



Namibia Agricultural Distributors
CC P.O. Box 80266, Windhoek,
Namibia Tell: 081 128 6821
E-mail: alex@namagri.com
CC. Reg. No: 2008/1910
VAT No: 4666624-01-5



PROPERTIES



CONSULTING
AUCTIONEERS



AVIATION



WILDLIFE
SERVICES



BUSH
ENCROACHMENT

IN THE PUBLIC AUCTION OF:

PHOENIX FARMING PROPERTY HOLDINGS (PROPRIETARY) LIMITED - Registration number 2017/0117

a private company with limited liability duly incorporated according to the laws of Namibia and herein duly represented by **Johannes Nicolaas Hamman** in his capacity as director and being duly authorized thereto of

P O Box 81095, Windhoek, Namibia

Tel.: +264 (0)81 128 8868 / +264 (0)81 124 1037 / +264 (0)61 240504

Email: jhamman@peg.com.na

(hereinafter referred to as the **SELLER**)

AND

FARM KEMPTON NUMBER ONE TWO EIGHT (PROPRIETARY) LIMITED - Registration number 2017/0977

a private company with limited liability duly incorporated according to the laws of Namibia and herein duly represented by **Johannes Nicolaas Hamman** in his capacity as director and being duly authorized thereto of

P O Box 81095, Windhoek, Namibia

Tel.: +264 (0)81 128 8868 / +264 (0)81 124 1037 / +264 (0)61 240504

Email: jhamman@peg.com.na

hereinafter referred to as the **COMPANY**)

AND

Full Names:

Identity Number:

(hereinafter referred to as the **PURCHASER**)

CONDITIONS OF SALE

The SUBJECT MATTER of the COMPANY which is offered for sale and which will be put up to auction on the **09th June 2025 at 12:00** in person at the Arebush Travel Lodge and online @ <https://www.cdpauctions.co.za> consist of the total issued shares in the COMPANY, inclusive of the SELLER'S rights, title and interest in and to any claims on loan account against the COMPANY (collectively hereinafter referred to as the SUBJECT MATTER), the said COMPANY being the registered owner of:

CERTAIN	FARM KEMPTON NO.124
SITUATE	Registration division "M", HARDAP Region
MEASURING	6 588.4406 HECTARES
HELD	by Deed of Transfer No. T 6032/1997
SUBJECT	to the conditions contained therein and together with al fixed improvements thereon.

The sale shall be subject to the following conditions:

1. **THE ESTATE AGENCY / AUCTIONEERS**

The property will be put up for auction and sold by **NAMIBIA AGRICULTURAL DISTRIBUTORS CC**, Registration Number: **CC/2008/1910**, who has been appointed by the SELLER as AUCTIONEER.

2. **THE RESERVE PRICE AND ACCEPTANCE PERIOD**

- 2.1 The Estate Agency/ AUCTIONEER may sell the Property at or above the reserve price as agreed upon between the SELLER and the AUCTIONEER.
- 2.2 If the reserve price is not reached, the AUCTIONEER is authorized to sell the property to the Highest Bidder, provided the SELLER has confirmed acceptance of the price offered by the Highest Bidder in writing within **48 (forty-eight)** hours from the date of sale, failing which the property shall be deemed not to be sold.
- 2.3 For purposes hereof, the offer made by the Highest Bidder shall be kept and remain open for acceptance and confirmation by the SELLER for the aforesaid period of **48 (forty-eight)** hours and such Bidder shall not be entitled to withdraw such offer prior to the expiry of such period.

- 2.4 Any notice given by the AUCTIONEER to the Highest Bidder in terms hereof to the address furnished to the AUCTIONEER shall be deemed to have been received by him on date of delivery by hand or on the day following the date it has successfully been faxed to the facsimile address or email of the PURCHASER.
- 2.5 If any dispute arises about any bid or the AUCTIONEER makes any mistake in selling, such mistake shall not be binding on any of the parties but may be rectified. If the AUCTIONEER suspects that a bidder is unable to pay either the deposit referred to in condition 6 or the balance of the purchase price, he may refuse to accept the bid of such bidder or accept it provisionally until the bidder shall have satisfied him that he is in a position to pay both such amounts. On the refusal of a bid under such circumstances, the property may immediately be again put up for auction.
- 2.6 The EFFECTIVE DATE of the sale will be the date of transfer of the issued shares of the COMPANY and cession of the loan accounts into the name of the PURCHASER or his nominee against simultaneous cancellation of all existing bonds and registration of a new bond (if any).
- 2.7 This transaction constitutes an indivisible sale of the shares and the claims on loan account.

3. **DEPOSITS AND COMMISSIONS**

- 3.1 The PURCHASER shall pay a deposit of **10% (ten per cent)** of the purchase price in cash to Dr WEDER, KAUTA & HOVEKA INC for credit of the SELLER immediately on final acceptance of the bid, and the balance against transfer to be secured by a bank or any other financial institution's guarantee, to be approved by the SELLERS' legal Practitioners and to be furnished to the aforesaid within **21 (twenty one) calendar** days after the date of sale. Should the guarantee not be rendered in accordance herewith the SELLER shall be entitled to cancel the agreement forthwith and the property will be put up for auction again. In the event of such cancellation the deposit paid shall be forfeited to the SELLER.
- 3.2 The deposit will be kept in an interest-bearing trust account by the Dr WEDER, KAUTA & HOVEKA INC for the benefit of the PURCHASER.
- 3.3 The PURCHASER shall on the date of sale, over and above the amount offered as purchase price pay AUCTIONEERS' charges and commission calculated at **5%** of the purchase price (VAT excluded). This amount shall be paid directly to the AUCTIONEER by the SELLER immediately on final acceptance of the bid.
- 3.4 The SELLER shall be liable for payment of the commission payable to Aqua Real Estate as agreed between the SELLER and Aqua Real Estate and hereby indemnifies the PURCHASER against all claims by Aqua Real Estate.

- 3.5 If the PURCHASER fails to carry out any of his obligations under the conditions of sale, the sale may be cancelled summarily by the SELLER in the report of the AUCTIONEER after due notice to the PURCHASER, and the property may again be put up for sale. The PURCHASER shall in the event of such cancellation forfeit any deposit paid as well as any AUCTIONEERS' commission paid. Should the SELLER as a consequence of the PURCHASERS' breach suffer damages in excess of the forfeited deposit the PURCHASER shall be liable to the SELLER for such excess. If the PURCHASER is already in possession of the property, the SELLER may, on **7 (seven)** days' notice, apply to a Competent court for an order for ejecting the PURCHASER or any person claiming to hold under him therefrom.
- 3.6 It is, however, expressly agreed hereby that in the event of this Agreement being cancelled by mutual agreement between the SELLER and the PURCHASER or due to the neglect or failure of the SELLER, then the SELLER will immediately become liable for the payment of the aforesaid charges and commission to **NAMIBIA AGRICULTURAL DISTRIBUTORS CC.**
- 3.7 If the reserve price is reached and the SELLER fails to confirm acceptance of the price offered by the Highest Bidder within **48 (forty-eight)** hours and fails to sign this Conditions of Sale, it shall be deemed that the AUCTIONEER fulfilled his mandate and in which event the SELLER will immediately become liable for the payment of the aforesaid charges and commission to **NAMIBIA AGRICULTURAL DISTRIBUTORS CC.**
- 3.8 The sale shall be for Namibian Dollars and no bid in any other currency shall be accepted.

4 **PAYMENT OF VAT**

For purposes of VAT, the Parties record that the sale of the SUBJECT MATTER is exempt from VAT in terms of Section 10(1) of the Value Added Tax Act, Act No 10 of 2000 (paragraph 2(a) of Schedule 4 referred to in Section 10(1)) exempt financial services which by definition includes, under paragraph (d) thereof, transactions of Sale of Shares.

5 **POSESSION AND OCCUPATION**

- 5.1 The PURCHASER shall be entitled to take vacant occupation and possession of the property on date of registration of the property alternatively to such a date agreed in writing with the SELLER from which date the risk and profit pertaining to the property shall pass on to him. From the date of occupation, the SELLER or any other person and/or livestock occupying the property by, through and /or under him shall be obliged to vacate the property.

5.4 The PURCHASER agrees to pay to the SELLER occupational interest at the rate of N\$..... per month payable from the date of occupation until the date when the property hereby sold is transferred into the name of the PURCHASER or until the date the purchase price has been paid in full to the SELLER, payable monthly in arrears.

5.3. If the PURCHASER take occupation prior to the transfer date, the AUCTIONEER may demand that any buildings standing on the property sold shall immediately be insured by the PURCHASER for the full value of the same, and the insurance policy handed to him and kept in force if the full purchase price has not been paid. If the PURCHASER fails to do so, the AUCTIONEER may affect the insurance at the PURCHASERS' expense.

6 **TRANSFER**

6.1. The PURCHASER shall, as soon as possible after the sale at the auction and immediately on being requested by the AUCTIONEER, sign these conditions of sale, and if he has purchased in his capacity as a Representative, state the name of his principal. Any person signing these conditions of sale must present the AUCTIONEER with a valid power of attorney before commencement of the auction.

6.2 A PURCHASER who purchases as Nominee on behalf of a Third Party shall within **2 (two) calendar** days from date of sale hereof furnish the name and particulars of such third Party to the AUCTIONEER or the SELLERS' Legal Practitioners, failing which such Nominee shall be bound by all the conditions herein set out.

6.3. The PURCHASER shall be obliged to take transfer forthwith and as soon as possible after being requested thereto by the Legal Practitioners and against payment of the full purchase price and after compliance of all the conditions contained herein in which case any claim for occupational interest shall lapse. Transfer shall otherwise be passed only after the PURCHASER has complied with the provisions of conditions 3.1 and 3.3 hereof.

6.4. The SELLER has nominated the legal Practitioners Dr WEDER, KAUTA & HOVEKA INC, 3rd Floor WKH House, P.O. Box 864 Windhoek, Namibia to attend to the transfer. Any transfer duties, costs of transfer including the costs and fees of the Legal Practitioners, stamp duty on the Deed of Transfer and all Mortgage Bond registration costs and fees (if any) and any other costs necessary to effect transfer, which payment of transfer costs and fees shall be paid immediately upon request by the Legal Practitioners.

7 **VOETSTOOTS**

- 7.1 The property is sold together with all improvements VOETSTOOTS and as represented in the Title Deed and diagram and the SELLER, or the AUCTIONEER do not hold themselves liable for any deficiency that may be found to exist and renounces all excess. The property is further also sold subject to all servitudes and conditions specified in the Deed of Transfer or which may be imposed upon any subsequent subdivision.

8 **BREACH**

- 8.1 In the event of the PURCHASER failing to fulfill on due date any of the terms and conditions of this conditions of Sale, the SELLER or the agent shall have the right either,-

- 8.1.1 To cancel the sale by registered letter addressed to the PURCHASER, in which event the PURCHASER shall forfeit all monies paid to the SELLER or his Agent in terms hereof, without prejudice to the SELLERS' other legal rights and remedies and the right to claim damages. This amount shall be retained to the SELLER as "Rouwkoop".

OR

- 8.1.2 To claim payment of the full purchase price and the fulfillment of all terms and conditions hereof.

9 **NO WARRANTIES**

The parties hereby acknowledge that there are no further undertakings or agreements between each other, that no warranties have been given by or on behalf of any party and that no representations have been made by or on behalf of any party, either in writing or verbal, except as contained in this conditions of Sale, and that the terms of this Conditions of Sale constitute the whole agreement between the SELLER and the PURCHASER and that no variation, alteration, modification or suspension of any of the terms of this contract shall be of any force or effect unless reduced to writing and signed by the SELLER and the PURCHASER.

10 **IMPLEMENTATION**

10.1. Provided that the PURCHASER has duly delivered the Guarantees or Letters of Undertaking as provided for in Clause 3.1 hereof, the SELLER shall forthwith after the EFFECTIVE DATE, deliver the following documents for the benefit of the PURCHASER, all of which will be kept by the Legal Practitioners, for delivery to the PURCHASER against confirmation of receipt of the Purchase Price by the SELLER in its bank account:

10.1.1 the share certificate(s) relating to the shares and appropriate share transfer forms duly completed and signed to enable transfer of the shares to be registered in the name of the PURCHASER or its nominee(s);

10.1.2 the following appertaining to the COMPANY:

10.1.2.1 the original memorandum and articles of association (or a certified copy);

10.1.2.2 the original certificate of incorporation (or a copy certified as aforesaid);

10.1.2.3 the original certificate to commence business (or a copy certified as aforesaid);

10.1.2.4 the minute book and share register

10.1.2.5 a resolution passed by the directors of the COMPANY approving of the transfer of the shares into the name of the PURCHASER or his nominee(s);

10.1.2.6 the written resignation of the directors, the secretary and the public officer;

10.1.2.7 a resolution passed by the directors of the COMPANY appointing the nominee(s) of the PURCHASER as director(s), secretary and public officer;

10.1.3 the written cession(s) of the Claims and/or the rights title and interest in and to the debentures; and

10.1.4 the title deed of the PROPERTY insofar as it is not retained by any bondholder;

10.1.5 Tax Clearance Certificate issued NAMRA

- 10.1.6 the latest Audited year-end financial statements of the COMPANY;
- 10.1.7 Certificate of Good Standing issued by BIPA;
- 10.1.8 Copy of the Beneficial Ownership Declaration duly submitted to BIPA.

10.2. Whereupon the Legal Practitioners shall forthwith cause on the EFFECTIVE DATE:

- 10.2.1. The transfer of shares to be registered and into the name of the Purchase or his nominee;
- 10.2.2. Payment to be effected of the Guarantees or Letters of undertaking to be delivered in terms of clause 3.1 hereof;
- 10.2.3. attend to or cause the cancellation of the original Share Certificate(s) of the SELLER in the COMPANY;
- 10.2.4. attend to or cause the issuing of share certificates to the PURCHASER, reflecting the new shareholding in the COMPANY;

10.3 Upon finalisation of the Effective Date Statements, the SELLER shall:

- 10.3.1 procure the resignation of the Auditors as at the EFFECTIVE DATE (if so required by the PURCHASER); and
- 10.3.2 deliver to the PURCHASER all remaining books of account, records and documents of the COMPANY, which will include all TAX related records and documents and computations.

10.4 The PURCHASER shall be entitled to study all of such documents at the offices of the Legal Practitioners prior to the EFFECTIVE DATE.

11. **GENERAL PROVISIONS**

- 11.1 This document constitutes the entire agreement between the parties, and no additions to or variation of these Conditions of Sale shall be of any force or effect unless recorded in writing and signed by or on behalf of the parties.
- 11.2 It is hereby recorded that the PURCHASER is a Namibian citizen or that the Controlling Interest in the PURCHASER is held by Namibian Citizens, or the PURCHASER has acquired a Consent for the foreign acquisition in terms of section 58 of the Agricultural (Commercial) Land Reform Act 6 of 1995.

- 11.3 It is recorded that due to the exclusion of certain “agricultural commodities” in the definition of “goods” in the Competition Act, 2003 and read together with the definition of “undertaking” in clause 1 of the same Act, the provisions of Clause 43(3) are not applicable, and no merger notice to the Competition Commission is required.
- 11.4 The property is not sold subject to the approval of any mortgage loan.
- 11.5 Neither the SELLER nor the Agency / AUCTIONEER on the SELLERS’ behalf warrants the correctness of any advertisements relating to the Property, nor the size or extent of the property.
- 11.6 The SELLER shall pay all Land Tax until date of registration of transfer of the property into the name of the PURCHASER or date of occupation, whichever occurs first, and the PURCHASER undertakes to refund to the SELLER any amount of rates and taxes pro rata, which may be paid in advance on the date of registration of transfer of the property into the name of the PURCHASER, or such date of occupation.
- 11.7 This Agreement is subject to the condition that a Certificate of Waiver in terms of the Land Reform Act is issued by the Ministry of Agriculture, Fisheries, Water and Land Reform.
- 11.8 It is specifically agreed between the parties that the PURCHASER will not take over any workers presently in the service of the SELLER. The SELLER will pay all severance payments due to such workers.
- 11.9 The SELLER will not remove, cull or catch any game from the property after the delivery of the guarantees.
- 11.10 The PURCHASER undertakes to take over from the SELLER the liabilities in terms of the agreement with Nampower in respect of the provision of electricity from the date of transfer.
- 11.11 The SELLER confirms that the boreholes are registered with Namwater and undertakes to provide all Water Permits relating to the subtraction and irrigation done on the Property.
- 11.12 The parties acknowledge that they understand and agree to the contents hereof and that the meaning and consequences of the material provisions of these Conditions of Sale is clear to them.

Signed by the SELLER at WINDHOEK on this 09th day of JUNE 2025.

AS WITNESSES

1

.....
(FOR THE SELLER)

2

.....
(AUCTIONEER)

I, the undersigned as the PURCHASER, hereby certify that today at WINDHOEK on the 09th day of JUNE 2025 in my presence the hereinbefore-mentioned property was sold for an amount of:

N\$.....

(exclusive of any VAT and AUCTIONEERS' commission)

and further undertakes that:

1. A 10% (ten percent) deposit of N\$..... will be paid to the Trust Account of the transferring Attorneys immediately on acceptance of the bid.

2. AUCTIONEERS' Commission of 5% (five percent) plus VAT in the amount of N\$..... will be paid to NAMIBIA AGRICULTURAL DISTRIBUTORS CC immediately on acceptance of the bid.

Full Names:

Identity Number:

Namibia Tax Number:

Unmarried / Married in community of property / Married out of Community of Property

(Please note that if married in community of property, the following information of the Spouse must also be provided and both parties must sign)

Full Names:

Identity Number:

Namibia Tax Number:

Of Address:

P.O. Box:

Town:

Telephone: (Cell)..... (H) (W)

E-mail:

residing at in the district of

..... do hereby bind myself as the PURCHASER of the hereinbefore-mentioned property in accordance with the Bid made by me and to pay the deposit and the balance of the purchase price including VAT (if any) and AUCTIONEERS' commission and to comply with all the terms and conditions stated hereinbefore immediately when requested thereto.

AS WITNESSES

1

.....
(FOR THE PURCHASER)

2

.....
(SPOUSE – IF APPLICABLE)