**REPLACEMENT LEASE**

**DATED 20…**

**BETWEEN**

**………………………………………**

**(THE “LESSOR”)**

**-AND-**

**………………………………………..**

**(THE “MANAGEMENT COMPANY”)**

**-AND-**

**…………………………………………**

**(THE “LESSEE”)**

**-RELATING TO THE LEASE OVER-**

**APARTMENT NUMBER……………… SITUATE ON THE**

**BUILDING ERECTED ON LAND REFERENCE NUMBER ……………………….**

**(THE “PREMISES”)**

**-AND-**

**SUBSCRIPTION OF ONE (1) ORDINARY SHARE IN THE MANAGEMENT company**

**Drawn By: -**

**CM Advocates LLP**

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**Nairobi.**

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**Form LRA 64 (r. 77(1))**

**REPUBLIC OF KENYA**

**THE LAND REGISTRATION ACT**

**THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017**

|  |  |  |
| --- | --- | --- |
| Date Received | Presentation Book | Official Fees Paid |
| ………………… | No…………………. | KShs……………………………………………… |

**REPLACEMENT LEASE (Long Term)**

**TITLE NUMBER: I.R. No. ……………..……..**

|  |  |
| --- | --- |
| **Date of Lease** | **THIS REPLACEMENT LEASE** is made the ..................... day of  ...................................... Two Thousand and …………………………………. |
| **Lessor** | **Insert Individual/ company name and address**  (hereinafter called the “**Lessor**” which expression shall where the context so admits include his/her personal representatives/ its successors in title and assigns). |
| **Lessees** | **Insert Individual/ company name and address**  (hereinafter called the “**Lessee**” which expression shall where the context so admits include his/her personal representatives/ its successors in title and assigns). |
| **Demised Premises** | Has the meaning ascribed to it in the Second Schedule of this Lease. |
| **Term** | The residue now unexpired of the term of ……………………………………….. |
| **Rent/ Stand Premium** | Annual Rent: a peppercorn (if demanded)  Lease Premium: means the sum of Kenya Shillings ………………………………. |
| **Service Charge** | Such sum as shall be determined by the Management Company. |
| **Management Company** | **…………………….. MANAGEMENT LIMITED,** a limited liability company incorporated in the Republic of Kenya under registration number …………………….. and of care of Post Office Box number ……………….., in the Republic aforesaid (hereinafter called the “**Manager**” which expression shall where the context so admits include its successors in title and assigns |
| **Cadastral Plan of the Demised Premises** | **NOT APPLICABLE** |
| **Sectional Plan(s) of the Demised Premises** | The Plan annexed hereto and registered at the Registry of Documents in Volume **…………** Folio **………..** File **…………** (hereinafter referred to as the “**Plan**”). |

**WHEREAS**: -

1. The Lessor is registered as proprietor as Lessee from the Government of the Republic of Kenya for a term of ………………………………………… from the ,……………………………………..of **ALL THAT** property known as Land Reference Number …………………………………………..more particularly described in Schedule 1 (hereinafter called the “**Land**”).
2. By a Transfer of Lease/ Lease (hereinafter called the “Lease”) registered at the Land Titles Registry at Nairobi on ………………………………………… as No. ………………………. and made between the Lessor of the first part and the Lessee of the second part, the Premises more particularly described in the Second Schedule hereto became vested in the Lessee for the residue of the term expiring on ……………………………… and subject to the rent thereby reserved and to the Lessee’s covenants and conditions therein contained.
3. The Lessor, in pursuance of an Extension of Lease and Change of User, caused the Title over the Land to be surrendered to Government of the Republic of Kenya in exchange for a new Title with the extension of term and new user (now issued) and upon such issue of new Title, the Lessor would execute and issue in favour of the Lessee a Replacement Lease over the Premises (being these presents) for the unexpired residue of the Term as comprised in the Title (less the last ……………… days thereof) and in accordance with and subject to the covenants, conditions contained in the Lease.
4. The Lessor is now registered as proprietor as Lessee from the Government of **ALL THAT** piece of land situate in the …………….. Area of the said Republic containing by measurement ………………………………………………. of a Hectare or thereabouts for a term of …………………………………… from the ……………………………………………… (subject to such charges as are notified by the memorandum written hereon and to the revisable annual rent of Kenya Shillings ………………………………………… (KShs. ……………………………../-) and subject also to the Special Conditions as contained in the Title.
5. The Lessor **HEREBY LEASES** to the Lessee the Premises to be used solely for residential purposes for the Term, subject to the payment of the Lease Premium and the Service Charge and subject to the conditions set out in this Lease.

**NOW THIS LEASE WITNESSES AS FOLLOWS: -**

1. **Definitions and Interpretation** 
   1. **Definitions**

In this Lease (including the recitals and the Schedules hereto), the following expressions shall unless the context otherwise requires have the following meanings: -

* + 1. “**Alienation**” means, whether legally or beneficially, any transfer, assignment or sub-letting of the Premises (or any part thereof) or the granting of a licence over the Premises or any other parting with the possession of the Premises or the creation of a charge (or other security interest) over the Premises and "Alienate" shall be construed accordingly;
    2. “**Business day**” means any day (other than Sunday) on which banking institutions in Kenya are generally open for the conduct of banking business;
    3. **“Common Areas”** means amenities, conveniences and fixtures erected or provided for the common use or enjoyment of all the Lessees or occupiers of the apartments in the Estate including the pedestrian ways, concourses, entrance, halls, landings and circulation areas, staircases, passages, ramps, service roads, visitors’ parking areas, common gardens, forecourts and elevators;
    4. “**Competent Authority**” means any central or county government body or agency having statutory competence to promulgate rules and regulations governing matters and issues contained within this Lease including but not limited to carrying out of any Development or change of user;
    5. “**Development**” has the meaning given to it by the Planning Acts;
    6. “**Insurance Rent”** has the meaning given to it in the Eighth Schedule;
    7. *“***Insurers”** shall have the meaning given to it in the Eighth Schedule;
    8. “**Land**” means all that piece of land more particularly described in the First Schedule;
    9. “**Land Laws**” means together the Land Act (Act No. 6 of 2012), the Land Registration Act (Act No. 3 of 2012) and any subsidiary legislation, rules and regulations promulgated thereunder and any practice directions issued pursuant to the Land Act and the Land Registration Act;
    10. “**Outgoings**” means the government of the Republic of Kenya and relevant County, land rent and rates, respectively and any other property taxes or levies payable or imposed on the Estate or any part thereof by any Competent Authority;
    11. “**Permitted User”** means use of the Premises for residential purposes or any other purpose as the Manager may permit from time to time;
    12. “**Pipes**” means all pipes, sewers, water pipes, drains, mains, ducts, conduits, gutters, wires, cables, channels, flues, aerials, bore hole and tanks pipes and soak ways and other conducting media including any fixing louvers, cowls and other ancillary apparatuses and including all apparatus for the supply of water, electricity, gas, telecommunications, or television signals or for the disposal of foul or surface water;
    13. “**Planning Acts**” means the Physical Planning Act and the subsidiary legislation thereunder or any other planning law, rules or regulations issued or promulgated by any Competent Authority from time to time;
    14. “**Premises**” means **ALL THAT** …………………. (…………………..) bedroom Apartment Number …………………….situate on the Building erected on the Land and marked as ……………………… on the Floor Plan registered at the Registry of Documents at Nairobi in Volume …………………. Folio ………………………. and thereon marked and bordered…. (together with the use of the Car Parking Space marked as on the Plan) (a term hereinbefore defined) and such other amenities and conveniences in the Estate to be enjoyed therewith in accordance with the terms of this Lease;
    15. “**Premises Covenants**” means the covenants set out in Fifth Schedule;
    16. “**Service Charge**” shall have the meaning ascribed to it in the Seventh Schedule;
    17. **Service** **Charge Commencement Date**” means the date when the Service Charge shall start to accrue, being the date when the Lessee was or shall be deemed to have been granted the right to take possession of the Premises whether or not the Lessee will have taken up possession; and
    18. “**Term**” means the residue of the term of ……………… (…………..) years from the ……………………………………. (less the last ………………………. days thereof), and the leasehold interest thereof being extended.
  1. **Interpretation**

In this Lease (including the recitals and Schedules hereto) unless the context otherwise requires:

* + 1. words importing the masculine gender include the feminine gender and neuter and vice versa and words importing the singular include the plural and vice versa;
    2. the terms “**Parties**” or “**Party**” mean the Lessor and/or the Lessees and/or the Manager;
    3. the expression “**Term**” includes any period of holding-over or extension or continuance of the Term whether by statute or common law;
    4. all rights of entry exercisable by the Lessor, any superior lessor or any mortgagee or chargee of any interest of the Lessor or any superior lessor shall extend to include all persons authorized by either of them;
    5. any covenant by the Lessees not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person where the Lessees is or should be aware that such act or thing is being done;
    6. if the Lessees shall consist of two or more parties such expression shall throughout mean and include such two or more parties and each of them and shall so far as the context admits be construed as well in the plural as in the singular and all covenants agreements and undertakings herein expressed or implied shall on the part of the Lessees be joint and several;
    7. references to “**Consent of the Lessor or Manager**” or words to similar effect mean a consent in writing signed by a Director of the Lessor or the Manager for and on behalf of the Lessor or the Manager and "approved" means authorized in writing by a Director of the Lessor or the Manager for and on behalf of the Lessor or the Manager, as the case may be;
    8. the expression “**Lessor**” includes the person for the time being entitled to the reversion immediately expectant on the determination of the Term and the Lessor's successors in title and assigns respectively;
    9. references to “**the last year of the Term**” include the last year of the Term if the Term shall determine otherwise than by effluxion of time and references to “the expiration of the Term” include such other determination of the Term;
    10. any references to a specific statute or law include any statutory extension or modification amendment or re-enactment and any regulations or orders made under such law and any general reference to law includes any subsidiary legislation made thereunder;
    11. references to any clause sub-clause or Schedule or paragraph or Part of the Schedule without further designation shall be construed as a reference to the clause or sub-clause of or Schedule Paragraph or Part of the Schedule of or to this Lease so numbered;
    12. the expression “**person**” includes a natural person, body corporate, state agency, governmental authority or firm;
    13. the clause and schedule headings do not form part of this Lease and shall not be taken into account in its construction or interpretation;
    14. the word “**tax**” shall be construed so as to include any tax levy impost assessment duty or other charge of a similar nature (including without limitation value added tax stamp duty and any penalty or interest payable in connection with any failure to pay or delay in paying any of the same);
    15. references to the expression “**month**” means a calendar month; and
    16. indemnifying any person against any circumstance includes indemnifying and keeping him harmless from all actions claims and proceedings from time to time made against that person and all loss or damage and all payments costs and expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance.

1. **Demise**

In consideration of the payment of the Lease Premium by the Lessee on or before the date hereof (receipt whereof is hereby acknowledged), the Lessor **HEREBY LEASES** to the Lessee the Premises together with the rights and privileges specified in the Third Schedule but excepting and reserving to the Lessor and the lessees and other occupiers of the Estate the rights and privileges specified in the Fourth Schedule to be held by the Lessee for the unexpired residue of the Term subject nevertheless to determination as hereinafter provided and subject also to the Lessee paying the Service Charge and complying with the terms, conditions and stipulations contained in this Lease.

1. **Premises Covenants**

The Lessee **HEREBY COVENANTS** with the Lessor, the Manager and other lessees in the Estate to observe, comply with and perform the Premises Covenants set out in the Fifth Schedule.

1. **Lessor’s and/or the Manager's Covenants**

Subject to the compliance and observance of the terms, conditions, covenants and stipulations on the part of the Lessee contained in this Lease, the Lessor **HEREBY COVENANTS** with the Lessee to observe and perform the obligations on the part of the Lessor and or the Manager set out in the Sixth, Seventh and Eighth Schedules and/or implied in this Lease.

1. **Service Charge and other Payments**
   * 1. The Lessee hereby covenants with the Lessor and/or the Manager that with effect from the Service Charge Commencement Date, they shall faithfully and in a timely manner pay the Service Charge computed in accordance with the provisions of the Seventh Schedule.
     2. Service Charge and any other payments payable by the Lessee under this Lease shall be deemed to be exclusive of any applicable tax including the value added tax and in the event that any competent taxing authority shall require that a tax be imposed on the Service Charge and such other sums the Lessee shall in addition thereof pay amounts equal to the tax so levied or imposed.
     3. The Lessee shall pay the Service Charge and other payment implied or reserved in this Lease in the manner set out in the Fifth Schedule and provided that if the Service Charge and other payments payable by the Lessees under this Lease remain outstanding for more that ………… (..) days the same shall accrue interest at the rate of ………… percent (…………) per annum above the Central Bank Rate (CBR) as may be published by Central Bank of Kenya Limited from time to time until payment in full.
     4. For the avoidance of doubt, any service charge deposit paid by the Lessee shall not be off-set against the Service Charge or other payment reserved in this Lease.
2. **Transfer of the Reversionary Interest**

The Manager has been incorporated for the purpose of managing the Apartments and to acquire the reversionary interest in the Lessor's Title. The Lessee of each Apartment will simultaneously with the execution of this Lease be entitled, as of right, to and to be granted by the Manager One (1) Share in the Share Capital of the Manager and such Membership to remain an inseparable portion of this Lease.

1. **Dispute Resolution**
   1. If and whenever during the Term there is a dispute between the Lessee and the Lessor or there is a breach by the Lessee of any covenant or other term of this Lease or any document expressed to be supplemental to this Lease, or between the Lessee and Lessees of other Premises in relation to this Lease with regard to the interpretation, rights, obligations and/or implementation of any one or more of the provisions herein, the parties to such dispute shall in the first instance attempt to resolve such dispute by amicable negotiation.
   2. Should such amicable negotiations fail to achieve a resolution within ….. (….) days or such time to be agreed, either party may refer the dispute to mediation and such mediation shall take place in accordance with the Nairobi Centre for International Arbitration – Mediation Rules as shall be obtaining at the time of the dispute.
   3. Should such mediation fail to achieve a resolution within …….. (….) days or such other time as may be agreed between the parties, either Party may declare a dispute by written notification to the other, whereupon such dispute shall be referred to arbitration under the following terms:-
      1. such arbitration shall be resolved under provisions of the Kenyan Arbitration Act 1995 (as amended from time to time);
      2. the tribunal shall consist of one arbitrator to be agreed upon between the Parties failing which such arbitrator shall be appointed by the Chairman for the time being of the Law Society of Kenya upon the application of any Party;
      3. the place and seat of arbitration shall be Nairobi and the language of arbitration shall be English;
      4. the award of the arbitration tribunal shall be final and binding upon the Parties to the extent permitted by law and any Party may apply to a court of competent jurisdiction for enforcement of such award. The award of the arbitration tribunal may take the form of an order to pay an amount or to perform or to prohibit certain activities; and
      5. notwithstanding the above provisions of this Clause, a party shall be entitled to seek preliminary injunctive relief or interim or conservatory measures from any court of competent jurisdiction pending the final decision or award of the arbitrator.
2. **Breach by the Lessee**

**PROVIDED ALWAYS AND IT IS HEREBY AGREED** as follows: -

* + 1. If:-
       1. The Lessee fails to pay the Service Charge or any part thereof within …………. (………) days from the due date of payment of the same or fails to pay or discharge any other obligation and liability payable or to be discharged by the Lessees; or
       2. The Lessee breaches or fails to comply with, perform or observe any of the covenants, agreements, conditions and undertakings contained herein (whether such covenant, agreement, condition or undertaking is for the benefit of or in favour of the Lessor or the Manager) and to be complied, performed and observed by the Lessee and which (in the case of a breach capable of remedy) shall not have been remedied within …………. (…….) days of a written request by the Lessor or the Manager to the Lessee in that regard, then and in any of the said cases it shall be lawful for the Lessor or the Manager (without prejudice to any other rights or remedies of the Lessor) at any time thereafter, but subject to obtaining an order from the appropriate court of law or an arbitral award, to re-enter into and upon the Premises or any part thereof in the name of the whole and thereupon the Term shall absolutely determine but without prejudice to any right of action or remedy of the Lessor or the Manager in respect of any antecedent breach of any of the terms, covenants, undertakings and agreements by the Lessee herein contained, provided that in addition to the notices referred to in clause 16 of the Fifth Schedule and before enforcing any such court order or arbitral award, if the Premises have been charged to any lender, then the Lessor or the Manager shall also give notice to the lender or chargee and such lender or the chargee or mortgagee shall be entitled within a period of …….(….) days from the date of such notice to remedy the matters in relation to which the notice has been served.
    2. Without prejudice to anything contained herein, if the Lessee shall make default in paying any sum required to be paid pursuant hereto, such sum shall be recoverable (whether formally demanded or not) using the same procedure as a civil debt or rent arrears.

1. **General** 
   * 1. each and every one of the Lessee' covenants herein contained shall remain in full force both at law and in equity notwithstanding that the Lessor shall have waived or released in any way whatsoever, a similar covenant or similar covenants affecting other lessees of the Estate (other than the Premises);
     2. no provision of this Lease shall be waived or varied by either party hereto except by agreement in writing and unless otherwise agreed between the parties provided that any legal and professional charges in connection with such amendment or variation incurred by the Lessor or the Manager shall be borne by the Lessees;
     3. all notices required under this Lease shall be in writing and shall in the case of notices to the Lessee be sufficiently served if addressed to the Lessees and delivered to the Premises or forwarded to the Lessees by registered post at the address stated herein and in the case of notices to the Lessor or the Manager be sufficiently served if forwarded to the Lessor or the Manager (as the case may be) through any of its directors by hand delivery or by registered post at the address stated herein and so that any notice so posted shall be deemed to have been served within ……. (..) days following the date of posting **PROVIDED THAT** proof is given that the notice was adequately stamped and put into the post and provided further that any party may notify the other parties of a change in address by sending a notice in the manner aforesaid and if at any time the Lessees is comprised of more than one person, it shall be deemed to have been sufficiently served if served upon any of such person;
     4. no failure to exercise and no delay in exercising on the part of any party any right power or privilege hereunder or to insist on the strict performance of the covenants terms conditions and stipulations herein contained shall operate as a waiver thereof nor shall any single or partial exercise of any right power or privilege preclude any other or further exercise thereof or the exercise of any other right power or privilege; and
     5. any rights exercisable by either the Lessor or the Manager hereunder shall be exercisable by the other as if such rights were for the benefit of such other party.
2. **Governing Law**

This Lease shall be governed by and construed in accordance with the laws from time to time of the Republic of Kenya.

1. **Entire Agreement and Representations**

This Lease contains the entire agreement and understanding between the parties and supersedes all prior discussions and agreements concerning the subject matter hereof. The Lessees acknowledge that this Lease has not been entered into in reliance wholly or partly on any statement or representation made by or on behalf of the Lessor and/or the Manager except any such statement or representation that is expressly set out in this Lease and the Agreement for Sale.

**THE FIRST SCHEDULE**

**THE LAND**

**ALL THAT** piece or parcel of land situate in the City of Nairobi containing by measurement ……………………………………………. (………………Ha) of a hectare or thereabouts that is to say property known as Land Reference Number ……………….., being the property comprised in a Certificate of Title registered in the Land Titles Registry at Nairobi as number IR. ………………………… which said piece or parcel of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed to the said Certificate of Title and more particularly on Deed Plan Number …………………… deposited in the Survey Records Office at Nairobi AND IS HELD under a Lease from the government of the Republic of Kenya for the residual term of ………………… (………….) years from the …………………………………….. subject to the payment of an annual revisable rent of Kenya Shillings ……………………………………. (KShs. ………………………………………./-) and subject to the provisions of (i) the Registration of Titles Act (Cap. 281) (now repealed); (ii) the Land Registration Act, No. 3 of 2012; (iii) the Land Act No. 6 of 2012; and (iii) the Special conditions contained in the Lease registered as IR number ………………………….

**THE SECOND SCHEDULE**

**DESCRIPTION OF THE PREMISES**

**ALL THAT** Apartment Number ………….. situate on the building erected on the Land and marked in ……. on the Plan registered at the Registry of Documents in Nairobi in Volume ….. Folio …………. and shall be by way of lease for a term …………… (…………) years from the …………………………….. (less the last ……………… days thereof) (together with the car parking space allocated by the Lessor and marked ………..) on the Plan and includes the paint and other decorative finishes applied to the interior of the external walls of the Premises but not any other part of the external walls and the floor finishes so that the lower limit of the Premises include such finishes but does not extend to anything below them and the ceiling finishes so that the upper limit of the Premises includes such finishes but does not extend to anything above them and the entirety of any non-load-bearing internal walls wholly within the Premises and the inner half severed vertically of the internal non-load-bearing walls dividing the Premises from other parts of the apartments in the Estate and the doors and windows and the door frames and window frames including glass therein and all additions and improvements to the Premises and all fixtures and fittings of every kind which shall from time to time be in or upon the Premises whether originally affixed or fastened to or upon the Premises or otherwise (except any such fittings installed by the Lessees that can be removed from the Premises without defacing the same) and any Pipes within the Premises and which exclusively serve the Premises as more particularly described in this Lease and floor surface only of any balcony or patio co-extension therewith, if any

**THE THIRD SCHEDULE**

**(EASEMENTS RIGHTS AND PRIVILEGES INCLUDED IN THE DEMISE)**

1. Full right and liberty for the Lessee and all persons authorized by the Lessee (in common with all other persons entitled to the like right) to use the Common Areas for the purpose of access to and egress from the Premises and the amenities and facilities on the Land (forming part of the Common Areas) for such usual and ordinary purposes associated with such amenities and facilities but subject always to the terms of this Lease and the regulations promulgated by the Manager from time to time in accordance with the provisions of paragraph 5.10 of the Fifth Schedule.
2. The right to subjacent and lateral support and to shelter and protection from the other parts of the Estate and from the site of roofs thereof.
3. The right (in common with the Lessor and the Manager and all other persons similarly entitled) to the free passage and running of water, soil, air, electricity telegraphic and other services from and to the Premises through and from the Pipes forming part of the Estate.
4. Subject to the prior approval of the Lessor and/ or the Manager, the right for the Lessee with servants, workmen and others at all reasonable times after providing not less than …………….. (………..) hours prior written notice (except in the case of extreme emergency) to enter into and upon other parts of the Estate for the purpose of repairing, cleansing, maintaining or replacing any Pipes which exclusively serve the Premises as aforesaid and laying down new Pipes (if so required) acting carefully and reasonably and causing as little disturbance as possible and making good any damage caused.
5. The right for the Lessee with servants, workmen and others at all reasonable times after providing not less than ……………… (……..) hours prior written notice (except in the case of extreme emergency) to enter into and upon other parts of the building block in the Estate for the purpose of repairing, maintaining, renewing or rebuilding the Premises or any part of the Estate giving subjacent or lateral support shelter or protection to the Premises.
6. The benefit of the restrictions and stipulations contained in the leases of the apartments in the Estate (whether already let or dispose of or to be let or disposed of after the date of this Lease).
7. The right (in common with all other persons entitled to the like right) to dispose of domestic refuse in an appropriate area within the Common Areas nominated by the Manager.
8. The right (in common with all other persons entitled to the like right) to utilize the Common Areas reserved for recreation purposes for such recreational activities which in the opinion of the Manager (which opinion shall be final and conclusive) is not or will not become or cause a nuisance, annoyance, disturbance, inconvenience, injury or damage to the Lessor, the Manager or the Lessees or other occupiers of the Estate, such use to be conditional upon the prior consent of the Manager and subject to such terms and conditions as the Manager may from time to time impose.
9. The right to connect a television set with the cables connected to the Premises for the supply of any conventional or paid-up television or data service providers through aerial or satellite system or systems availed (if any) in the building block in the Estate for the time being or to install on the roof of the Estate comprising the Premises an aerial, satellite or other duly licensed telecommunication equipment on such spaces and on terms and conditions as may be determined by the Manager from time to time and to pay for such usage as directly or invoiced by the Manager or such telecommunication service provider from time to time.
10. The right to use in common with all others entitled to a like right on a first come first served basis any parking spaces intended for visitors by the Manager for the temporary parking of visitors’ private motor vehicles not exceeding three tonnes gross laden weight.
11. The right of the Lessee’ visitors (in common with all other persons entitled to the like right) to park in the visitors’ parking area within the Common Areas nominated by the Manager on such terms and conditions as the Manager may from time to time impose.
12. Subject to obtaining prior consent from the Manager, the right to access any part of the building block in the Estate for purposes limited to installing, maintaining or repairing the equipment referred to in paragraph 9 of this Third Schedule.
13. All the easements, rights and privileges in this Third Schedule are subject to and conditional upon the Lessees paying the Service Charge from time to time in accordance with the terms of this Lease.

**THE FOURTH SCHEDULE**

**(EXCEPTIONS AND RESERVATIONS)**

There are excepted and reserved out of this demise for the benefit of the Lessor, the Manager and Lessees or other occupiers of the other parts of the Estate: -

1. Easements, rights and privileges over, along and through the Premises equivalent, ***mutatis mutandis,*** to those set forth in paragraphs 1, 2, 3, 4, 5 and 6 of the Third Schedule.
2. Right of the Lessor and its surveyor or agents with or without workmen and others at all reasonable times upon giving at least …….. (…..) hours prior written notice (except in cases of emergency) to enter the Premises for the purpose of carrying out its obligations contained in this Lease.
3. The right for the Lessor and the Manager to temporarily construct and erect scaffolding for the purpose of inspecting, repairing, maintaining, renewing, altering or cleaning the Estate (including for the avoidance of doubt, the Premises) causing as little disturbance as possible.
4. The right to subjacent and lateral support and to shelter and protection from the Premises and from the site and roof (if any) thereof.
5. The right to unimpeded access of light, electricity and air to the Common Areas of the Estate.
6. Subject to the provisions of paragraph 4 of this Fourth Schedule, the right to construct on the Land such additional amenities and facilities from time to time, as the Lessor or the Manager may in its reasonable discretion decide for the benefit of the Lessees and other Lessees of the Estate.

**THE FIFTH SCHEDULE**

**Premises Conditions**

1. **Payment of Service Charge**

To pay the Service Charge by bankers' cheque or such other form of payment as the Lessor and/or the Manager may from time to time nominate on the days set out in this Lease, free and clear of any deductions and not to exercise or seek to exercise any right or claim to withhold the Service Charge or any right to claim legal or equitable set-off.

1. **Water Charges**

To promptly pay for the entire water consumption consumed in relation to the Premises based on the check meters installed for each of the Apartments and shall also promptly pay to the Manager the proportionate charges as part of the Service Charge and unless otherwise agreed between the parties with respect to water consumption in relation to the Common Areas and related conservancy, sewerage expenses and borehole costs each Lessee’s portion of these costs shall be one ….. (1/nth) of the entire water consumption, sewerage and borehole costs and expenses in relation to the Estate.

1. **Electricity and Generator Costs**

To promptly pay the charges in respect of electricity usage of the Premises to be based on the check meters installed for each of the Apartments in the Estate and shall also promptly pay to the Manager the proportionate charges as part of the Service Charge and unless otherwise agreed between the parties with respect to electricity consumption in relation to the Common Areas, generator fuel, costs related to the routine maintenance, servicing, repair or replacement of the generator, pool, borehole to be based on 1/nth of the entire costs thereof and as invoiced on the Lessees by the Manager and/or KPLC from time to time.

1. **Repair, Cleanliness and Neatness** 
   1. During the Term, to keep the Premises in good and substantial repair order and condition at all times during the Term and to clean all the exterior surfaces of windows of the Premises at least once every week.
   2. Without prejudice to the generality of paragraph 4.1, as often as may be necessary and at least once in every fifth year of the Term to paint the Premises in a good and workmanlike manner.
   3. Not to carry out any additional developments on the Common Areas except with the prior written consent of the Manager.
   4. Not to display flashing lights in the Premises that can be seen from outside the Premises nor to display any other lighting arrangement that can be seen from outside the Premises if the Manager shall in its absolute discretion consider such lighting to be undesirable and shall give notice to the Lessees to that effect.
   5. Not to hang or permit to be hanged any washed clothes, beddings or other household materials in the front or anywhere else in the Estate except in the designated areas of the Premises.
   6. Not to bring, keep, store, stack or lay out in Common Areas any materials, equipment, plant, bins, crates, cartons, boxes, utensils, suitcases, bottles, toys, furniture, cycles or any receptacle for waste or any other item which in the opinion of the Manager is or might become untidy, unclean, unsightly or in any way detrimental to the Premises or the area generally.
   7. Not to deposit or permit to be deposited any waste, rubbish or refuse on the Common Areas and to ensure that all garbage, waste or refuse is kept or deposited in the appropriate receptacles designated by the Manager.
   8. Not to bring into the Premises or any part thereof any item, material or article which will impose undue stress or strain to the Structure.
   9. To maintain, repair, cleanse, empty, drain, amend and renew all Pipes within and exclusively serving the Premises in a good and workmanlike manner **PROVIDED ALWAYS** that the Lessees shall make good any resulting damage caused to the Premises or any adjoining and adjacent Apartment as a result of such works.
2. **Security**

To ensure that all visitors to the Premises report to security personnel at the entrance of the Estate and provide relevant identification **PROVIDED THAT** that in the interests of the security in the Estate the Manager may reasonably reserve the right of admission into the Estate.

1. **Waste, Alterations and Development** 
   1. Not to make any Development in on or over the Premises or the Common Areas including the terraces outside the Premises without prior consent and on such terms and conditions as the Manager shall impose **PROVIDED THAT** the Manager shall have the right in its sole and absolute discretion to withhold its consent to any alterations or additions to the Premises or the Common Part which in the opinion of the Manager affects the external façade of the Premises (or a part thereof) and **PROVIDED FURTHER THAT** in carrying out any Development the Lessees shall fully comply with requirements of the Planning Acts.
   2. Prior to carrying out any Development, to furnish the Manager with certified true copies of all approved permits issued by the Competent Authority in connection with any Development proposed to be carried out in, on or over the Premises or any Common Areas.
   3. Not to make or create any new window, opening, doorway, path, passage, Pipes or create or allow to subsist any encroachment or easement over, in or over the Premises or the Common Areas or part thereof without the prior written consent of the Manager.
2. **Aerials and Advertisements**

Not without the prior consent of the Manager to erect any pole, mast, wire, satellite dish or other apparatus whatsoever outside the Premises and not to affix to or exhibit outside the Premises or through any window of the Premises nor display anywhere on the exterior of the Premises any placard, sign, notice, fascia board or advertisement.

1. **Statutory Obligations and Joining the Management Company** 
   1. Not to do in or near the Premises any act or thing by reason of which the Lessor or the Manager may under any Law incur or have imposed upon it or become liable to pay any penalty, damages, compensation, costs, charges or expenses and without prejudice to the generality of the above to comply in all respects with the provisions of any Law applicable to the Premises and/or to the user of the Premises.
   2. Following the grant of the leases in respect of all the Apartments in the Estate, to join the Management Company as a shareholder by subscribing and paying for one (1) share in the Management Company and to fully comply with the provisions of the Articles of Association of the applicable Management Company as may be amended or varied from time to time and this Lease.
2. **Lessor's Access to Premises**
   1. To permit the Lessor and/or the Manager with or without workmen and others and with all necessary tools appliances and apparatus to enter the Premises during normal working hours upon giving at least ………. (…..) hours prior written notice (except in cases of emergency) for the purpose of undertaking repairs, alterations, additions, improvements or renewals to the Pipes in, under or over any part of the Premises or preventing or abating the consequences of an emergency and which serve other Apartments in the Estate **PROVIDED ALWAYS THAT** the Service Charge shall not in any way be abated while such repairs, alterations, additions, improvements and renewals or other things as aforesaid are being done provided the said works are finished within a reasonable time nor shall the Lessor or the Manager (as the case may be) be liable to the Lessees for any inconvenience or any loss from any nuisance arising there-from howsoever arising.
   2. If the Premises is likely to remain unoccupied for more than a consecutive period of ….. (….) week, to inform the Manager in advance, and provide the details of a person who may be contacted in case of emergency and to make all appropriate arrangements to ensure that the Lessees’ payment obligations under the Lease continue to be met notwithstanding such absence.
3. **Notice of Repair**

To permit the Lessor or the Manager upon prior appointment during normal working hours to give to the Lessees or the Lessees’ agent a notice specifying any repairs or works that the Lessees has failed to execute in breach of the terms of this Lease and which require immediate remedy **PROVIDED THAT** if the Lessees shall fail to carry out such repairs or works within the time frame indicated in the notice then the Lessor or the Manager (as the case may be) may without prejudice to the Lessor's right of re-entry herein contained thereupon procure such repairs or work to be executed and all costs and expenses incurred (including contractor, legal, surveyor and other professional fees and charges) shall be borne by the Lessees and be payable to him as part of the Service Charge or upon demand.

1. **Alienation of the Premises** 
   1. Not to Alienate the Premises or the Share in the Management Company or any part thereof without prior written consent of the Lessor or the Manager (as the case may), where consent is granted to pay any consent costs including any legal or company secretarial fees and charges as may be imposed by the Manager from time to time **PROVIDED THAT** the Lessor or the Manager shall be entitled to withhold its consent if the Lessees shall at the time of the application for consent be in breach of any of its obligations under this Lease.
   2. Any Alienation of the Premises shall be accompanied by a Transfer of the Share then held by the Lessee in respect of the Premises to the name of the assignee to the intent that the Lessees of the Premises shall always be the registered owner of the Shares in the Management Company and shall not be permitted to assign the Premises without simultaneously transferring the Shares in the Management Company to the assignee.
   3. Upon devolution or transmission of the ownership of the Premises under any Law, to procure that the new owner of the Premises complies with the conditions of this Lease.
2. **User and Car Parking Restrictions and Nuisance**
   1. Not to use the Premises for any other purpose other than the Permitted User.
   2. Not to do nor allow to remain upon the Premises anything, which may, in the opinion of the Lessor or the Manager (which opinion shall be final and conclusive), become or cause a nuisance, annoyance, disturbance, inconvenience, injury or damage to the Lessor, the Manager or the Lessees or visitors or other occupiers of other Apartments in the Estate.
   3. Not to discharge or permit to be discharged into the Common Areas or the Pipes any oil or grease or any deleterious, objectionable, dangerous, poisonous or explosive matter or substance and to take all reasonable measures to ensure that any effluent discharged into the Pipes will not be corrosive or otherwise harmful to the Pipes or cause an obstruction or deposits in them.
   4. Not to bring or keep on the Premises or on any part of the Estate any animal, fish, reptile, amphibian, bird or other pet without the prior written consent of the Manager and which consent if granted may be revoked for violation of the set conditions or varied at the discretion of the Manager.
   5. To perform and observe all covenants, agreements, conditions, restrictions, stipulations and provisions contained in the title in respect of the Land and not at any time to do or permit or suffer to be done anything whereby the title to the Land may be avoided or forfeited and at all times to keep indemnified the Lessor and or the Manager and their estates and effects from and against all actions, proceedings, costs, damages, claims and liabilities incurred by them (or either of them) for or in respect of any breach which may be committed by the Lessees during the Term of any of the said covenants, agreements, conditions, restrictions, stipulations and provisions.
   6. Not to use or permit or suffer the Premises to be used for any illegal immoral or improper purpose and in particular not to commit on the Premises or within the Estate any offence under the provisions of The Narcotic Drugs and Psychotropic Substances (Control) Act.
3. **Car Parking**
   1. Not to abandon any wheeled vehicle or any other thing or to allow the deterioration of any vehicle on any part of the Common Areas or Car Parking Spaces and in the event of any breach of this covenant it shall be lawful for the Lessor without prejudice to its rights hereunder to arrange for the removal of such abandoned vehicle and to recover from the Lessees the costs thereby incurred.
   2. Not to carry out any repairs or maintenance (including without limitation, changing oil) to vehicles on any part of the Common Areas or the Car Parking Spaces, unless in cases of emergency.
   3. To ensure that the visitor’s Car Parking Spaces are only used by short term guests who should only park their vehicles for a maximum of Twelve (12) consecutive hours and if there would be any contravention of this requirement, to seek further clearance from the Manager.
   4. Not to allow any trailer caravan of boat or other similar chattel to be brought on to the Car Parking Spaces or the Common Areas.
   5. Not to allow any private motor vehicle exceeding three (3) tones in gross laden weight to be parked at the Car Parking Spaces or any part of the Common Areas.
   6. To comply with and procure compliance of all Lessees’ visitors or agents of the regulations issued by the Manager from time to time in relation to the use of the Premises, Car Parking Spaces, Visitor Car Parking Space and the Common Areas.
   7. Not to allow minors to loiter in the Car Parking Spaces in the fore court in the Estate.
4. **Indemnity**

To hold and keep the Lessor and or the Manager fully and effectively indemnified against all damages, losses, costs, expenses, actions, demands, proceedings, claims and liabilities made against or suffered or incurred by the Lessor or the Manager arising directly or indirectly out of any act, omission or negligence of the Lessees or any person at the Premises expressly or impliedly with the Lessees’ authority or any breach or non-observance by the Lessees or such person of the covenants, conditions or other provisions of this Lease or any of the matters to which this Lease is subject.

1. **Notices**
   1. Forthwith after service upon the Lessees of any notice affecting the Premises by any person (other than the Lessor or the Manager) to deliver a true copy thereof to the Lessor or Manager as the case may be and if so required by the Lessor or the Manager to join with the Lessor or the Manager and if required by the Lessor or the Manager or other Lessees of other parts of the Estate such other Lessees in making such representations to any such person concerning any proposals affecting the Premises and/or the Estate as the Lessor or the Manager (and if applicable such other Lessees) may consider desirable and to join with the Lessor or the Manager and such other Lessees in any appeal against any order or direction affecting the Premises and/or the Estate as the Lessor or the Manager (and if applicable such other Lessees) may consider desirable and subject as aforesaid to comply with such notice.
   2. To give notice to the Lessor and the Manager of any structural defect in the Premises which might give rise to an obligation on the Lessor and/or the Manager to do or refrain from doing any act or thing in order to comply with the provisions of this Lease or a duty of care being imposed on the Lessor and/or the Manager in pursuance of the provisions of any Law.
2. **Rights of the Manager and Lessor**

To permit the Lessor and/ or the Manager at all times during the Term to exercise or enjoy without interruption or interference any of the rights granted to it by virtue of the provisions of this Lease.

1. **Service Charge and Insurance Rent**

To comply with the Lessees’ duties and obligations contained in the Seventh and Eighth Schedules.

1. **Costs**
   1. To pay all stamp duty, registration fees and other applicable disbursements in connection with the creation granting and registration of the Lease.
   2. To promptly pay for all costs (including stamp duties and legal costs) in connection with any renewal of this Lease or title for the Land however arising, and as may be determined by the Manager from time to time.

**THE SIXTH SCHEDULE**

**Covenants on the Part of the Lessor and the Manager**

The Lessor and Manager covenants with the Lessees as follows: -

1. **Quiet Possession**

Provided that the Lessees shall pay the Service Charge and other payments reserved or implied in this Lease and complies with and observes the Lessees’ covenants, conditions and agreements set out in this Lease, to grant the Lessees, throughout the Term, peaceably and quietly possession and enjoyment of the Premises free from any interruptions or disturbance from or by the Lessor and or the Manager or any person or persons rightfully claiming under any of them and to perform the Services as set out in Schedule Seven and insure the Estate as provided for in Schedule Eighth and to perform their respective obligations on the part of the Lessor and/or the Manager contained in this Lease.

1. **Performance of Services**
   1. Subject to the payment by the Lessees of the Service Charge (and the advance payments relating thereto) to procure the performance of the Services set out in the Seventh Schedule by the Manager **PROVIDED ALWAYS** that with regard to such matters if through any cause outside the control of the Manager it shall prove impossible or impracticable to continue to provide the said Services and perform the said obligations either temporarily or permanently the Manager shall be under no liability to the Lessees for any such discontinuance and **PROVIDED FURTHER** that the Manager may have regard to the wishes of a majority of the occupiers of the Units and discontinue any services or provide additional services and any such additional services shall be deemed to form part of those referred to in the Third Schedule.
   2. The Lessor and/or Manager to keep in good and tenantable repair and condition:-
      1. The Structure and the Pipes (but not the interior faces of such parts of the internal walls of the Premises); and
      2. The Common Areas.
2. **Other Units**

That every lease of all the Apartments hereinbefore and hereafter granted by the Lessor contains or shall contain similar covenants and the restrictions as are herein contained and on the Lessees’ part to be observed and performed.

1. **Repairs to Property**

To carry out any repairs, at the cost of the Lessees, to the interior of the Apartment or to fixtures therein which may become necessary at any time during the Term by reason of structural defects or by reason of any breach or non-performance of the obligation of the Lessor under this Clause.

1. **Compliance with insurance obligations**

To comply with the insurance obligations contained in the Eighth Schedule.

1. **Payment of rates and taxes**

Subject to Clause 2.1 herein, in particular the Lessees making payment of the required Service Charge, the Lessor shall procure that the Manager shall, on behalf of the owners of the apartments in the Estate and subject to the like obligation of each of the owners of the other apartments, pay all rates, taxes, charges and outgoings whatsoever which now are or hereinafter may become payable in respect of the Estate and any part thereof.

1. **Indemnity**

The Lessor and or the Manager shall perform and observe the covenants and conditions contained in the title under which the Land is held **AND** shall indemnify the Lessees from and against all actions, proceedings, costs, damages, claims and demands in respect thereof except those arising from the default of the Lessees or the servants or licensees or invitees or other Lessees.

**THE SEVENTH SCHEDULE**

**Service Charge and Payment**

1. **Definitions**
   1. For the purposes of this Lease the terms defined in this paragraph 1 shall unless the context otherwise requires have the following meanings: -
      1. “**Accountant**” means any chartered accountant or firm of accountants of good repute and professional standing appointed by the Lessor or the Manager from time to time to perform any of the accounting or book keeping functions in relation to the Service Charge.
      2. “**Computing Date**” means the last day of each month or such other date as the Manager may from time to time nominate and “Computing Dates” shall be construed accordingly;
      3. “**Periodical Expenditure**” means all costs, staff remuneration, professional fees, insurance premium, penalties, and the Outgoings any other charges or levies together applicable taxes however arising incurred by the Manager in the provision of the Services or performance of its obligations under this Lease (unless otherwise attributable to any individual Lessees or to the Lessor or the Manager or recoverable from insurer of the Premises or the Estate) during a Service Charge Period;
      4. “**Services**” mean the services, facilities and amenities to be provided by the Lessor or the Manager for the Lessees of the occupiers of the Estate as provided for or implied in this Lease and for purposes of clarity specified in Part Three of this Seventh Schedule;
      5. “**Service Charge**” a sum computed by multiplying the Periodic Expenditure by the Service Charge Share as invoiced by the Lessor or the Manager to the Lessees or occupier of the Premises from time to time on reimbursement basis;
      6. “**Service Charge Period**” means the period from the Service Charge Commencement Date up to and including the first Computing Date and subsequently the period between two consecutive Computing Dates or such other periods as the Manager may in its sole discretion determine and “Financial Periods” shall be construed accordingly; and
      7. “**Service** **Charge Share**” means 1/nth of the Periodic Expenditure.
2. **Performance of the Services and Payment of the Service Charge**
   1. Subject to the Lessees paying to the Lessor or the Manager the Service Charge and all other amounts required to be paid by the Lessees under this Lease with effect from the Service Charge Commencement Date and otherwise complying with the terms, conditions, covenants and stipulations of this Lease the Manager shall provide the Services throughout the Term **PROVIDED THAT** the Lessor or the Manager shall not be liable to the Lessees nor shall the Lessees have any claim against the Lessor or the Manager in respect of:-
      1. any failure or interruption in any of the Services by reason of necessary repair, replacement, alteration or maintenance of any equipment or apparatus or damage, defect, breakdown or destruction thereof or other inclement conditions or shortage of fuel, materials, water or labour, any causes beyond the Lessor’s or the Manager’s control or other circumstances amounting to force majeure or Acts of God **PROVIDED AND TO THE EXTENT THAT** any such failure or interruption could not have been prevented or shortened by the exercise of proper care, attention, diligence and skill by the Lessor or the Manager; or
      2. any act, omission or negligence of any porter, attendant or other person employed or hired, or retained by the Lessor or the Manager to provide or offer any of the Services **PROVIDED THAT** this paragraph 2.1.2 shall not be construed as relieving the Lessor or the Manager from liability for breach by Lessor or the Manager of any covenants on the part of the Lessor or the Manager contained in this Lease.
   2. The Manager may withhold, add to, extend, vary or make any alteration in the type of the Services rendered or any of them from time to time **PROVIDED THAT** the same complies with the principles of good estate management as determined by the Manager in consultation with majority of the members of the Manager.
   3. For the avoidance of doubt, if the Lessees does not pay the Service Charge and other payment reserved in this Lease to the Lessor or the Manager in accordance and in the manner set out in this Lease without prejudice to any other remedy opened to Lessor or the Manager, it shall be lawful for the Lessor or the Manager to withhold the provision of all or any of the Services to the defaulter.
3. **The Services**

The Service to be provided for by the Lessor and/or the Manager shall include: -

* 1. Insuring the Estate in accordance with the provisions of the Eighth Schedule;
  2. Cleaning, treating, polishing and maintaining the Common Areas and keeping the same cultivated and in good and substantial repair (as the case may be) and replacing or rebuilding or renovating any part thereof as the Lessor or the Manager shall deem fit from time to time.
  3. Painting the external Part of the Estate including the apartments with at least two (2) coats of good quality paint and in a proper and workmanlike manner as shall be deemed appropriate by the Manager from time to time;
  4. Maintaining, replacing and repair of any fire alarms, fire prevention and firefighting equipment and ancillary apparatus (if any) in the Estate;
  5. Providing lighting and electricity services in the Estate and the Common Areas as well as fuel for running generator during power outages and servicing, repairing or replacing the generator provided that the charges thereof shall be computed as stated in Fifth Schedule;
  6. Maintaining, replacing, servicing or repair of any Pipes, fixtures, plants and equipment including lifts, swimming pool, water tanks and pumps, generators and electrical circuits and boilers, heaters and items relating to mechanical ventilation, electricity, water, heating or cooling);
  7. Supplying water in the Estate including water pumps and tanks as well as sewerage services;
  8. Decorating and beautifying the Common Areas and keeping the common gardens well kempt and maintained as may be deemed appropriate by the Manager from time to time;
  9. Providing or procuring refuse or waste collecting and disposal services to the Lessees or the Occupiers of the Estate;
  10. Providing security services in the Estate on a twenty-four (24) hour basis as shall be deemed appropriate by the Manager from time to time;
  11. Paying any due Outgoings, water and electricity and other charges in relation to the Land, Common Areas or any part of the Estate;
  12. The cost to the Manager of taking all steps deemed desirable or expedient by the Manager for complying with, making representations against or otherwise contesting the incidence of the provisions of any Law or notice concerning town planning, public health, highways, streets, drainage or other matters relating to or alleged to relate to the apartments or any part of it for which any Lessees or other occupier of any part of the Estate is not directly and exclusively liable;
  13. The cost to the Manager of abating a nuisance in respect of the Estate or any part of it in so far as the same is not the liability of any individual Lessees or other occupier of the Estate;
  14. The cost (including all legal and other professional costs) to the Manager of enforcing or attempting to enforce any covenants against any Lessees (including the Lessees);
  15. All costs and disbursements (including legal fees) to the Manager incurred in obtaining a renewal of the leasehold title under which the Land is held;
  16. The cost to the Manager of hiring or retaining the services of the Accountant, gardeners, clerks, watchmen and other staff required for the property performance of the Services and on such terms and conditions as the Lessor or the Manager shall deem fit and in the best interest of the Lessees and occupiers of the Estate; and
  17. The reasonable costs and expenses incurred by the directors of the Lessor or the Manager in the course of the performance of the Service or making reimbursement of costs incurred by any person whom the Lessor or the Manager may delegate the provision of all or any of the Services.

**THE EIGHTH SCHEDULE**

**INSURANCE**

1. **Definitions**

In this Schedule:

* 1. “**Reinstatement Cost**” means an amount sufficient to cover the full cost of rebuilding and reinstating the Estate as new in the event of its total destruction including architects’, surveyors’ and other professional fees payable upon any applications for the Permissions, the cost of debris removal, demolition, site clearance, any works that may be required by Law and incidental expenses;
  2. “**Insurance Premium**” means the sums which the Manager shall from time to time pay by way of premium for insuring the Premises and the Estate in accordance with its obligations contained in this Lease and for insuring in such amount and on such terms as the Manager shall determine against all liability of the Manager to third parties under the Occupiers Liability Act (Cap.34) or under the general law arising out of or in connection with any matter including or relating to the Estate or any part thereof;
  3. “**Insurance Rent**” means the Service Charge Share of the Insurance Premium and all or any proportionate increased premium payable by any act, special use, special risk or omission of the Lessees in relation to the Premises;
  4. “**Insured Risks**” means fire lightning explosion aircraft collision (including articles dropped from aircraft) riot civil commotion malicious damage earthquake storm tempest flood theft glass falling trees and aerials subsidence heave land slip accidental damage including accidental damage to underground services public liability bursting and overflowing of water pipes tanks and other apparatus and impact by road vehicles (to the extent insurance is available against such risks) and such other risks as the Lessees and the Manager may from time to time in its absolute discretion think fit to insure the Premises and the Estate against, respectively;
  5. “**Insurers**” means such reputable insurance company chosen from time to time by the Manager to insure the Insured Risks;
  6. “**Joint Account**” means an account in the joint names of the Manager and the Lessees at such bank as the Manager may designate and “**Account**” shall mean an account in the sole name of the Manager at such bank as the Manager may designate;
  7. “**Permissions**” means all planning permissions and other permits and consents that may be required under the Planning Acts or other Statutes to enable the Estate or part thereof lawfully to be rebuilt and reinstated in the event of any destruction; and
  8. “**Premises Reinstatement Cost**” means an amount sufficient to cover the full cost of rebuilding and reinstating the Premises (but not including any additions made by the Lessees after the date hereof or any fixtures and fittings brought on or into the Premises by the Lessees) as new in the event of its total destruction including architects’, surveyors’ and other professional fees payable upon any applications for the Permissions, the cost of debris removal, demolition, site clearance, any works that may be required by Law and incidental expenses.

1. **The Manager to Insure**

Subject to the Lessees faithfully paying the Insurance Rent as part of the Service Charge to the Manager in the manner set out in this Lease, the Manager covenants with the Lessees.

* 1. To insure and keep insured the Estate including the Premises against any damage or destruction by the Insured Risks in an amount equal to the Estate Reinstatement Cost and to notify the Lessees of any material change in the risks covered by the policy from time to time.
  2. To pay all premia necessary for the purpose of effecting the insurance of the Estate and the Premises and furnish copies of the relevant cover or policy of insurance to the Lessees or any person claiming under him upon demand in writing.

1. **Payment of Insurance Premia**

The Lessees shall faithfully pay to the Lessor and/or the Manager the Insurance Rent upon invoicing by the Manager together with the other component of the Service Charge.

1. **Lessees’ Insurance Covenants**

The Lessees covenant with the Manager and/or the Lessor: -

* 1. to comply with all the requirements and recommendations of the Insurers;
  2. not to do or omit anything that could cause any policy of insurance in relation to the Premises or any part of the Estate to become void or voidable wholly or in part nor (unless the Lessees shall have previously notified the Manager and have agreed to pay the increased premium) anything by which additional premiums may become payable;
  3. not to store or bring onto the Estate any articles or substance of a specially combustible, inflammable or explosive nature and to comply with the requirements and recommendations of the fire authority and the requirements of the Manager as to fire precautions relating to Premises;
  4. not to obstruct the access to any fire equipment or the means of escape from the Estate nor to lock any fire door while the Premises or any part of the Building is occupied;
  5. to give notice to the Manager immediately upon the happening of any event which might affect any insurance policy on or relating to the Premises or the Estate or upon the happening of any event against which the Manager may have insured under this Lease;
  6. that if at any time the Lessees shall be entitled to the benefit of any insurance on the Premises (which is not effected or maintained in pursuance of any obligations contained in this Lease) to apply all money received by virtue of such insurance in making good the loss or damage in respect of which such money shall have been received;
  7. if and whenever during the Term, the Estate or any part of it is damaged or destroyed by an Insured Risk and the insurance money under the policy of insurance effected by the Manager pursuant to its obligations contained in this Lease is by reason of any act or default of the Lessees or anyone at the Premises expressly or by implication with the Lessees’ authority wholly or partially irrecoverable immediately in every such case (at the option of the Manager) either: -
     1. to rebuild and reinstate at its own expense that part of the Estate destroyed or damaged to the reasonable satisfaction and under the supervision of the Manager, the Lessees being allowed towards the amount (if any) actually received in respect of such destruction or damage under any such insurance policy upon such rebuilding and reinstatement being completed; or
     2. to pay to the Manager on demand with interest calculated as provided in paragraph 18 of the Fifth Schedule the amount of such insurance money so irrecoverable in which event the provisions of paragraphs 5 and 6 shall apply; and
  8. not to insure the Premises or other parts comprising the Estate against such of the risks as the Manager shall be liable to insure.

1. **Reinstatement**

Subject to paragraph 4.7, if and wherever during the Term the Premises or the Estate (or any part thereof) is damaged or destroyed by the Insured Risks or any of them then (subject to the following provisions of this paragraph 5);

* 1. all money received under any policy of insurance effected in accordance with paragraph 2.1 shall be placed in the Joint Account and shall subsequently be released to the Manager from the Joint Account by installments against architect’s certificates (or other evidence acceptable to the parties of expenditure actually incurred by the Manager in rebuilding and reinstating the Premises) also taking into account that such Architects and any other contractors shall be appointed by majority of votes by the Shareholders of the Manager;
  2. the Manager shall with all convenient speed take such steps as may be requisite and proper to obtain the Permissions and as soon as they have been obtained shall rebuild and reinstate the Premises in accordance with the Permissions making up out of the Lessees’ own money (which the Lessees shall be obliged to pay) any difference between the cost of rebuilding and reinstatement and the money received as referred to above;
  3. all money received under any policy of insurance effected in accordance with paragraph 2.2 shall be placed in the Account and shall subsequently be utilized by the Manager in rebuilding and reinstating the Estate; and
  4. the Manager shall with all convenient speed take such steps as may be requisite and proper to obtain the Permissions and as soon as they have been obtained shall rebuild and reinstate the Estate or any part thereof in accordance with the Permissions.

1. **Supervening Events** 
   1. For the purposes of this Eighth Schedule the expression “Supervening Events” means each and any of the following circumstances:-
      1. the Lessees or the Manager (as the case may be) has failed despite using all reasonable endeavours to obtain the Permissions;
      2. any of the Permissions have been granted subject to a lawful condition with which it would be impossible for or in all the circumstances it would be unreasonable to expect the Lessees or the Manager (as the case may be) to comply;
      3. some defect or deficiency in the site upon which the rebuilding or reinstatement is to take place would render the same impossible;
      4. the Lessees or the Manager (as the case may be) is unable to obtain access to the site for the purposes of rebuilding or reinstating;
      5. the rebuilding or reinstating is prevented by war, act of God, Government, action, strike, lock-out; or
      6. any other circumstances beyond the control of the Lessees or the Manager (as the case may be).
   2. The Lessor or the Manager shall not be liable to rebuild or reinstate the Premises or the relevant part of the Estate if and for so long as such rebuilding or reinstatement is prevented by Supervening Events.
2. **Option to Determine**

If upon the expiry of a period of ……(….) year commencing as from the date of the damage or destruction rebuilding or reinstatement shall not have been commenced either the Lessees or the Manager (as the case may be) may by notice served on the other at any time within twelve (12) months thereafter invoke the provisions of paragraph 8 but only: -

* 1. where the commencement of such rebuilding or reinstatement has been prevented by Supervening Events;
  2. where the Supervening Events still subsist; and
  3. where the Lessees or the Manager has used all reasonable efforts to remove the Supervening Events.

1. **Termination**

Upon service of a notice in accordance with paragraph 7, the Term shall absolutely cease but without prejudice to any rights or remedies that may have accrued to the Manager and/or the Lessor against the Lessees or to the Lessees against the Manager and/or the Lessor.

1. **Insurance Money**

All (if any) money standing to the credit of the Joint Account: -

* 1. after the Premises has been rebuilt and reinstated in accordance with paragraph 5.1; or
  2. on the date of expiry of the Term (whether pursuant to paragraph 8 or by effluxion of time or otherwise) shall immediately be released to the Lessees from the Joint Account and shall belong to the Lessees absolutely.

**IN WITNESS WHEREOF** this Lease has been duly executed by the parties hereto as of the day and year first hereinbefore written.

**EXECUTION**

**If the Lessor/Lessee is an Individual**

**SIGNED** by the Lessor, the said )

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**…………………………….** )

)

)

)

) PP/ID No. ……………………..

) PIN No. ……………………………

) Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Advocate/Notary Public** )

|  |
| --- |
| **Certificate of Verification under Section 45 of the Land Registration Act** |
| I **CERTIFY** that the above-named **…………………………………..** appeared before me on the ……………...day of ………………………20……. and being known to me/being identified by……………………...of ……………………. acknowledge the above signatures or mark to be his/her and that he/she had freely and voluntarily executed this instrument and understood its contents.  ………………………………………………………………  ***Advocate of the High Court of Kenya/Notary Public*** |

**If the Lessor/Lessee is a Company**

SEALED with the Common Seal of the Lessor/Lessee )

**………………............................................** )

in the presence of:- )

Director )

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)

Name: **…………………………………** )

ID/Passport No: **……………… ……** )

PIN No: **………………………………** )

Signature: ..................................... )

)

Director/Secretary )

Name: **………………………..** )

Coloured

Photograph

ID/Passport No: **………………..** )

PIN No: **…………………..** )

Signature: ...................................... )

|  |
| --- |
| **Certificate of Verification under Section 45 of the Land Registration Act** |
| I **CERTIFY** that **………………………………** and **……………………….** being the persons witnessing the affixing of the Common Seal of the Lessor/Lessee appeared before me on .................................................... and being known to me/being identified by \*.................................................... of .............................................. acknowledged the above signatures or marks to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.  ………………………………………………………………  ***Advocate of the High Court of Kenya/ Notary Public*** |

SEALED with the Common Seal of the )

**Management Company** )

**……………………………………………………** )

in the presence of:- )

)

Director )

)

Coloured

Photograph

Name: **……………………………….**  )

ID/Passport No: **…………….. …….** )

PIN No: **…………………………….** )

Signature: ...................................... )

Director/Secretary )

Name: **………………………….** )

Coloured

Photograph

ID/Passport No: **……………….** )

PIN No: **……………………..** )

Signature: ...................................... )

|  |
| --- |
| **Certificate of Verification under Section 45 of the Land Registration Act** |
| I **CERTIFY** that **……………………………..** and **…………………………….** being the persons witnessing the affixing of the Common Seal of the Management Company appeared before me on .................................................... and being known to me/being identified by \*.................................................... of .............................................. acknowledged the above signatures or marks to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.  ………………………………………………………………  ***Advocate of the High Court of Kenya/ Notary Public*** |

**MEMORANDUM**

1. The Land Act, No. 6 of 2012.
2. The Land Registration Act, No 3 of 2012.
3. The Registration of Titles Act (Chapter 281 Laws of Kenya) (Now repealed).
4. The Special Conditions contained in the Certificate of Title registered as Number I.R. ……….
5. The provisions in the Lease registered as I.R Number …………………………

REGISTERED this .................................. day of …………….......…….…. 20......

Seal. ....................................................

LAND REGISTRAR

Name: ....................................... Registrar's Stamp / No …………………...

Signature: ……………………………………

**Drawn By:-**

**CM Advocates LLP**

I & M Bank House, 7th Floor,

2nd Ngong Avenue

P.O. Box 22588-00505

**Nairobi.**