**NOTES:**

Alease agreement of land for agricultural purposes is an agreement where the Lessor sublets its property for purposes of farming for a short term period. The Lease agreement is between a two individuals.

This is a lease agreement provides a good guide and has explanatory notes on what to do when you are acting for the Lessor.

 **LEASE**

**DATED 20……**

**-BETWEEN-**

**[\*]**

 **(AS THE “LESSOR”)**

**-AND-**

**[\*]**

**(AS THE “LESSEE”)**

**-OVER-**

**[\*]**

**(THE “PROPERTY”)**

**Form LRA 62 (r. 76(1))**

**REPUBLIC OF KENYA**

**THE LAND REGISTRATION ACT**

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

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

**LEASE**

**TITLE NUMBER: [\*]**

|  |  |
| --- | --- |
| **Date of Lease** | **THIS LEASE** is made the .....................day of ............................. Two Thousand and ………………….. |
| **Lessor** | **[\*]** (holderof Kenyan Identification Number **[\*]**)of Post Office Box Number [\*] in the said Republic (hereinafter called the **“Lessee”** which expression shall where the context so admits include their personal representatives and permitted assigns) of the first part. |
| **Lessee** | **[\*]** (holderof Kenyan Identification Number **[\*]**)of Post Office Box Number [\*] in the said Republic (hereinafter called the **“Lessee”** which expression shall where the context so admits include their personal representatives and permitted assigns) of the second part. |
| **Demised Premises** | [\*]. |
| **Term** | [\*] years from [\*] |
| **Annual Rent / Stand Premium**  | Kenya Shillings [\*]  |
| **Service Charge per month**  | N/A |

**WHEREAS: -**

1. The Lessor is registered as the absolute proprietor of **ALL THAT** parcel of land known comprised in title number [\*] measuring approximately [\*] hectares together with the improvements and structures, if any erected and being thereon (hereinafter together called the “**Property”**).
2. The Lessor has agreed to grant a lease the Property to the Lessee to be used solely for agricultural purposes at the agreed Rent and subject to the covenants agreements conditions restrictions stipulations and provisions hereinafter contained.

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

1. **Definitions and Interpretation**
	1. In this Lease including the Recitals, the following words and expressions shall (unless the context otherwise provides) have the following meanings: -
		* 1. **“Commencement Date”** means the [\*];
			2. “**Deposit**” means the sum of Kenya Shillings [\*] KShs. [\*]) equivalent to [\*] rent for the Property deposited with the Lessor to secure the due performance and observance of all the Lessee’s covenants and agreements contained in this Lessee;
			3. “**Insured Risks**” means the risks of loss or damage by fire storm tempest earthquake lightning explosion riot civil commotion malicious damage terrorism impact by vehicles and by aircraft and articles dropped from aircraft flood damage and bursting and overflowing of water pipes and tanks and such other risks whether or not in the nature of the foregoing as the Lessor acting reasonably from time decides to insure against and “Insured Risk” shall be interpreted accordingly;
			4. “**Interest**” means interest during the period from the date on which any payment is due to the date of payment both before and after any demand or judgment at the Interest Rate then prevailing;
			5. “**Interest Rate**” means the prevailing Base Rate published by the Central Bank of Kenya (CBK) plus a margin of four (4%) per cent per annum on outstanding sums due from the Lessee to the Lessor from the date when the sum is due up and including the day when the sum is paid;
			6. **“Land Act”** means the Land Act (Act No.6 of 2012);
			7. **“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;
			8. **“Lease”** means the short term Lease for the period of instrument of the Property from the Lessor to the Lessee or his/her nominee in the form and substance that is in compliance with the Land Laws;
			9. ‘**Lessor’s Advocates’** means Messrs [\*];
			10. **Lessee's Fixtures:** any fixture belonging to the Tenant and affixed by the Tenant to the Holding including the fixtures listed in [*Schedule 2*](https://uk.practicallaw.thomsonreuters.com/Document/I33f12e18e8cd11e398db8b09b4f043e0/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad740140000017d4bfaf7d0bbe90c84%3Fppcid%3Ddc85d6b8eda8443989cc9fcb980df64a%26Nav%3DKNOWHOW_GLOBAL%26fragmentIdentifier%3DI33f12e18e8cd11e398db8b09b4f043e0%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=e91a86e1ff838fe8f2cfef4a1c56a1bf&list=KNOWHOW_GLOBAL&rank=2&sessionScopeId=a5d9a98dce12c2ba27a2ecac87cf36889d3e172879bf1bb8736a21c13ad317da&ppcid=dc85d6b8eda8443989cc9fcb980df64a&originationContext=Search%20Result&transitionType=SearchItem&contextData=(sc.Search)&ScopedPageUrl=Home%2FPracticalLawGlobal&comp=pluk&navId=FDD34E7D7F8FB48864B0AA85E75EBA47&view=hidealldraftingnotes#co_anchor_a305536).
			11. **“Outgoings”** means all the rents, rates and other sums due to the national or county government in respect of the Property;
			12. **“Permitted User”** means the use of the Property for agricultural purposes;
			13. **“Rent”** means the initial annual/monthly rent of Kenya Shillings [\*] ascertained in accordance Clause 3; and
			14. “**Term**” means [\*] years from the Commencement Date.
	2. **Interpretation**

In this Lease (including the recitals) 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 Lessee;
		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 authorised by either of them;
		5. any covenant by the Lessee 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 Lessee is or should be aware that such act or thing is being done;
		6. if the Lessee 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 Lessee be joint and several;
		7. 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;
		8. 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;
		9. 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;
		10. the expression “**person**” includes a natural person, body corporate, state agency, governmental authority or firm;
		11. the clause headings do not form part of this Lease and shall not be taken into account in its construction or interpretation;
		12. 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);
		13. references to the expression “**month**” mean a calendar month; and
		14. 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. **Grant of Lease**

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

1. **RENT**
	1. The rent payable in respect of the Premises shall be a monthly rent of **Kenya Shillings [\*]** due and payable monthly/quarterly in advance for the Term from the Lease Commencement Date.
	2. The rent payable shall escalate at the rate of [\*] percent [\*%] in the event of renewal of the Term herein.
	3. **Deposit**
		1. On commencement of this Lease, the Lessee shall pay a security deposit equivalent to [\*] months’ rent for the Premises amounting to **Kenya Shillings [\*]** which amount shall be retained by the Lessor throughout the Term as security for the due performance by the Lessee of the covenants agreements restrictions stipulations and provisions herein contained.
		2. The Deposit shall be refunded to the Lessee without interest at the expiry or sooner determination of the Term herein and after payment by the Lessee of all sums then owing by the Lessee to the Lessor and the discharge by the Lessor of all obligations of the Lessee hereunder.
	4. All payments in respect of the rent shall be made directly to the Lessor’s nominated bank account whose details are as follows: -

**Account Name:**

**Bank:**

**Branch:**

**Account No.:**

1. **Lessee’s Covenants**

The Lessee **HEREBY COVENANTS** with the Lessor, to observe, comply with and perform the Covenants set out below:-

* 1. To pay the rent in the manner set out in this Lease, not to exercise or seek to exercise any right or claim to withhold the rent or any right or claim to legal or equitable set off and, if so required by the Lessor, to make such payments by banker's order to the bank and account which the Lessor may nominate.
	2. To pay all electricity, water conservancy and telephone user charges, if any in respect of the Property throughout the Term of this Lease or up to the date of its sooner determination.
	3. Having satisfied itself on taking possession of the Property that it is in good order, to be responsible for the full maintenance of it throughout the Term of this Lease and on relinquishing the Property demolish all concrete foundations and structures erected on the Property by the Lessee during the Term and to dispose off the debris in a manner that promotes environmental conversation.
	4. To clear from the Property all asphalt and their products in an environmentally friendly manner before handing over the Property to the Lessor.
	5. To insure all his/her/their belongings on the Property and indemnify the Lessor against any action, claim or demand arising from any loss, damage, theft or injury resulting from negligence on the part of the Lessee in relation to his/her/their belongings on the Property.
	6. To pay and indemnify the Lessor against Value Added Tax or any tax of a similar nature which may be substituted for it or levied in addition to it chargeable in respect of any payment made by the Lessee under any of the terms of or in connection with this Lease or in respect of any payment made by the Lessor where the Lessee agrees in this Lease to reimburse the Lessor for such payment.
	7. To repair and keep in repair the Property excepting damage caused by an Insured Risk other than where the insurance money is irrecoverable in consequence of any act or default of the Lessee or anyone at the Property expressly or by implication with the Lessee’s authority.
	8. To permit the agents of the Lessor and all persons duly authorised by the Lessor with all necessary apparatus, appliances, machinery and materials to enter upon the Property at all reasonable times upon giving reasonable notice for the purpose of examining the state and condition of the Property or of taking inventories of the Lessor’s fixtures therein or of doing such work and things as may be properly required for any repair or renewal either of the electricity or water or drainage lines under any part of the Property.
	9. To execute any repairs lawfully required to be done by the Lessee before the expiration of one (1) calendar months’ notice given in writing by the Lessor through its authorised agentor agents and if the Lessee shall within such time fail to execute such work the Lessor may execute or cause such work to be executed and recover the cost thereof from the Lessee but without prejudice to the Lessor’s right of re-entry set out in this Agreement.
	10. Not without the previous written consent of the Lessor or its authorised agent or agents to make or attach any fixtures or erect structures in or upon the Property.
	11. Not to transfer, charge, assign, sub-let or part with or share possession of the Premises or any part of it without the prior written consent of the Lessor.
	12. Not to do or permit or suffer to be done anything in or upon the Property and or his/her/their surrounding which may at any time be or become a nuisance or annoyance to the Lessees or occupiers of any adjacent premises.
	13. To pay the fees and disbursements of the Lessor’s advocates and all other costs and expenses incurred by the Lessor in relation to the preparation, execution, stamping and registration of this Lease.
	14. To yield up the Property at the expiration or sooner determination of the Term hereby created in good repair, order and condition in accordance with the Lessee’s covenants contained in this Lease.
	15. To be responsible for and to keep the Lessor fully indemnified against all damages, losses, cost, expenses, actions, demands, proceedings, claims and liabilities made against or suffered or incurred by the Lessor arising directly or indirectly out of any act, omission or negligence of the Lessee or any person at the Property expressly or impliedly with the Lessee’s authority or out of any breach or non-observance by the Lessee of the covenants, conditions or other provisions of this Lease.
	16. To pay the Lessor on an indemnity basis all costs fees charges disbursements and expenses (including without prejudice to the generality of the above all legal fees and surveyor’s fees) incurred by the Lessor in relation to or incidental to the negotiation preparation execution and grant of this Lease as well as stamp duty payable hereon and any counterpart of this Lease.
1. **Lessor'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 set hereinafter: -

1. To pay the land rates or any other tax which may be levied on the said Premises by the Government of Kenya or any other statutory authority subject to the Lessor’s right of recovery in accordance with Clause 4 (f).
2. Subject to the Lessee paying the rent and performing and observing the several covenants on his/her/their part and the conditions contained in this Lease, the Lessee shall peaceably hold and enjoy the Premises during the Term without any interruption by the Lessor or any person or agents rightfully claiming under or in trust for the Lessor.
3. **Provisos**
	1. If there is a breach by the Lessee of any covenant or other term of this Lease, the Lessor may re-enter the Premises at any time and even if any previous right of re-entry has been waived, then the Term will absolutely cease but without prejudice to any rights or remedies which may have accrued to the Lessor against the Lessee in respect of any breach of covenant or other term of this Lease including the breach in respect of which the re-entry is made.
	2. The Lessee may terminate the Lease hereby created by giving the Lessor or through its duly appointed agent [\*] months’ notice in writing of such wish to terminate.
	3. This Lease shall automatically terminate upon determination of the Term. However, upon the written request of the Lessee made at least [\*] months before the expiration of the Term and if there shall not at the time of such request be any breach or non-observance of any of the covenants on the part of the Lessee, the Lessor will renew the Lease to the Lessee for a further term to be agreed upon between the parties from the date of expiration of the Term upon such terms and conditions as shall be agreed between the parties.
	4. 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 Lessor or the Lessee contained or implied in this Lease 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 Lessor or Lessee as the case may be shall remedy the breach immediately conditions permit and in the event of any breach on the part of the Lessee not having been remedied before the expiration or sooner determination of the Term the Lessee shall forthwith upon the expiration or sooner determination of the Term pay to the Lessor such an amount as is necessary to remedy the breach.
4. **Dispute Resolution**
	1. If there is any dispute arising from or in connection with this Agreement or his interpretation thereof, the Parties shall in the first instance attempt to resolve such dispute by amicable negotiation.
	2. Should such amicable negotiations fail to achieve a resolution within fifteen (15) days, 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 thirty (30) 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.
5. **General**
	* 1. Each and every one of the Lessee's 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 the Property;
		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 shall be borne by the Lessee;
		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 Lessee and delivered to the Premises or forwarded to the Lessee by registered post at the address stated herein and in the case of notices to the Lessor be sufficiently served if forwarded to the Lessor 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 five (5) 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 Lessee is comprised of more than one person, it shall be deemed to have been sufficiently served if served upon any of such person; and
		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.
6. **Governing Law**

This Agreement 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 Lessee acknowledges 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 except any such statement or representation that is expressly set out in this Lease and the Agreement for Lease.

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

**SIGNED** by the Less the said )

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

in the presence of: - ) **[\*]**

) ID No. [\*]

)PIN No. [\*]

)

 )

**Advocate** )

**Certificate of Attestation**

**I CERTIFY** that the above named Lessee, **[\*]** appeared before me on the ……………… day of …………., 20….. being known to me/being identified by…………………………….. acknowledge the above signatures or marks to be his/her/theirs and that she/he/they had freely and voluntarily executed this instrument and understood its contents.

……………………………………..….

**Advocate of the High Court of Kenya**

**SIGNED** by the Lessee the said )

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

in the presence of: - ) **[\*]**

) ID No. [\*]

)PIN No. [\*]

)

 )

**Advocate** )

**Certificate of Attestation**

**I CERTIFY** that the above named Lessee, **[\*]** appeared before me on the ……………… day of …………., 20….. being known to me/being identified by…………………………….. acknowledge the above signatures or marks to be his/her/theirs and that she/he/they had freely and voluntarily executed this instrument and understood its contents.

……………………………………..….

**Advocate of the High Court of Kenya**