**MEMORANDUM OF AGREEMENT**

Made and entered into by and between

**GEOFF GONDAI ZVINOERA**

(ID NO 14-0013197 K 44)

*(hereinafter referred to as “the Landholder*”)

and

**TATENDA MAWERE**)

*(hereinafter referred to as “Tatenda”)*

**IN RESPECT OF THE JOINT VENTURE OPERATIONS ON 409.36 HECTARES OF** Subdivision 1 of Amper of Randfontein of Ghoko Block Situated in the District of Gweru, Midlands Province *(“the Farm”).*

**WHEREAS:**

1. **Geoff Gondai Zvinoera** is the registered landholder and the lawful occupant of a certain piece of property known as Subdivision 1 Amper of Randfontein (*“the Landholder”*).
2. **Tatenda Mawere,** is an individual who is interested in doing cattle ranching business with the Landholder on the farm.
3. The Landholder and Tatenda Mawere have agreed to associate together in a Joint Venture (JV) with the main aim of conducting a cattle ranching business on the Landholder’s Farm.
4. The parties wish to document the terms and conditions under which they shall conduct the JV as well as the contributions of each party to the JV.

**IT IS HEREBY AGREED AND RECORDED AS FOLLOWS:**

1. **INTERPRETATION**

**Agreement:** means this Agreement.

**Condition Precedent:** has the meaning given to it in clause 2

**Effective Date:** has the meaning given to it in clause 2.3

**Farm:** means the Farm known as Subdivision 1 of Amper of Randfontein of Ghoko Block Situated in the District of Gweru, Midlands Province.

**Join Venture/ JV:** means the joint venture business of cattle ranching to be conducted by the parties.

**Parties:** means the Landholder and Tatenda Mawere.

* 1. Clause and paragraph headings shall not affect the interpretation of this Agreement.
  2. References to clauses and Annexures are to clauses of and Annexures to this Agreement.
  3. The Annexures form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Annexures.
  4. A reference to **this Agreement** or to any **other agreement or document referred to in this Agreement** is a reference to this Agreement or such other agreement or document as varied or novated in accordance with its terms from time to time.
  5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
  6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
  7. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
  8. A reference to any **party** shall include that party's successors and permitted assigns.
  9. Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
  10. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1. **CONDITION PRECEDENT**
   1. The Parties hereby agree that this Agreement shall be conditional on the following condition **(“the Condition”)** being satisfied:
      1. The Agreement being approved, in writing, by the Ministry of Lands, Agriculture, Water, Climate and Rural Resettlement.
   2. Each of the Parties shall use all reasonable endeavours to procure that the Condition specified above is satisfied as soon as reasonably practicable.
   3. This Agreement shall only become effective on the date of satisfaction of the Condition above (**the “Effective Date”).**
2. **JOINT VENTURE CAPITAL CONTRIBUTIONS**
   1. The parties hereby associate in a Joint Venture for the purpose of conducting a cattle ranching business. The parties shall make the capital contributions required by the JV and for all subsequent projects, and their capital account shall be credited with the appropriate value of such contributions in accordance with the clauses hereunder.
   2. The Landholder’s contribution to the JV shall be to make available the Farm for the purpose of cattle ranching. The Landholder agrees NOT to enter into any other JV with any other person for any other purpose on the Farm for the duration of this Agreement.
   3. The Landholder further agrees to make the following contributions:

* + 1. that all the existing infrastructure on the Farm may be utilized by the JV;
    2. that the JV shall have access to the water rights enjoyed by the Landholder.
  1. Tatenda Mawere’s contributions to the JV during the Term of the JV shall be to pay farm and council rates; erect a perimeter fence on the Farm; and fund, construct and/or erect any other infrastructure needed to operate the Farm for purposes of the cattle ranching business.
  2. Tatenda Mawere’s contributions shall be undertaken over a period of time and as agreed with the Landholder.
  3. Tatenda Mawere shall, in addition to the contributions in clause 3.4 above, contribute the provision of management in consultation with the Landholder, transfer of knowledge in terms of clause 4 below, and source any other financial contribution required for the cattle ranching operation.
  4. Tatenda Mawere will supply all the equipment needed (all movables to remain the property of Tatenda Mawere provided that he shall not use any equipment or assets at the farm as collateral to raise funding).
  5. The JV shall adhere to and utilize good agricultural practice (GAP).
  6. The JV shall not be liable for historical debts that the Farm may have to the Zimbabwe Electricity Supply Authority (ZESA), Land Tax, Zimbabwe Revenue Authority (ZIMRA), labour wages and gratuities, National Social Security Authority (NSSA), Zimbabwe National Water Authority (NSSA) and Banks. The debts remain the responsibility of the Landholder, unless declared by the Landholder and Tatenda Mawere agrees in his sole and unfettered discretion to assume and pay for such debts and such sum due shall be deducted from the sum due to the Landholder by the JV.
  7. The Landholder hereby discloses his liabilities and debts and these are disclosed in Annexure “**A**” attached hereto. Repayment plans with all the creditors are to be disclosed.
  8. Both parties will endeavour to protect the investments of the JV.

1. **KNOWLEDGE TRANSFER**

[Tatenda Mawere shall](https://www.lawinsider.com/clause/knowledge-transfer-and-best-practices) implement an adequate knowledge transfer process to share, at no additional cost, the cattle farming knowledge that it would have gained before and during the period of the joint venture. The knowledge transfer process shall ensure that important knowledge, information, and practices pass from Tatenda Mawere and his personnel to the Landholder and his personnel.

1. **TERM** 
   1. The operation of the business of the JV shall formally commence on the effective date and shall continue for a period of fifteen (15) years **(“the Term”).**
   2. Either party may renew this Agreement for a further period of Fifteen Years by providing written notice to the other not less than three (3) months before the end of the initial Term.
2. **ALTERATIONS AND IMPROVEMENTS**
   1. Tatenda Mawere shall not make any additions or alterations whatsoever to any immovable property already on the farm before the commencement of this Agreement without the prior written consent of the Landholder.
   2. Should the Landholder consent to any additions or alterations referred to in clause 6.1 then, and in such event, such additions or alterations shall be effected by Tatenda Mawere at his own cost and expense, provided that should the Landholder so require at the termination of this Agreement, Tatenda Mawere shall restore the immovable property to the condition in which it was at the commencement of this Agreement.
   3. Notwithstanding anything to the contrary contained in this Agreement, Tatenda Mawere shall have no lien or claim of whatsoever nature against the Landholder for the value or cost of any alterations or additions or other improvements effected to the Farm with or without the consent of the Landholder and whether or not such alterations, additions or improvements are effected at the JV’s own cost.
   4. Unless otherwise provided for in writing, Tatenda Mawere acknowledges that all alterations, additions or improvements to the Farm effected from time to time during the period of this JV, including but not limited to: all walls, pipes, ducts, conduits, wiring, panelling, shall become real property of the Landholder upon termination of the Agreement.
3. **USE AND PURPOSE**

The JV shall use the Farm during the currency of this Agreement for the purpose of conducting the business of ranching comprising the grazing, feeding and breeding of cattle and for no other purpose whatsoever without the prior written consent of the Landholder having been obtained.

1. **DESTRUCTION**
   1. The JV shall take all such steps as may be necessary for the prevention of uncontrolled veld fires by the provision of adequate fireguards where they are necessary to safeguard orchards, gardens, plantations, crops and improvements.
   2. Should at any time during the subsistence hereof, the farm, or any part thereof be rendered partially or totally unfit for use by fire, flooding, storm, civil, commotion or act of God or other cause, the JV shall on best effort basis, as soon as reasonably possible, restore the Farm. During the period that the JV shall be deprived of occupation, use and possession of the Farm or any part thereof, the profit, or a proportionate part thereof according to the nature and extent of the damage and deprivation and in direct proportion thereto, shall cease to be payable and shall be suspended until the Farm or the relevant part thereof is reinstated.
   3. If the JV is deprived of occupation of the Farm, either wholly or in part, for a period in excess of thirty (30) days due to any event in terms of this clause, Tatenda Mawere shall have the right, without prejudice to any of its further rights under this Agreement and at law, to give written notice to the Landholder terminating this Agreement forthwith without any liability on the part of Tatenda Mawere save for in respect of any antecedent breaches and excepting that rights and liabilities which accrued prior to such termination shall continue to subsist.
2. **TIMBER**

The JV shall be entitled to cut timber for its own use, *bona fide* farming and domestic purposes (which shall include construction of employees’ quarters, fencing poles, building development and employees’ fuel).

1. **BRICKS**

The JV shall have the right to make bricks on the Farm subject to all such bricks being used on the Farm.

1. **NUISANCE**

The JV shall not do or permit or suffer to be done anything on the farm which is, or may become, a nuisance or annoyance and in particular, the JV shall maintain effective control of its employees and its cattle to ensure that no nuisance or annoyance is or may be caused to any third parties or to the owners or occupiers of adjacent premises.

1. **INSURANCE**

The JV undertakes to procure, pay for and maintain comprehensive insurance cover with a reputable insurer in respect of the Farm, including, but without limitation, for premises, property damage, fire and general public liability. The JV undertakes and warrants that it will conduct all its affairs on the Farm in such a way as not to vitiate or prejudice, in any way whatsoever, any policy of insurance covering the Farm. It is specifically recorded that the JV shall be solely responsible for the insurance of all its property on the Farm.

1. **MANAGEMENT**
   1. The JV will aim to operate in the spirit of co-operation and understanding. Whilst Tatenda Mawere is the technical partner in the JV, both parties agree that Tatenda Mawere will employ managers to oversee the management of the JV operations. The Landholder shall not unduly compete for labour at the expense of the JV’s operations and will do what it can to create a production-oriented work environment. The JV will aim to operate under the spirit of good will.
   2. The Landholder has the right to inspect all the affairs of the JV in line with the terms of this agreement.
2. **OPERATING COSTS**

All costs associated with the cattle ranching operations shall be of the account of Tatenda Mawere, including land tax/ council rates, ZESA, ZINWA fees for the duration of the JV period. Historic bills are for the Landholder’s account.

1. **REPAIRS AND MAINTENANCE**

Tatenda Mawere shall undertake all repairs and maintenance of the Farm Facilities that are required for the operation of the business.

1. **SHARING OF INCOME**
   1. Tatenda Mawere shall be entitled to a share of profit in the form of all the progeny produced from the breeding herd contributed by it to the JV.
   2. The parties agree that the Landholder’s share of income shall be five (5) bulling heifers per year from the herd contributed by Tatenda Mawere which the Landholder shall have a claim to at the end of each year of this Agreement.
   3. In addition, the Landholder shall be entitled to all the progeny produced from all the breeding herd that he contributes to the JV from time to time provided that such breeding herd shall not exceed 50 cows and heifers in total unless agreed to by the parties in writing.
   4. At the weaning unless agreed in writing, the landholder will be obliged to market their share of the cattle with Tatenda Mawere being given the right to match the best price that the landholder will have found in the market.
2. **EQUIPMENT, MACHINERY ETC.**
   1. All moveable machinery, plant and equipment shall be brought onto the Farm by Tatenda Mawere and shall remain the sole and exclusive property of Tatenda Mawere.
   2. In the event that Tatenda Mawere decides to sell the machinery, plant and equipment, the Landholder will have the right of first refusal to purchase the equipment provided she/he is prepared to offer fair market related prices that take into consideration depreciation and wear and tear as determined by the JV.
3. **ACCOUNTS**

The financial end of the JV will be 31st January. The JV may engage auditors from a reputable firm of chartered accountants to audit the accounts of the JV. The JV will keep records of all Livestock Units (LUs). These records shall be readily available for inspection by either party.

1. **BREACH**

If either party should commit any breach of any of the provisions of the Agreement and remain in default for a period of sixty (60) days after receipt of written notice from the other part calling on it to rectify the breach therein, then the aggrieved party shall have the right (but shall not be obliged) to cancel this Agreement by written notice to that effect to the defaulting party and claim any damages suffered or call for specific performance. The cancellation of this Agreement shall be without prejudice to all other rights which the aggrieved party may have in law, including the right to recover damages from the defaulting party or to seek an interdict against it.

1. **GOVERNING LAW**

This Agreement shall be governed by, construed and interpreted in accordance with the laws of Zimbabwe.

1. **GENERAL**
   1. This agreement constitutes the sole record of the understanding between the Parties in regard to the subject matter thereof.
   2. Neither Party shall be bound by any representation, warranty, undertaking or promise not recorded in this agreement.
   3. No addition to, variation or consensual cancellation of this Agreement shall be of any force or effect unless affected in writing and signed by or on behalf of all the Parties. For the avoidance for doubt, this Agreement shall not be construed as constituting a lease or agency agreement.
   4. Any indulgence, which any Party may grant to the other in terms of or pursuant to the provisions contained in the agreement, shall not be construed as a waiver of any of the rights of the party which granted such indulgence.
   5. The provisions of this Agreement shall be binding upon the successors-in- title and assigns of the Parties. Accordingly, the rights and obligations of each party arising out of this agreement shall devolve upon and bind its legal and personal representative(s) successors-in-title and permitted assignees.
   6. Save as otherwise expressly provided in this Agreement, this Agreement is personal to the parties and the parties shall not be entitled to cede, assign, transfer or otherwise make over any of their rights or delegate any of their obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld.
   7. If any term, condition or performance, or any part thereof, in this Agreement is determined to be invalid, illegal, unlawful or unenforceable to any extent, then such Clause or sub-clause shall be removed from the remaining Clauses or sub-clauses of this Agreement, or amended to make it valid, legal, lawful or enforceable (as the case may be), in such a manner as to leave the amended agreement substantially the same in essence, and the Agreement so amended shall remain in force and effect.
   8. If any provision of this Agreement is determined to be invalid, illegal, unlawful or unenforceable to any extent as contemplated in 21.7 above, such provision shall be deemed to be severable from the rest of the provisions of this Agreement, and shall not in any way affect the validity and enforceability of the rest of the provisions of this Agreement and the Agreement as a whole.
2. **CONFIDENTIALITY**

The Parties shall keep confidential and shall not disclose to any person, except as permitted in writing by the other, nor shall any party use for its own benefit any and all information, material and data, whether of a business, technician, financial, operational, administrative, marketing or other nature in respect of the other party or its operation which is disclosed to it by the other party or any third party or which have to acquire (whether before or after the date of this agreement (collectively referred to as “Confidential Information”).

1. **ARBITRATION**
   1. In the event of any dispute or difference arising between the parties hereto relating to or arising out of this Agreement, including the implementation, execution, interpretation, rectification, validity, enforceability, termination or cancellation of this Agreement, the Parties will forthwith meet and use their best endeavours to attempt to settle such dispute or difference. Should the Parties fail to reach an agreement, they agree to consult and involve the Ministry of Lands, Agriculture, Water and Rural Settlement in an attempt to resolve any issue swiftly and amicably.
   2. Failing such settlement within the period of 14 (fourteen) days prior to the institution of any other form of proceedings, the dispute or difference shall be dealt with by arbitration in terms of the Arbitration Act.
2. **DOMICILIUM CITANDI ET EXECUTANDI AND NOTICES**
   1. A notice given to a party under or in connection with this Agreement:

1. shall be in writing and in English (or be accompanied by an accurate translation into English);

1. shall be signed by or on behalf of the party giving it;

1. shall be sent to the relevant party for the attention of the contact and to the address or email specified in [Clause 24.](#co_anchor_a154825_2)2, or such other address, email or person as that party may notify to the other in accordance with the provisions of this Clause 24;

1. shall be:

1. delivered by hand; or
2. sent by email; or
3. sent by reputable overnight courier (if the notice is to be served by post to an address outside the country from which it is sent); and

1. unless proven otherwise is deemed received as set out in Clause 24.4

* 1. The addresses for service of notices are:

### **Geoff Gondai Zvinoera (The Landholder):**

#### Address: 39 Thomas Hill Road, Riverside, Gweru.

#### Email:ggzvinoera@gmail.com

### **Tatenda Mawere:**

#### Address: 10th Floor, Chiedza House, Corner First Street/Kwame Nkrumah Avenue, Harare

#### Email: tmawere@maweresibanda.co.zw.

* 1. A party may change its details for service of notices as specified in Clause 24.2 by giving notice to the other party.
  2. Delivery of a notice is deemed to have taken place (provided that all other requirements in this clause have been satisfied):

1. if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address; or
2. if sent by email, 24 hours after the email is sent;

1. if sent by reputable overnight courier, on signature of a delivery receipt or at the time the notice is left at the address; or
2. if deemed receipt under the previous paragraphs of this Clause 24.4 would occur outside business hours (meaning 8.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of deemed receipt), at 8.00 am on the day when business next starts in the place of deemed receipt.
3. **TAX**

The Landholder is fully responsible for his/her own tax affairs with the Zimbabwe Revenue Authority (ZIMRA). Both parties must be tax complaint with respect to the laws of Zimbabwe.

1. **COSTS**

Each party shall bear its own legal costs and expenses associated with the negotiation, setting and execution of this Agreement.

SIGNED at on this 12th day of May 2022

AS WITNESSES:

1. …………………………………………
2. ………………………………………… …………………………………

**GEOFF GONDAI ZVINOERA**

SIGNED at on this 12th day of May 2022

AS WITNESSES:

1. …………………………………………
2. ………………………………………… …………………………………

**TATENDA MAWERE**

**Approved and signed by the Permanent Secretary for and on behalf of the Minister of Lands, Agriculture, Water, and Rural Resettlement**

**………………………………………………….**

**Dr J Basera**

**Joint Venture Number: ……………………………………………………………………**

**Farm name: ……………………………………………………………………………………**

**Allocated Monitoring and Evaluation Officer: ……………………………………...**

**Annexure A**

Landholder’s historical debts and liabilities.

|  |  |  |
| --- | --- | --- |
| **Debt (US$)** | **Creditor** | **Amount Outstanding** |
|  |  |  |
|  |  |  |