**Date:** …………..

***Subject to Contract***

**…………………………..**

P.O. Box ……………….

**Nairobi, Kenya.**

Dear Sir/Madam/Sirs

**Re: Proposed Purchase of Apartment Number ……….. Situate on the ………… Floor of the Building known as erected on land comprised in Land Title Number: …………(the “Premises")**

We have the pleasure of offering to sell to you the Premises hereinafter described, subject to execution of a formal contract, on the following main terms and conditions:-

# Vendor

**…………………………..**

P.O. Box ………………….

**Nairobi.**

# Purchaser

**………………………….**

P.O. Box ………………..

**Nairobi.**

# The Land

# All that Property comprised in Title Number: ……………………….containing by measurement …………………… (………………. HA.) of a hectare or thereabouts together with the buildings erected and being thereon.

# The Estate

## The Vendor has erected on the Land a building comprising of ………………. (..) floors of ……………… showrooms and offices and ………….. (…) floors of …………. (…………..) ………. bed roomed apartments together with electric fence, car parking bays, pathways, drive ways, common gardens, CCTV, underground water tank, visitor parking, elevators together also with a rooftop: gym, theatre room, children's play area, hot tub and a BBQ area and other usual conveniences and amenities (hereinafter together called the “Estate”) and the Estate commonly known as ……………………………..

## The construction of the Premises shall be done in accordance with the approved architectural and structural drawings (the “Plans”) and such specifications as have already been shared with the Purchaser before the date hereof.

## The Vendor has agreed to sell and the Purchaser has agreed to purchase off plan ALLTHAT Apartment known as Apartment Number ………., situate on the …….. floor of the building erected on the Land (the “Premises”).

## The sale of the Premises shall be by way of a long lease (the “Lease”) for a term of …………. (…) years (less the last seven (7) days thereof) and the Purchaser shall also subscribe and be issued with one (1) share in the Management Company (the “Manager”) which shall be formed for purposes of managing common areas and offering common services in the Estate.

## The Premises will be sold with vacant possession and free from all encumbrances by way of a sub-lease in favour of the Purchaser on the Completion Date SUBJECT to payment of the full Purchase Price and other applicable charges.

## Within …………….. (…….) days after the sale and registration of the leases of all the apartments in the Estate, the Vendor shall transfer the revisionary interest in the Land to the Manager for a nominal consideration, which shall be shared out on a prorate basis by all the owners of the apartments in the Estate.

# Purchase Price

## The total Purchase Price for the Premises is Kenya Shillings …………. (KShs. …………/-).

## All payments of the Purchase Price shall be made to the Vendor using the following details:-

**Account Name:                ………………………….**

**Account number:             ………………………....**

**Branch name:                  …………………………..**

**Branch code:                   …………………………..**

**Bank name:                      ………………………….**

**Bank code:                       …………………………..**

# Completion Date

# The expected Completion Date of the construction of the development is …………(..) months from the ground breaking ceremony (the “Completion Date”), and the Vendor shall employ all diligence to ensure that the construction of the development is completed by the Completion Date.

# Payment Terms

## The Purchaser shall pay a non-refundable commitment fee of Kenya Shillings ………………. (KShs……………………) (hereinafter the “Commitment Fee”) directly to the Vendor upon execution of this Letter of Offer.

## The Purchaser shall pay a deposit of Kenya Shillings ……………….. (KShs. ……………../-) being ……………….per cent (…%) of the Purchase Price (hereinafter the “Deposit”) directly to the Vendor on or before execution of the Agreement for Sale.

## The balance of the Purchase Price in the sum of Kenya Shillings ……………… (KShs. …………./-) (hereinafter the “Balance”) shall be paid by the Purchaser to the Vendor in ……….. equal monthly instalments of Kenya Shillings ………….. (KShs. …………./-) each with the first instalment becoming due and payable on commencement of construction of the Premises and subsequent instalments shall be paid before the 5th day of each subsequent month until settlement in full.

## Where the Purchaser is being financed for payment of the Balance, the Purchaser shall endeavour to procure the loan approval from his/her/its financier within sixty (60) days from the date of execution of the Agreement for Sale and furnish the Vendor’s Advocates with the same. The Purchaser shall also procure his/her/its financier and the advocates acting for the said financier to furnish the Vendor’s Advocates and the Vendor, respectively with their professional undertaking and bank guarantee (both in the format approved by the Vendor’s Advocates) within thirty (30) days to the Completion Date and payment of the Balance shall be made within fourteen (14) days after registration of the Lease in favour of the Purchaser and the Charge thereof, in favour of the Financier.

## Where the Purchaser is being financed for the payment of only a portion of the Balance, the unfinanced portion thereof shall be payable to the Vendor on or before the Completion Date and before the registration of the Lease in favour of the Purchaser and the Charge in favour of the Purchaser’s financier.

## The Vendor shall be entitled to utilize any monies paid by the Purchaser towards the Purchase Price for purposes of undertaking construction of the Project and obtaining the Completion Documents.

# Legal Fees

The Purchaser shall be responsible for payment of his//its own as well as the Vendor’s legal fees and charges and the stamp duty and registration charges on the Lease as set out in the Agreement for Sale. The legal fees shall be as prescribed under the Advocates Remuneration Order or as agreed between the Purchaser and the Vendor’s Advocates.

# Payment Schedule and conditions

Over and above the Purchase Price and the Vendor’s Advocate’s legal charges, the Purchaser shall be liable to pay the following charges and costs as laid out in the schedule attached to the Agreement for Sale:-

1. Stamp duty on the Lease (estimated at 4% of the Purchase Price) but subject to valuation;
2. Handling charges on the Charge, (if applicable);
3. Registration and valuation expenses on the Lease;
4. Apportioned share of costs for the Management Company formation;
5. Apportioned share of costs for the Transfer of Revisionary Interest;
6. Cost of purchase of one share in the Management Company;
7. Apportioned insurance premium against fire for one year, if applicable;
8. One-year service charge;
9. Deposits for water and electricity accounts,

**AND** such sums due on account of Legal Fees and other stated costs shall be paid to the Vendor’s Advocates upon execution of the Agreement for Sale except the stamp duty on the Lease which shall be payable on completion and upon request by the Vendor’s Advocates. Agreement for Sale

The standard Agreement for Sale will incorporate the terms herein and shall be presented to the Purchaser for execution upon payment of the Second Deposit.

# Registration Formalities

The Vendor’s Advocates shall attend to the due and proper stamping and registration of the Lease for the Property in favour of the Purchaser as well as the Charge documents, where applicable.

# Law Society of Kenya Conditions for Sale

The Law Society of Kenya conditions of Sale (1989) shall be deemed to have been incorporated into the Letter of Offer as well as the Agreement for Sale in so far as they are not inconsistent with the terms hereof/thereof.

# Lease for the Property

On or before the Completion Date, the Purchaser shall execute a standard Lease for the Property prepared by the Vendor’s Advocates and pay to the Vendor’s Advocates the requisite stamp duty and registration charges to enable registration of the Lease in favour of the Purchaser.

# Cancellation Costs and Termination

## After execution of this Letter of Offer and payment of the Deposit BUT before executing the Agreement for Sale, if the Purchaser expresses his/her/its written intentions not to proceed with the transaction, the Vendor shall be entitled to forfeit and retain the Commitment Fee together with ten per cent (10%) of the Purchase Price being the agreed administrative, legal charges and costs incurred by the Vendor in preparation of the Letter of Offer and thereafter, refund the balance of monies received from the Purchaser upon resale of the Premises and receipt of the full Purchase Price. Accordingly, the Vendor shall not be under any obligation to refund the amount from its own resources.

## After execution of the Agreement for Sale, if the Purchaser defaults in the payment of any monthly instalments towards settlement of the Balance for a period of sixty (60) days from its due date of payment, the Vendor shall be entitled to cancel and terminate the Agreement for Sale with seven (7) days prior written notice to the Purchaser and the Vendor shall refund to the Purchaser all payments made to it (less the Commitment Fee and ten per cent (10%) of the Purchase Price being agreed liquidated damages for default and the Vendor’s Advocates legal costs) but no interest shall payable on such payments. It is hereby agreed that such payment shall be paid to the Purchaser by the Vendor as soon as the Premises has been resold and the full Purchase price received (subject to the deduction of damages and legal costs aforesaid).

# Binding Nature of the Offer Letter

## The Purchaser hereby acknowledges that the acceptance of the Offer Letter shall constitute a binding agreement between the parties in accordance with the Laws of Contract Act (Cap.23 of the Laws of Kenya).

## After the issuance of the Letter of Offer, the Premises shall only be reserved for the Purchaser for a period of seven (7) days and the offer shall lapse if the Purchaser does not accept the Offer and pay the deposit of the Purchase Price and deposit of legal fees.

# Advocates of the Vendor

……………. **Advocates**

P.O. Box ………………

**Nairobi.**

# Advocates of the Purchaser(s)

**...………………… Advocates**

P.O. Box ……………………..

**Nairobi.**

# Assignment

The Purchaser shall not assign the Purchaser’s rights and benefits under this Letter of Offer or the Agreement for Sale without the prior written consent of the Vendor which may be granted on such terms and conditions as the Vendor shall deem fit in its sole and absolute discretion. However, the Purchaser may nominate a third party to be the beneficiary to the transaction and such name and other details shall be forwarded to the Vendor’s Advocates for inclusion in the Lease documents and the Vendor’s prior consent in this respect shall be dispensed with.

# Confidentiality

The information contained in this Letter of Offer is strictly confidential and is to be used exclusively by the parties to this Letter of Offer and their Advocates. The Purchaser shall not disclose any information regarding the Purchase Price or any other information that may be regarded as confidential to any other person without the prior written consent of the Vendor.

# Governing Law

This Letter of Offer shall be interpreted and construed in accordance with the Laws of Kenya.

# Acceptance

This offer is valid for seven (7) days from the date of issue. The Purchaser shall signify acceptance of this Letter of Offer by signing and returning this Letter (in duplicate) to the Vendor together with the RTGS Slip evidencing payment of the Deposit and deposit of legal fees within seven (7) days from the date hereof.

In failure thereof, this Offer shall be deemed to have lapsed unless otherwise reconfirmed in writing by the Vendor.

Please countersign a copy of this letter to confirm your acceptance of the terms of this letter and let us have your RTGS Advice Slip confirming transfer of the sum of Kenya Shillings …………….. (KShs…………………….) being the Commitment Fee to **…………….. (Vendor).**

Yours faithfully,

**FOR: ………………….**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Director/ Authorized Signatory( of the Vendor)**

**PURCHASER’S ACCEPTANCE OF OFFER**

**To:-**

**………………………**

P.O. Box 15309-00509

**Nairobi.**

Dear Sirs,

I/We confirm that I/we have read and understood and accept and agree to all the above terms and conditions.

 I/We have enclosed a banker’s cheque(s) or deposit slip for KShs……………./- payable to "**……………………**”being the Commitment Fee for the Premises together with a banker’s cheque(s).

I/We also hereby undertake to execute within Seven (7) days of presentation to me/us the Agreement for Sale prepared in your Standard Form and return the same to your Advocates together with the rest of the deposit monies.

**For individuals**

**SIGNED** by ………………………… )

in the presence of:- )

) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

) ID No:………………………….

**Advocate**  ) PIN No:………………………...

I certify that I was present and saw the above named........................... and being known to me/ identified by ...................................................... freely and voluntarily duly signed this Letter of Offer on this .................day of .............................20….

..........................................................................

**Advocate of the High Court of Kenya**

**OR For companies**

**SEALED** with the Common Seal of )

**………………………. LIMITED** )

)

in the presence of: )

)

Director )   
 )

Director / Secretary )

)

)

Before me:- )

**Certificate of Attestation**

I CERTIFY that the above-named ………………………………………………………… and ………………………………………………………………a Director and Director/ Company Secretary of the Purchaser appeared before me on the .................................. day of ....................................... 20 ......... and being known to me acknowledged the above signatures to be theirs and that they had freely and voluntarily executed this Letter of Offer and understood its contents.

**………………………………………..**

**Advocate of the High Court of Kenya**