DATED THE \_\_\_\_\_\_\_ DAY OF **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2021**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ LTD**

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COMMERCIAL L E A S E

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**COMMERCIAL LEASE AGREEMENT**

THIS LEASE AGREEMENT is made and entered into on the **\_\_\_\_\_\_**day of **\_\_\_\_\_\_ 2021**, by and between **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, whose address is **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Nairobi, Kenya (hereinafter referred to as the "Lessor") which expression shall where the context so admits include her personal representatives and assigns) on the one part and **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as the "Lessee") which expression shall where the context so admits include her personal representatives and assigns) on the other part:

**NOW THIS LEASE WITNESSETH**

**THAT** in consideration of the rent hereinafter reserved and the covenants, conditions, agreements, restrictions, stipulations and provisions hereinafter contained or implied on the part of the Lessee to be performed and observed the Lessor **DO HEREBY LEASE** unto the Lessee **ALL THAT** that part of the property described in **Exhibit "A"** attached hereto and by reference made a part hereof (the "leased premises") **TOGETHER WITH** the fixtures and fittings therein and the use in common with the tenants of the other premises in the property and their respective employees and representatives paths gardens and grounds forming part of the property **TO HOLD** for the term of **one** year renewable from the **\_\_\_\_\_\_\_\_\_\_\_** day of **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2021** to the **\_\_\_\_\_\_\_\_\_\_\_\_** day of **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2021**, **YEILDING AND PAYING** thereof and thereout during the said term the monthly rental of Kenya Shillings **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ only** **(KShs. \_\_,000)** clear of all deductions payable monthly in advance on the First day of every month the first such rent to be deemed to have become payable before **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2021.**

**AND SUBJECT TO** the following terms and conditions:

1. The Lessee to the intent that the obligations hereinafter set out may continue throughout the continuance of the said term covenants and agrees with the Lessor as follows:
2. To pay the rent hereby reserved to the Lessor at the times and in the manner aforesaid. A late payment penalty at the rate of10% shall be levied on cumulative rent arrears at midnight of the 10th day of each month until such time as the rent is paid in full;
3. To remit rent, security deposit and such other payments due to the Lessor through the Lessor’s bank account, or such other method as may be officially advised and confirmed by Lessor in writing from time to time. Lessor’s Bank Account details are as follows:

Account Name: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Ltd

Bank: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Branch: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Account No: **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. To pay to the Lessor a security deposit which shall at all times be the equivalent of two (2) months’ rent of the prevailing monthly rent value, for the full and faithful performance by the Lessee of all the terms of this lease required to be performed by the Lessee. The security deposit shall be refundable to the Tenant without interest at the end of the lease agreement provided that the Tenant shall at all times have observed and maintained the terms and conditions of this Lease, and less any out-standings then due to the Lessor by the Lessee. The initial security deposit is payable on or before the commencement date. In the event of a bona fide sale of the property of which the leased premises are a part of, the Lessor shall have the right to transfer the security to the purchaser to be held under the terms of this lease, and the Lessor shall be released from all liability for the return of such security to the Lessee;
2. To pay to Lessor any amounts due in respect of goodwill in such manner as shall be determined and agreed upon;
3. To pay for the use of any additional materials on the premises including furniture in such manner as shall be determined and agreed upon;
4. To pay for water, sanitation, sewer, electricity, conservancy, telephone, fuel, security, and other services incident to Lessee's use of the leased premises which are now or may at any time during the said term be assessed or imposed on the said premises;
5. To procure any legal licenses and permits required for any use made of the leased premises by Lessee;
6. To keep the compound, garden grounds drives and paths situate on the said premises and all hedges and fences in a clean and tidy condition; and to keep the interior of all buildings forming part of the said premises including all doors walls ceilings floors windows and other Lessor's fixtures and fittings as well as all pipes wires and sanitary and conservancy tanks in good and tenantable repair.
7. To permit the Lessor or its agent or agents at reasonable times upon expiration of at least twenty-four (24) hours prior notice in writing during the said term with or without workmen or others to enter into and upon and examine the condition of the said premises and in case the same shall be found to be defective or out of repair and notice in writing of such defects or matters for which the Lessee is liable under the provisions hereof shall be given to the Lessee or left upon the said premises to make good the same in a proper manner to the satisfaction of the Lessor within the space of one calendar month next after every such notice shall have been given or left as aforesaid or sooner if requisite and so that if the Lessee shall not within the space of such calendar month as aforesaid proceed diligently with the execution of such repairs then and in such case the Lessor shall be at liberty to enter into and upon the said premises and execute such repairs and the cost thereof shall be a debt due from the Lessee to the Lessor and be forthwith recoverable by civil action;
8. To permit the Lessor or its agent or agents with all necessary workmen and appliances at all reasonable times upon expiration of at least twenty-four (24) hours prior notice in writing to enter into and upon the said premises and there to execute repairs on such premises under this covenant and agreement in that behalf contained;
9. Not to make any alterations whatsoever in or additions whatsoever to the said premises or any part or parts thereof without the consent in writing of the Lessor first had and obtained;
10. To make periodical inspections of the buildings forming part of the said premises and immediately report to the Lessor the presence of white ants, bees and other destructive insects and the presence of any dry or wet rot or other damage should the presence of any one or more of the same be observed or discovered and if the premises be or become infested with vermin at the Lessee’s own expense to cause the same to be exterminated from time to time to the satisfaction of the Lessor and to employ such exterminators and such exterminating company or companies as shall be approved by the Lessor;
11. Not to do or suffer to be done anything whereby any insurance of the building forming part of the said premises against loss or damage by fire and other normal comprehensive risks may become void or voidable or whereby the rate of premium for any such insurance may be increased and to repay to the Lessor all sums paid by way of increased premium and all expenses incurred by him in or about any renewal of such policy rendered necessary by a breach of this covenant and agreement and so that all such payments shall be added to the rent hereinbefore reserved and be recoverable as rent;
12. In the event of the buildings forming part of the said premises or any part thereof being damaged or destroyed by fire or other normal comprehensive risks at any time during the said term and the insurance money under any insurance against fire or other normal comprehensive risks effected thereon by the Lessor being wholly or partially irrecoverable by reason solely or in part of any act or default of the Lessee or of any person or persons resident upon the said premises or in the employment of the Lessee then and in every such case forthwith (in addition to the said rent) to pay to the Lessor the whole or (as the case may require) a fair proportion of the costs of completely rebuilding reinstating or replacing the same any dispute as to the proportion to be so contributed by the Lessee or otherwise in respect of or arising out of this provision to be referred to arbitration in accordance with the provisions of the Arbitration Act (1968) or any statutory enactment in that behalf for the time being in force;
13. Not to transfer sublet or part with the possession of the said premises or any part thereof without the consent in writing of the Lessor first had and obtained AND IT IS HEREBY AGREED AND DECLARED that upon any breach by the Lessee of this covenant and agreement it shall be lawful for the Lessor to re-enter upon the said promises without notice and thereupon the said term shall determine absolutely;
14. Not to do permit or suffer on the said premises anything which shall be a nuisance to the persons for the time being owning or occupying any adjoining or neighboring property;
15. To maintain, in respect of the leased premises, appropriate public liability insurance, and property damage insurance, insuring against injury to persons or damage to property on or about the leased premises. The Lessor stands indemnified from all claims in respect of injury, loss, or damage to any person or property while on the leased premises;
16. To pay all applicable statutory obligations including taxes levied against any interest of the Lessee as a tenant and business, and against personal property and trade fixtures owned or placed by the Lessee in the leased premises, and any interest and penalties lawfully imposed as a result of Lessee's delay, default, and non-performance of the applicable obligations;
17. Upon the termination of this Lease to have painted with two coats of good brilliant white silk (or in its absence such other color as may be approved by Lessor) and where applicable oil paint in a proper and workmanlike manner and otherwise to the reasonable satisfaction of the Lessor or her agent in all respects all the walls ceilings ironwood and other parts of the interior of all buildings forming part of the said premises heretofore or usually painted and after such internal painting to grain varnish distemper wash stop whiten and color (which work is hereinafter called "the internal redecoration") all such parts as having previously been so dealt with;
18. To use the said premises for the purposes of a formal education center (Primary School). Nothing herein shall give Lessee the right to use the property for any other purpose or to sublease, assign, or license the use of the property to any sub-lessee, assignee, or licensee, which or who shall use the property for any other use;
19. To perform and observe so far as the same are capable of being performed and observed by the Lessee but no further all the covenants agreements conditions restrictions stipulations and provisions affecting the said premises and under which the same are held AND NOT at any time to do omit or suffer anything whereby the superior title of the land hereby leased may be voided or forfeited;
20. To keep the property free and clear of all liens and, should the Lessee fail to do so, or to have any liens removed from the property within fourteen (14) days of notification to do so by the Lessor, in addition to all other remedies available to the Lessor, the Lessee shall indemnify and hold the Lessor harmless for all costs and expenses, including attorney's fees, occasioned by the Lessor in having said lien removed from the property; and, such costs and expenses shall be billed to the Lessee monthly and shall be payable by the Lessee with that month's regular monthly rental as additional reimbursable expenses to the Lessor by the Lessee;
21. Apply for and secure renewal of lease upon such terms and conditions as shall be agreed upon in writing and signed by the parties at the time of any such extension, provided that such notice shall be no less than 90 days prior to the termination of the lease;
22. To permit the Lessor or her agent or agents after due notice during the two months next before the expiration of the said term to enter upon the said premises and to affix upon any suitable part-thereof a notice-board for re-letting or selling the same and not to remove or obscure nor permit to be removed or obscured the same and to permit all persons by order in writing of the Lessor or her agent or agents to view the said premises at reasonable hours and on notice to the Lessee;
23. On the expiration or sooner determination of the said term to remove its goods and effects and those of all persons claiming under it and to deliver up the said premises peaceably to the Lessor in good order, repair, and condition in all respects (reasonable wear and tear excepted) and with all locks keys and fastenings complete;
24. To pay costs of the Lessee in connection with the preparation and completion of this Lease and a Counterpart thereof together with all stamp duties registration fees and other disbursements.
25. The Lessor to the intent that the obligations hereinafter set out may continue throughout the continuance of the said term covenants and agrees with the Lessee as follows: -
    1. To keep the roofs and all main structural timbers of all buildings forming part of the said premises electrical wiring and electrical apparatus comprised in and forming part of the electrical circuits of the same and the exterior of all such buildings and water supply and the pipes carrying the same situate on and serving the said premises in good and tenantable repair and condition. The liability of the Lessor under this sub-clause shall only extend to repairs and redecorations which may become necessary other than by reason of willful damage occasioned by the Lessee;
    2. To insure and keep insured the buildings forming part of the said premises against loss or damage by fire and other normal comprehensive risks;
    3. In the event of the buildings forming part of the said premises or any part or parts being damaged or destroyed by fire or other normal comprehensive risks and if the policy or policies of insurance effected by the Lessor shall not have been vitiated or payment of the policy money refused in whole or in part in consequence of any act or default of the Lessee to reinstate the same so that they shall be as commodious and convenient in all respects as they were before such damage or destruction at her own expense and with all convenient speed;
    4. To bear pay and discharge all existing and future rates taxes assessments duties impositions and out-goings whatsoever imposed or charged upon the said premises up until the date the Lessee took over possession i.e. **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** 2021.
    5. To permit the Lessee paying the rent hereby reserved and performing and observing the covenants agreements conditions restrictions stipulations and provisions herein contained or implied and on its part to be performed and observed peaceably and quietly to possess and enjoy the said premises during the said term without any interruption from or by the Lessor or any person rightfully claiming from or under it.
26. **PROVIDED ALWAYS AND IT IS HEREBY AGREED AND DECLARED THAT:**
27. If, after the execution of this lease and prior to the expiration of the term hereof, the whole of the Leased premises shall be taken under the power of eminent domain by any public or private authority, or conveyed by Lessor to said authority in lieu of such taking, then this lease and the term hereof shall cease and terminate as of the date when possession of the leased premises shall be taken by the taking authority and any unearned rent or other charges, if any, paid in advance, shall be refunded to Lessee. In the event of any termination of this Lease as the result of the provisions of this article the parties, effective as of such termination, shall be released, each to the other, from all liability and obligations, thereafter arising under this lease.
28. In the event that:
    1. Lessee shall on three or more occasions be in default in the payment of rent or other charges herein required to be paid by Lessee (default herein being defined as payment received by Lessor more than 10 days subsequent to the due date), regardless of whether or not such default has occurred on consecutive or non-consecutive months; or
    2. Lessee has caused a lien to be filed against the Lessor's property and said lien is not removed within thirty (30) days of recordation thereof; or
    3. Lessee shall default in the observance or performance of any of the covenants and agreements required to be performed and observed by Lessee hereunder for a period of thirty (30) days after notice to Lessee in writing of such default (or if such default shall reasonably take more than thirty (30) days to cure, Lessee shall not have commenced the same within the thirty (30) days and diligently prosecuted the same to completion); or
    4. Sixty (60) days have elapsed after the commencement of any proceeding by or against Lessee, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief or any other present or future applicable statute or law, whereby such proceeding shall not have been dismissed (provided, however, that the non-dismissal of any such proceeding shall not be a default hereunder so long as all of Lessee's covenants and obligations hereunder are being performed by or on behalf of Lessee);

then Lessor shall be entitled to its election (unless Lessee shall cure such default prior to such election), to exercise concurrently or successively, any one or more of the following rights:

* 1. Terminate this Lease by giving Lessee notice of termination, in which event this Lease shall expire and terminate on the date specified in such notice of termination, with the same force and effect as though the date so specified were the date herein originally fixed as the termination date of the term of this Lease, and all rights of Lessee under this Lease and in and to the premises shall expire and terminate, and Lessee shall remain liable for all obligations under this Lease arising up to the date of such termination, and Lessee shall surrender the premises to Lessor on the date specified in such notice; or
  2. Terminate this Lease as provided herein and recover from Lessee all damages Lessor may incur by reason of Lessee's default, including, without limitation, a sum which, at the date of such termination, represents the then value of the excess, if any, of (a) the rent, taxes and all other sums which would have been payable hereunder by Lessee for the period commencing with the day following the date of such termination and ending with the date herein before set for the expiration of the full term hereby granted, over (b) the aggregate reasonable rental value of the premises for the same period, all of which excess sum shall be deemed immediately due and payable; or
  3. Without terminating this Lease, and with or without notice to Lessee, Lessor may in its own name but as agent for Lessee enter into and upon and take possession of the premises or any part thereof, and, at Lessor's option, remove persons and property therefrom, and such property, if any, may be removed and stored in a warehouse or elsewhere at the cost of, and for the account of Lessee, all without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby, and Lessor may rent the premises or any portion thereof as the agent of Lessee with or without advertisement, and by private negotiations and for any term upon such terms and conditions as Lessor may deem necessary or desirable in order to re-let the premises. Lessor shall in no way be responsible or liable for any rental concessions or any failure to rent the premises or any part thereof, or for any failure to collect any rent due upon such re-letting. Upon such re-letting, all rentals received by Lessor from such re-letting shall be applied: first, to the payment of any indebtedness (other than any rent due hereunder) from Lessee to Lessor; second, to the payment of any costs and expenses of such re-letting including, without limitation, brokerage fees and attorney's fees and costs of alterations and repairs; third, to the payment of rent and other charges then due and unpaid hereunder; and the residue, if any shall be held by Lessor to the extent of and for application in payment of future rent as the same may become due and payable hereunder. In re-letting the Premises as aforesaid, Lessor may grant rent concessions and Lessee shall not be credited therefor. If such rentals received from such re-letting shall at any time or from time to time be less than sufficient to pay to Lessor the entire sums then due from Lessee hereunder, Lessee shall pay any such deficiency to Lessor. Such deficiency shall, at Lessor's option, be calculated and paid monthly. No such re-letting shall be construed as an election by Lessor to terminate this Lease unless a written notice of such election has been given to Lessee by Lessor. Notwithstanding any such re-letting without termination, Lessor may at any time thereafter elect to terminate this Lease for any such previous default provided same has not been cured; or
  4. Without liability to Lessee or any other party and without constituting a constructive or actual eviction, suspend or discontinue furnishing or rendering to Lessee any property, material, labor, utilities, or other services, whether Lessor is obligated to furnish or render the same, so long as Lessee is in default under this Lease; or
  5. Allow the premises to remain unoccupied and collect rent from Lessee as it comes due; or
  6. Foreclose the security interest described herein, including the immediate taking of possession of all property on or on the premises; or
  7. Pursue such other remedies as are available at law or equity.

1. Lessor's pursuit of any remedy or remedies, including without limitation, any one or more of the remedies stated herein shall not **(a)** constitute an election of remedies or preclude pursuit of any other remedy or remedies provided in this lease or any other remedy or remedies provided by law or in equity, separately or concurrently or in any combination, or **(b)** serve as the basis for any claim of constructive eviction, or allow Lessee to withhold any payments under this Lease.
2. **LESSOR'S SELF HELP:**  If in the performance or observance of any agreement or condition in this Lease contained on its part to be performed or observed and shall not cure such default within thirty (30) days after notice from Lessor specifying the default (or if such default shall reasonably take more than thirty (30) days to cure, and Lessee shall not have commenced the same within the thirty (30) days and diligently prosecuted the same to completion), Lessor may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of Lessee, and any amount paid or contractual liability incurred by Lessor in so doing shall be deemed paid or incurred for the account of Lessee and Lessee agrees to reimburse Lessor therefor and save Lessor harmless therefrom. Provided, however, that Lessor may cure any such default as aforesaid prior to the expiration of said waiting period, without notice to Lessee if any emergency situation exists, or after notice to Lessee, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the leased premises or Lessor's interest therein, or to prevent injury or damage to persons or property. If Lessee shall fail to reimburse Lessor upon demand for any amount paid for the account of Lessee hereunder, said amount shall be added to and become due as a part of the next payment of rent due and shall for all purposes be deemed and treated as rent hereunder.
3. **LESSEE'S SELF HELP:** If Lessor shall default in the performance or observance of any agreement or condition in this Lease contained on its part to be performed or observed, and if Lessor shall not cure such default within thirty (30) days after notice from Lessee specifying the default (or, if such default shall reasonably take more than thirty (30) days to cure, and Lessor shall not have commenced the same within the thirty (30) days and diligently prosecuted the same to completion), Lessee may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of Lessor and any amount paid or any contractual liability incurred by Lessee in so doing shall be deemed paid or incurred for the account of Lessor and Lessor shall reimburse Lessee therefor and save Lessee harmless therefrom. Provided, however, that Lessee may cure any such default as aforesaid prior to the expiration of said waiting period, without notice to Lessor if an emergency situation exists, or after notice to Lessor, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the leased premises or Lessee's interest therein or to prevent injury or damage to persons or property.  If Lessor shall fail to reimburse Lessee upon demand for any amount paid or liability incurred for the account of Lessor hereunder, said amount or liability may be deducted by Lessee from the next or any succeeding payments of rent due hereunder; provided, however, that should said amount or the liability therefor be disputed by Lessor, Lessor may contest its liability or the amount thereof, through arbitration or through a declaratory judgment action and Lessor shall bear the cost of the filing fees therefor.
4. **LEASE EXTENSION:** The parties hereto may elect to extend the lease for five additional successive one-year terms and upon such terms and conditions as may be agreed upon in writing and signed by the parties at the time of any such extension, provided that notice of such renewal is given in writing no less than 90 days prior to the termination date.

With the exception of rent amount which shall be considered and agreed upon on a case-by-case basis all other terms and conditions of this contract shall also apply to the lease of additional spaces, such spaces to be described in writing as an addendum to existing exhibits.

In the event that Lessee or anyone claiming under Lessee shall continue occupancy of the leased premises after the expiration of the term of this lease or any renewal or extension thereof without any agreement in writing between Lessor and Lessee with respect thereto, such occupancy shall not be deemed to extend or renew the term of the lease, but such occupancy shall continue as a tenancy at will, from month to month, upon the covenants, provisions and conditions herein contained. The rental shall be the rental in effect during the term of this lease prorated and payable for the period of such occupancy.

1. **WAIVERS:** Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease, shall be deemed a waiver of a breach of any other provision of this Lease or consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or consent to or approval of any other action on the same or any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate, and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by the said party or not, shall be deemed to be an exclusion of any other; and any two or more or all of such rights and remedies may be exercised at the same time.
2. **DISPUTES:** The parties to the agreement shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between senior executives of the parties, who have the authority to settle the same. If the matter is not resolved by negotiation within 30 days of receipt of a written 'invitation to negotiate', the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (ADR) procedure. If the matter remains unresolved through an ADR procedure within 30 days of the initiation of that procedure, or if any party will not participate in an ADR procedure, the dispute shall be referred for arbitration in accordance with the provisions of the Arbitration Act (1968) or any statutory enactment in that behalf for the time being in force. Nothing in this clause shall be construed as prohibiting any party from applying to a court of law for interim injunctive relief.

It is also agreed as follows:

1. If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other under the provisions hereof, the party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of the said party to institute suit for the recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said party to pay such sum or any part thereof, said party shall be entitled to recover such sum or so much thereof as it was not legally required to pay under the provisions of this Lease;
2. If at any time a dispute shall arise between the parties hereto as to any work to be performed by either of them under the provisions hereof, the party against whom the obligation to perform the work is asserted may perform such work and pay the costs thereof "under protest" and the performance of such work shall in no event be regarded as a voluntary performance and shall survive the right on the part of the said party to institute suit for the recovery of the costs of such work. If it shall be adjudged that there was no legal obligation on the part of the said party to perform the same or any part thereof, said party shall be entitled to recover the costs of such work or the cost of so much thereof as the said party was not legally required to perform under the provisions of this Lease.
3. **LESSEE'S RIGHT TO CURE LESSOR'S DEFAULT:** In the event that Lessor shall fail, refuse or neglect to pay any mortgages, liens, or encumbrances, the judicial sale of which might affect the interest of Lessee hereunder, or shall fail, refuse or neglect to pay any interest due or payable on any such mortgage, lien or encumbrance, Lessee may pay said mortgages, liens or encumbrances, or interest or perform said conditions and charge to Lessor the amount so paid and withhold and deduct from any rents herein reserved such amounts so paid, and any excess over and above the amounts of said rents shall be paid by Lessor to Lessee.
4. **PROPERTY DAMAGE:** It is agreed that:
5. In the event of the buildings forming part of the said premises or any part thereof at any time during the said term being damaged or destroyed by fire or other normal comprehensive risks or being made untenantable for any other reason whatsoever so asto be unfit for habitation and use and if the policy or policies of insurance effected by the Lessor shall not have been vitiated or payment of the policy moneys refused in whole or in part in consequence of any act or default of the Lessee then the rent hereby reserved or a fair proportion thereof according to the nature and extent of the damage sustained shall be suspended until the said buildings shall again be rendered fit for habitation and use and any dispute concerning this sub-clause shall be determined by a single arbitrator in accordance with the Arbitration Act **PROVIDED ALWAYS** that in the event of the said buildings being totally destroyed the Lessee shall be entitled forthwith to determine the Lease hereby created with effect from the date of such happening and the term hereby created shall cease and determine accordingly **PROVIDED THAT** the Lessor will refund to the Lessee such proportionate part of any advance rent which shall then already have been paid by the Lessee to the Lessor.
6. In the event that Lessor or Lessee shall be delayed or hindered in or prevented from the performance of any act other than Lessee's obligation to make payments of rent, additional rent, and other charges required hereunder, by reason of strikes, lockouts, unavailability of materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, the act, failure to act, or default of the other party, war or other reason beyond its control (Force Majeure), then the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay.  Notwithstanding the foregoing, lack of funds shall not be deemed to be a cause beyond the control of either party.
7. **ESTOPPEL CERTIFICATES:** At any time and from time to time, Lessor and Lessee each agree, upon request in writing from the other, to execute, acknowledge and deliver to the other or to any person designated by the other a statement in writing certifying that the lease is unmodified and is in full force and effect, or if there have been modifications, that the same is in full force and effect as modified (stating the modifications), that the other party is not in default in the performance of its covenants hereunder, or if there have been such defaults, specifying the same, and the dates to which the rent and other charges have been paid.
8. **NOTICES:** Any notice under this Lease shall be in writing and any notice to the Lessee shall be sufficiently served if addressed to the Lessee and delivered to the premises or to the office of the Lessee and any notice to the Lessor shall be sufficiently served if sent by registered post to her last known address in Kenya or served on any agent authorized by the Lessor to receive or who has in fact on her behalf collected the rent of the said premises and any notice sent by registered post shall be deemed to have been served within Four days following the day on which it is posted.
9. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of Kenya.
10. **INVALIDITY OF PARTICULAR PROVISION:** If any term or provision of this lease or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this lease shall be valid and be enforced to the fullest extent permitted by law.
11. **CAPTIONS AND DEFINITIONS OF PARTIES:** The captions of the sections of this Lease are for convenience only and are not a part of this lease and do not in any way limit or amplify the terms and provisions of this lease. The word "Lessor" and the pronouns referring thereto, shall mean, where the context so admits or requires, the persons, firm, or corporation named herein as Lessor or the mortgagee in possession at any time, of the land and building comprising the leased premises. If there is more than one Lessor, the covenants of Lessor shall be the joint and several obligations of each of them, and if Lessor is a partnership, the covenants of Lessor shall be the joint and several obligations of each of the partners and the obligations of the firm. Any pronoun shall be read in the singular or plural and in such gender as the context may require. Except as in this lease otherwise provided, the terms and provisions of this lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither any provision contained herein nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Lessor and Lessee.

1. **BROKERAGE:** No party has acted as, by or through a broker in the effectuation of this Agreement, except as set out hereinafter.
2. **ENTIRE AGREEMENT:** This instrument contains the entire agreement between the parties in respect of Lessor and Lessee obligations and no oral statements or representations or prior written matter not contained in this instrument shall have any force and effect.

This Lease shall not be modified in any way except by a writing executed by both parties. Any agreements between the parties on subjects and considerations not contained in this agreement shall be considered, negotiated, and executed separately and, unless expressly stated and executed in writing by both parties shall in no way be considered as an addition, detraction, or amendment to this agreement.

The Lessee hereby accepts this Lease subject to the covenants agreements conditions restrictions stipulations and provisions above set forth or referred to.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written or have caused this Lease to be executed by their respective officers thereunto duly authorized.

**Signed on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** )

)

**THE LESSOR**  )

in the presence of: ) \_\_\_\_\_\_\_\_\_\_\_\_\_

)

) Stamp

**Advocate**  )

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**SIGNED BY LESSEE** )

**)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** ) \_\_\_\_\_\_\_\_\_\_\_\_\_

)

) Stamp

in the presence of: )

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**Advocate** )

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