5 of the Agreement;

NOW THEREFORE the Parties agree as follows:

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#### 2. DEFINITIONS & INTERPRETATION

- 2.1 Subject to the provision of Variation Agreement, the Agreement shall remain in full force and effect and shall be read and construed as one document together with this Variation Agreement.
- 2.2 All terms defined in this Variation Agreement, not otherwise defined herein shall have the meanings assigned to them in the Agreement, unless defined for the first time in this Variation Agreement.
- 2.3 In the event of any conflict or inconsistency between the provisions of this Variation Agreement and those contained in the Agreement, save to the extent expressly stated to the contrary, the terms of this Variation Agreement will in so far as they relate to the amendments as further set out in clause 3 hereunder, prevail.

#### 3. VARIATION OF THE AGREEMENT

The following provisions of the Agreement are hereby amended as follows:

- 3.1 add the following after clause 3.1.1:
  - "3.1.12 will grant access to the employees, contractors and volunteers to the site.
  - 3.1.13 will allow the employees, contractors and volunteers to operate and offer environmental and cultural education and training programmes and conservation related activities out of facilities on the, subject to the obtaining the necessary approvals, consents, permits and/or licenses accordance with prevailing legislation.
  - 3.1.15 will, in its training needs analysis, consider providing appropriate training to the staff and volunteers as per their supervisory, education and conservation duties on the party may determine minimum training requirements for certain activities e.g. activities on water.

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#### 3. VARIATION OF THE AGREEMENT

The following provisions of the Agreement are hereby amended as follows:

- 3.1 add the following after clause 3.1.11:
  - 3.1.16 may provide the staff with office space and resources (including but not limited to the IT infrastructure), to be used in the fulfilment of their duties in the . The staff, where required, shall submit the required documentation in order for the applicant to be granted to the IT infrastructure.
  - 3.1.17 The party shall indemnify, defend and hold harmless the party from any claims or losses in relation to any claim against the by a third party arising out of, or in connection with, any death or bodily injury or loss or damage to real or personal property caused by the PARTY.
  - 3.1.18 All disciplinary matters that may arise at premises in connection with the staff shall be reported to and addressed by the after consultation with the party.
- 3.2 add the following after clause 3.2.13:
  - 3.2.14 shall at all times be on independent contractor. Nothing in this Agreement will constitute or be deemed to constitute, the as an employee, representative, agent, partner or joint venture of the party and its employees, students and/or volunteers will not be deemed to be employees of the party for the purposes of the relevant legislation that may normally be applicable to an employer/employee relationship agrees that its employees, contractors, students and contractors shall be supervised by the party, but shall not be deemed an employee of the party.
  - 3.2.15 shall comply with the by-laws, policies and relevant legislation relating to nature reserves and public open spaces, as well as any operational directions as determined by the relevant line manager.
  - 3.2.16 acknowledges that should the operations be in conflict with the operating procedures and guidelines for , the line manager will have ultimate control over operational outcomes after consultation with the.

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- 3.2 add the following after clause 3.2.13:
  - 3.2.17 staff, contractors and volunteers will comply with the site management plans, policies, by-laws and/or directions issued by the, and will at all times operate with due concern to the natural & social environment where the activities may be taking place.
  - 3.2.18 may use the facilities, water and fond space of the to raise funds to contribute towards the ongoing maintenance, restoration or infrastructural development of the subject to the obtaining the necessary approvals, consents, permits and/or licenses in accordance with prevailing legislation prior to the event.
  - 3.2.19 shall provide the party with copies of its audited financial statements, which indicates the total allocation of funds raised, total expenditure of such funds and total interest generated by such funds, must be forwarded to the financial year (30 June each year).
  - 3.2.20 shall declare to the party, all fundraising funds generated, upon mutual agreement between the Parties, shall utilise the fund generated prior to commencing services. This will ensure that any fundraising initiative using the facilities water and land of the party proposed by the party shall be done with the party prior written consent. All funds generated from events contemplated in clause 3.2 shall be used exclusively for: XXXX

#### 4.3 Cession and Assignment

The party shall not be entitled to cede, assign, novate, delegate or otherwise transfer any of its rights or obligations under this Variation Agreement to any third party without the prior written consent of the party. Subject to the foregoing, this Variation Agreement will be binding upon and inure to the benefit of the Parties and their respective officers, directors, employees, successors and assigns.

#### 4.4 Further Assurance

Each Party will do and execute, or arrange for the doing and executing of, each necessary act, document and thing reasonably within its power to implement and give effect to this Agreement.

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#### 4.5 Governing Law

This Variation Agreement, including any non-contractual disputes arising out of or in relation to it, shall be governed by and construed in accordance with the Applicable Laws of the Republic of South Africa and the Parties submit to in terms of Section 45 of the Magistrate's Court Act, 32 of 1944, as amended, in respect of any action or proceeding arising out of or in connection with this Variation Agreement, to the exclusive jurisdiction of the Magistrate's Court having jurisdiction in terms of Sections 28 and 29 of the said Act.

#### 4.6 Signature & Counterparts

- 4.6.1 This Variation Agreement is signed by the Parties on the dates and at the places indicated opposite their respective names.
- 4.6.2 This Variation Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one single agreement between the Parties.
- 4.6.3 Each Party warrants that the person signing this Variation Agreement on behalf of that Party has the requisite authority to bind that Party.

4.7 Each Party's consent to the terms of this Variation Agreement is without prejudice to any remedies or warranties available to that Party under the Agreement and does not relieve the Party of any contractual obligations.

#### THE Party

**Signature: Name: Title:**

**Date:**

#### The Party

**Signature: Name: Title:**

**Date:**

#### Witness 1: