**NOTE**:

* This is a Tenancy Agreement or Periodic Lease (*short term lease for a term of 1 year*) between a company as the Landlord and an individual as the Tenant.
* This Tenancy Agreement can be used to rent any kind of commercial property (such as an office, store, or warehouse) that is used to do business.

 **TENANCY AGREEMENT**

**DATED 20[\*]**

**-BETWEEN-**

**[\*]**

 **(AS THE “LANDLORD”)**

**-AND-**

**[\*]**

**(AS THE “TENANT”)**

**-OVER-**

**TENANCY AGREEMENT OVER OFFICE/STALL SPACE/GODOWN NUMBER [\*]**

 **SITUATE ON TITILE NUMBER [\*]**

 **(THE “PREMISES”)**

**TENANCY AGREEMENT**

**THIS TENANCY AGREEMENT** is made as of this [\*] day of [\*] 20[\*] **BETWEEN**: -

1. **[\*][[1]](#footnote-1),** a limited liability company incorporated under the Laws of Kenya, for purposes hereof of Post Office Box Number **[\*]**, (hereinafter referred to as the “**Landlord”** which expression shall unless where the context so requires, include the Landlord’s personal representatives, heirs and assigns); and
2. **[\*][[2]](#footnote-2),** for the purposes hereof of Post Office Box Number **[\*],** Nairobi (hereinafter referred to as the “**Tenant”** which expression shall where the context so requires include the Tenant’s personal representatives, heirs and assigns). The Landlord and the Tenant are herein after together called Parties and Party shall refer to either of them.

# Recitals

1. The Landlord is the legal and beneficial owner of the Premises (as hereinafter defined).
2. The Landlord has agreed to let to the Tenant and the Tenant has agreed to accept the tenancy of the Premises (as hereinafter defined) on the terms and conditions of this Lease.
3. In consideration of the Rent (as hereinafter defined) paid by the Tenant to the Landlord in accordance with the terms of this Lease, the Landlord has agreed to grant to the Tenant a tenancy of the Premises for the Term (as hereinafter defined) and subject to the covenants, agreements, conditions, restrictions, stipulations and provisions hereinafter contained.

NOW THIS LEASE WITNESSES AS FOLLOWS:

# Definitions and Interpretation

* 1. In this Lease (including its recitals and the Schedules), the following expressions shall unless the context otherwise requires have the following meanings:
1. **“Business Day”** means any day (other than Sunday) on which commercial banks in **[\*][[3]](#footnote-3)**, are open for the conduct of banking business;
2. **“Commencement Date”** means **[\*]**;
3. **“Interest”** means the per annum rate of four per cent (4%) above the Central Banks Rate or such other rate as the Landlord may from time to time specify in writing calculated on daily balances and compounded monthly;
4. “**Land Act**” means the Land Act (Act No.6 of 2012);
5. “**Land Laws**” means together the Land Act and the Land Registration Act any subsidiary legislation, rules and regulations promulgated thereunder and any practice directions issued pursuant to the Land Act and the Land Registration Act;
6. **“Landlord’s Advocates”** means Messrs. **[\*]**;
7. “**Land Registration Act**” means the Land Registration Act (Act No. 3 of 2012);
8. **“Permitted Use”** means the use of the Premises for private residence of the Tenant and his/her family and their usual occasional house guests and usual domestic staff;
9. **“Premises”** means all that apartment/house/unit marked as number …………………. And erected on property known as Land Reference Number **[\*]**;
10. **“Rent”** means the amount of Kenya Shillings **[\*]** (KShs. **[\*]**/=) per month for the Term payable under the terms of clause 3; and
11. **“Term”** means the period of one [1) year from the Commencement Date or such other period as may be agreed by the parties in writing.
	1. References to any right of the Landlord to have access to the Premises shall be construed as extending to any superior Landlord, any chargee of the Premises and all persons authorized by the Landlord, superior Landlord and chargee.
	2. References to "consent of the Landlord" or words to similar effect mean consent in writing signed by or on behalf of the Landlord.
	3. References to any clause or schedule without further designation shall be construed as a reference to the clause or schedule of this Agreement so numbered.
	4. Words importing one gender shall be construed as importing any other gender.
	5. Words importing the singular shall be construed as importing the plural and vice versa.
	6. Where any party comprises more than one person the obligations and liabilities of that party under this Agreement shall be joint and several obligations and liabilities of those persons.
	7. Save as otherwise stated references to numbered clauses and schedules are references to the clauses and schedules in this Agreement which are so numbered.
	8. The clause and schedule headings do not form part of this Agreement and shall not be taken into account in its construction and interpretation.

# Demise

The Landlord grants and leases to the Tenant the Premises for the Term at the Rent and subject to all rights, easements, privileges, restrictions, covenants and stipulations of whatever nature affecting the Premises and excepting and reserving to the Landlord, its servants, agents and licensees a similar right whether before or after the execution of this Agreement.

# Rent and Renewal of Term

* 1. The Rent payable in respect of the Premises shall be a monthly sum of **Kenya Shillings [\*] (KShs. [\*]/-)** and the same shall become due and payable from the Commencement Date without any deductions whatsoever, and on or before the 5th day of every succeeding month.
	2. Renewal of the Term shall be upon express written notice of intent by the Tenant to the Landlord not later than thirty (30) days prior to determination of the Term, failure to which the tenancy will automatically terminate.
	3. In the event that the parties agree to renew the tenancy for a further term to be agreed between the parties, the Rent payable shall escalate at such rate as the Landlord may determine and the parties shall enter into a fresh tenancy agreement.
	4. **Deposit**
		1. On the Commencement Date, the Tenant shall pay a security deposit equivalent to two (2) months’ rent for the Premises amounting to **Kenya Shillings [\*] (KShs. [\*]/-)** which amount shall be retained by the Landlord throughout the Term as security for the due performance by the Tenant of the covenants agreements restrictions stipulations and provisions herein contained provided that the Landlord shall be entitled at any time and from time to time to apply the deposit monies in and towards the satisfaction and discharge of the covenants and agreements on the part of the Tenant if after giving thirty (30) days’ notice specifying the nature of the breach and the Tenant fails to satisfy or discharge a material covenant or agreement herein. The Tenant acknowledges and agrees that the Landlord shall not be required to account for any interest on the deposit monies held by the Landlord.
		2. The Deposit, less any deductions as the Landlord shall deem sufficient to make good any damage to the Premises, shall be refunded by the Landlord to the Tenant within thirty (30) days of expiry or other determination of the Term hereby created and upon fulfilment by the tenants of all their obligations under this agreement.
	5. **Service Charge**

In addition to paying Rent, the Tenant shall pay a monthly service charge of **Kenya Shillings [\*] (KShs.** **[\*]/-)** **Only** and the same shall become due and monthly in advance, on or before the fifth day of every succeeding month.

* 1. All payments shall be paid directly to the Landlord by way of cheque, banker’s cheque or cash into the Landlord’s or Landlord’s agent nominated bank account.

# The Tenant's Covenants

The Tenant covenants with the Landlord: -

* 1. To pay the Rent on the days and in the manner set out in Clause 3 above, not to exercise or seek to exercise any right or claim to withhold Rent or any right or claim to legal or equitable set off and, if so, required by the Landlord, to make such payments by banker's order to the bank and account which the Landlord may from time to time nominate.
	2. To pay all electricity, water and telephone user charges, if any in respect of the Premises throughout the Term of this Agreement or up to the date of its sooner determination.
	3. Having satisfied themselves upon gaining access to the Premises that it is in good order, to be responsible for the full maintenance of it throughout the Term of this Agreement.
	4. To insure their personal and household belongings and indemnify the Landlord against any action, claim or demand arising from any loss, damage, theft or injury to the Tenant or Tenant’s family, licensee, invitees or servants.
	5. To ensure that the internal plumbing, immersion heaters, window locks, fastenings and other ancillary apparatus are in good order before gaining access to the Premises and thereafter throughout the Term of this Agreement carry out or cause to be carried out all running repairs necessary.
	6. To pay and indemnify the Landlord against Value Added Tax or any tax of a similar nature, if applicable, which may be substituted for it or levied in addition to it chargeable in respect of any payment made by the Tenant under any of the terms of or in connection with this Agreement or in respect of any payment made by the Landlord where the Tenant agrees in this Agreement to reimburse the Landlord for such payment.
	7. To repair the Premises and keep them in repair excepting damage caused by an Insured Risk other than where the insurance money is irrecoverable in consequence of any act or default of the Tenant or anyone at the Premises expressly or by implication with the Tenant’s authority.
	8. At least fourteen (14) days prior to the termination of this Agreement due to breach of the Agreement for Sale terms by the Tenant (to varnish the floor, paint with two coats of the best vinyl paint ( and in case of wall and ceiling, at least two coats of plastic emulsion paint), as shall be deemed necessary after a joint inspection between the Tenant and the Landlord or its appointed agent, all parts of the interior and terrace of the Premises as are usually painted to such specification and colour as the Landlord shall in writing approve.
	9. To permit the Landlord and its agent or agents and all persons duly authorized by the Landlord with all necessary apparatus, appliances, machinery and materials to enter upon the Premises at all reasonable times upon giving reasonable notice in writing to the Tenant of not less than forty eight (48) hours for the purpose of examining the state and condition of the Premises or of taking inventories of the Landlord’s fixtures therein or of doing such work and things as may be properly required for any repair or renewal either of the Premises or of the electricity or water or drainage lines under any part of the Premises.
	10. To pay for the replacement of or make good repair or restore to the reasonable satisfaction of the Landlord, all such articles of fixtures, fittings, furniture and effects as shall be broken, lost, damaged or destroyed during the Tenancy.
	11. To execute any repairs lawfully required to be done by the Tenant before the expiration of one (1) calendar months’ notice given in writing by the Landlord or its authorized agent or agents and if the Tenant shall within such time fail to execute such work the Landlord may execute or cause such work to be executed and recover the cost thereof from the Tenant but without prejudice to the Landlord’s right of re-entry set out in this Agreement.
	12. To report immediately in writing to the Landlord or its authorized agent or agents any signs of infestation by white ants, bees or other destructive insects or any wet or dry rot in the Premises and should the Tenant fail to report as aforesaid then the Tenant shall be liable for the cost of rectifying the additional damage due to such failure.
	13. To permit no person other than a person in the domestic service of the said Tenant to occupy accommodation in the servant’s quarters (if any).
	14. Not without the previous written consent of the Landlord or its authorized agent or agents to make any alterations attach fixtures or erect additional structures in or upon the Premises or drive any nails screws or other fastenings into the floors, walls, ceiling or woodwork of the Premises.
	15. Not to transfer, assign, sub-let or part with or share the Premises or any part of it without the prior written consent of the Landlord. In the event that the Landlord gives consent, to assign, sub-let or part with or share the Premises or any part of it, subsequent contracts executed to that effect shall be drawn between the Landlord, Tenant and Assignee and the Tenant shall remain liable for settlement of Rent due as per this Agreement.
	16. Not to paint or exhibit in any window or upon any external part of the Premises any trade, professional or business notice or advertisement whatsoever.
	17. Not to do or permit or suffer to be done anything in or upon the Premises or the garden or grounds surrounding the same which may at any time be or become a nuisance or annoyance to the tenants or occupiers of any adjacent premises.
	18. Not to do or permit to be done anything whereby the Landlord’s policy or policies of insurance of the said Premises against the Insured Risks may become void or voidable or whereby the rate of premium for any insurance may be increased and to repay to the Landlord all sums paid by the Landlord by way of increased premium and all expenses incurred by it in or about any renewal of any such policy or policies where the payment of such sums or any of them shall have been rendered necessary by a breach or non-observance of this covenant and all such payments shall be added to the rent reserved and be recoverable as Rents.
	19. To pay the nominal fees and disbursements of the Landlord’s advocates and all other costs and expenses incurred by the Landlord in relation to the preparation, execution and stamping of this Agreement as set out in the schedule hereto.
	20. To be responsible for and to keep the Landlord fully indemnified against all damages, losses, cost, expenses, actions, demands, proceedings, claims and liabilities made against or suffered or incurred by the Landlord arising directly or indirectly out of any act, omission or negligence of the Tenant or any person at the Premises expressly or impliedly with the Tenant’s authority or out of any breach or non-observance by the Tenant of the covenants, conditions or other provisions of this Agreement.
	21. That at all times if the Tenant is not the one living in the premises, he/she shall provide the Landlord or the body charged with management of the common property, with full details of the person living in the Premises and provide him or her with the conduct rules of the housing estate.

# The Landlord's Covenant

The Landlord covenants with the Tenant: -

1. To pay the land rent or any rate or tax which may be levied on the said Property by the Government of Kenya or any other statutory authority subject to the Landlord’s right of recovery.
2. To keep the external walls, roof, main drains, common parts and structure of the Premises in a proper state of repair and maintenance.
3. Within thirty (30) days of the expiry or determination of the Term and after delivery up of the Premises in accordance with the Tenant’s covenants herein the Landlord will refund to the Tenant the Deposit without any interest, whatsoever, and upon deducting any charges authorised in this Agreement.
4. That the Tenant paying the Rent and performing and observing in the several covenants on its part and the conditions contained in this Agreement shall peaceably hold and enjoy the Premises during the Term without any interruption by the Landlord or any person or agents rightfully claiming under or in trust for the Landlord.
5. To carry out any repairs to the interior of the Premises or to the Landlord’s fixtures fittings and fastenings therein which may become necessary at any time during the Term by reason of structural repairs to or defects in the building or by reason of any breach or non-performance of the obligations of the Landlord under this clause.

# Rights of Re-entry and Termination

* 1. If there is a breach by the Tenant of any covenant or other term of this Agreement, the Landlord may subject to the provisions of section 75 of the Land Act re-enter the Premises or any part of them at any time and even if any previous right of re-entry has been waived and then the Term will absolutely cease but without prejudice to any rights or remedies which may have accrued to the Landlord against the Tenant in respect of any breach of covenant or other term of this Agreement including the breach in respect of which the re-entry is made.
	2. The Tenant may terminate the Tenancy hereby created by giving the Landlord or its duly appointed agent one (1) month’s written notice of such wish to terminate or make a payment of One (1) month’s Rent in lieu of such notice.
	3. This Tenancy shall be deemed to be, automatically terminated on determination of the Term if the Tenant shall not have expressed interest to renew the Term.

# Provisos

* 1. If and whenever during the Term the Rent or any part of it is outstanding for fourteen (14) days after becoming due whether formally demanded or not the Tenant shall pay to the Landlord interest on the rent payable at the Interest Rate until payment in full.
	2. No liability shall attach in respect of any breach of any positive covenant (other than covenants for the payment of Rent) on the part of the Landlord or the Tenant contained or implied in this Agreement so long as they are prevented from performing the covenant by statutory restrictions, non-availability of labour or materials or matters beyond their control except that if breach of any positive covenant occurs, the Landlord or Tenant as the case may be shall remedy the breach immediately conditions permit and in the event of any breach on the part of the Tenant not having been remedied before the expiration or sooner determination of the Term the Tenant shall forthwith upon the expiration or sooner determination of the Term pay to the Landlord such an amount as is necessary to remedy the breach.
	3. If and whenever during the Term the Premises or any part thereof is: -
1. damaged or destroyed by one or more of the Insured Risks; or
2. rendered non-operational or inaccessible for any reason including road improvements and/or construction,

so that the Premises or any part thereof is rendered unfit for occupation or use the Landlord shall allow to the Tenant a total or proportionate abatement of the Rent hereby reserved as the case may be.

* 1. Each of the Tenant's covenants shall remain in full force notwithstanding that the Landlord shall have temporarily waived or released any such covenant.
	2. This Agreement embodies the entire understanding of the parties relating to the Premises and to all matters dealt with by any of the provisions of this Agreement.
	3. Any notice or communication under or in connection with this Agreement shall be in writing and shall be delivered personally or by post, email to the addresses indicated on the introduction clause herein or to such other address as the recipient may have notified to the other party in writing. Proof of posting or dispatch shall be deemed to be proof of receipt.
1. **Force Majeure**
	1. Neither Party shall not be liable in respect of any delay in performing, failure to perform, or failure to adequately perform any of his or its obligations hereunder in consequence of any act, cause or event which:-
2. was not within his or its control;
3. was not caused or precipitated by his or its negligence; and
4. could not have been prevented by his or its reasonable diligence, including without limitation:-

(i) any act of God;

(ii) any war or hostilities (whether war be declared or not);

(iii) any sabotage, riots or other act of civil disobedience, civil

commotion, rebellion, act of a public enemy or invasions;

(iv) any judicial actions, strikes, lockouts, industrial disputes or actions

of such nature;

(v) any actions or inactions of any government or any agency or

department;

(vi) any act of terror;

(vii) any storms, floods or other inclement, weather, earthquakes,

subsidence, epidemics or other natural physical disasters;

(viii) any directives by any government authority and/or agency to compulsorily acquire the Property; and

(ix) fire, accident, explosion or shortage of labour,

(hereinafter called a “Force Majeure Event”) for so long as and to the extent that the effects of the Force Majeure Event continue.

* 1. The Party which claims that a Force Majeure Event has prevented it from fulfilling any of his or its obligations under this Lease shall, within fourteen (14) days of the occurrence of a Force Majeure Event, notify the other Party (the “Force Majeure Notice”) of the Force Majeure Event in sufficient detail including the nature and effect of the Force Majeure Event. Similarly, such Party shall notify the other Party when the Force Majeure Event ceases.
	2. Where the Force Majeure Event continues for more than one (1) month after the date of the Force Majeure Notice, either party may terminate this Lease but without prejudice to any accrued rights either party may have against the other but subject to agreement, such affected Party undertakes to continue its performance of obligations under this Lease immediately the Force Majeure event ceases.
	3. Any payment obligations arising during the subsistence of the Force Majeure event shall be deemed to be suspended. In the event that this Lease is terminated in accordance with the terms of this Clause 12, the Lessor shall refund to the Lessee the Deposit and any other monies paid as advance rent within Thirty (30) days of such termination.
1. **Section 65 of the Land Act, 2012**

The provisions of section 65 and 66 of the Land Act, 2012 shall apply to this Lease, *in toto*.

1. **Dispute Resolution**

This Agreement embodies the entire understanding of the parties relating to the Lease Premises and to all matters dealt with by any of the provisions of this Agreement.

* 1. Should any dispute arise between the parties hereto with regard to the interpretation, rights, obligations and/or implementation of any one or more of the provisions of Lease, the parties shall in the first instance attempt to resolve such dispute by amicable negotiation.
	2. Should such negotiations fail to achieve a resolution within fifteen (15) days, either party may declare a dispute by written notification to the other, whereupon such dispute shall be referred to mediation.
	3. If mediation fails then arbitration follows under the following terms;

(a) Such arbitration shall be resolved under the provisions of the Kenya Arbitration Act 1995 (as amended from time to time);

(b) The tribunal shall consist of a single Arbitrator to be appointed by agreement between the parties or in default of such agreement within Fourteen (14) days of the notification of such dispute, by either party to the other then, upon application by either party to the Chairman for the time being of the Kenya Branch of Chartered Institute of Arbitrators of Kenya (“the Institute”) who shall appoint an arbitrator;

(c) Such Arbitration shall take place in Nairobi and every award made under this Clause shall be subject to and in accordance with the provisions of the Arbitration Act 1995 (Act No. 4 of 1995) or any statutory modification or re-enactment thereof or such other Act or Acts for the time being in force in Kenya in relation to arbitration and the Rules of Arbitration of the Institute;

# Amendments

No provision of this Agreement shall be waived or varied by either party hereto except by an instrument in writing.

# Applicable Law

This Agreement and its performance shall be governed by and construed in all respects in accordance with the Laws of Kenya. The parties hereby irrevocably submit to the non-exclusive jurisdiction of the High Court of Kenya but this Agreement may be enforced in any court of competent jurisdiction.

# Acceptance

The Tenant accepts this Agreement subject to its covenants, conditions, restrictions and stipulations.

**IN WITNESS WHEREOF** the parties have executed this Agreement on the day and year hereinbefore mentioned.

**SIGNED** by the duly authorized )

Representative of the landlord: - )

 )

**Name**  **[\*]** )

Signature **[\*]** )

 )

**Name [\*]**  )

Signature: **[\*]** )

 )

**Before me:-** )

 )

Name: **[\*]** )

Address:       **[\*]** )

Occupation:  **[\*]** )

Signature:    **[\*]** )

**SIGNED** by the Tenant the said )

**[\*]** )\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 ) **[\*]**

) ID No. [\*]

)PIN No. [\*]

)

 )

 )

**In the presence of:**

**Name:           [\*]**

**Address**:       **[\*]**

**Occupation**: **[\*]**

**Signature**:    **[\*]**

1. Insert name of the Landlord. [↑](#footnote-ref-1)
2. Insert name of Tenant. [↑](#footnote-ref-2)
3. Insert Location/jurisdiction within which the scope of the Agreement applies. [↑](#footnote-ref-3)