

HARARE | 195 Samora Machel Avenue, Eastlea
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Borrowdale Branch: No 3 Upperlowood, Cnr Borrowdale Road / Green Close, Harare | Tel: +263 242 885 435

AGREEMENT OF SALE.

Entered into by and between;

NAME : Henry Walubengo

DATE OF BIRTH : 8th August 1953

I.D.NO. : 63-763212-N-63

OF

ADDRESS : 55 Denbigh Avenue Belvedere, Harare.
(Hereinafter called the Seller)

AND

NAME : Nathaniel Fungayi Makoni

DATE OF BIRTH : 6th October 1961

I.D.NO. : 63-678530-S-42

AND

NAME : Eunah Makoni

DATE OF BIRTH : 24th October 1962

I.D.NO. : 63-630724-E-43

OF

ADDRESS : 16 Steppes Road Chisipite, Harare.
(Hereinafter called the Purchasers)

Subscribed and signed by Agents on behalf of State

C.N.S

[Handwritten signatures]
Page 1 of 1
H.W.
N.B.
E.M.

Whereas the seller(s) are holder(s) of rights, title and interest in an immovable property being a certain piece of land situate in the district of Salisbury called Plot 45 Kintyre Estate Lands measuring 11.4362 Hectares, held under Deed of Transfer No. 6708/2003 (Hereinafter referred to as The property).

AND WHEREAS the seller(s) wish to sell to the purchaser(s) who is willing to buy the rights, title and interest in the property on terms and conditions herein set out:

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. THE PROPERTY SOLD

The seller(s) hereby sells to the purchaser(s) his rights, title and interest in

CERTAIN Piece of land situate in the District of Salisbury

CALLED Plot 45 Kintyre Estate Norton

MEASURING 11.4362 Hectares

HELD UNDER Deed of Transfer No. 6708/2003

2. IMPROVEMENTS

See Annexure.

3. PURCHASE/ SALE PRICE

The Purchase Price is agreed as the sum of USD\$ 250 000.00 (Two Hundred And Fifty Thousand United States Dollars Only).

4. PAYMENTS OF THE PURCHASE PRICE

Payment of the purchase price in the sum of USD\$ 250 000.00 (Two Hundred And Fifty Thousand United States Dollars Only) shall be paid as follows:

4.1 A deposit of USD\$100 000.00(One Hundred Thousand United States Dollars Only) shall be paid direct to the seller upon signing of the agreement of sale by both parties, and the seller must write an acknowledgement of receipt of this amount upon receipt.

4.2 The balance of USD\$150 000.00(One Hundred And Fifty Thousand United States Dollars Only) shall be paid direct to the seller upon the said title and all transfer paperwork being ready for lodging with the Deeds office for the registration of title in favour of the purchaser.

5. POSSESSION, PROFIT AND RISK

5.1 Possession shall pass to the purchaser on transfer of the subject property or the date the seller accesses the net sale proceeds/price, whichever occurs first from which date all benefit of and risk in the property shall pass to the purchaser.

5.2 The seller shall be liable for all the risks of ownership, prepaid rates and taxes, water, levies and all expenditures in respect of the property and shall be entitled to all revenues accruing there from, up and until the date possession, profit and risk pass to the purchaser.

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MAN H.W.
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6. OCCUPATION

Vacant occupation shall be given to the purchaser, subject to any existing lease (but not before all suspensive conditions herein have been fulfilled) and upon the expiry of the three (3) full calendar months from the date possession, risk and profit pass to the purchaser.

7. LEASE

The property is owner occupied.

8. VOETSTOOTS

The property is sold voetstoots as is at the date of signature hereof together with all building and all fixtures and fittings (The Property) and subject to the conditions and servitudes contained in the Title Deeds of the property, as the property stands on the date this agreement is concluded, with all visible defects applicable to such property. The purchaser has inspected the property fully and understands that the seller shall not be liable for any defects, which were not visible at the date of this agreement unless it can be proven that the seller has misled the purchaser in respect of such defects.

9. TRANSFER OF PROPERTY

9.1 Transfer of rights, title and interest shall be done by the seller(s) to the purchaser(s) within 60 days from the date the purchase price is paid in full.

9.2 Transfer of the property shall be effected by conveyances being Mupindu Legal Practitioners. It is recorded that both the seller(s) and purchaser(s) shall hold themselves available to immediately sign all relevant and necessary documents and attend to all relevant offices required by law to effect transfer to the purchaser(s).

9.3 The purchaser(s) shall be responsible for payment of all costs incidental to transfer, transfer duty, conveyancing fees in the total sum of USD\$20 570.00 (Twenty Thousand Five Hundred And Seventy United States Dollars Only)

9.4 Should transfer be delayed through no fault of either party, the parties shall not hold each other liable for any damages suffered as a result of the delay.

10. CAPITAL GAINS TAX

The seller(s) hereby acknowledges that he is aware of the terms and conditions of the Capital Gains Tax Act, and irrevocably instruct depositories i.e. conveyancers or Estate Agent to withhold and pay to the Zimbabwe Revenue Authority the due amount as Capital Gains Tax. The parties acknowledge that before transfer documents shall be lodged in the Deeds Registry office Capital Gains Tax Clearance certificate must be obtained by the seller(s) from Zimbabwe Revenue Authority to the effect that Capital Gains Tax has been paid or that the transaction is exempt from such payment. It shall be the responsibility of the seller(s), to obtain such certificate, and payment of the capital Gains Tax due in terms of this sale shall be the responsibility of the seller(s), and not the purchaser.

11. AGENT'S FEES

Rawson Properties Estate Agency fees which is permissible by the Estate Agents Council of Zimbabwe shall be in the sum of USD \$14 375.00 (Fourteen Thousand Three Hundred And Seventy Five United States Dollars), which is inclusive of 15% VAT as calculated in terms of Statutory Instrument 200/87 of the Estate Agents Council and shall be deemed to have been earned and due upon signing of the agreement of sale by both parties or upon cancellation of this sale by either part. The seller hereby irrevocably instructs the Estate agent to immediately deduct it from the purchase price.

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12. **AGREEMENT OF SALE COSTS**

The cost of this Agreement of Sale shall be a non-refundable fee of USD\$300.00 (Three Hundred United States Dollars) and shall be payable by the purchaser on or before signing this Agreement of Sale.

13. **BREACH**

13.1 Should the purchaser(s) fails to observe or perform any of his obligations under this Agreement of Sale and fails to rectify such breach within 7 days of the dispatch by the seller(s) or his agent by registered post or hand delivery or electronic mail of written notice requiring him to remedy such breach the seller(s) shall be entitled, at his option, and without prejudice to any other rights available to him at law, either:

13.1.1 to cancel this Agreement of Sale, regain possession of the property and to claim damages for the breach of contract or otherwise.

13.1.2 to claim immediate payment of the purchase price; and or

13.1.3 to claim specific performance in terms of this Agreement.

13.2 In the event of cancellation by the seller(s):

13.2.1 The purchaser(s) hereby agrees to give up possession of and vacate the property; and

13.2.2 The purchaser(s) shall not be entitled to claim compensation from the seller(s) in respect of any additions or improvements made to the property prior to transfer. The purchaser(s) hereby indemnifies the seller(s) against any claim by any other person for compensation for any additions or improvements made to the property after the date of executing this agreement. The seller hereby undertakes to refund or reimburse the purchaser the amount paid less the agents fees and 2% of purchase price in respect any proved damages.

13.3 Should the Seller(s) be in breach of the Agreement after 7 days of notification to rectify such breach when the purchaser(s) has fulfilled his/her obligations then the purchaser(s);

13.3.1 Shall be entitled to enforce the sale by way of court order and seek specific performance; Or

13.3.2 Shall be entitled to a refund of the purchase price or portion thereof paid, up to the date of notice, as well as costs and expenses incurred, and interest lost at the rate of 10% of the purchase price.

13.4 Should any party breach the terms of this Agreement of Sale, causing the Agreement to be cancelled, the defaulting party shall be fully liable for Estate's Agent fees due in terms of this Agreement of Sale.

14. **SPECIAL CONDITION/RELEASE OF THE PURCHASE PRICE**

The seller and Purchaser hereby irrevocably agree that the purchaser shall pay the said USD\$250 000.00 (Two Hundred And Fifty Thousand United States Dollars Only) upon the following conditions being met:

14.1 The seller and purchaser signing the agreement of sale for the purchaser to effect payment of the said USD\$100 000.00 (One Hundred Thousand United States Dollars Only) in terms of clause 4.1

14.2 The seller surrendering and depositing the original Deed of Transfer No.6708/2003 with Rawson Properties for the purchaser to effect payment of the said USD\$100 000.00 (One Hundred Thousand United States Dollars Only) in terms of clause 4.1

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- 14.3 The seller and purchaser signing all the necessary and relevant transfer documents to the satisfaction of the conveyancer and the conveyance confirming that all the transfer documents and paper work are ready for lodging the registration of Deeds to effect payment of the remaining USD\$150 000.00 (One Hundred And Fifty Thousand United States Dollars Only) in terms of clause 4.2, payment not before 15th November 2019

15. **INTRODUCTION**

The purchaser(s) and seller(s) both acknowledge that they have been introduced to the sale by the Estate Agent and that Rawson Properties are the effective cause of the sale of the property.

16. **SOLD BOARD**

Both the seller and the purchaser agree to allow the agent to display a "SOLD" board facing the road for 90 days after payment of the purchase price.

17. **ADDRESSES FOR LEGAL DOCUMENTS**

All parties agree that the addresses recorded in this agreement shall be the exclusive addresses used for delivery or notices in terms of this agreement and shall be deemed to have been received by the party at such address once delivered, even if such party is not present at the address at the time of delivery.

(i) **The seller(s)**

Physical: 55 Denbigh Avenue Belvedere Harare

Email : walubengoheny@gmail.com

(ii) **The purchaser(s)**

Physical: 16 Steppes Road Chisipire, Harare

Email : makoni.naf@gmail.com/eunahm24@yahoo.com

18. **AUTHORISED SIGNATORIES**

In the event of the purchaser or seller acting on behalf of a company or company to be formed, close corporation or trust, the signatories hereto warrant that they are /is duly authorized hereto and that they shall be personally bound in the event of non-compliance with any of the company's or company to be formed or close corporation's or trust's obligations under this contract.

19. **DISCLOSURE BY SELLER AND PURCHASER**

The seller and purchaser to this Agreement hereby confirms that the full extent of their obligations and rights in terms of this agreement and any addendum hereto have been explained to them and that they have been given an opportunity to make necessary enquiries in respect of the property, and all related to the property and this sale and that they understand the effect of this.

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Table 1: Sale Agreement Document Item 2 Annexure

| Items at Plot 45 Kintyre Estate Norton Deed of Transfer No. 6708/2003 as at 3 October 2019 | | | |
|--|--|-------|---|
| # | Item/Description | Units | Comments |
| 1 | Equipment | | |
| 2 | Matsey ferguson Model 384 85HP 4-Wheel drive purchased 2009 | 1 | In working order but defective starter |
| 3 | Grinding Hammer Mill Capacity 1.5 tons/hour with Electric Motor 390V Amps 21.5 | 1 | |
| 4 | Mould Board | 1 | |
| 5 | Ridger | 1 | |
| 6 | 2 Disc Plough | 1 | |
| 7 | Chinese 3 Disc Plough | 1 | Broken with 2 discs missing and no spares |
| 8 | 2 Disc Harrow | 1 | Needs discs replacement |
| 9 | 6 Row Tine Marker | 1 | |
| 10 | Wheel Burrow | 1 | |
| 11 | Grass Cutter Zapper unit | 1 | Faulty/Broken |
| 12 | Irrigation | | |
| 13 | 100,000 litre capacity round brick water tank | 1 | |
| 14 | Boreholes | | |
| 15 | a) 54 metres deep but faulty sucking muddy water | 1 | Fitted with 1.5 HP pump |
| 16 | b) 52 metres deep and functional | 1 | Fitted with 1.5 HP Franklin pump |
| 17 | Irrigation booster pump approx. 12kWh | 1 | |
| 18 | 3-inch Aluminum irrigation pipes | 33 | |
| 19 | Sprinkler heads and pipes | 33 | |
| 20 | Sprinkler raiser customized | 1 | |
| 21 | T-Piece connector | 1 | |
| 22 | Elbow piece connector | 1 | |
| 23 | 6-metre blue PVC 4" pipe | 1 | |
| 24 | 7,500 litre JoJo water tank on metal stand | 1 | |
| 25 | 7-point irrigation water hydrants, all in working order | 7 | |
| 26 | Buildings | | |
| 27 | Small Office | 1 | |
| 28 | 27 Cubicle Pig Sty capacity > 220 pigs total | 1 | |
| 29 | Makeshift Servants quarter | 1 | |
| 30 | Asbestos roofed tool shed with no sides | 1 | |
| 31 | Grinding hammer mill on concrete platform | 1 | Roofed shed but no sides |
| 32 | Livestock | | |
| 33 | Dorper breed sheep (13 Ewes and 9 Lambs) | 22 | Not included in sale agreement |
| 34 | Pigs (20 Pigs) | 70 | Not included in sale agreement |

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[Handwritten signatures and initials]