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LOAN AGREEMENT

ENTERED INTO BY AND BETWEEN

AGRICULTURAL BANK OF NAMIBIA

(A public enterprise incorporated by virtue of the Agricultural Bank of Namibia Act, 2003 (Act No. 5 Of 2003 as amended)

Herein represented by

Officers of the Agricultural Bank of Namibia duly deputed by the Chief Executive Officer of the Bank, in terms of Section 15(2) of the Agricultural Bank of Namibia Act No. 5 of 2003 as amended.

(Hereinafter referred to as "the Bank")

Of

10 POST STREET MALL
PRIVATE BAG 13208
WINDHOEK
Tel: 061 2074111
Fax: (061) 207423

And

Full Names: _____

ID No.: _____

("Borrower")

1. RECORDAL

- 1.1 The parties agree that the Bank hereby purchases the goods from the supplier at the instance and request of the borrower(s) who hereby takes delivery and risk of the goods from the supplier and vests ownership thereof in the Bank, subject to the terms and conditions of this Agreement;

2. DEFINITIONS AND INTERPRETATION

- 2.1 "This agreement" means this Loan Agreement, together with all of its annexures, as amended from time to time;
- 2.2 "Business day" – any day other than a Saturday, Sunday or official public holiday in the Republic of Namibia;
- 2.3 "Bank" – shall mean the Agricultural Bank of Namibia;
- 2.4 "Credit Agreements Act" – Act No. 75 of 1980 as amended, or repealed, from time to time;
- 2.5 "Delivery" – a delivery of goods to the borrower by the supplier;
- 2.6 "Effective date" – the effective date of this agreement being signature of agreement by a Borrower and the Bank
- 2.7 "Goods" – goods sold by the supplier to the borrower by virtue of individual sale agreements and subject to the terms and conditions of this agreement;
- 2.8 "Invoice" – the invoice to be issued by the supplier the Bank for goods to be purchased by the Borrower under this agreement;
- 2.9 "Purchase price" – the cash price of goods due by the Bank to the supplier in terms of an individual sale agreement as reflected on the invoice;
- 2.10 "Supplier" – the party from whom the Bank finances the acquisition of the goods at the instance and request of the borrower;
- 2.11 "Principal Debt" – the cash price of goods, insurance and statutory fees where applicable;
- 2.12 "Borrower" means the person whose details appear under the credit application form Personal Details of this agreement;
- 2.13 "Repayment amount" means the purchase price of the goods, insurance, transaction fee, interest, value-added tax;
- 2.14 "A reference to legislation" is a reference to the legislation as the date of enactment of the legislation or as it is amended or re-enacted from time to time. Any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the effective date, and as amended or substituted from time to time.
- 2.15 If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this agreement;
- 2.16 Where any term is defined within a particular clause other than this clause 2, that term shall bear the meaning ascribed to it that clause in this agreement;
- 2.17 The terms of this agreement having been negotiated, the contra preferentem rule shall not be applied in the interpretation of this agreement;

3. LOAN AMOUNT

The Bank hereby lends to the Borrower who hereby borrows a capital amount of N\$..... subject to the terms and conditions hereinafter set out.

(Hereinafter referred to as the capital amount)

4. PURPOSE OF LOAN

- 4.1. The Bank borrows money to the borrower for the acquisition of the goods set out below:

5. PAYMENT AND INTEREST

- 5.1 The Borrower hereby agrees to pay the purchase price of the Goods and insurance
- 5.2 The Repayment Amount shall be paid over a period of (months), which period shall not exceed 54 months.
- 5.3 Subject to paragraph 5.1, interest shall be payable by the Borrower at the rate of 8% NACM (Nominal Annual Compounded Monthly) on the outstanding capital amount. Interest charged on the loan will be calculated on a daily basis (based on actual days) on the outstanding balance of the loan from time to time and will be compounded monthly.
- 5.4 The Bank reserves the right to adjust the interest rate from time to time without the consent of the Borrower in which event the terms of repayment shall be adjusted accordingly.

- 5.5 In the event of this Agreement being subject to the provisions of the Usury Act 73 of 1968, the interest that is charged in terms of this Agreement shall be less than or equal to the maximum finance charge rate permissible in terms of such act from time to time.
- 5.6 If a payment under this Agreement is due on a day being a day other than a Business day (i.e. Saturday, Sunday or holiday), the due date for the payment shall be the next business day.

6. EARLY SETTLEMENT OF THIS AGREEMENT

- 6.1 The Borrower may settle this Agreement in full at any time, with at least 60 (sixty) days' notice in writing of his intention to pay the outstanding balance of the principal debt mentioned in this agreement, and finance charges thereon. In such event the settlement value shall be calculated as follows:
- 6.1.1 The unpaid balance of the purchase price; plus
- 6.1.2 The unpaid interest and all other fees and charges payable by the Borrower to the Seller up until the settlement date.
- 6.2 The notice shall state the date on which the Borrower intends to pay the said outstanding balance and finance charges amount.

7. OWNERSHIP AND RISK

- 7.1 The parties record that the borrower shall receive the goods at his/her own cost from the supplier upon written instruction in the form of a purchase order from the Seller.
- 7.2 The Borrower is hereby vested with possession of the goods and shall not have any claim against the Seller nor be entitled to resile from this Agreement or to refuse or withhold any payment to the Seller.
- 7.3 All risks regarding loss of or damage in and to the Goods shall pass to the Borrower on delivery of the Goods to the Borrower or on signing this Agreement, whichever shall occur first.

8. OWNERSHIP IN CASE OF INSTALLMENT SALES AGREEMENT

- 8.1 Notwithstanding the delivery and transfer of the goods to the Borrower, the Bank shall remain the legal owner and titleholder of the Goods until;
- 8.1.1 The Borrower has paid all the amounts owing in terms of this Agreement;
- 8.1.2 The Borrower has discharged all of his obligations towards the Bank in terms of his agreement.
- 8.2 As soon as the Borrower has paid all amounts due in terms of this Agreement, the Borrower shall automatically become the legal owner of the Goods.

9. INSURANCE

- 9.1 The Bank will offer insurance to the Borrower for the Goods.
- 9.2 The Borrower undertakes to maintain credit insurance over the Goods, covering the loss of or damage to the Goods, to at least the value of all the Borrower outstanding obligations under this Agreement.
- 9.3 The Borrower undertakes to insure the Goods and keep the Goods insured for the duration of this Agreement on a comprehensive basis to at least the full market value of the Goods.
- 9.4 The Bank requires the Borrower to maintain credit life and credit guarantee insurance, covering life, disability, terminal illness and unemployment, to the value of all of the Borrower outstanding obligations under this Agreement as they may be from time to time.
- 9.5 The Bank may offer the Borrower optional insurance cover in relation to the Borrower obligations under this Agreement or relating to the possession, use, ownership or benefit of the Goods.
- 9.6 The Borrower shall comply with all terms, conditions and warranties of every insurance policy affected in terms of this Agreement.
- 9.7 The Borrower shall cede such policy to the Bank, as security for the due performance by him of his obligations in terms of this Agreement and undertakes to deliver such policy to the Bank on demand.

10. USE OF GOODS

- 10.1 The Borrower must maintain the goods in his/her possession or under his/her control at all times.
- 10.2 The Borrower must maintain the goods in good working condition at the Borrower cost.

- 10.3 The Borrower may not modify the goods in any way without the Bank's approval and if any accessory or part is added to the Goods, these will become part of the goods and the Bank shall not be obliged to compensate the Borrower in respect thereof.
- 10.4 The Borrower may not permit the goods to become a part of or attached to other property.
- 10.5 The Borrower shall not hand over possession of the Goods to any other person or sell, let, loan, pledge or transfer the goods to another person without the Bank's prior written consent.
- 10.6 The Borrower shall not permit the goods to become subject to any attachment or legal claim by any third party.
- 10.7 If applicable, the Borrower and any other person who uses the goods must be fully qualified and trained to use the goods.
- 10.8 The Borrower agrees that the Bank, or its agent, may inspect the goods at any reasonable time, on written notice to the Borrower.

11. LOCATION OF THE GOODS

- 11.1 The borrower shall keep the goods at the address stated under 2.4 of the Loan Application Form.
- 11.2 In the event that the goods are not kept at the address as set out above, the borrower shall inform the Bank in writing of the address where the goods are kept, and the borrower shall inform any landlord or bondholder of such premises in writing of the terms and conditions of this Agreement which notification shall be provided to the Bank.
- 11.3 The borrower may not remove the goods from the Republic of Namibia without the Bank's prior written consent.
- 11.4 Throughout the duration of this Agreement, the borrower shall inform the Bank of any change to:
 - 10.4.1 The Borrower residential address;
 - 10.4.2 The Borrower business address;
 - 10.4.3 The address where the goods are kept; and
 - 10.4.4 The name and address of the person in permanent possession of the Goods.
- 11.5 The Bank, or the Deputy Sheriff of the Court, may request the Borrower to provide details as to the whereabouts of the goods at any time, as well as details of any third party possessor of the goods or of any landlord or bondholder of any premises where the goods are kept, which details shall not be withheld by the borrower.
- 11.6 In the event that the borrower provides false or misleading information or acts in a manner that is likely to frustrate the Bank from exercising its rights, the borrower shall be liable to an offence that is punishable, in terms of the Act.

12. ADDITIONAL FINANCE CHARGES

- 12.1 The Borrower shall be liable to the Bank for the payment of additional finance charges if he-
 - 12.1.1 Fails to pay on the due date any amount owing or which may become owing by him in connection with this transaction to the Bank; without prejudice to such other rights as to the Bank may have as a result of such failure, such overdue account shall bear additional finance charges at a rate as determined by the (Board of Directors from time to time). Currently this rate is 2% per annum. Such interest will be calculated on a daily basis and will be added to the interest bearing amount monthly at the 30th day of each month
 - 12.1.2 Agrees with the Bank to postpone the payment of any amount so owing, which additional finance charges shall be calculated yet unpaid, the finance charge rate determined in the Schedule and, as the case may be, the period of the failure or the period for which the said postponement has been granted;

13. BREACH

- 13.1 Each of the following events or circumstances constitutes an event of default, ("Event of Default") namely in the event of the borrower:
 - 13.1.1 Fails to comply with any of the terms of this Agreement (all of which the Borrower has agreed to be material); or
 - 13.1.2 Fails to pay any amounts due under this Agreement; or
 - 13.1.3 Has made misleading statements to the Bank before signing this Agreement, or allow any judgement that has been taken
 - 13.1.4 Is sequestrated or liquidated, or performs an act of insolvency in terms of the Insolvency Act No. 24 of 1936; or
 - 13.1.5 Enters into a compromise with any of its his/her creditors; or
 - 13.1.6 Being a natural person, dies, or, being a juristic person, undergoes a material restructure; then in these events of default the Bank shall be entitled; without affecting any of its other rights; to the terminate of this Agreement, repossess the goods, alienate the goods for purposes of settlement of the amounts due and payable to the Bank and/or seek redress in a Court of law.

- 13.2 In the event that the borrower defaults on his/her loan repayment, the Bank reserves its right to list the borrower's defaulting details with the TransUnion.
- 13.3 In the event of Default, the Bank shall be entitled, at its election and without prejudice to any of its rights it may have, but subject to the borrower's right in terms of Section 11 of the Credit Agreement Act, Act 75 of 1980 (insofar as may be applicable to this transaction), to:
- 13.3.1. Claim immediate payment of the full outstanding balance of the principal debt, all finance charges, additional finance charges, other amounts then owing by the borrower to the Bank in connection with this Agreement, irrespective of whether or not such amounts are due at that stage; or
- 13.3.2. Cancel this Agreement, take repossession of the goods, retain all payments effected by the borrower in terms of this Agreement and to claim as liquidated damages from the borrower, payment of the difference between the balance outstanding and the market value of the goods, such value to be determined in terms of clause 13.3.3 below;
- 13.3.3. The market value shall be determined by a valuator appointed by the Bank in its discretion and at the expense of the borrower, whose valuation the borrower agrees shall be final and binding on the borrower. Should the Bank thereafter dispose of the goods, whether by lease or sale, on such terms as the Bank in its discretions deems reasonable at any amount exceeding the value determined by the valuator, the price so obtained by the Bank, less the storage, repair and other necessary expenses which the Bank has incurred in respect of the goods, shall be deemed to be the market value and shall be binding on the borrower;
- 13.3.4. The borrower hereby cedes, assigns and makes over to the Bank in securitatem debiti all of its rights, title and interest in and to his right to claim payment of any amount which the Bank may be or become obliged to pay the borrower arising out of or in connection with this Agreement, its expiry or termination, as collateral for all and whatsoever amount which may now or hereafter be or become payable by the borrower to the Bank from whatsoever arising; and
- 13.3.5. If the goods are returned to or repossessed by the Bank, it shall be entitled to dispose of same in such a manner and on such terms and conditions as it may in its sole discretion determine.

14. TERMINATION OF AGREEMENT ON TOTAL LOSS OF THE GOODS

- 14.1 In the event that the goods are damaged through acts of God, riots, civil insurrection, acts of a public enemy, accidents, acts of a civil or military authority, floods, earthquakes or winds, the Borrower shall immediately notify the Bank in writing, and lodge an insurance claim with the insurer of the goods.
- 14.2 If In the event that the goods are not repairable or replaced, or they are disposed of by the borrower and are not recovered within Twenty one (21) days, in the event that the goods are forfeited to the State under the prevention of Organized Crime Act No. 29 of 2004, due to the borrower transgression of the law, then this Agreement will terminate immediately and the borrower shall pay to the Bank, the outstanding balance of the principal debt, charges, all finance charges, additional finance charges and other amounts then owing by the borrower to the Bank in connection with this transaction; or

15. STATEMENT OF ACCOUNT

- 15.1 Where payment is made by virtue of a payroll deduction, The Bank shall furnish a statement of account on a quarterly basis.

16. INDULGENCE

- 16.1 No relaxation, concession or condonation granted by the Bank to the Borrower shall derogate from any of the Bank's rights in connection with this transaction.

17. ENTIRE CONTRACT

- 17.1 The parties confirm that this contract contains the full terms of their agreement and that no addition to or variation of the contract shall be of any force effect unless done in writing and signed by both parties.

18. JURISDICTION

- 18.1 The Borrower hereby consents to the magistrate's court having jurisdiction over the person in respect of all legal proceedings connected with this agreement notwithstanding that the value of the matter is dispute might exceed the jurisdiction of the magistrate's court.

- 18.2 Notwithstanding the foregoing the Bank is entitled to institute action in the high Court having jurisdiction. In the event the Bank elects to institute action against the Borrower in the High Court, the Borrower shall be liable to pay the costs awarded to the Bank in accordance with the provisions of the High Court tariff.

19. CESSION AND ASSIGNMENT

- 19.1 The borrower may not cede, delegate or assign its rights and obligations in terms of this Agreement without the prior written consent of the Bank. The Bank may cede, delegate or assign its rights and obligations in terms of this Agreement without the prior written consent of the purchaser.

20. WARRANTIES AND GUARANTEES

- 20.1 By signing this Agreement, the purchaser expressly warrants that the purchaser is not subject to an Administration Order referred to in Section 74 (1) of the Magistrates' Courts Act, 1944 or subject to a sequestration order referred to in Section 3 of the Insolvency Act 24 of 1936.
- 20.2 The Bank does not give any guarantee or warranty to the purchaser in relation to the condition of the goods. The Bank shall cede to the purchaser its rights in terms of all guarantees, warranties and other undertakings given to it by the supplier of the goods, on condition, that no breach of any such guarantee, warranty or undertaking shall give any right to the purchaser as against the Bank and that the rights in terms of such guarantees, warranties and undertakings shall revert to the Bank should the Bank at any time obtain repossession of the goods.
- 20.3 No legal proceedings are taking place involving the purchaser, and where such proceedings exist, these have been disclosed to the Bank, and agreed by the Bank in writing as being immaterial to the operations of the purchaser;
- 20.4 The information submitted to the Bank as application for a loan is and remains accurate in all respects, and that no material change has occurred, which has not been disclosed to the Bank;
- 20.5 The purchaser acknowledges that he/she has read this agreement and that he/she/it understands same.
- 20.6 The purchaser undertakes:
- 20.6.1 To notify the Bank on matters relating to legal and administrative proceedings, disputes, events of force majeure, events of default, cancellation of insurance policies and environmental, health and safety events as they occur
- 20.6.2 That the goods have been purchased for the sole purpose of conducting farming activities.
- 20.7 The Purchaser acknowledges, agrees and warrants that:
- 20.7.1 The goods have been or will be financed by the Bank at the purchaser's request and application solely for the purpose of the delivery of such good by the supplier to the purchaser;
- 20.7.2 Both the goods and the supplier of such goods have been selected and approved by the purchaser and the goods are delivered to the purchaser as supplied by the supplier;
- 20.7.3 Neither the Bank nor anyone on his behalf has given any warranties, guarantees or undertakings of whatever nature as to the quality of the goods or their fitness for the purpose intended or has made any representation of whatever nature to induce the purchaser to enter into this Agreement, which goods the purchaser takes with all faults and agrees to accept all risks of whatsoever nature;
- 20.7.4 He/she is aware that the sale in terms hereof is "voetstoots" in all respects and that the purchaser shall have no claims of whatsoever nature (whether for consequential damages or otherwise) against the Bank and indemnifies the Bank against any claims which may be made against the Bank by any third party from the use of the goods;
- 20.7.5 Defective and/or incomplete delivery or the failure by the supplier to make good or fulfill any warranties, guarantees, representations or undertakings shall in no way affect the purchaser's obligations in terms of this Agreement and the purchaser shall continue to perform all its obligations including paying the installments as they fall due as if no such defective or incomplete delivery or failure had occurred;
- 20.8 If any provision or warranty contained in this agreement is rendered void, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or warranties shall not in any way be affected or impaired;
- 20.9 In the event of any of the provisions contained herein being in conflict with any Statute in force in the Republic of Namibia for the time being, then such provision shall be deemed to be amended only to the extent necessary to bring it into compliance with such law.

21. APPLICABLE LAW

- 21.1 This Agreement shall in all respects be governed by and construed in accordance with the law of the Republic of Namibia and all disputes, actions and other matters in connection therewith shall be determined in accordance with such law.

22. EXECUTION

Thus done and signed at _____ on this _____ day of _____ 2017

AS WITNESSES:

1. _____

2. _____

FOR AND ON BEHALF OF THE AGRICULTURAL BANK OF NAMIBIA

Thus done and signed at _____ on this _____ day of _____ 2017

AS WITNESSES:

1. _____

2. _____