

MEMORANDUM OF AGREEMENT

between

THE SOUTH AFRICAN HERITAGE RESOURCES AGENCY

(A statutory body established in terms of section 11 of the National Heritage Resources Act, 1999 (Act 25 of 1999)
(Hereinafter referred to as "SAHRA")

Represented by Sibongile Van Damme in her capacity as Chief Executive Officer of the South African Heritage Resources Agency)

and

[Insert Full Name]

(A [insert about text] ,)

(Hereinafter referred to as "[Insert Acronym][INSERT ACRONYM]")

Herein represented by [representative name] in his/her capacity as [representative title]

(Collectively referred to as the "Parties)

WHEREAS SAHRA is the custodian of the national estate and responsible, *inter alia*, for the heritage management of all national heritage sites in terms of Sections 13 and Section 27 of the National Heritage Resources Act, 1999 (Act 25 of 1999);

AND WHEREAS [INSERT ACRONYM][Insert Acronym] is responsible for [insert responsibilities];

AND WHEREAS SAHRA is responsible for co-ordinating the identification, monitoring and management of the national estate in the Republic of South Africa in terms of Section 8(2), Section 12 and Section 39 of the NHRA;

AND WHEREAS heritage management records in the custody of SAHRA and [INSERT ACRONYM][Insert Acronym] are considered to be an asset, in terms of the National Heritage Resources Act, that is of cardinal importance for the functioning of all heritage resource authorizes;

AND WHEREAS these records are deemed to be of exceptional heritage value and forms part of the inventory of the national estate.

THEREFORE THE PARTIES ACCORDINGLY AGREES AS FOLLOWS:

1. PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING

- 1.1 The purpose of this Memorandum of Agreement ("MoA") is to establish a partnership between SAHRA and [INSERT ACRONYM][Insert Acronym] for the purposes of sharing data and providing access to the South Africa Heritage Resources Information System (SAHRIS) by staff of [Insert Acronym], its applicants and other role-players.
- 1.2 This MoA will set out the responsibilities of both parties and what is expected of them as the SAHRIS comes into operation.

2. MUTUAL BENEFIT AND INTEREST

- 2.1 The implementation of the SAHRIS will satisfy the main purpose of the National Heritage Resources Act, No. 25 of 1999, namely to “introduce an **integrated and interactive system for the management** of the national heritage resources.” The SAHRIS is aimed to be a complete heritage resources management system for the use of all heritage resources authorities, other custodians of heritage resources information, planning authorities and the general public.
- 2.2 The SAHRIS will enable heritage resources authorities and local authorities to fulfill their heritage resources management functions, as required by the National Heritage Resources Act, No. 25 of 1999, more efficiently and effectively.
- 2.3 The SAHRIS will enable SAHRA to fulfill its statutory obligations in terms of Section 39 of the National Heritage Resources Act, No. 25 of 1999, which requires that it compiles and maintains an inventory of the national estate, defined by the Act as heritage resources of cultural significance or other special value. The SAHRIS will serve as a repository of the data collected in the compilation of the inventory of the national estate.
- 2.4 The SAHRIS will enable branches of the State and supported bodies, as well as provincial heritage resources authorities to fulfill their statutory obligation in terms of Section 9 and 39 of the National Heritage Resources Act, No. 25 of 1999, which requires that they provide SAHRA with information on heritage resources which would increase the volume and detail of information held in the inventory.
- 2.5 [INSERT ACRONYM][Insert Acronym] will essentially be a ‘partner’ of SAHRA in the implementation and use of SAHRIS.
- 2.6 SAHRA and [INSERT ACRONYM][Insert Acronym]’s will benefit from the use of SAHRIS as it will provide strategic integration of heritage management data. This will positively transform the service delivery of the heritage sector in South Africa. However, the successful use of the system will extend beyond the heritage sector since integration with the overall environmental management planning process will finally be possible.

- 2.7 [INSERT ACRONYM][Insert Acronym] will benefit by having access to a host of databases of identified heritage resources that are being migrated into the SAHRIS through agreements between SAHRA and other major institutions.
- 2.8 [INSERT ACRONYM][Insert Acronym] will be able to use SAHRIS to monitor the information generated by its role players in order to improve its service levels.
- 2.9 [Insert Acronym] will save costs as development innovations of SAHRIS are automatically passed onto [Insert Acronym].

2.10 **Information Security**

Although it is generally incumbent on SAHRA as a national institution to ensure the availability of its resources as far as possible to the public, some information will require tighter security either from the perspective of the safety of the resource, privacy or ownership of information. Partnering Institutions may require different levels of security and user access for their information and as such varying levels of security and user access rights are incorporated into the structure of the SAHRIS, and will be managed according to agreements made with the Partnering Institution and to SAHRA policy.

2.11 **Financial Gain**

SAHRA is required by the Act to be the custodian and point of collection of information relating to heritage resources. SAHRA will not gain any financial profit from its role as custodian of this information but it may consider recovering some of the costs of making information available. Information will not be sold.

3. OBLIGATIONS OF THE PARTIES

3.1 SAHRA SHALL:

- 3.1.1 Cover the cost of hosting the SAHRIS during the initial three year development phase of the system with a well established and respected Internet solutions provider. SAHRA will also review the contract of such hosting to maintain a healthy balance between access speed, size of storage, security, backup, ease of administration and level of service.
- 3.1.2 Provide access to the SAHRIS free of charge during the initial three year development phase of the system.

- 3.1.3 SAHRA reserves the right to charge a fee to assist it to cover the cost of the hosting, maintenance and continuous innovation of the SAHRIS after the initial three-year development phase, if required.
- 3.1.4 Migrate the [INSERT ACRONYM] databases into SAHRIS at no cost to [INSERT ACRONYM].
- 3.1.5 Test and debug the migrated data from [INSERT ACRONYM].
- 3.1.6 Provide training to the suitably qualified and capable staff chosen by [INSERT ACRONYM] on the use of SAHRIS.
- 3.1.7 Carry out daily backups of SAHRIS to ensure that no more than **one day** of transactional data is lost in the event of a disaster.
- 3.1.8 Include [Insert Acronym] as a member in the partnership committee/team which will meet at least once annually to assess the hardware, software and human resource infrastructure required to maintain the uninterrupted continuity of the SAHRIS service.

3.2 [Insert Acronym][INSERT ACRONYM] SHALL:

- 3.2.1 Provide regular feedback on the use of the SAHRIS to SAHRA improve the effective functioning of the system.
- 3.2.2 Hand over its database(s) to SAHRA for migration into SAHRIS.
- 3.2.3 Transfer its repository of scanned case files to SAHRA for migration into SAHRIS.
- 3.2.4 Ensure that users affiliated to it will agree to the Terms and Conditions set out during registration on the SAHRIS.
- 3.2.5 Accept responsibility for checking its migrated data into SAHRIS for correctness.
- 3.2.6 Keep its own backup of the high resolution copies of images, documents and other media content which are resized on upload to SAHRIS.
- 3.2.7 Make a staff member available as a super user who will be trained by SAHRA in administering the SAHRIS within their organisation. This person will be responsible for day to day training and support for its users and role players. This person will also act as the liaising officer between SAHRA and [Acronym] with regards to system failures and other non-operational matters.
- 3.2.8 Abide by the terms of the Creative Commons Attribution-Share Alike license.

4. COMMENCEMENT AND TERMINATION

- 4.1 This MoA takes effect when the last of the Parties attend to signature hereof and shall only be terminated by mutual agreement.

5. RESPONSIBILITIES OF THE PARTIES

- 5.1 The Parties shall handle their own activities and utilize their own resources in the execution of the terms of this MoA.
- 5.2 Each Party shall carry out its separate legislative mandate in a coordinated and mutually beneficial manner.
- 5.3 The Parties shall, in dealings with each other, display utmost good faith, integrity and co-operation in the implementation of the MoA.
- 5.4 All parties undertake to do all such things, perform all necessary acts and procure the taking of all necessary steps and sign all such other documents that may be necessary to give effect to the intention and the terms and conditions of this MoA, while at the same time not compromising themselves in respect of applicable legislation.

6. DISPUTE RESOLUTION

- 6.1 In the event of any dispute arising between the Parties, the process below will be followed, the idea being to keep the resolution as simple as possible so as to resolve the dispute as expediently as reasonably possible:
- 6.2 The Party raising the dispute must serve the other Party with a notice within 7 days of the dispute arising, notifying the other Party of the nature of the dispute, with sufficient particularity;
- 6.3 Within 14 days of receipt of the notice the Parties' respective Chief Executive Officers ("CEO"), will meet to discuss the dispute, with a view to resolving the

dispute/s in question, the idea being that the dispute should be resolved as speedily as reasonably possible;

- 6.4 Should the Parties be unable to resolve the dispute in question in terms of clause 5.3 above, the Party raising the dispute must, within 14 days of the dispute being declared unresolved by the CEOs jointly, refer the dispute to their respective Council/Board for intervention and assistance for possible resolution of the dispute. The Council/Board shall give direction as soon as reasonably possible as to resolution of the dispute which the Parties hereby accept shall be final and binding.
- 6.5 Failing the successful resolution of a dispute by the Parties and/or their respective Councils/Boards, the dispute will be escalated to the national Minister of the Department of Arts and Culture for a final decision.

7. GENERAL

- 7.1 No alteration, variation or cancellation of this MoA or any of the terms hereof will be of any force or effect, unless reduced to writing and signed by all the Parties.
- 7.2 This MoA does not constitute any of the Parties as the Agent or Legal Representative of the other for any purpose whatsoever and the other Party will not be entitled to act on behalf of, or represent or bind the other unless duly authorized thereto in writing.
- 7.3 Each Party will bear its own costs in relation to the preparation of this MoA.
- 7.4 The terms of the MoA may be reconsidered or renegotiated at any stage if any of the Parties concerned desire this, provided that this is produced in writing after agreement has been reached.

8. LATITUDE

Any latitude or extension of time granted by one party to the other in respect of any provision in this MoA shall not be deemed to be a waiver of any right that the aggrieved party may have in terms of Clause 6.

9. ENTIRE AGREEMENT

This MoA shall constitute the entire agreement and no other conditions, warranties, stipulations or representations shall be binding on the parties.

10. SIGNATORIES

The signatories to this MoA warrant that they are duly authorized to bind their respective employers, [INSERT ACRONYM] and SAHRA.

11. DOMICILIA

The parties choose as their respective *domicilium citandi et executandi* for purposes of this MoA as set out hereunder:

[Insert Full Name]:

[Insert Address]

SAHRA:

111 Harrington Street

Cape Town, 8001

Western Cape

Accepted for and on behalf of

[Insert Full Name]

and duly authorised

Signature:

Name: [insert representative name]
.....

Designation [insert position]
.....

Date: - - 2012
.....

Place: [insert place]
.....

Accepted for and on behalf of

**THE SOUTH AFRICAN HERITAGE
RESOURCES AGENCY (SAHRA)**

and duly authorised

Signature:

Name: Sibongile van Damme
.....

Designation Chief Executive Officer
.....

Date: - - 2012
.....

Place: Cape Town
.....