

Telephone: 707091/9
Telegram: "SECPRES"



ZIMBABWE

Reference:

OFFICE OF THE PRESIDENT
AND CABINET
Private Bag 7700
Causeway
Zimbabwe

Ref: LLRR 704

To: H MUYANGA
86-006796N-N-86
CHIKAKA PRIMARY

DATE: 04-Apr-05

Dear Sir/Madam

**Re: OFFER OF LAND HOLDING UNDER THE LAND REFORM AND RESETTLEMENT
PROGRAMME, (MODEL A2 PHASE II)**

1. The Minister of Special Affairs in the President's Office in charge of Lands, Land Reform and Resettlement has the pleasure in informing you that your application for land under Model A2 Scheme has been successful.
2. You are offered Subdivision 1 of 80 K OF NIDDERDALE in ZVIMBA District of MASHONALAND WEST PROVINCE for agricultural purposes. The farm is approximately 113.75 hectares in extent.
3. The offer is made in terms of the Agricultural Land Settlement Act [Chapter 20:01] whose provisions you are advised to acquaint yourself with. Conditions that go with the offer are attached.
4. You are requested to indicate on the attached form whether you accept this offer or not, within 30 days of receipt of this offer.
5. If you accept this offer, you are required to declare any state land you maybe leasing for agriculture purposes or whether you have been allocated agricultural land under any Government scheme.
6. A lease agreement will only be entered into once the Minister is satisfied that all conditions have been met.
7. The Minister reserves the right to withdraw or change this offer if he deems it necessary, or if you are found in breach of any of the set conditions. In the event of a withdrawal or change of this offer, no compensation arising from this offer shall be claimable or payable whatsoever.

Hon. J. L. Nkomo (MP)

**Minister of Special Affairs in the President's Office in charge of Lands, Land Reform and
Resettlement**

AGRICULTURAL FARMING JOINT VENTURE CONTRACT

BY AND BETWEEN

HAZVINEYI MUYANGA ID NUMBER 86-006796X86

.....
THE LANDHOLDER
(hereinafter called the "LH")
and

MICHAEL BESILENI ID NUMBER 63-874833Q63

.....
THE JOINT VENTURE PARTNER
(hereinafter called the "JVP")

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PREAMBLE

WHEREAS the Landholder has the right in terms of Government's Land Reform and Resettlement Program (Model A2) to occupy and use a certain piece of land in the **Mashonaland West** Province in **Zvimba** described as plot **1 of SD K NIDDERDALE** Farm, measuring approximately 113.75 ha in extent together with all improvements thereon (hereinafter referred to as "THE LAND") as particularised in a copy of the offer letter in the Landholder's name a copy of which annexed as Annexure "A" for the purpose of conducting farming operations;

AND WHEREAS pursuant to Government's goal to maximise productivity on the Land and to ensure food self-sufficiency the Landholder and the Joint Venture with reference to pronounced Government Policy on such ventures hereby enter into and conclude an Agreement for the purpose of maximization of arable land for the mutual benefit of the Parties;

AND WHEREAS the Landholder wishes to enter into an Agreement in respect of a certain part of the "LAND" comprising **113.75** hectares and which is more properly delineated on the plan attached at Appendix 4 to this Agreement (the "FARM");

AND WHEREAS as the Parties wish to reduce this Agreement in writing for the record and reference purposes.

WITNESS

1. AGREEMENT

The "LH" has entered into an exclusive agreement with the "JVP" who will exclusively provide expertise and extension services for the production and cultivation of tobacco and other crops on "The Farm."

2. DURATION

This Agreement is for 5 (five) years

The Agreement will be subject to renegotiation at least six months before the end of the tobacco season with an option for the "JVP" to renew for a further five years.

3. JOINT VENTURE

Throughout the term of this contract, the "JVP", working in agreement with the "LH" shall undertake the following services:

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- 3.1 the assumption, management and provision on a continuous basis of all normal farming operations;
- 3.2 the direction supervision and control of all matters connected with farming tobacco thereupon;
- 3.3 the procuring and making available of financial arrangements for farming operations and the repayment of any loans raised;
- 3.4 the management of all finances relating to farming operations. These should be in line with the agreed cash flow;
- 3.5 the management of all labour relating to the farming operations with the assistance of the LH as necessary;
- 3.6 the provisions, maintenance and repair of machinery and equipment necessary to conduct farming operations;
- 3.7 the marketing of the entire tobacco crop and any other crops grown and the collection of monies there from;
- 3.8 such other services as shall be reasonably necessary to ensure that operations upon "The Farm" are carried out efficiently.

4. OBLIGATIONS, UNDERTAKINGS AND CONDITIONS

The Parties agree that:

- 4.1 all moveable equipment brought onto "The Farm" by the "JVP" is owned by the "JVP" and shall remain the sole property of the "JVP", and shall be removed from "The Farm" at the termination of the contract, for whatsoever reason. All moveable equipment owned by the "JVP" as at the commencement of this Agreement is shown at Appendix 2;
- 4.2 all moveable equipment on "The Farm" belonging to the "LH" shall remain the sole property of the "LH". All moveable equipment owned by the "LH" as at the commencement of this Agreement is shown at Appendix 3;
- 4.3 the "LH" will have the right to purchase any moveable equipment brought to "The Farm" at the termination of the contract provided a price is agreed between the "LH" and the "JVP";
- 4.4 The "JVP" will work towards empowering the "LH" or his/her management representative with the necessary skills, during the currency of the Agreement, so that at the end of the agreement The "LH" will be able to stand on his own and continue to grow tobacco at the same level or even higher;
- 4.5 It is a condition of this Agreement that the Ministry of Lands and Rural Resettlement as the owner of the land must approve the agreement as it is a condition in the farmer's offer letter;

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- 4.6 The "LH" acknowledges and accepts that the "JVP" shall have unfettered discretion to erect and establish irrigation equipment's and accessories including- but without limitation - centre pivots, water pumps, electric motors, irrigation pipes, tobacco curing facilities and the like as well as the right to introduce and store farm materials and other equipment on the property including tractors, disc harrows, combine harvesters, rippers, trailers and other kinds of materials to generally facilitate and promote the farming endeavours on the farm;
- 4.7 The "JVP" shall observe and comply with all relevant water rights pertaining to the farm and in that regard he shall pay all required water rates and fees to the relevant water catchment authority for the use of such water;
- 4.8 The "LH" on commencement of this agreement is to ensure all outstanding balances owed to: any employees (including entitlements to retrenchment packages; leave, notice periods and severance packages); ZINWA; ZETDC and any other persons or authorities in respect of the "Farm" are settled by the "LH" (the "Debts"). However, should there be any "Debts" which have not been settled, or any losses, liabilities or expenses deriving therefrom, the "JVP" may, at its sole discretion, offset immediately and without further reference or notice to the "LH" against the immediately succeeding instalment of the Gross Profit Share payable in terms of this Agreement and all other succeeding instalments of the Gross Profit Share until the "Debt" has been extinguished;
- 4.9 The "JVP" will not be responsible for any outstanding debits that might be held against "The Farm" and/or the "LH" as far as they relate to the "Farm" only;
- 4.10 The "JVP" shall be responsible for the payment of electricity consumed in regard to the Joint Venture operations on the "Farm" and shall remain responsible for the readings of all the electricity meters and power supply points for the project;
- 4.11 Pursuant to any necessary applications for electricity supply, the establishment of alternative power points on the "Farm", or any other services for the purpose of the joint venture, the "LH" agrees to fully cooperate and use his best endeavours to facilitate these applications to the appropriate authority upon request of the "JVP";
- 4.12 The "LH" acknowledges and accepts that the "JVP" shall be entitled to full and exclusive use and access to all established workshop facilities, tobacco curing facilities, storage sheds, water and living quarters on the "Farm";

- 4.13 The "LH" acknowledges and accepts that the "JVP" shall have unfettered access to reside on the "Farm";
- 4.14 The Joint Venture shall operate without interference on the agreed hectareage. The "JVP" shall have uninterrupted usage and unfettered access to the Land;
- 4.15 In the event that the Agreement is not renewed in accordance with clause 2.2 of this Agreement, or it is terminated for whatever reason, then all costs associated with the growing of any crops on the land up to the date of termination of the Agreement incurred will be deducted from The "LH's" "Gross Profit Share" from the Joint Venture where this falls due. Such Costs shall include, but not be limited to: liming, ploughing, fumigation, fertilizers, seed, and chemicals and associated labour costs, all costs of land preparation, irrigation and seedbeds (the "Costs"). Where a "Gross Profit Share" does not fall due then the "LH" shall either elect to continue to farm the crops until they are harvested, in which case, a "Gross Profit Share" will fall due or request that "LH" pay the "Costs" up to and including the date of termination of the Agreement.

5. FINANCIAL PROVISIONS

- 5.1 The "LH" at the end of each cropping season shall be paid five percent (5%) of the gross earnings derived from any tobacco crops produced on "The Farm" by the " JVP"
- 5.2 The "LH" at the end of each cropping season shall be paid five percent (5%) of the gross earnings derived from maize crops produced on "The Farm" by the " JVP" for the term of the Agreement;(together these comprise the "Gross Profit Share").
- 5.3 The Gross Profit Share for all and any other Crops which are grown on the "Farm" shall be agreed between the Parties in advance.
- 5.3.1 All payments pertaining to the "Gross Profit Share" shall be paid into the account of:
- Account Name:
- Bank and Branch:
- Account Number:
- 5.3.2 The "LH" shall be liable for any statutory deductions, which fall due on the "Gross Profit Share" which he receives. Further,

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that the LH indemnifies the "JVP" against any liability in this regard.

- 5.4 Payment shall be effected no later than thirty (30) days from the date upon which the final sale is affected from the farm.
- 5.5 The "LH" shall be entitled personally or through a nominee to monitor the harvesting and marketing of such produce for the purpose of verification and payment. Additionally, the "JVP" shall forthwith – upon written request of the "LH" provide or make available as proof of any transactions and/or delivery of commodities produced on "The Farm".
- 5.6 This Agreement shall not be terminated by the "LH" at any time before crops under the management of the "JVP" have been harvested and/or prior to the "JVP" having been paid in full for the crop.

6. DISPUTE RESOLUTION

Any dispute between parties hereto in regard to:

- 6.1 the interpretation of; or
 - 6.1.1 the effect of; or
 - 6.1.2 the implementation of; or
 - 6.1.3 the existence, validity of termination of; or
 - 6.1.4 any other matter arising directly or indirectly out of this Agreement shall be discussed between The "LH" and the "JVP" with a view to resolution. If the said parties are able to reach agreement on the resolution of the dispute, then such resolution shall be final and binding on the parties and shall be carried into effect by them.
 - 6.1.5 If the matter cannot be amicably resolved within 72 hours of the notification of the dispute the dispute shall be referred forthwith for adjudication by a single arbitrator who shall:-

If the question is primarily a accounting matter, an independent chartered accountant of not less than ten (10) years standing; or

If the question is primarily a legal matter, a practicing legal practitioner of not less than ten (10) years standing; or

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Any other matter, a suitably qualified person

6.2 Should the said parties be unable to reach an agreement as aforesaid within fourteen (14) days after its referral to them, the dispute shall be referred to and finally resolved by arbitration with the following provisions:-

6.2.1 the arbitrator shall be chosen by the parties. In the event that the parties are unable to agree on the appointment of the arbitrator, the appointment shall be made by the Commercial Arbitration Centre in Harare on the written request of either of the parties;

6.2.2 notwithstanding that the place of arbitration shall be Harare, the parties may agree, or failing such agreement, the arbitrator may direct, that any hearing/s or proceeding/s be held elsewhere;

6.2.3 the language to be used in the arbitration proceedings shall be English;

6.2.4 any arbitration in terms of this Clause 6 shall be administered by the Commercial Arbitration Centre in Harare. The administrative procedures and schedule of costs of the Commercial Arbitration Centre in Harare in force at the time of the commencement of the arbitration shall be applicable;

6.2.5 the parties hereby irrevocably agree that the decision of the arbitrator in any such arbitration shall be final and binding and shall be carried into effect by them.

7. DOMICILLIA CITANDI ET EXECUTANDI

7.1 The parties choose as their domicilia citandi et executandi for all purposes under this agreement, whether in respect of Court process, notices or other documents or communications of whatsoever nature the following addresses:

The Landholder: Chooses his address at Plot No I S.D.K of Ridderdale

The Joint Venture Partner: Chooses his address at 25 Sunset Drive, Eastlea Harare

7.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective;

7.3 Any notice to the party which is:

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7.3.1 delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

7.4 Notwithstanding anything of the contrary herein contained, a written notice or communication proved to have been received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

8. GENERAL

The "LH" and the "JVP" acknowledge and agree that:-

- 8.1 This agreement constitutes the entire contract between them relating to the subject matter hereof and that no provisions, terms, conditions, stipulations, warranties or representations of whatsoever nature, whether express or implied, have been made by either of the parties or on their behalf except as may be recorded herein;
- 8.2 no alteration, variation, amendment or purported consensual cancellation of this Agreement or any deletion there from shall be of any force or effect unless reduced to writing and signed by or on behalf of the parties hereto;
- 8.3 no relaxation, extension of time, latitude or indulgence which either party ("the Grantor") may show, grant or allow to the other ("the Grantee") shall in any way constitute a waiver by the Grantor of any of the Grantor's rights in terms of this Agreement and the Grantor shall not hereby be prejudiced or stopped from exercising any of its rights against the Grantee which may have then already arisen or which may arise thereafter;
- 8.4 both parties have undertaken to each other to do all such things, take all such steps and to procure the doing of all such things and the taking of all such steps as may be necessary, incidental or conducive to the implementation of the provisions, terms, conditions and import of this Agreement.
- 8.5 Neither of the Parties to this Agreement shall sign, cede or transfer or purport to assign, cede or transfer any of its rights or obligations under this agreement without the prior written consent of the other.
- 8.6 This agreement shall be governed by and construed in accordance with the laws of Zimbabwe and the parties hereby submit to the exclusive jurisdiction of the Zimbabwean Courts.

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9. TERMINATION

9.1 The "JVP" may terminate the Agreement automatically in the event that:

9.1.1 the Farm is expropriated;

9.1.2 the "JVP" is frustrated from being unable to use the Land for

the purpose envisaged in accordance with the terms of this Agreement;

9.1.3 the financing for the Farm ceases to exist.

9.2 The Agreement will terminate automatically at the election of the affected Party where the other Party commits a breach of any terms of the Agreement and in the case of a breach which is capable of remedy fails to make good any such breach within 14 days of being requested to do so by written notice from the affected party;

9.3 The Agreement will terminate automatically at the election of one party in the event that the other party commits a material breach of any of the terms of this Agreement.

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THUS DONE AND EXECUTED AT HARARE THIS _____ DAY OF _____ 2016 IN
THE PRESENCE OF THE UNDERSIGNED WITNESSES

Hazvinyi Mujanga Hazvinyi

For and on behalf of The Landholder

AS WITNESSES:

1. Signature: [Signature] Name: OSWEN MAZURU
I.D No: 27-117754 T 27
2. Signature: [Signature] Name: Tinashe Dzvakabuyambwa
I.D No: 86-011280 W 86

THUS DONE AND EXECUTED AT HARARE THIS _____ DAY OF _____ 2016 IN
THE PRESENCE OF THE UNDERSIGNED WITNESSES

Michael Besitani [Signature]

For and on behalf of The Joint Venture Partner

AS WITNESSES:

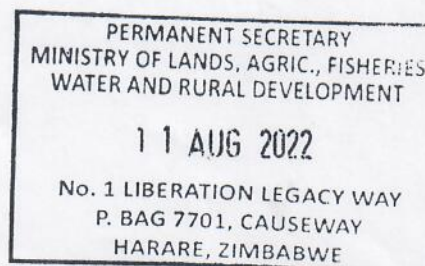
1. Signature: [Signature] Name: TOTGA MUJANGA
ID No: 71-072373 D 32
2. Signature: [Signature] Name: Tapiwa Muvate
ID No: 63-1219724 V 05

AND APPROVED BY THE MINISTRY OF LANDS AND RURAL RESETTLEMENT
SIGNED: [Signature] 11/8/22

Name: _____

Title: _____

Date: _____



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