**THE REPUBLIC OF UGANDA**

**D E B E N T U R E**

***ISSUED B Y***

**<<Name of the Borrower>>**

***IN FAVOUR OF***

**<<Name of the Bank>>**

**THE REPUBLIC OF UGANDA**

**THE COMPANIES ACT 2012**

**FIXED AND FLOATING DEBENTURE**

***Issued By***

**<<Name of Borrower>>**

***In favor of***

**<<Name of the Bank>>**

**DEBENTURE**

1. **THE DEBENTURE**

This debenture is issued the **<<Date>>**, by **<<Name of the Borrower/Company>> (“the Company”)** whose postal address is **<<Address>>** to **<<Name of the Bank>>** (hereinafter referred to as “**the Bank”)** of **<<Address>>** and which expression shall where the context so admits include its successors in title.

**WHEREAS**

1. The Company has applied for **a Demand ……….. Facility of UGX<<Amount in figures>> <<Amount in words>>** and executed a Facility Agreement dated **<<Starting Date>>** for a period ending **<<Ending Date>>**
2. The Company in addition to all other contractual documents relevant thereto, and by way of security for the repayment, with costs, charges, expenses and commission thereon, of the amount of all principal moneys advanced by the Bank to the Company hereby issues this debenture in favour of the Bank for the total sum of **UGX. <<Amount in figures>> <<Amount in words>>** which principal moneys plus interest thereon are hereinafter referred to as the **“the Loan”**).
3. **COVENANT TO PAY**
   1. Subject to the provisions for immediate repayment set out in the Loan Agreement and clause 7 herein, the Company hereby covenants on demand, to repay all the Loan sums advanced to it by the Bank and discharge all obligations and liabilities, whether actual or contingent, now or hereafter owing under the Loan Agreement, including all liabilities in connection with foreign exchange transactions, accepting, endorsing or discounting any notes or bills or under bonds guarantees indemnities documentary or other credits, or any other instruments entered into by the Bank from time to time, for or at the request of the Company together with interest to the date of payment at such rates and upon such terms as may from time to time be agreed and all commissions, fees, charges and all legal and other expenses incurred by the Bank in relation to the Company or the property hereby charged on a full indemnity basis.
   2. The Bank shall cease to be under any further commitment to the Company and all moneys, obligations and liabilities hereby secured shall immediately become due and payable on demand and the Company shall provide cash cover on demand, for all contingent liabilities of the Company to the Bank and for all notes or bills accepted endorsed or discounted and all bonds, guarantees, indemnities, documentary or other credits or any instruments whatsoever issued or entered into from time to time by the Bank for or at the request of the Company on the occurrence of any of the events of default detailed in clause 7 below.
   3. Every payment falling due hereunder, shall be by direct debit to the Bank account, done in accordance with the provisions of the Agreement and shall be made net of any transmission and taxation charges.
   4. Assignment of sales proceeds from clothing, footwear, Hardware and any other items that will be sold by the company from time to time.
4. **INTEREST**

The amount or balance of the loan for the time being advanced and outstanding shall bear interest whether at the Bank’s variable reference rate or the margin rate.

1. **CHARGING CLAUSE** 
   1. The Company whether as legal, nominal or beneficial owner hereby charges to the Bank as a continuing security for the payment of all moneys and the discharge of all obligations and liabilities covenanted to be paid or otherwise secured:
2. All stocks, shares, securities, dividends good will, assets, book debts and all securities of any kind whatsoever, whether marketable or otherwise and all other interests including but not limited to capital of the Company both present and future in any company or entity wheresoever situate including all allotments, accretions, offers, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of the same whether by way of conversion, redemption, bonus, preference, option, dividend, interest or otherwise (all of which are hereinafter called “the Securities”)
3. Property of the Company both present and future including but not limited to the properties specified in Companies List of Assets and from time to time all plant, machinery, vehicles, computers and other equipment of the Company and all spare parts, replacements, modifications and additions and the full benefit of all warranties and maintenance contracts for any of the same.
4. All book and other debts, revenues and claims both present and future (including bank deposits and credit balances) and all things in action due and owing or which may become due or owing to or purchased or otherwise acquired by the Company and the full benefit of all rights and remedies relating thereto including but not limited to any negotiable or non-negotiable instruments, guarantees, indemnities, debenture, legal and equitable charges and other security reservation of proprietary rights, rights of tracing liens and all other rights and remedies of whatsoever nature in respect of the same.
5. The uncalled capital, goodwill and all patents, patent applications, inventions, trademarks, trade names, registered designs, copyrights, know-how and other intellectual property rights and all licences and ancillary rights and benefits including all royalties, fees and other income deriving from the same both present and future of the Company
6. The undertaking and all other property, assets and rights of the Company whatsoever and wheresoever, both present and future including but not limited to the stock in trade of the Company wheresoever and the heritable property and the whole of the property, assets and rights which may be from time to time while this instrument is in force, comprise in the property and undertaking of the Company and the premises above described in clauses 4.1(a)-(d).
7. **CONSENT FOR FUTURE CHARGES**

5.1 Save for any of the charges contained herein, created or permitted to exist pursuant to this Debenture, the Company shall not without the prior written consent of the Bank, create or permit to subsist any mortgage, lien or charge over its undertaking or assets or any part thereof ranking priority to or *pari passu* with all or any of the charges created by or contemplated in this Debenture.

1. **CONVENANTS BY THE COMPANY**

6.1 During the continuance of this security, the Company shall:

1. Conduct and carry on its business in a proper and efficient manner and not make any substantial alteration in the nature of or mode of conduct of that business and keep or cause to be kept proper books of account relating to such business.
2. In accordance with sound commercial practice, insure in a form which shall be approved by the Bank, such approval not to be unreasonably withheld, and pursuant to a policy upon which the Bank 's interest hereunder shall be endorsed to the full value thereof, with a well established and reputable insurance Company such parts of its property as are liable to and insurable against loss or damage by fire, tempest, lightning, earthquake, explosion, aircraft and aerial devices or articles dropped there from, storm, flood, theft, malicious damage, riots, strikes and any other perils it is commercially prudent or usual to insure against or which are reasonably required by the Bank and shall if so required by the Bank produce to the Bank the receipt for the current premiums within fourteen days of their becoming due and payable, failing which the Bank at the expense of the Company effect or renew any such insurance which shall seem to the Bank to accord with such practice as aforesaid; all such policies shall provide a lien clause endorsed in favour of the Bank .
3. If so required by the Bank, apply all moneys received on any insurance whatsoever in respect of loss or damage by fire or otherwise to such part of the Company's property referred to in the preceding paragraph of this Condition in making good the loss or damage or, if the security created hereunder shall have become enforceable, in or towards the discharge of the moneys hereby secured;
4. Take all steps within its power to renew all rights, powers, privileges and agreements the benefit of which it may enjoy from time to time and which may be of material benefit to it;
5. Keep at all time and furnish to the Bank upon demand proper books of accounts, profit and loss accounts, balance sheets, audit, director’s and management reports, details of the Company’s assets and all other information showing a true and fair view of the Company’s operations and financial performance;
6. Permit duly authorised representatives of the Bank at any time and from time to time to have access to and inspect the Company's land, premises, books of account and records and permit such representatives and agents to take extracts from any such books and records as aforesaid
7. Observe and perform all covenants in any lease or licence which are on its part to be observed or performed and exercise any option to renew any lease or licence to which it is entitle if such renewal would be to its advantage;
8. Keep all such parts of its property as are of a repairable nature in good and proper repair;
9. Duly and punctually pay, perform and observe all rents, taxes, stamp duties, covenants, agreements, regulations (whether statutory or otherwise) and other obligations whatsoever which ought to be paid, performed or observed in respect of its undertaking and assets or any part thereof;
10. Shall not without the written consent of the Bank
11. Create or attempt to create or permit to subsist any Debenture, debenture, charge or pledge upon, arise on or affect the goodwill, undertaking, property, assets, revenues and rights hereby charged

ii Part with possession of, transfer, sell lease or otherwise dispose of the charged assets or any part thereof or attempt or agree so to do.

1. Acquire any share or stock in any Company;
2. Make any loan to, guarantee any debt or liability or nor give credit (not being credit given in the ordinary course of trading) to any person;
3. Enter into any transaction with any person other than in the ordinary course of business on customary and usual commercial terms and at arm's length;
4. Cause or to permit to be done anything which may in anyway jeopardise, depreciate or otherwise prejudice the value of any of the securities hereby or already charged;
5. **EVENTS OF DEFAULT /IMMEDIATE REPAYMENT**

Notwithstanding anything hereinbefore contained, the moneys hereby secured, together with any unpaid charges which have accrued due under this Debenture and/or Loan Agreement shall immediately become repayable and payable and the security herein constituted shall become enforceable:

1. If the Company fails to pay on the due date any money (regardless of whether a demand is made or not), or to discharge any obligations or liability payable by it from time to time to the Bank, or fails to comply with any term of this debenture, or of any other facility rom the Bank, or to perform any obligation or liability to the Bank, or if any representation, warranty or undertaking from time to time made to the Bank by the Company is or becomes incorrect or misleading in the material respects.
2. If any action is taken by the Company or any other person or if any order is made or an effective resolution is passed for the winding up of the Company.

(c ) If a distress or execution is levied or issued out against any property of the Company and is not paid out or discharged within three (3) days; or

1. If an encumbrance takes possession, or a Receiver/ Manager is appointed of the undertaking of the Company or the whole or any part of its property, assets or revenues; or
2. If any licence, authorisation or registration at any time necessary or desirable to enable the Company to comply with its obligations to the Bank or to carry on its business in the normal course shall be revoked, withheld or materially modified or shall cease to remain in full force and effect; or
3. If the Company is unable to pay its debts or ceases or threatens to cease the carrying on of business or suspends the payment of its debts; or
4. If any Government or authority having the requisite jurisdiction shall nationalise, compulsorily acquire or expropriate all or any substantial part of the assets of the Company, or any of its shares or shall take any action for the dissolution of the Company or for the transfer to any person or body of the whole or any substantial part of the assets, operations or undertaking of the Company or of the shares in the capital of the Company or any obligation of the Company under this Debenture or the Loan Agreement, or makes any provision whereby the powers of the Board of Directors of the Company may be exercised, whether general or in relation to any specific matter or matters, by persons appointed otherwise than in accordance with the provisions of its Articles of association; or
5. If the amount or balance of any loan or facility made to the Company or the amount or balance of any principal moneys secured or represented by any Bond, mortgage, debenture Stock, Unsecured Stock or others security or instrument issued by the Company becomes immediately payable prior to maturity by reason of default or by reason of any demand for immediate payment by any person or persons entitled to the benefit thereof; or
6. If the Company shall fail, after being given due notice by the Bank, to remedy any breach or default in observing or fulfilling any obligation/covenants on its part to be observed or fulfilled under this Debenture, (save any obligation relating to the payment of principal moneys or interest) and the Bank by notice in writing to the Company, declares the security created by this Debenture to be enforceable.
7. If any of the foregoing events occurs without the prior consent in writing of the Bank in relation to any third party, who now or hereafter has guaranteed or provided security for, or given an indemnity in respect of any money, obligation or liability hereby secured.
8. **APPOINTMENT AND POWERS OF RECEIVER/MANAGER**
   1. At any time after the Bank shall have served on the Company a demand to discharge any obligation consequent upon the occurrence of any event of default, the Bank may appoint in writing a Receiver/Manager of the charged assets and may from time to time remove any Receiver/Manager so appointed and appoint another instead.
   2. A Receiver/Manager so appointed shall be the agent of the Company and the Company alone shall be liable for his/her acts and defaults and remuneration and he/she shall have authority and be entitled to exercise the powers hereinafter set forth in addition to and without limiting any general power conferred on him/her by law, he/she may;
      * 1. Take possession of and get in all or any part of the charged assets and for that purpose to take proceedings in the name of the Company or otherwise.
        2. Manage and carry on or concur in the managing and carrying on of the business of the Company and to raise money on the security of the charged assets/premises or any part thereof;
        3. Sell or concur in selling, let or concur in letting and to accept surrenders of leases or tenancies of any of the charged assets/premises and in such manner and generally on such terms and conditions as he/she shall think fit, and conduct any such sale or letting into effect by assigning, transferring, leasing or letting in the name and on behalf of the Company;
        4. Make any arrangement or compromise, allow time for payment or disregard any contract as he/she shall think expedient;
        5. Make and effect such repairs, renewals and improvements to the charged assets or any part thereof as he/she may deem fit, and maintain, renew, take out or increase insurances;
        6. Appoint managers, advocates, accountants, servants, workmen and agents for the aforesaid purposes upon such terms as to remuneration or otherwise as he/she may deem fit;
        7. To sign any document, execute any deed and do all such other acts and things as may be considered to be incidental or conducive to any of the matters and powers aforesaid and which the Receiver may or can do in the Company’s name.
9. **SECURITY TO BE ADDITIONAL TO OTHER EXISITING SECURITES** 
   1. The securities hereby given or covenanted to be given to the Bank shall be, without prejudice and in addition to ALL other securities whether of any pledge, legal or equitable mortgage or charge or otherwise howsoever which the Bank may now or at any time hereafter hold on the property and assets of the Company or any part thereof or in respect of all or any part of the indebtedness of the Company to the Bank howsoever arising or any interest thereon.
   2. With reference to the above, the Company undertakes to deposit with the Bank the deeds and documents of title or share certificates relating thereto, and upon request to execute overall or any part thereof a charge by way of mortgage for any fixed asset, and appropriate Stock Transfer Forms in the case of stocks and shares in favour of the Bank in such form as the Bank shall require.
10. **CRYSTALLISATION**
    1. The floating charge created by the debenture shall become a fixed charge over the respective assets to which it applies-
11. Automatically in respect of all the assets of the Company to which the floating charge applies on the happening of any of the events hereinbefore mentioned in clause 6 above; or
12. By written notice from the Bank to the Company specifying the date on which the floating charge becomes fixed and the assets to which it becomes attached and fixed upon the happening of any of the events hereinbefore mentioned in this deed or the Bank’s reasonable belief that any of those events has or might happen.
13. **APPOINTMENT OF THE BANK AS ATTORNEY**
    1. The Company hereby irrevocably appoints the Bank as its duly constituted attorney for the time being or any

Company in the exercise of all or any of the powers hereby conferred to the Bank or any receiver/manager.

* 1. On the final payment or repayment of all moneys hereby secured the Bank shall surrender this Debenture to the Company for retention by the Company and shall endorse hereon such form of receipt as the Company shall reasonably request.

1. **CURRENCY CLAUSES**
   1. All monies received or held by the Bank or by a receiver under this Debenture may from time to time after demand has been made by the Bank be converted into such other currency as the Bank considers necessary or desirable to cover the obligations and liabilities, actual or contingent of the Company in that other currency at the then prevailing spot rate of exchange of the Bank as conclusively determined by the Bank for purchasing that other currency with the existing currency.
   2. If and to the extent that the Company fails to pay the amount due on demand, the Bank may in its absolute discretion without notice to the Company purchase at any time thereafter so much of any currency as the Bank considers necessary or desirable to cover the obligations and liabilities of the Company in such currency hereby secured at the then prevailing spot rate of exchange of the Bank as conclusively determined by the Bank for purchasing such currency with Shillings and the Company hereby agrees to indemnify the Bank against the full Shilling cost incurred by the Bank for such purchase.
   3. No payment to the Bank (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the Company in respect of which it was made unless and until the Bank shall have received payment in full in the currency in which such obligation or liability was incurred and to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability, actual or contingent expressed in that currency the Bank shall have a further separate cause of action against the Company and shall be entitled to enforce the charge hereby created to recover the amount of the shortfall.
2. **MISCELLANEOUS**
   1. No failure or delay by the Bank in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any right or remedy preclude its further exercise or the exercise of any other right or remedy.
   2. Each of the provisions of this Debenture is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
   3. It is hereby certified that neither the execution of this Debenture nor the creation of the charges herein contained contravenes any of the provisions of the Memorandum and Articles of Association of the Company.
   4. Any notice or demand for payment by the Bank hereunder shall without prejudice to any other effective mode of making the same be deemed to have been properly served on the Company if served on any one of the directors or on the secretary of the Company or delivered or sent by letter post, telex or cable to the Company at its registered office or at any of its principle places of business. Any such notice or demand sent by post shall if posted before the last scheduled collection of letters from the place of posting on any day be deemed to have been served on the addressee on the next business day following the day of posting notwithstanding that it be undelivered or returned undelivered and in proving such service it shall be sufficient to prove that the notice or demand was properly addressed and posted. Any notice or demand sent by telex or cable on a business day shall be deemed to have been served at the time of dispatch. Any such notice or demand or any certificate as to the amount at any time secured hereby shall be conclusive and binding upon the Company if signed by an officer of the Bank.
   5. In this Debenture, the headings to clauses are for convenience only and have no legal effect and references to clauses are to clauses of this Debenture unless otherwise stated.
   6. Any change in the Constitution of the Bank or its absorption in or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights hereunder.
3. **GOVERNING LAW**

This Debenture shall be governed by and interpreted in accordance with the Laws of Uganda.

**IN WITNESS** thereof, this Debenture has been entered into the day, month and year first above written.

**THE COMMON SEAL <<Company Name>> IS HEREUNTO AFFIXED IN THE PRESENCE OF**

**<< Name of 1st signatory >>**  **<<Designation>>**  **<<Signature>>**

NAME DESIGNATION SIGNATURE

**<< Name of 2nd signatory >>**  **<<Designation>>**   **<<Signature>>**

NAME DESIGNATION SIGNATURE

**<<Common Seal>>**

COMMON SEAL

**IN THE PRESENCE OF**

Name: **<<NAME>>**  Occupation: **<<OCCUPATION>>**

Address: **<<ADDRESS>>**  Signature: **<<SIGNATURE>>**

**SCHEDULE 1**

**INVENTORY OF ASSETS OWNED BY THE COMPANY**

|  |  |  |
| --- | --- | --- |
| **No.** | **Type** | **Details** (Description) |
| 1. |  |  |
| 2. |  |  |
| 3. |  |  |
| 4. |  |  |
| 5. |  |  |
| 6. |  |  |
| 7. |  |  |
| 8. |  |  |
| 9. |  |  |

**DRAWN BY:**

The Legal Department of

Housing Finance Bank Ltd

P.O. Box 1539

**KAMPALA**