

## **MEMORANDUM OF AGREEMENT OF LEASE**

Concluded between

**ABRAHAM NKIWANE**

Of the one part

And

**PAUL BENNIE**

Of the other part

82 [Signature] and [Signature]  
x [Signature] [Signature]

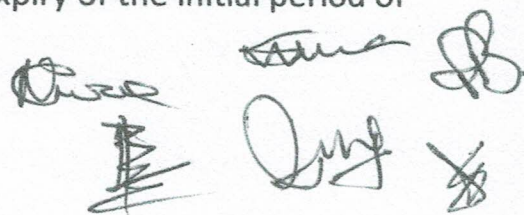
## 1. DEFINITIONS

In this memorandum, except to the extent to which the context may indicate a contrary intention, each of the following words and phrases shall have the meaning ascribed thereto below in this clause:

- 1.1 "the Leased Portion" means portion of the Farm consisting of the following:
  - 1.1.1.1 All arable land on the Farm with the exception of the 6ha block in front of the main house, this block to be utilised by the lessor. The Lessee undertakes to assist with any reasonable land preparation at their cost including labour, fuel, tractor and implement use; and
  - 1.1.1.2 The shed/warehouse, two bedroomed house next to shed.
  - 1.1.1.3 An additional portion of the farm to be agreed reasonably for purpose of staff housing.
- 1.2 "the Lessee" means Paul Bennie , subject to Clause 9.1 below.
- 1.3 "the Lessor" means Abraham Nkiwane.
- 1.4 "the Farm" means Joyful Farm situate in the District of Umguza.

## 2. LEASE, LEASE PERIOD AND RENEWAL

- 2.1 The Lessor hereby leases the Leased Portion to the Lessee who takes it on hire for the period and on terms and conditions contained in this memorandum.
- 2.2 Subject to Clause 2.3 and 2.5 below, this lease shall commence on 1<sup>st</sup> January 2021 and shall run for a period of five years, expiring on 31<sup>st</sup> December 2025.
- 2.3 Notwithstanding the lease period referred to in Clause 2.2, the Lessee shall have right to terminate this lease at any time on giving not less than twelve months written notice.
- 2.4 The Lessee shall have the option to renew the lease for a further period of five years on the same terms and conditions contained herein, provided that the said option shall be exercised in writing not less than three months before the expiry of the initial period of this lease.





2.5 *Equally as in clause 2.3, the Lessor shall have right to terminate this lease at any time on giving not less than twelve months written notice,*

2.5

2.6 For the avoidance of doubt, the Lessee shall have the exclusive rights to the Leased Portion and, in particular, to the arable land thereon for the duration of this lease and neither the Lessor, nor any other person, shall have the right to utilise the Leased Portion for agricultural or any other purposes.

### 3. RENTAL

3.1 The rent payable by the Lessee shall be the sum of US\$1250.00 (one thousand two hundred and fifty US dollars) per month, unless RBZ regulations are passed making this illegal in which case the equivalent will be paid in local currency at prevailing rate of exchange. The rental shall be paid:

3.1.1.1 Monthly in advance

3.1.1.2 In such manner as to the Lessor or its agents may from time to time stipulate in writing

3.1.1.3 Without demand, free of bank exchange and free and clear of any other deductions whatsoever, except to the extent otherwise agreed in this lease.

### 4. USE OF LEASED PORTION

4.1 The Lessee shall use the arable land on the Leased Portion for the purpose of growing crops.

4.2 The Lessee shall carry out their farming operations on the Leased Portion in accordance with normal farming practices and shall take reasonable steps to prevent erosion and degradation of soil.

4.3 The Lessee shall take all reasonable steps to ensure that their farming operations do not cause damage to the Farm or its infrastructure and facilities.

4.4 The Lessee shall be entitled to accommodate on the Leased Portion any such labour as is reasonably required for the purposes of carrying out farming operations on the Leased Portion.

### 5. WATER AND ELECTRICITY

5.1 The Lessee shall have the exclusive right to use the water and pipeline from the Umguza Dam to the farm and shall be liable for the costs of such water.

*[Handwritten signatures and initials]*



5.1.1. The Lessee shall provide water from the pipeline as required for the livestock belonging to the Lessor.

5.2 The Lessee shall pay for all electricity consumed in connection with the pumping of water, as well as electricity to the Lessors homestead and the shed..

## **6. MAINTENANCE OF LEASED PORTION**

6.1 The Lessee shall be obliged at its own expense to keep and maintain the Leased Portion and the permanent improvements thereon, in good order and condition and deliver same to the Lessor at the expiration or sooner termination of this Lease in the same condition as at the inception of this lease, fair wear and tear excepted.

6.2 The Lessee shall create and maintain sufficient firebreaks..

6.3 The Lessee shall keep the Leased Portion in a clean, sanitary and tidy condition and shall not permit the accumulation of any objectionable matter, including litter, rubbish, debris, scrap metal and the like in or about the Leased Portion.

## **7. IMPROVEMENTS**

7.1 The Lessee shall have the right during the currency of this lease to make improvements to the Leased Portion, including the following improvements:

7.1.1. The erection of pre-fabricated housing for staff employed on the Leased Portion.

7.1.2. The Installation of irrigation equipment, including centre pivots, pumps and necessary piping and electrical reticulation.

7.1.3. The erection and installation of fences and gates necessary for the protection of crops.

7.2 Any improvements made to the Leased Portion by the Lessee may be removed at the expiration of this lease, provided that any damage caused as a result of such removal shall be repaired and made good by the Lessee prior to such expiration.





- 7.3 Unless otherwise agreed, any alterations, additions or improvements which are not removed by the Lessee as hereinbefore provided at the termination of this lease shall become the property of the Lessor without compensation whatsoever being due therefor to the Lessee.
- 7.4 For the avoidance of doubt, all movable equipment and assets brought on to the Leased Portion by the Lessee shall remain the sole property of the Lessee and shall be removed at the termination of the lease.

## 8. ACCESS/INTERFERENCE

- 8.1 The Lessee shall have a right of way over the remainder of the Farm to the extent reasonably and necessarily required for the carrying out of the farming operations on the Leased Portion.
- 8.2 The Lessor and/or his authorised agents shall have the right to enter upon the Leased Portion at reasonable times for the purposes of inspection.
- 8.3 The Lessor shall take all reasonable steps to keep livestock away from crops which are growing on the Leased Portion.

## 9. CESSION

- 9.1 Paul Bennie shall be entitled to cede their rights and delegate their obligations in and to this lease to a company controlled by them, provided that such cession shall be of no force or effect until such time as written notice of such cession is given to the Lessor.
- 9.2 Upon delivery of the notice of cession as contemplated in Clause 9.1 above, the cessionary company shall be deemed to be the Lessee for the purpose of this Lease.
- 9.3 Save as is provided for above in this Clause 9, the Lessee shall not be entitled, except with prior written consent of the Lessor, which shall not be unreasonable withheld:

9.3.1. to cede or assign all or any of the rights and obligations of the Lessee under this lease; or

*[Handwritten signatures and initials]*



9.3.2. to sublet or give up possession of the Leased Portion, in whole or part, to any third party.

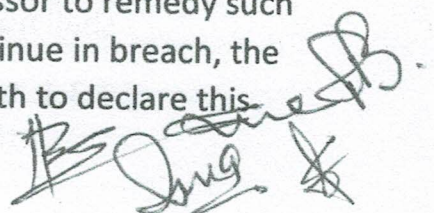
9.4 Any change in the control of the company which becomes the Lessee as contemplated in Clause 9.1 shall be deemed to be a cession of rights requiring the consent of the Lessor.

## 10. BREACH

10.1 In the event of the Lessee failing to pay the rental provided for herein or any portion thereof promptly upon due date thereof or in the event of the Lessee committing any breach whatsoever of the terms and conditions hereof, or failing to observe or perform any of the conditions hereof on his part to be observed or performed, then the Lessor shall be entitled to give the Lessee fourteen days written notice requiring the Lessee to pay such rent or remedy such breach, as the case may be, and if the Lessee shall thereafter fail to pay or continue in breach, the Lessor shall thereupon have the right forthwith to declare this agreement cancelled and at an end, without any further notice thereof to the Lessee being required, and the Lessor shall then have the right immediately to re-enter upon and take possession of the Leased Portion and to eject the Lessee or any other person or persons therefrom.

10.2 Such cancellation, re-entry or ejectment shall not prejudice any claim which the Lessor may then or thereafter have against the Lessee for any rent due, or for damages or for any breach of any of the terms and conditions of this lease and the Lessor shall not be liable to compensate the Lessee for any damage which the Lessee may suffer by reason of, or resulting from, such cancellation, re-entry or ejectment.

10.3 In the event of the Lessor committing any breach whatsoever of the terms and conditions hereof, or failing to observe or perform any of the conditions hereof on his part to be observed or performed, then the Lessee shall be entitled to give the Lessor fourteen days written notice requiring the Lessor to remedy such breach, and if the Lessor shall thereafter continue in breach, the Lessee shall thereupon have the right forthwith to declare this





agreement cancelled or to enforce it, and, in either event, to claim such damages as it may have suffered.

- 10.4 For the purpose of all and any legal proceedings arising out of or relating to this lease, the parties hereby consent to the jurisdiction of the Magistrates Court at Bulawayo, without prejudice to the right of either party to institute legal proceedings in any other court having jurisdiction.

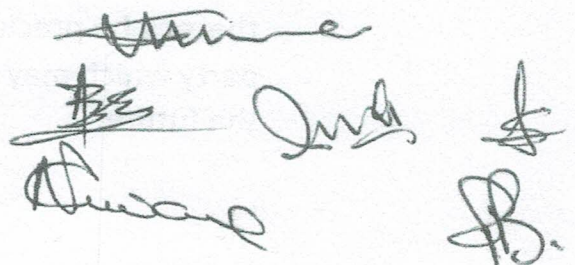
## 11. HOLDING OVER

- 11.1 Should the Lessor cancel this lease and the Lessee disputes the Lessor's right to do so and remain in occupation of the Leased Portion pending the determination of such dispute, then the Lessee shall be obliged to continue to pay the Lessor all amounts due to the Lessor in terms of this lease on the due date thereof, and the Lessor shall be entitled to recover and accept such payments.
- 11.2 Such acceptance by the Lessor shall be without prejudice and shall not in any manner whatsoever affect the Lessor's claim to the cancellation of this lease.
- 11.3 Should any dispute be determined in favour of the Lessor, then all such payments made to the Lessor shall be regarded as amounts paid by the Lessee on account of the loss sustained by the Lessor as a result of the holding-over by the Lessee.

## 12. NOTICES AND DOMICILIA

- 12.1 Each of the parties chooses *domicilium citandi et executandi* ("domicilium") for the purposes of the giving of any notice, the serving of any process and for any other purposes arising from this agreement at their respective addresses set forth below:

- 12.1.1. The Lessor at:  
Joyful Farm, Umguza

The block contains several handwritten signatures in black ink. There are approximately six distinct signatures, some appearing to be initials or full names, written in a cursive style. They are located in the bottom right corner of the page, below the text of clause 12.1.1.



12.1.2. The Lessee at:

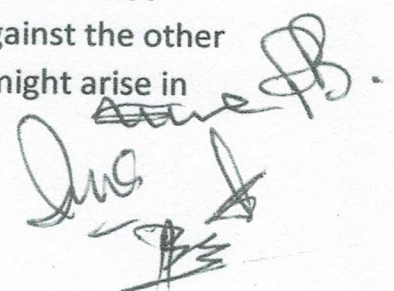
36A Townsend Road, Suburbs, Bulawayo

Email: paulbennie12@gmail.com

- 12.2 Each of the parties shall be entitled to vary its respective domicilium from time to time by written notice to each other.
- 12.3 Where, in terms of this agreement any communication is required to be in writing, the term "writing" shall include communications by email.
- 12.4 Communications by email shall, unless the contrary is proved by the addressee, be deemed to have been received by the addressee at 5.00 pm on the third business day after the day of transmission.
- 12.5 Communications by post shall be by pre-paid registered post and shall be subject to actual collection by the addressee.

### 13. GENERAL PROVISIONS

- 13.1 The parties undertake to do all such things as may be necessary, incidental or conducive to the implementation of the terms, conditions and import of this agreement.
- 13.2 This memorandum constitutes the sole and entire agreement between the parties relating the subject matter thereof and no warranties, representations, guarantees or other terms and conditions of whatsoever nature not contained or recorded herein shall be of any force or effect.
- 13.3 No variations of the terms and conditions of this agreement or any purported consensual cancellation thereof shall be of any force or effect unless reduced to writing and signed by the parties or their duly authorised representatives or confirmed in correspondence between the parties or their duly authorised representatives.
- 13.4 No indulgence which one party may grant to the other shall constitute a waiver of any rights of the former, who shall not thereby be precluded from exercising any rights against the other party which may have arisen in the past or which might arise in the future.

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#### 14. LEGAL COSTS

Each party shall pay their own legal costs incurred in connection with the negotiation and preparation of this agreement.

SIGNED BY THE LESSOR AT JOYFUL FARM ON THIS 17<sup>th</sup> DAY  
OF DECEMBER 2020.

[Signature]

AS WITNESS:

1. [Signature]

2. [Signature]

SIGNED BY THE LESSEE AT BULAWAYO ON THIS 30<sup>th</sup> DAY  
OF NOVEMBER 2020.

[Signature]

\_\_\_\_\_

AS WITNESS:

1. [Signature]

2. [Signature]